

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

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APR 04 2018
NH BOARD

In the Matter of:
Malathy Sundaram, MD
License No.: 13607
(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 Malathy Sundaram, MD ("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.
2. 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.
3. Pursuant to RSA 329:17-c and Med 504.01, the NH Board also has jurisdiction to proceed with a reciprocal proceeding against a physician upon receipt of an administratively final order from the licensing authority of another jurisdiction which imposed disciplinary sanctions against the physician.
4. If a reciprocal proceeding were conducted, the Board would be authorized to impose any sanction permitted by RSA 329:17, VI; RSA 329:17-c; and Med 410.01(b).

5. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on July 11, 2007. Respondent holds license number 13607 and practices family medicine in Sanford, Maine.
6. Respondent and the Maine Board of Licensure in Medicine (“Maine Board”) signed a Consent Agreement to resolve disciplinary issues. The agreement became effective on August 8, 2017. The NH Board first learned of this agreement on September 7, 2017, after it was reported by Respondent in a letter to the Board.
7. If reciprocal proceedings were commenced, Hearing Counsel would prove that on August 8, 2017, an order was issued by the Maine Board. Pursuant to the order, discipline was imposed on Respondent.
8. As a basis for proceeding against Respondent, the Board finds the following:
 - A. Respondent was the subject of four complaints submitted to the Maine Board. Two of those complaints involved the diagnosis and treatment of patients believed to have chronic Lyme disease (Patients 15-116 and 15-137). One complaint involved the prescribing of medication for a dementia patient (Patient 15-178). The final complaint involved a dispute with a patient over a cancellation fee (Patient 16-33).
 - B. In the Consent Agreement, Respondent agreed that if an adjudicatory hearing were to have been held, there was sufficient evidence to conclude that she violated two sections of the Maine practice act 32 M.R.S. §§ 3282-A(2)(E) and (F), which subject licensees to discipline for incompetence and unprofessional conduct.

- C. The conduct underlying the complaints to the Maine Board occurred between 2010 and 2016 while Respondent was licensed in New Hampshire.
 - D. On August 8, 2017, the Maine Board imposed conditions on Respondent's license to practice medicine in Maine. Specifically, she was required to obtain a Clinical Competence Assessment from the Center for Personalized Education for Physicians ("CPEP"). If indicated by the assessment, Respondent was further ordered to participate in an educational plan or educational intervention program with practice monitoring for a two (2) year period. Respondent was further ordered to reimburse the Maine Board for investigative and hearing costs.
 - E. The approval of the Consent Agreement constitutes a final order by the Maine Board.
9. Respondent acknowledges that the conduct underlying the discipline imposed on her Maine medical license constitutes grounds for the Board to impose disciplinary sanctions against her license to practice as a physician in the State of New Hampshire.
10. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
- A. Respondent is Reprimanded.
 - B. Respondent shall complete the CPEP assessment as required by the Consent Agreement approved by the Maine Board and comply with any of the recommendations made by CPEP as a result of the assessment, whether or not

she is actively practicing medicine in New Hampshire. Respondent shall provide a copy of the CPEP assessment to the Board within ten (10) days of her receipt of it.

- 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.
11. 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.
12. 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.


13. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.

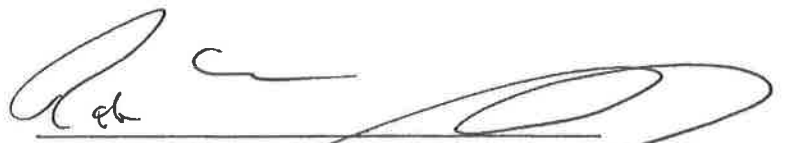
19. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Settlement Agreement*.
20. Respondent certifies that she has read this document titled *Settlement Agreement*. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter 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 her 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.
21. 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: 2/14/18


Malathy Sundaram, MD
Respondent

Date: 2/14/18


Counsel for Respondent

FOR THE BOARD/*

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

Date: May 7, 2018

Penny Taylor
(Signature)

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

* Board members, recused:
Nina Gardner, Public Member