

**State of New Hampshire
Board of Medicine
Concord, New Hampshire 03301**

In the Matter of:
Denise F. Poulin, M.D.
License No.: 14040
(Misconduct Allegations)

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of medicine, the New Hampshire Board of Medicine (“Board”) and Denise F. Poulin, M.D. (“Dr. Poulin” or “Respondent”), a physician licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 329:17, I; RSA 329:18; RSA 329:18-a; and Medical Administrative Rule (“Med”) 206 and 210, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physicians. Pursuant to RSA 329:18-a, III, the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on June 4, 2008. Respondent holds license number 14040. Respondent currently practices obstetrics in Nashua, New Hampshire.
3. On June 18, 2015, the Board received information that Dr. Poulin was listed as a defendant in a medical malpractice complaint filed with Hillsborough Superior Court, Southern District.

4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's conduct alleged in the complaint.
5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would seek to introduce evidence to prove that Respondent has committed professional misconduct, by the following facts:
 - A. On January 2, 2014, Patient, a 27-year old at 38 6/7 weeks gestation, presented to her OB/GYN provider for a scheduled prenatal visit. Patient's blood pressure was 120/90 and she was diagnosed with Pregnancy Induced Hypertension (PIH).
 - B. A non-stress test was non-reactive, with minimal variability, and late decelerations, Category 2 tracing. The late declarations were not present with each contraction and were not severe. Patient was asked to go immediately to the hospital for further evaluation with biophysical profile and lab work.
 - C. On admission to the hospital at 11:50am on January 2, 2014, Respondent assumed care of Patient. Patient's admitting blood pressure was 144/86. She had some edema, complained of a headache and noted that she is seeing spots at times. Her admission diagnosis was noted as a non-reassuring fetal heart rate evaluation.
 - D. A RN progress note at 12:11pm related that Patient's blood pressure was 107/54. A RN progress note at 12:16 pm noted FHR monitoring with minimal variability, late decelerations, baseline 140bpm, Category 2. A RN progress note at 12:25pm related that Respondent went in to talk to Patient and conduct

a physical assessment. Patient's blood pressure was 158/93. At that time, Respondent did not recommend an emergency delivery by cesarean section or discuss this option with Patient.

- E. At 12:31pm, FHR tracing was unchanged, Category 2. At 12:32pm, Respondent ordered that Patient be NPO (nothing per oral). At 12:40pm, Patient's blood pressure was 119/95. At 12:46pm, FHR continued as Category 2 with non-repetitive late decelerations. Patient's blood pressure at 12:55pm was 125/72.
- F. At 1:00pm, the tracing continued Category 2, with minimal variability and occasional late decelerations. Lab results included a white blood cell count of 13.3, which was outside of the normal range. There was no protein in Patient's urine. Her ALK Phos, AST, and ALT were within normal limits. Patient's blood pressure at 1:10pm was 142/77.
- G. Patient was given an IVF bolus of lactated ringers at 1:16pm. Her blood pressure was 124/83 at 1:20pm and 111/74 at 1:33pm.
- H. At 1:35pm, FHR tracing was still interpreted as Category 2 with minimal variability and variable decelerations.
- I. At 1:47pm, Respondent ordered an ultrasound biophysical profile ("BPP"). At about 2:11pm, Patient went to ultrasound by wheelchair where a BPP yielded a score of 2/8 (-2 fetal breathing movements, -2 fetal movement, -2 fetal tone; +2 amniotic fluid volume). The ultrasound BPP findings were reported to Respondent at 3:00pm.

