

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

In the Matter of:
Noble N. Gabriel, M.D.
No.: 7432
(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 (“NH Board”) and Noble N. Gabriel, M.D.. (“Respondent”), a physician licensed by the Board, do hereby stipulate and agree to enter into this Settlement Agreement resolving a New Hampshire reciprocal proceeding based on an administratively final order issued by another jurisdiction, according to the following terms and conditions:

1. Pursuant to RSA 329:17~~/c~~ and Med 410.01, the NH Board 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.
2. Pursuant to RSA 329:18-a, III, the NH Board may, at any time, dispose of such allegations by settlement and without commencing a reciprocal proceeding.
3. If a reciprocal proceeding were conducted, the NH Board would be authorized to impose any sanction permitted by RSA 329:17, VI; RSA 329:17-c; and Med 410.01(b).

4. The NH Board first granted Respondent a license to practice medicine in the State of New Hampshire on September 4, 1986. Respondent holds New Hampshire license number 7432.
5. On or about December 21, 2011, the Commonwealth of Massachusetts, Board of Registration in Medicine (Mass Board), issued a Final Decision and Order reprimanding Respondent and imposing conditions on his License to practice medicine in Massachusetts. (See **Attachment 1**.)
6. Respondent acknowledges that the Mass Board's Final Decision and Order provides grounds for the Board to issue a reciprocal order in New Hampshire.
7. Respondent consents to the Board imposing the following reciprocal action, pursuant to RSA 329:17, VII:
 - A. Respondent is hereby REPRIMANDED.
 - B. Respondent must notify the NH Board within 10 days of completing the 20 hours of continuing medical education credits imposed by the Mass Board.
 - C. Respondent must have a chaperone present whenever he conducts a physical examination of any female patient while practicing in the State of New Hampshire. Respondent may petition the NH Board to lift this restriction upon a showing that the Mass Board has lifted the restriction from his Massachusetts license.
 - D. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of this 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.

8. 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.

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

10. This Settlement Agreement shall become a permanent part of 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 him 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 his 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 his choosing in connection with his decision to enter into this agreement.
15. 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.
16. Respondent is not under the influence of any drugs or alcohol at the time he signs this Settlement Agreement.
17. Respondent certifies that he has read this document titled Settlement Agreement. Respondent understands that he has the right to a formal adjudicatory hearing

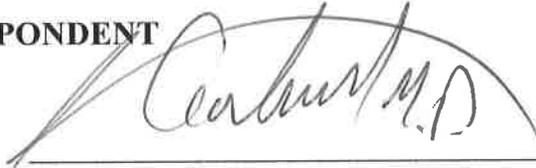
concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands 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.

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.

FOR RESPONDENT

Date:

4/27/2012



Noble N. Gabriel, M.D.
Respondent

Date: _____

Counsel for Respondent

FOR THE BOARD*

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

Date: June 8, 2012

Penny Taylor
(Signature)

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

* Board Members(s) recused:
Robert P. Cervenka, MD

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

RECEIVED
FEB 07 2012
NH BOARD

Middlesex, ss.

Adjudicatory Case
No. 2010-003
(RM-10-28)

In the Matter of
Noble Gabriel, M.D

FINAL DECISION AND ORDER

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's Recommended Decision, dated July 14, 2011, and the Board's Partial Final Decision as to Findings of Fact and Conclusions of Law Only (hereinafter "Partial Final Decision"), dated October 19, 2011. After full consideration of the Recommended Decision and the Partial Final Decision, which are attached hereto and incorporated by reference, the Board imposes the following sanction:

Sanction

The record demonstrates that the Respondent engaged in misconduct in the practice of medicine, has practiced medicine beyond its authorized scope, and through this conduct, has demonstrated a lack of good moral character and engaged in conduct that undermines public confidence in the integrity of the medical profession. Therefore, it is proper for the Board to impose sanction. See Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982); Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979).

The Board is disturbed by the Respondent's conduct. It is unacceptable for a physician to perform a medically unnecessary examination upon a patient. Such an

examination is intrusive and understandably upsetting to the patient, and may make any patient wary of seeking medical treatment in the future. By conducting this examination, the Respondent has failed to conduct himself in accordance with the requirements of sound professional judgment, acute sensitivity to the trust placed in a physician, and the high degree of integrity that is essential to the physician-patient relationship. See In the Matter of Stuart Brink, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2005-034 (Final Decision and Order, October 3, 2007).

However, the Board has also considered as mitigating factors the Magistrate's findings, including: the Respondent did not conduct the examination in an improper medical manner or engage in conduct to sexually arouse himself, did not spend a long time doing the examination, and has no prior discipline. In consideration of these factors, and the Respondent's conduct, the Board hereby REPRIMANDS the Respondent. The Respondent must also complete 20 additional hours of continuing medical education credits, to be approved in advance by the Board, in the areas of communication with patients and clinical judgment, over and above those which are required for renewal of his license. These continuing medical education credits must be completed within one year from the date of this Order. In addition, the Board hereby requires the Respondent to have a chaperone present whenever he conducts a physical examination of any female patient.

The Respondent shall provide a complete copy of this Final Decision and Order, with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state

agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing boards of all states in which he has any kind of license to practice medicine; the Drug Enforcement Administration – Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this Final Decision and Order. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

The Respondent has the right to appeal this Final Decision and Order within thirty (30) days, pursuant to G.L. c. 30A, §§14 and 15.

DATE: December 21, 2011



Peter G. Paige
Chair

SENT CERTIFIED MAIL

12/21/11 KJR