

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

**In the Matter of:  
David N. Lunianski, D.O.  
No.: 14714  
(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 David N. Lunianski, D.O. (“Dr. Lunianski” 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, 329:18 and 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 granted Respondent a license to practice medicine in the State of New Hampshire on January 6, 2010. Respondent holds license number 14714. Respondent practices family medicine with Barrington Family Practice in Barrington, New Hampshire.

3. On or about February 25, 2010, the Board received information from the Maine Board of Osteopathic licensure concerning the information reported by Respondent on his Maine licensure application.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to the information reported by Respondent on his licensure application submitted to the Board in or around October/November 2009.
5. Respondent neither admits nor denies the allegations herein, but stipulates that if a disciplinary hearing were to take place, the Board could make the following factual findings to support the conclusion that Respondent engaged in professional misconduct as defined in RSA 329:17, VI(a) and/or Med. 501.02(b):
  - A. Respondent misrepresented in his licensure application that he graduated summa cum laude, rather than magna cum laude, from Union College;
  - B. Respondent failed to report in his application that he had been suspended and dismissed from a residency program;
  - C. Respondent failed to report in his application a contract entered into with the Rhode Island Medical Society's Physician Health Committee.
6. Respondent acknowledges that this conduct, if found to be true, constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physician in the State of New Hampshire.
7. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
  - A. Respondent is **REPRIMANDED**.

- B. Effective February 9, 2011, Respondent's license to practice medicine is indefinitely SUSPENDED.
- C. Respondent shall, at his own expense, meaningfully participate in, without interruption, a full, multi-day forensic psychiatric assessment by Acumen Assessments, LLC, Lawrence, Kansas. Respondent agrees that the Board shall have the authority to provide Acumen Assessments with copies of all evaluative and investigative materials in its possession as well as Respondent's complete licensure application materials. Respondent authorizes Acumen Assessments to provide the Board with its completed assessment.
- D. Respondent shall engage in a five-year contract for monitoring by the NHPHP.
  - i. Respondent shall forward a copy of this contract to the Board within fifteen (15) days of the effective date of this Settlement Agreement.
  - ii. Respondent shall provide the Board with all releases necessary for NHPHP to communicate with the Board regarding Respondent's compliance with that contract.
- E. Respondent shall fully comply with all recommendations or requirements made by Acumen Assessments and/or NHPHP. Respondent shall file quarterly reports (with relevant documents attached) under seal for one (1) year from the date of Acumen Assessments' assessment report describing Respondent's compliance with the recommendations and requirements of Acumen Assessments and NHPHP.

F. Whether to lift the suspension of Respondent's license shall be solely within the discretion of the Board and shall be based on the results of the forensic psychiatric evaluation by Acumen Assessments. If lifting the suspension of Respondent's license is not consistent with the results of the forensic psychiatric evaluation, the Board shall be under no obligation to lift the suspension. However, if lifting the suspension of Respondent's license is appropriate in light of the results of the forensic psychiatric evaluation, then Respondent shall be allowed to request the lifting of the suspension not earlier than July 26, 2011, and the Board, in the exercise of reasonable discretion, shall lift the suspension at that time if Respondent successfully: (1) completes the forensic psychiatric evaluation by Acumen Assessments by April 10, 2011; (2) complies with any and all recommendations and requirements of Acumen; and (3) complies with any and all conditions imposed by the NHPHP. If for any reason the Board does not lift the suspension of Respondent's license on July 26, 2011, Respondent may request the lifting of the suspension at subsequent three-month intervals, assuming the Respondent's continued satisfaction and compliance with all conditions and recommendations of Acumen and the NHPHP during those intervals. Assuming Respondent's full compliance during these intervals, the Board, in the exercise of reasonable discretion, shall lift the suspension of Respondent's license accordingly at that time.

- G. In the event that Respondent's license remains suspended upon the expiration date of Respondent's license (June 30, 2012), Respondent may reapply for licensure by renewal rather than reinstatement but shall nonetheless demonstrate that he "[i]s of good professional character" as required by RSA 329:12, I(d)(2).
- H. Respondent shall bear all costs of the treatment, evaluation, and reporting required by this *Settlement Agreement*, but he shall be permitted to share such costs with third parties.
- I. The Board may consider Respondent's compliance with the terms and conditions herein and with the recommendations of any treating mental health professional in any subsequent proceeding before the Board regarding Respondent's license.
- J. 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.
- K. 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

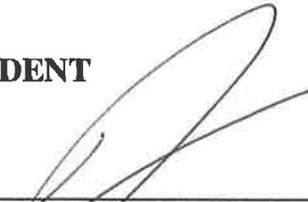
work in any capacity which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physicians, to which Respondent may apply for any such professional privileges or recognition.

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 alleged and 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 further 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.

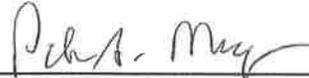
13. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
14. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to 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 alleged 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: 1/21/11

  
\_\_\_\_\_  
David N. Lunianski, D.O.  
Respondent

Date: 1/24/11

  
\_\_\_\_\_  
Peter A. Meyer, Esq.  
Counsel for Respondent

**FOR THE BOARD\***

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

Date: February 4, 2011

  
\_\_\_\_\_  
(Signature)

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

\*Amy Feitelson, M.D., Board member, recused.