- J. Patient returned to labor and delivery, where fetal monitoring continued to be non-reactive. At approximately 3:22pm, Respondent ordered an induction of labor with low dose oxytocin, and delivery by cesarean section if repetitive decelerations occur.
- K. Pitocin (oxytocin) infusion was started at 1mU/min at 4:01pm. At 4:15pm, FHR tracing documented as Category 2 with late decelerations and minimal variability.
- L. At 4:30pm, the oxytocin was increased to 2mU/mn with FHR tracing documented as Category 2 with minimal variability and occasional variable decelerations. At 4:45pm, FHR tracing continued to be Category 2, with minimal variability and variable decelerations.
- M. At approximately 5:05pm, Respondent discussed options with Patient and her husband and reviewed the FHR tracings, noting continued late decelerations (with contractions), minimal variability, and no accelerations. Respondent recommended cesarean section under spinal anesthesia, with a preoperative diagnosis of “non-reassuring fetal heart rate tracing.” Respondent called a Code OBERT and Patient was transported to the operating room at 5:07pm for an “urgent” primary cesarean section for “fetal distress”.
- N. At 5:42pm on January 2, 2014, Patient delivered a 6lb 6oz (2,881gm) female infant by emergency primary cesarean section under spinal anesthesia, Apgars 2¹/5⁵/6¹⁰; umbilical cord gases revealed arterial pH= 7.048 with a base excess

of -11.3. The venous chord was pH= 7.18 with a base excess of -10.9. There was thin meconium stained fluid.

- O. At delivery there were few significant spontaneous respirations, and not a lot of purposeful movement. The infant was not opening her eyes, so there was concern that there was possibly a prenatal neurological insult. Her central tone did seem to be increased.
 - P. The infant required resuscitation and intubation and was eventually transferred to another hospital for further evaluation and management in the neonatal intensive care unit.
 - Q. The infant was diagnosed with hypoxic ischemic encephalopathy.
 - R. Respondent's recommendation for a delivery by cesarean section came more than five hours after she assumed care of Patient for a non-reassuring fetal heart rate evaluation and approximately two hours after Patient's ultrasound BPP results were reported to Respondent. The delay in deciding to proceed with a cesarean delivery was in the face of persistent Category 2 FHR tracings that were not responsive to IVF bolus intervention and a BPP of 2.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent could be found to have committed professional misconduct, pursuant to RSA 329:17, VI.
7. Respondent acknowledges that this conduct, if proved, would constitute grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physician in the State of New Hampshire.

8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
 - A. Respondent is REPRIMANDED.
 - B. Respondent is required to meaningfully participate in eight (8) hours of CONTINUING MEDICAL EDUCATION in the area of obstetrics with a focus on caring for patients with non-reassuring fetal heart rate tracings. These hours shall be in addition to the hours required by the Board for renewal of licensure. On April 6, 2019, Respondent completed 16 hours of continuing medical education in the area of obstetrics, through a course entitled, “20th Annual National Conference on Fetal Monitoring.” These hours satisfy the continuing medical education required by this *Settlement Agreement*. Respondent shall provide written proof of completion to the Board within fifteen (15) days from the effective date of this *Settlement Agreement*.
 - C. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of the *Settlement Agreement* to any current employer for whom Respondent performs services as a physician or work which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority which licenses, certifies or credentials physicians, with which Respondent is presently affiliated.
 - D. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of this *Settlement Agreement* to

any employer to which Respondent may apply for work as a physician or for work in any capacity which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physicians, to which Respondent may apply for any such professional privileges or recognition.

9. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d), and a separate and sufficient basis for further disciplinary action by the Board.
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.

13. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
14. Respondent understands that her action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
15. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with his decision to enter into this agreement.
16. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced her right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
17. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Settlement Agreement*.
18. Respondent certifies that she has read this document titled *Settlement Agreement*. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and

dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, she waives these rights as they pertain to the misconduct described herein.

19. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENT

Date: 5-11-19

Denise F. Poulin

Denise F. Poulin, M.D.
Respondent

Date: 5-1-19

Michael A. Pignatelli

Michael Pignatelli, Esq.
Counsel for Respondent

FOR THE BOARD/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: June 18, 2019

Penny Taylor
(Signature)

PENNY TAYLOR
(Print or Type Name)

Authorized Representative of the
New Hampshire Board of Medicine

/*Board members, recused:

Emily Baker, M.D.

David Conway, M.D.

Nina Gardner, Public Member