

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

In the Matter of:
Anthony A. Salerni, MD
License No.: 8177
(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 Anthony A. Salerni, MD (“Dr. Salerni” 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 July 12, 1989. Respondent holds license number 8177.
3. In April 2015, the Board received information alleging that Respondent failed to properly treat patient KG for an infection following a surgical procedure.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent’s treatment of the patient.

5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in professional misconduct, in violation of RSA 329:17, VI (d), by the following facts:
 - A. Respondent had been managing KG's lumbar condition non-surgically from 2012-2013. In January 2013, KG's condition had progressed and he was diagnosed with L4-L5 spinal stenosis with L4 neural foraminal entrapment and surgery was scheduled.
 - B. On February 22, 2013, Respondent performed surgery on KG's lumbar spine. KG's postoperative course was unremarkable and he was discharged home on February 24, 2013.
 - C. On March 2, 2013, KG presented in the Emergency Room complaining of pain and drainage from the incision. He was evaluated and admitted to the hospital under the care of Respondent. At the time of admission, KG had been given a high dose of pain medication which resulted in the development of mental status changes requiring ICU monitoring. In addition, there were metabolic related changes on lab testing documenting changes in his electrolytes and an elevated white blood cell count. Antibiotic treatment was initiated using Oxacillin given the concern for infection. A neurology consult was ordered since further changes to KG's mental status were observed and metabolic changes persisted. A CT scan of the head was performed, but an MRI of the lumbar spine was not performed because of the presence of skin staples and potential reaction during the MRI procedure. Wound cultures came back as

gram positive cocci identified as staphylococcus aureus and antibiotics were changed to Dicloxacillin. It took several days for KG's mental status to clear. KG was discharged home on March 20th.

- D. On March 21 and 22, KG's wife called Respondent's office several times reporting KG was in pain and that the medications were not helping.
- E. On March 25, 2013, Respondent ordered an MRI and additional labs. The white blood cell count was 7000 and electrolytes were normal. The MRI documented "infectious process centered at L4-L5 involving the vertebral bodies, epidural tissues, and spinal tissue. The MRI suggested ventral epidural tissues were causing moderate to severe mass effect on the thecal sac at L4-L5."
- F. On March 27, 2013, KG was readmitted to the hospital and an incision and debridement at L4-L5 was performed. After obtaining cultures, KG was placed on IV antibiotics. KG appeared to heal appropriately during his hospital stay and since additional cultures were negative for growth he was not continued on oral antibiotics or IV antibiotics when he was discharged to a skilled nursing facility on April 1, 2013.
- G. On April 4, 2013 the skilled nursing facility brought KG back to the emergency room because of fever, hypertension, and a concern for sepsis. KG was admitted again to the hospital. KG had an elevated white blood cell count of 14,000 and blood cultures came back positive for gram positive cocci. Due to concerns that the infection was not controlled, KG was transferred to

Brigham and Women's Hospital in Boston. After an infectious disease consultation and a surgical consultation, KG was treated with six weeks of IV antibiotics.

6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 329:17, VI (d).
7. Respondent acknowledges that this conduct constitutes 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 6 hours of continuing medical education in the areas of managing post-operative infections. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within one (1) year from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these hours, Respondent shall notify the Board and provide written proof of completion.
 - C. Respondent is assessed an ADMINISTRATIVE FINE in the amount of \$1,000. Respondent shall pay this fine in full within thirty (30) days of the effective date of this *Settlement Agreement*, as defined further below, by

delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 121 South Fruit Street, Concord, New Hampshire.

- 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 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.
- E. 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 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 him 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 his 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 his 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 his 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 he signs this *Settlement Agreement*.
18. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he 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*, he 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.

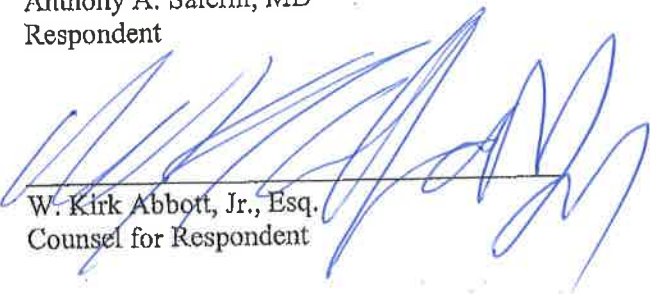
FOR RESPONDENT

Date: 2/24/17



Anthony A. Salerni, MD
Respondent

Date: 2/24/17



W. Kirk Abbott, Jr., Esq.
Counsel for Respondent

FOR THE BOARD/*

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

Date: 3/6/2017

Penny Taylor
(Signature)

PENNY TAYLOR
(Print or Type Name)
Authorized Representative of the
New Hampshire Board of Medicine

/* Board members, recused:
David Conway, M.D.