

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

**In the Matter of:  
James H. Clifford, MD  
License No.: 7501  
(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 James H. Clifford, MD ("Dr. Clifford" 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 February 5, 1987. Respondent holds license number 7501. Respondent currently practices family medicine in Gilford, New Hampshire. Respondent was also practicing emergency room medicine in North Conway, New Hampshire until January 13, 2016, when he resigned.
3. On February 5, 2016, the Board received information alleging that Respondent was notified by his employer on January 5, 2016 of precautionary suspension of his

clinical privileges at Memorial Hospital pending the findings of an internal investigation.

4. On January 13, 2016, Respondent resigned his medical staff privileges while under investigation and terminated his employment with Memorial Hospital.
5. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's alleged misconduct.
6. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent has displayed medical practice which is incompatible with the basic knowledge and competence expected of persons practicing emergency medicine, in violation of RSA 329:17, VI (c), by the following facts:
  - A. On January 2, 2016, an 18-year-old female patient ("Patient") presented to the Emergency Department at Memorial Hospital with severe right flank pain and nausea and a history of left nephrectomy for Wilm's tumor.
  - B. Patient had a WBC of 9.9 and a BUN/Cr of 20/1.15. A CT scan of Patient's abdomen/pelvis showed mild hydronephrosis and hydroureter down to an obstructing 4-5mm calcified stone in the right ureter at the level of L5.
  - C. Patient was treated with IV fluids, Dilaudid and Zofran and discharged with Flomax, Dilaudid, Zofran and Cipro with instruction to follow up with her PCP. Respondent noted that she "may need to see a urologist this coming week."

- D. The next day (January 3, 2016), Patient returned to the Memorial Hospital Emergency Department and again saw Respondent. Patient presented with severe pain, vomiting, WBC of 22.2 and a BUN/Cr of 42/4.5 (acute renal failure). Patient was unable to keep medication down.
  - E. A repeat CT scan was performed and it showed no change in location of the stone, but now the presence of periureteral fluid and soft tissue stranding and dependent ascites, concerning for calyceal rupture secondary to persistent urinary obstruction.
  - F. Patient went to the operating room for stent placement and plan for outpatient lithotripsy at a later time.
  - G. Respondent should have considered Patient's initial presentation of a urinary obstruction with hydronephrosis of a solitary kidney to be a urologic emergency warranting a mandatory admission. Respondent's failure to promptly place a stent resulted in acute renal failure.
  - H. Respondent contends that his treatment of Patient was appropriate and any concern for him not consulting urology at the first visit, despite Patient having only one kidney, is simply a "matter of opinion." Such a statement shows a lack of insight of, and concern for, Patient's condition and how it should have been treated.
7. 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 (c).

8. 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.
9. 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 **CONTINUING MEDICAL EDUCATION** as follows: Six (6) hours of continuing medical education in the area of medical record keeping, and six (6) hours of continuing medical education in the area of managing urologic emergency patients. These twelve (12) hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within twelve (12) months 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 one thousand dollars (\$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.
10. 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.
11. 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.
12. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
  13. 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.
  14. 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.
  15. 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.
  16. 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.
  17. 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.
  18. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.

19. 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.
20. 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: 8/15/14

James H. Clifford, MD  
James H. Clifford, MD  
Respondent

**FOR THE BOARD/\***

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

Date: 9/14/2016

Penny Taylor  
(Signature)

*N.H. Board of Medicine  
In the matter of James H. Clifford, MD  
Settlement Agreement*

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

**/\*Board members, recused:**

Louis Rosenthal, MD

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