

**STATE OF NEW HAMPSHIRE  
OFFICE OF PROFESSIONAL  
LICENSURE AND CERTIFICATION**

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**BOARD OF MEDICINE**

**In Re: Timothy Sievers,  
Lic. #9198**

Docket No.: 2021-ENF-Sievers-660

**ORDER VACATING TEMPORARY  
SUSPENSION OF LICENSE**

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**I. ATTENDEES:**

Dr. David Conway, Chairperson  
Dr. Michael Barr, Board Member (Vice Chair)(via Zoom)  
Dr. Emily R. Baker, Board Member (via Zoom)  
Dr. Richard Kardell, Board Member  
Susan M. Finerty, PA, Board Member  
Nina Gardner, Board Member  
Linda Tatarczuch, Board Member  
Christine Senko, Administrator  
Jessica Kennedy, Administrator  
Attorney Michael Porter, Hearing Counsel  
Attorney William Smart, Counsel for Licensee  
Dr. Timothy Sievers, Licensee  
Nikolas K. Frye, Esq., OPLC Hearings Examiner and Presiding Officer (via Zoom)

**II. CASE SUMMARY/PROCEDURAL HISTORY:**

On 06/02/21, the Board of Medicine (“Board”) temporarily suspended Dr. Timothy Sievers (“Licensee”) from the practice of medicine pursuant to RSA 329:18-b. Ord. 06/02/21. “Dr. Sievers [...] [was] alleged to have consumed alcohol and cannabis in violation of an agreement in place to abstain from this behavior.” *Id.* The Board issued a Notice of Emergency Hearing for 06/15/21. On 06/14/21 the Board formalized a Preliminary Agreement Not to Practice (“PANP”) obviating the need for the hearing. On or

about 01/05/22, Licensee requested restoration of his license to practice, pending a disciplinary adjudication. A hearing on that request was held on 02/02/2022. This order follows.

### **III. SUMMARY OF THE EVIDENCE:**

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 206.09:

A. Exhibits were submitted by Hearing Counsel, labeled as follows:

1. Miscellaneous Bedford Police Department Reports from 2018 (Withdrawn by Hearing Counsel and not entered as a full exhibit)
2. Communications to and from Licensee's Employer 2018 **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order
3. Treatment Program Letters and Contract **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order

B. Exhibits were submitted by Licensee's Counsel, labeled as follows:

- A. 12/15/21 Letter from Licensee to the Board
- B. 12/21/21 Letter to the Board **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order
- C. 12/28/21 Letter to the Board **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order
- D. 12/22/21 Letter to the Board **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order
- E. 12/20/21 Letter to the Board **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order
- F. 12/17/21 Agreement signed by Licensee **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order

C. Testimony was received from:

1. Timothy Sievers, Licensee (Testimony relating to Licensee's involvement with treatment was **SEALED PURSUANT TO RSA 329:13-b, III** by Board Order.)

### **IV. CONDUCT OF HEARING AND EVIDENCE PRESENTED:**

This hearing stems from Licensee's request to "restore his license pending a resolution of the misconduct allegations set forth in the Order", Letter from Licensee to Board 01/05/22. The PANP specifies the Licensee "may request a hearing on this Preliminary Agreement at any time and a hearing will be scheduled within thirty (30) days of the filing or the next available hearing date," PANP at par. 4, but provides no guidance as to what type of a hearing or who bears the burden of proof. Consequently, the Board's Presiding Officer determined the hearing should proceed in accordance with RSA 329:18-b

and RSA 541-A:30, III with the burden of proof placed on Hearing Counsel, who was appointed pursuant to the Notice of Hearing.<sup>1</sup> The Presiding Officer also determined the hearing was disciplinary in nature.<sup>2</sup> Therefore, pursuant to Rule 207.10, Hearing Counsel has the burden of proving, by a preponderance of the evidence, that Licensee poses an “... imminent danger to life or health...”, RSA 329:18-b, if Licensee’s license is to remain suspended, pending full adjudication in this matter.<sup>3</sup>

At the outset of the hearing, Hearing Counsel moved to admit Exhibits 2 and 3 as full exhibits, which was allowed by the Board. Licensee moved to admit Exhibits A-F as full exhibits, which was granted. The Licensee was the sole witness to testify under oath in this matter. Certain exhibits and portions of testimony were sealed for the reasons specified in Section II above. The credible evidence presented allows the Board to find the following facts.

The Licensee’s testimony and exhibits revealed no further use of any substances by the Licensee since he was emergently suspended by the Board on 06/02/21 or any violation of the agreement to abstain from such use. Exhibits B-E show that professionals involved with the Licensee are currently supportive of his ability to practice medicine.

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<sup>1</sup> See Notice of Hearing at II.f. The Board had previously voted to pursue disciplinary action against the Licensee on the same allegations upon which the emergency suspension was based. The Board ordered appointment of Hearing Counsel for this hearing because whether the temporary suspension should be vacated warranted investigation and prosecution, Rule 202.02.

<sup>2</sup> The Presiding Officer acknowledges that RSA 329:17, VI-a allows the Board to suspend a license for “non-disciplinary reasons”. Nonetheless, that the Board voted to move forward with discipline on the same basic factual allegations makes the hearing on suspension at least partially disciplinary in nature. This is also reflected in the issues presented in the Notice of Hearing. See Notice of Hearing at II(d).

<sup>3</sup> The Presiding Officer placed the burden of proof on Hearing Counsel because the Licensee’s license had never been temporarily suspended after a hearing pursuant to RSA 329:18-b and RSA 541-A:30, III. The Presiding Officer did not consider it a “show cause” hearing because a show cause order is “an order directing a party to appear in court and explain why the party took (or failed to take) some action or why the court should or should not grant some relief.” BLACK’S LAW DICTIONARY 9<sup>th</sup> Edition (2009). By definition, a show cause hearing places the burden of proof on the Licensee.

The Licensee explained he has no financial need to work but would like to return to practice because he enjoys it. He plans on practicing no more than 3 times per week. Upon questioning, the Licensee provided a detailed plan of how he intends to balance work and his other obligations.

**V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:**

After reviewing all of the evidence, and taking into account the presentation and demeanor of all the witnesses, the Board finds that Hearing Counsel (though having performed well) has failed to meet its burden of proof. The weight of the evidence demonstrates that the Licensee does not pose a current “imminent danger to life or health”. RSA 329:18-b. The Board also finds the Licensee’s testimony credible, as well as the professional opinions of those who submitted letters on his behalf. *See Exhibits B-E.*

**VI. CONCLUSION AND DECISION:**

Pursuant to RSA 329:18-b, the Board finds the Licensee poses no current imminent danger to life or health and therefore vacates both the Preliminary Agreement Not to Practice and Licensee’s temporary suspension to practice.

DATED: 3/7/2022

\_\_\_\_\_/s/ Nikolas K. Frye, Esq.\_\_\_\_\_  
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