

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

In the Matter of:  
Mark D. Weinreb, MD  
No.: 9507  
(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 Mark D. Weinreb, MD (“Dr. Weinreb” 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 July 5, 1995. Respondent holds license number 9507. Respondent most recently practiced medicine at Weinreb Pediatrics in Franklin, New Hampshire. On January 27, 2012, the Board issued an emergency suspension of Respondent’s license to practice medicine. He subsequently entered into a Preliminary Agreement for Practice Restrictions.

3. On or about October 25, 2011, the Board received a complaint from a former staff member of Weinreb Pediatrics, accusing Respondent of unprofessional behavior toward both herself and various patients in his practice. The alleged behavior included unwanted physical contact and sharing of personal confidences. Respondent treated the staff member and her daughter. On December 12, 2011 the Board received a complaint from a child psychiatrist raising concerns about Respondent's psychotropic prescribing practices for five specific pediatric patients. On April 30, 2012, the Board received a complaint from an emergency room physician voicing concern about Respondent's over-medicating of a five-year-old patient.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's pediatric practice, including his prescribing history and boundary practices.
5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in professional misconduct, in violation of RSA 329:17, VI (c); RSA 329:17, VI (d); RSA 329:17, VI (l); Med 501.02 (i) (2); Med 501.02 (e) (2); and the American Medical Association Code of Ethics Principle 8.19, by the following facts:
  - A. On or about December 12, 2011, the Board received a complaint from a pediatric psychiatrist, voicing concerns over Respondent's prescribing for mutual patients. The complaint specifically dealt with the prescribing of psychotropic medications. The psychiatrist questioned the validity of

Respondent's diagnoses. The psychiatrist also questioned the variety and doses of the medications Respondent prescribed.

B. A review of Respondent's care of several pediatric patients revealed serious flaws in his psychiatric practice. He provided care that was substantially outside his area of expertise. The following concerns were also present in one or more of the treatment records reviewed:

- Charting reflects inadequate documentation of basic psychiatric assessments
- The record contains inadequate or non-existent rationale for the choice of the medications prescribed
- Utilization of complex poly-psychopharmacology in the absence of evidence for efficacy
- Off-FDA-label prescribing without clinical justification
- Chaotic patterns of medication adjustments (making multiple adjustments at a single visit such that clinical change is impossible to attribute to any one specific intervention)
- Failure to refer to more specialized care
- Failure to document an adequate safety plan
- Failure to understand the indicated non-pharmacological interventions that should have been part of a comprehensive clinical decision making process and treatment.

C. Respondent's prescribing of controlled drugs, specifically oxycodone, to numerous patients fell below the standard of care. Respondent prescribed excessive amounts of narcotics to pediatric patients without documenting his rationale. He repeatedly refilled prescriptions for narcotics without examining patients. He would issue refills when patients failed to show up for

appointments. On at least one occasion, he met a patient's parent outside of the office in order to provide the parent with a prescription for her child.

- D. In certain cases, Respondent continued prescribing narcotics even after other physicians communicated their concern about these individuals' use of pain medication.
- E. Patients' parents filled narcotic prescriptions at numerous pharmacies, and paid cash – all signs of possible abuse.
- F. Respondent failed to document numerous oxycodone prescriptions. These omissions were especially frequent in his treatment of two brothers. Respondent was friendly with the mother of these patients.
- G. Respondent provided medical treatment to his step-daughter.
- H. Respondent prescribed controlled drugs for a parent of one of his pediatric patients. This individual was not a patient of record and Respondent failed to make any record of this incident.
- I. Respondent discussed inappropriate aspects of his personal life with the parents of various pediatric patients.
- J. Respondent failed to maintain appropriate boundaries with patients and their families. He was Facebook "friends" with pediatric patients and several parents of his patients. In one instance, Respondent became upset over a Facebook message from a pediatric patient, and initially refused to refill her medication until the patient had apologized to him.

- K. Respondent socialized with certain patients' parents. While in social settings, Respondent made comments about patients' protected healthcare information.
  - L. Following the Board's emergency suspension of his license, Respondent made comments to the media regarding a pediatric patient and her family. The information he provided may have been sufficient to identify this individual. He discussed her physical and mental health issues with a reporter.
  - M. Respondent treated several adult patients. His care of these individuals fell outside of his area of expertise.
6. 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); RSA 329:17, VI (d); RSA 329:17, VI (l); Med 501.02 (i) (2); Med 501.02 (e) (2); and the American Medical Association Code of Ethics Principle 8.19.
7. 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.
8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
- A. Respondent's license is REVOKED.
  - B. Respondent may reapply for licensure after a five-year period beginning from the January 27, 2012 issuance of the Order of Emergency Suspension.

- C. Prior to reapplying for licensure, Respondent shall meaningfully participate in a comprehensive multidisciplinary assessment conducted by Acumen Assessments (Acumen) in Lawrence, Kansas.
- D. The following documents shall be reviewed as part of the Acumen assessment:
  - i. The January 27, 2012 Order of Emergency Suspension.
  - ii. Any and all reports of investigation generated by the Board and/or its investigators during the course of this case.
  - iii. Any and all court documentation relating to restraining orders that Respondent has been involved in.
  - iv. Any and all complaints filed with the Board regarding this case.
  - v. Any and all responses submitted by Respondent to the Board regarding this case.
  - vi. Respondent's complete mental and physical health records from January 1, 2011 through the time of the Acumen assessment. Respondent shall sign any and all releases necessary for provision of the above-listed records. Respondent shall also give all of his health care providers written permission to speak with Acumen.
  - vii. A complete copy of this Settlement Agreement.
- E. Respondent shall sign any and all releases necessary to allow the Board to communicate with Acumen. Respondent shall also authorize Acumen to provide the Board with a copy of its assessment.
- F. Respondent shall comply with all recommendations from the evaluation, including continuing counseling. In the event that Respondent applies for licensure in the future, he must be able to demonstrate compliance with all Acumen recommendations.

- G. The Board may consider Respondent's compliance with the terms and conditions herein and with the recommendations of the Acumen assessment in any subsequent proceeding before the Board regarding Respondent's license.
  - H. Within ten (10) days of Respondent's receipt of this agreement, 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.
  - I. 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.
9. 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.
10. 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 further misconduct be proven against Respondent in the future.

11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

17. Respondent is not under the influence of any non-prescription drugs or alcohol at the time he signs this *Settlement Agreement*.
18. 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.
19. 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: 11/21/2012

  
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Mark D. Weinreb, MD  
Respondent

Date: 11/21/2012

  
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Kenneth Bartholomew, Esq.  
Counsel for Respondent

**FOR THE BOARD/\***

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

Date: 12/7/2012

Penny Taylor  
(Signature)

PENNY TAYLOR  
(Print or Type Name)

Authorized Representative of the  
New Hampshire Board of Medicine

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Board members recused:  
Robert P. Cervenka, MD  
Michael Barr, MD