

**Before the
New Hampshire Board of Medicine
Concord, New Hampshire**

**In the Matter of:
Matthew J. Masewic, M.D.
(Application for Reinstatement of License)**

Docket #: 20-MED-0003

FINAL DECISION AND ORDER

Before the New Hampshire Board of Medicine (“Board”) is an application for the reinstatement of license to practice medicine from Matthew J. Masewic, M.D. (“Respondent” or “Dr. Masewic”), received by the Board on November 26, 2019.

Background Information

- A. The Board first granted a license to practice medicine in the State of New Hampshire to Dr. Masewic on February 4, 2004. Dr. Masewic held license number 12217.
- B. Following receipt of a complaint of professional misconduct, the Board began investigating Dr. Masewic in the fall of 2014. Subsequently, the Board received multiple additional complaints against Dr. Masewic, which the Board also investigated. The complaints related to Dr. Masewic’s practice of medicine at the Hillsborough County Department of Corrections (“HCDOC”).
- C. On December 7, 2017, the Board accepted Dr. Masewic’s Voluntary Surrender of License, in which he relinquished all rights and privileges to practice medicine in the State of New Hampshire.
- D. Dr. Masewic surrendered his license in lieu of going through a disciplinary proceeding based on allegations that he:
1. Failed to ever see multiple patients with significant medical conditions at HCDOC and inadequately examined, evaluated, communicated with, and cared for other patients with significant medical conditions at HCDOC;

2. Failed to appropriately supervise nursing staff at HCDOC as they engaged in the unauthorized practice of medicine by evaluating, diagnosing, and treating patients;

3. Inappropriately stopped patients' medications and failed to monitor patients going through medication withdrawals;

4. Failed to order appropriate medications to treat patients' underlying conditions and prescribed medications to patients via a standing order without ever evaluating or examining them; and

5. Failed to maintain adequate medical record documentation of the care provided to patients at HCDOC.

E. The Voluntary Surrender of License, by its terms, did not address, settle, or resolve Dr. Masewic's conduct related to the allegations of misconduct detailed in paragraph D above.

F. The Voluntary Surrender of License provides that should Dr. Masewic again seek licensure in the State of New Hampshire, he must meet, and shall bear the burden of proving compliance with, all of the standards and prerequisites then required by the Board for new applicants, including professional character requirements.

G. The Voluntary Surrender of License further provides that the pending allegations, detailed in paragraph D above, that resulted in the signing of the Voluntary Surrender of License, shall be resolved in any future licensure application that Dr. Masewic may submit in New Hampshire by the commencement of a Show Cause Hearing at which it shall be Dr. Masewic's burden to demonstrate why, in light of such allegations, the Board should grant his license application.

H. On November 26, 2019, the Board received Dr. Masewic's application for reinstatement. The application was not sufficiently complete to permit Board review until December 10, 2019.

I. On January 8, 2020, the Board reviewed Dr. Masewic's application for reinstatement, and conditionally denied his application.

J. On January 23, 2020, the Board received a timely request from Dr. Masewic for a Show Cause hearing.

K. On March 4, 2020, the Board voted to issue a Notice of Hearing to Show Cause pursuant to Medical Administrative Rule ("Med") 401.04(f) and the terms of Dr. Masewic's December 7, 2017 Voluntary Surrender of License, for June 17, 2020 at 2:00 p.m. The purpose of the Show Cause hearing was for Respondent to show cause that he possesses the necessary character and competency requirements under RSA 329:12 and RSA 329:14, II and Med 401.04(f) to reinstate his license in New Hampshire. In doing so, Respondent was required to demonstrate why, in light of the allegations detailed in paragraph D above, the Board should grant his license application.

On March 10, 2020, the Board issued a Notice of Hearing to Show Cause scheduling the hearing to take place on Wednesday May 6, 2020 at 1:00 P.M. Due to the current State of Emergency, the Board issued an Order of Continuance, continuing the hearing until further order of the Board.

