

**Before the
New Hampshire Board of Medicine
Concord, New Hampshire 03301**

In The Matter Of:

Dan William Joachim, M.D.
License No.: 14530
(Adjudicatory/Disciplinary Proceeding)

Docket No.: 12-17

FINAL DECISION AND ORDER

Before the New Hampshire Board of Medicine ("Board") is the adjudicatory/disciplinary proceeding of Dan William Joachim, M.D. ("Respondent" or "Dr. Joachim").

Background Information:

The Board received information on or about May 23, 2011 that Dr. Joachim had been indicted on federal charges of possession of child pornography. The Board issued a Preliminary Agreement for Practice Restrictions on June 3, 2011 and Respondent has not had an active medical license in New Hampshire since that time. On December 7, 2012, the Board issued a Notice of Hearing. This hearing was conducted on March 6, 2013.

On Wednesday, March 6, 2013 at 1:00 p.m., the Board commenced with the adjudicatory/disciplinary hearing in the above-captioned matter. Board members present¹ were:

Mark Sullivan, Physician Assistant Member, Chair and Presiding Officer
Robert Andelman, M.D., Physician Member
John Wheeler, D.O., Physician Member
Amy Feitelson, M.D., Physician Member
Louis Rosenthal, M.D., Physician Member
Robert Vidaver, M.D. Commissioner's Designee
Gail Barba, Public Member
Daniel Morrissey, Public Member

The prosecution was represented by Hearing Counsel Attorney Jeff Cahill of the Administrative Prosecutions Unit ("APU") of the Office of the Attorney General. Neither Attorney Kenneth A. Polite nor Dr. Joachim appeared at the hearing.

¹ These same Board members also deliberated and voted on this Final Decision and Order.

The following exhibits were introduced into evidence and accepted into the record:

- Hearing Counsel's exhibits: 1 and 2.

Findings of Fact:

The Board heard testimony from Attorney Matthew Mavrogeorge.² The Board finds Mavrogeorge's testimony was professional, forthright and credible.

In light of the testimony and exhibits, the Board finds the following facts:

The Board granted Dr. Joachim a license to practice medicine in New Hampshire in July 2009. He has never practiced medicine in New Hampshire, and also held licenses in Louisiana, Texas, Virginia, Maine and Georgia at the time he was granted a license in New Hampshire.

Dr. Joachim was under investigation by the FBI because of concerns that Dr. Joachim was in possession of child pornography. There were two search warrants executed and as a result, the search of Dr. Joachim's computers revealed hundreds of images and videos of child pornography. In Exhibit 2, a document submitted by the Government, it is stated that "the Government would prove, through the introduction of competent testimony and admissible tangible exhibits, the following facts, beyond a reasonable doubt to support the allegations in the bill of information now pending against the defendant..." Exhibit 2 at 1. "Dr. Joachim knowingly used his computers to search for, download and save images and videos of child pornography." Exhibit 2 at 2. "A forensic search of Dr. Joachim's computer revealed approximately 152 images and 5 videos depicting the sexual victimization of children." Id. "[S]ome of the child victims depicted in the sexually explicit images possessed by [Dr.] Joachim were of real, identifiable victims less than the age of eighteen (18) at the time the child pornography was created." Exhibit 2 at 3. "Testimony would establish that some of the victims depicted in the materials possessed by [Dr.] Joachim were of prepubescent children less than eighteen (18) years of age, to wit: as young as approximately six (6) and eight (8) months old, and that the images of child victims were engaged in 'sexually explicit conduct' as defined in Title 18, United States Code, Section 2256. These images included pictures and videos of adult males and adult females penetrating minor victims." Id.

² Attorney Mavrogeorge replaced Dori Lefebvre as a witness since Ms. Lefebvre was sick and unavailable to testify.

In addition, the Government presented evidence that Dr. Joachim allowed unlicensed foreign physicians, as well as other unlicensed persons monitor surgery and other procedures, and then he would bill them to the insurance companies as if they were monitored by licensed physicians. Exhibit 2 at 7.

As a result of these findings, Dr. Joachim entered a plea of Guilty on January 18, 2012, in the United States District Court for the Eastern District of Louisiana and was found guilty and convicted of the offense of 18 USC 2252 (a)(2) Receipt of Child Pornography; and 18 USC 1347 Health Care Fraud. He was sentenced to a term of 72 months as to each of the counts, with the terms to run concurrently. Exhibit 1.

Rulings of Law:

As stated in the Notice of Hearing, the question currently before the Board is:

Whether on or about January 18, 2012, Respondent engaged in professional misconduct when he was convicted of felony level Receipt of Child Pornography charges, in violation of RSA 329:17, VI (j).

Applicable Laws:

RSA 329:17, VI (j) states in pertinent part:

The board, after hearing, may take disciplinary action against any person licensed by it upon finding that the person: has been convicted of a felony under the laws of the United States of any state.

Rulings:

The Board makes the following findings by a preponderance of the evidence:

1. On or about January 18, 2012, the Respondent engaged in professional misconduct by being found guilty of a felony under federal law, in violation of RSA 329:17, VI (j).

Disciplinary Action:

After making its findings of fact and rulings of law, the Board deliberated on the appropriate disciplinary action. (Notice of Hearing, paragraph 6B - "If the above allegation is proven, whether and to what extent [should the Respondent] be subjected to one or more of the disciplinary sanctions authorized by RSA 329:17, VII).

Based upon the above the Board has voted the following:

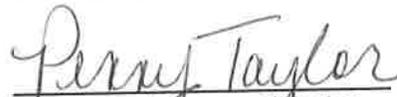
IT IS ORDERED that the Respondent's license to practice medicine in the State of New Hampshire is revoked.

IT IS FURTHER ORDERED that this Final Decision and Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Final Decision and Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

Date: 4/8/2013

*\BY ORDER OF THE NEW HAMPSHIRE
BOARD OF MEDICINE



Penny Taylor, Administrator
Authorized Representative of the
New Hampshire Board of Medicine

*\ Michael Barr, M.D. and Robert P. Cervenka, M.D., Board members, recused.
Edward Waters, Public Board member, not participating.