

STATE OF NEW HAMPSHIRE
PHYSICAL THERAPY GOVERNING BOARD
CONCORD NH 03301

In the Matter of:

Docket No.: 21-PHY-0008

Mary Ann Schunemann, PT
License #2406

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 physical therapy, the New Hampshire Physical Therapy Governing Board ("Board") and Mary Ann Schunemann, PT ("Respondent"), a physical therapist licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board in accordance with the following terms and conditions:

1. The Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physical therapists who are its licensees pursuant to RSA 328-F:23, I and RSA 328-F:24. The Board may dispose of any such allegations by settlement and without commencing or completing a disciplinary hearing pursuant to RSA 328-F:24, VI and AHP 214.01.
2. The Board first granted Respondent a license to practice as a licensed physical therapist in the state of New Hampshire on August 18, 1999. Respondent holds license number 2406. Respondent's current license expires on 12/31/2022.

3. In response to a complaint filed with the Board on November 12, 2020, the Board conducted an investigation and obtained information from various sources concerning alleged that the Respondent allowed a third party to hear a conversation with a patient.

4. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent's conduct failed to provide care with reasonable regard for client or patient rights in violation of RSA 328-F:23, II(e) and N.H. Code Admin. R. Phy ("Rule") 405.01(f), by the following facts:

- a. On November 12, 2020, an administrative assistant from the Office of Professional Licensure and Certification returned a phone call from the Respondent concerning a question about the Respondent's license.
- b. The Respondent answered the phone call and informed the administrative assistant that she was with a patient. The administrative assistant informed the Respondent that the Respondent could call her back when she was finished. Instead, the Respondent asked the administrative assistant to hold while she spoke to the patient. The Respondent failed to mute the phone, and was unaware that the administrative assistant could hear the conversation between the Respondent and the patient.
- c. The Respondent recognizes and admits that she exercised poor judgment by allowing a third party to hear conversations with a patient during treatment.

5. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 328-F:23, II(e) and Rule 405.01(f).

6. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a licensed physical therapist in the State of New Hampshire pursuant to RSA 328-F:23, III.

7. WHEREFORE, the Respondent consents to the Board imposing the following disciplinary sanctions and terms pursuant to RSA 328-F:23, III:

- a. The Respondent is REPRIMANDED.
- b. The Respondent shall be charged an ADMINISTRATIVE FINE in the amount of **two hundred dollars (\$200.00)**. Payment shall be made payable to the Treasurer, State of New Hampshire. The payment shall be sent with a copy of this *Settlement Agreement* within thirty (30) days of

the effective date of this *Settlement Agreement* to:

ATTN: OPLC Finance and New Hampshire Physical Therapy
Governing Board
Office of Professional Licensure and Certification
7 Eagle Sq.
Concord, NH 03301

A separate mailed copy of the payment shall also be sent to:

ATTN: Collin Phillips, Attorney I and Jessica Whelehan,
Administrator,
Office of Professional Licensure and Certification
7 Eagle Sq.
Concord, NH 03301

- c. The Respondent shall take ten (10) hours of PROFESSIONAL ETHICS COURSES in the topics of ethics, patient rights/confidentiality, and

HIPAA within three (3) months of the effective date of this agreement and provide the Board with documentation showing her successful completion of those hours. These hours shall be in addition to the continuing education hours required by the Board for renewal of license. The proposed courses to be taken are attached as "Attachment A." Courses that are listed in "Attachment A" that have already been completed after the date the incident occurred may count toward the ten hours listed above.

- d. 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 the Respondent performs services as a physical therapist, and to any agency or authority which licenses, certifies or credentials physical therapists, with which Respondent is presently affiliated.

8. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct and a separate and sufficient basis for further disciplinary action by the Board.

9. 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 of a pattern of conduct 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 *Settlement Agreement*

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as a factor in determining appropriate discipline should any future misconduct be proven against Respondent in the future.

10. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

11. 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.

12. 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.

13. 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.

14. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this *Settlement Agreement*.

15. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Settlement 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* has prejudiced her right

to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.

17. 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 right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, quality 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.

18. 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.

[End of terms. Signatures to follow.]

10 Hours of CEU in HIPPA, Ethics, Patient confidentiality for Mary Ann Schunemann PT

Found in RELIAS LEARNING.COM

<u>Course Name</u>	<u>CEU Hours</u>
Dementia Care: Ethical considerations	0.5 hours
ELNEC Geriatric Module 6: Ethics and Goals of Care	1.25 hours
Ethical Decision Making: The Basics	0.5 hours
Ethics and Personal Rights	1.0 hour
Ethics and the Care of Persons Living with Dementia	1.0 hour
Introduction to HIPPA	0.5 hours
Nursing: Ethical Decision Making	1.0 hour
Patient Rights and Responsibilities	0.5 hour
Patient Rights: Home Care and Hospice	0.25 hour
Privacy and Confidentiality for Non-HIPPA Covered Entities	0.25 hour
Privacy, Rights, and Self Determination of Clients	1.0 hour
Protecting Client Rights in Home Care	0.5 hour
Protecting Patient Rights in Home Health	0.5 hour
HIPAA Do's&Don'ts: Electronic Communication & Social Media	0.5 hour
HIPPA Security	0.5 hour
Regulation Express: HIPAA/Pt Information Privacy and Security	0.25 hour
Total	10.05 Hours

FOR RESPONDENT

Dated: Oct 22, 2021

Mary Ann Schunemann PT
Mary Ann Schunemann, PT
Respondent

On this 22ND day of October A.D. 2021 personally
appeared the person who subscribe to the following instrument and acknowledged the
same as her/his voluntary act and deed before me.

Jaclyn Hill
Justice of the Peace/Notary
Public My commission expires:

JACLYN L. HILL, Notary Public
State of New Hampshire
My Commission Expires October 3, 2023

FOR THE BOARD

ACCEPTED BY THE PHYSICAL THERAPY GOVERNING BOARD on this 27th day of
OCTOBER, 2021 (Effective Date).

Date: 10-27-2021

Jessica M. Wnelehan, Board Administrator
(Signature)
JESSICA M. WNELEHAN, BOARD ADMINISTRATOR
(Print or Type Name)
Authorized Representative of the
Board of Allied Health Professionals and/or
Physical Therapy Governing Board