The State of Emergency continued and on May 8, 2020, the Board issued an Amended Notice of Hearing to Show Cause scheduling the hearing to take place on June 17, 2020 at 2:00 P.M. electronically via real-time, two-way video conferencing through the Office of Professional Licensure and Certification ("OPLC") ZOOM account.

The hearing commenced on June 17, 2020 beginning at approximately 2:10 P.M. The Board members present included:

Daniel Potenza M.D., President
Emily Baker, M.D.
Michael Barr, M.D.
Gilbert Fanciullo, M.D.

Michael Barr, M.D., Board Member, served as presiding officer. Dr. Masewic appeared and represented himself.

Dr. Masewic submitted the following exhibits, which were admitted into evidence by the presiding officer:

- A. Acumen Assessments, Multidisciplinary Assessment Summary Report dated 8/8/19
- B. Proposed Plan for Return to Practice submitted by Matthew J. Masewic, M.D.

The Board submitted the following exhibits, which were admitted into evidence by the presiding officer:

- 1. MRSC Report of Investigation, Complaint #2014-354, Dated 03/2013
- 2. MRSC Report of Investigation, Complaint #2015-276, Dated 4/21/16
- 3. MRSC Report of Investigation, Complaint #2015-366, Dated 04/21/16
- 4. MRSC Report of Investigation, Complaint #2015-424, Dated 4/21/16
- 5. MRSC Report of Investigation, Complaint #2016-65, Dated 07/21/16
- 6. MRSC Report of Investigation, Complaint #2016-222, Dated 08/2016
- 7. MRSC Report of Investigation, Complaint #2016-223, Dated 09/15/16 and 09/21/17
- 8. MRSC Report of Investigation, Complaint #2016-329, Dated 2/16/17

Discussion and Rulings

The Presiding Officer opened the hearing at approximately 2:10 p.m. on June 17, 2020. The presiding officer listed the Board members present at the hearing, that made up the panel of the Board, pursuant to RSA 329:18-a, I. RSA 329:18-a, I requires the following: "Allegations of misconduct or lack of professional qualifications which are not settled informally shall be heard by the board or a panel of the board, with a minimum of 3 members appointed by the president

of the board. The panel for a hearing on a physician-licensee shall consist of a minimum of 2 physicians and one public member.” Public member Donald LeBrun was scheduled to be on the panel for this hearing. Unfortunately, Mr. LeBrun was having trouble accessing the Zoom hearing. The presiding officer asked Dr. Masewic if he wanted to reschedule the hearing, or waive the requirement that the panel include a public member of the Board. Dr. Masewic indicated he did not want to wait for another hearing date and agreed to waive this requirement. The Board panel proceeded to hold the hearing.

Dr. Masewic testified on his own behalf. Dr. Masewic testified that at the time of the repeated allegations of misconduct, he was experiencing undue stress related to several personal issues. He explained that he progressively suffered from “compassion fatigue” which he was not aware of at the time, but which had a significant impact on his life as well as his clinical practice at the jail. This manifested itself in a disinvesting of himself from the degree of clinical attention required for his job at the jail. While unaware of it at the time, he now realizes that he also experienced a progressive bias toward jail inmate-patients who had substance use issues. He explained to the Panel that since the surrender of his medical license, he has deliberately worked toward becoming more self-aware of these issues. He further testified that he has been working on improving himself, and being specifically more aware of his own fatigue in his work and particularly more self-aware of his own disembodiment from the caring physician that he feels he once was. His efforts have led him to improve his understanding of his failings and the impact his actions had on the patients that suffered, as well as the need to balance his life and work responsibilities. Dr. Masewic offered that Michael J. Carr, D.O., license number 13007, and Steven H. Kaitz, M.D., license number 7616, have agreed to supervise him during his re-entry back into medical practice. Dr. Carr was available to the Board members during the hearing and confirmed that he would be available to Dr. Masewic for supervision. This is in addition to the

re-entry plan set forth by Dr. Masewic, which includes a diverse selection of CME courses (Exhibit B).

The presiding officer then opened up the hearing for any comments or discussion by the Board panel members. Dr. Fanciullo, Dr. Potenza, and Dr. Barr inquired regarding current level of functioning as well as how Dr. Masewic would be able to detect any backslide into “compassion fatigue.” Sally Garhart, M.D., Medical Director, NH Professionals Health Program (“NHPHP”), spoke on Dr Masewic’s behalf indicating his adherence to his care provided by the NHPHP.

The presiding officer closed the hearing at 3:15 p.m.

Findings of Fact and Rulings of Law

The issue before the Board panel is whether Dr. Masewic possesses the necessary character and competency requirements under RSA 329:12 and RSA 329:14, II and Med 401.04(f) to reinstate his license in New Hampshire. Respondent must demonstrate why, in light of the allegations detailed in paragraph D of the Amended Notice of Hearing, the Board should grant his license application.

After hearing testimony from Dr. Masewic and reviewing the documentation submitted by him, the Board panel found that while Dr. Masewic appears to possess the necessary educational, character and other professional qualifications to practice medicine, and he appears to have satisfactorily remediated the issues that led to his Voluntary Surrender of License in 2017, it would not be in the interest of public health, safety, and welfare to issue him an unrestricted permanent license to practice medicine at this time in light of the seriousness of his past conduct and the length of time that he has been out of the practice of medicine. Therefore, the Board panel voted to conditionally approve Dr. Masewic’s return to practicing medicine under the following restrictions:

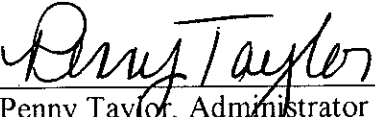
1. For the first three (3) years of practice, Dr. Masewic shall not practice medicine in a solo practice; and
2. For the first three (3) years of practice, Dr. Masewic shall not practice medicine for any correctional facility in New Hampshire; and
3. For the first three (3) years of practice, Dr. Masewic shall be monitored by a New Hampshire licensed physician. The Board approves Michael J. Carr, D.O. and Steven H. Kaitz, M.D. as work-place monitors for Dr. Masewic. Dr. Masewic shall establish a work-place monitoring agreement between him and both Dr. Carr and Dr. Kaitz, individually. Such monitoring agreements shall be approved by the Board prior to Dr. Masewic's return to the practice of medicine. Any change to the work-place monitoring physician(s) and/or monitoring agreement(s) shall be approved by the Board; and
4. Dr. Masewic shall ensure that the work place monitors provide quarterly reports to the Board describing his clinical care, conduct and professionalism while practicing medicine; and
5. Dr. Masewic shall, within one (1) year of the date of this Order, submit to the Board proof of having taken Category 1, AMA approved continuing education in the following areas:
 - a. Respiratory for forty (40) hours;
 - b. Cardiovascular for forty (40) hours;
 - c. Musculoskeletal for forty (40) hours;
 - d. Dermatology for forty (40) hours;
 - e. Genitourinary for forty (40) hours;
 - f. Gastrointestinal for forty (40) hours;
 - g. General Pediatrics for forty (40) hours;
 - h. Infectious Disease for forty (40) hours;
 - i. Substance Use Disorders for twenty (20) hours;
 - j. Endocrinology for forty (40) hours;
 - k. Medical Record Keeping for twenty (20) hours; and
 - l. Medical Ethics for twenty (20) hours.

Dr. Masewic shall report the above hours to the Board when he has completed all of the required areas.
6. Dr. Masewic can apply for an unrestricted license not less than thirty-six (36) months from the date of this Final Decision and Order.

SO ORDERED.

BY ORDER OF THE BOARD*

Dated: 7/6/2020


 Penny Taylor, Administrator
 Authorized Representative of the
 New Hampshire Board of Medicine

*Board Members, David Conway, M.D., Jonathan Ballard, M.D., M.P.H., Nina Gardner and Linda Tatarczuch, recused. Board Members, John Wheeler, D.O., Susan Finerty, P.A. and Donald LeBrun, did not participate.