

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

In the Matter of:
William Yvorchuk, M.D.
No.: 11583
(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 William Yvorchuk, M.D. (“Dr. Yvorchuk” 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. Pursuant to RSA 329:17-c and Med 410.01, the Board also 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.

3. If a reciprocal proceeding were conducted, the Board would be authorized to impose any disciplinary sanction permitted by RSA 329:17, VI; RSA 329:17-c; and Med 410.01(b).
4. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on April 3, 2002. Respondent holds license number 11583. Respondent had been practicing as a plastic surgeon at PSI Surgical Center, 3270 20th Street, Fargo, North Dakota. On March 5, 2008, Respondent was to perform surgery at PSI Surgical Center when medical staff reported that he was impaired. A blood test revealed a BAC level of .351.
5. On March 13, 2008, the North Dakota Board issued an Ex-Parte Order of Temporary Suspension. On May 14, 2008, the New Hampshire Board issued a Preliminary Agreement for Practice Restrictions with regard to Respondent's New Hampshire license.
6. If reciprocal disciplinary proceedings were commenced, Hearing Counsel would prove that on April 16, 2009, a final administrative order ("Order) was issued against Respondent by the North Dakota Board. The Order resolved disciplinary matters pending before the North Dakota Board. Pursuant to the Order, reinstatement of Respondent's North Dakota license to practice medicine was indefinitely suspended, with reinstatement subject to the sole discretion of the North Dakota Board.
7. As a basis for proceeding against Respondent, the Board states the following:
 - A. On April 14, 2009, Respondent signed a Stipulation with the North Dakota Board, wherein he acknowledged the truth of the Complaint of Investigative Panel B

dated March 13, 2008. According to the Complaint, Respondent was found to have a BAC of .351 prior to beginning surgery. Respondent was prevented from performing this procedure following notification of his impaired condition by medical staff. He had performed two surgeries earlier in the day.

- B. On April 16, 2009, a final order was entered by the North Dakota Board. (*See Attachment 1*). Respondent was disciplined and his license was indefinitely suspended. If Respondent reapplies for licensure, and at the North Dakota Board's request, he shall submit any medical/mental evaluations, execute all necessary releases and complete recommended treatment or therapy programs as recommended in said evaluations.
8. 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 (b), RSA 329:17, VI (c) and RSA 319:17 (d).
 9. 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.
 10. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
 - A. Respondent license to practice medicine is **SUSPENDED**.
 - B. If Respondent applies for reinstatement in New Hampshire, the Board may require any medical/mental evaluations upon such terms and conditions as it, in its sole discretion, may determine.

- C. Upon request, Respondent shall execute a medical release form with the Board and copies of reports of any such evaluations shall be furnished directly to the New Hampshire Board.
- D. The Respondent shall follow through and complete any recommended treatment or therapy programs as a consequence of said evaluations in the event the Board considers reinstatement of Respondent's license.
- E. If Respondent shall fail, neglect, or refuse to comply with any of the terms, provisions or conditions herein, the license of the Respondent to practice medicine in the State of New Hampshire shall be revoked in accordance with the law.
- F. 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.
- G. The Board may consider Respondent's compliance with the terms and conditions herein and with the recommendations of the treating mental health professional in any subsequent proceeding before the Board regarding Respondent's license.
- H. 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.

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

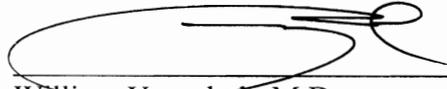
14. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
15. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
16. 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.
17. 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.
18. 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.
19. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
20. 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.

21. 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: 1-20-2010



William Yvorchuk, M.D.
Respondent

Date: 1/19/2010

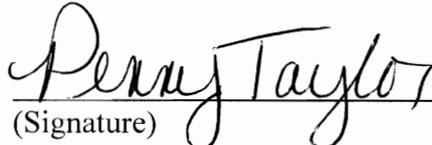


Bruce A. Schoenwald, Esq.
Counsel for Respondent

FOR THE BOARD/*

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

Date: 3/8/2010



(Signature)

PENNY TAYLOR

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

/* Board members, recused:
Amy Feitelson, M.D.

BEFORE THE BOARD OF MEDICAL EXAMINERS

STATE OF NORTH DAKOTA

North Dakota Board of Medical)
 Examiners - Investigative Panel B,)
)
 Complainant,)
)
 vs.)
)
 William Yvorchuk, M.D.,)
)
 Respondent.)

ATTACHMENT 1

STIPULATION

WHEREAS, the North Dakota State Board of Medical Examiners ("Board") issued a Complaint seeking to revoke the Respondent's license to practice medicine in the State of North Dakota pursuant to N.D.C.C. § 43-17-30.1 and N.D.C.C. §43-17-31 (25); and

WHEREAS, an emergency order of temporary suspension of the Respondent's license was issued by the Board on March 14, 2008.

WHEREAS, the Respondent admits service of the Summons and Complaint and agrees that the facts alleged in the Complaint of Investigative Panel B dated March 13, 2008, are true and are grounds for disciplinary action by the North Dakota Board of Medical Examiners and that the terms of this Stipulation are appropriate;

THEREFORE, IT IS HEREBY agreed by and between the parties to this action and the North Dakota State Board of Medical Examiners (hereinafter "the Board"):

1. The Respondent hereby waives any procedural irregularity herein and his right to hearing on the Complaint now pending in this action;

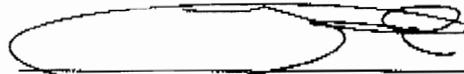
2. The Board will enter an Order indefinitely suspending the Respondent's license to practice medicine in the State of North Dakota.
3. Respondent completed a partial-hospital treatment program in the State of Florida lasting six and one-half months, that ended in September 2008. Since returning to his Fargo home he has been involved in a number of programs to assist in his recovery. Respondent's medical diagnosis prohibits his return to the practice of surgery. Respondent intends to enroll in a fellowship in addiction medicine as soon as he is able to secure a medical license in the State of North Dakota. It is agreed that Respondent shall have the ability to petition the Board for permission to appear at a future meeting of the Board and present his case for reinstatement of his license upon such terms and conditions as the Board deems appropriate under the circumstances.
4. Any petition made by Respondent for reinstatement of his license shall be subject to the sole discretion of the Board.
5. Prior to reinstatement, the Board may require any medical/mental evaluations upon such terms and conditions as it, in its sole discretion, may determine.
6. Upon request, Respondent shall execute a medical release form with the Board and copies of reports of any such evaluations shall be furnished directly to the North Dakota State Board of Medical Examiners or its authorized agent.
7. The Respondent shall follow through and complete any recommended treatment or therapy programs as a consequence of said evaluations in the event the Board considers reinstatement of the Respondent's license.

8. In the event Respondent should change his current address to reside or practice in any other state, he shall promptly notify the Board in writing of the new location as well as the dates of departure and return.
9. The Respondent shall reimburse the Board for all fees and expenses resulting from this agreement. This includes all attorney fees and costs through the final disposition of this case. The Board will notify the Respondent of any such costs within a reasonable time after the execution of the Order and Respondent shall make payment within thirty (30) days from said notification.
10. If Respondent shall fail, neglect, or refuse to fully comply with any of the terms, provisions, or conditions herein, the license of the Respondent to practice medicine in the State of North Dakota shall be revoked in accordance with the law.
11. In the event the Board, in its discretion, does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation, and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.
12. That this agreement for the disposition of the above-entitled contested case is a matter of public record and the obligations of the Board with respect thereto shall be governed by the laws of North Dakota and current Board policy.
13. That all parties hereto recognize that Board representatives who have engaged in discussions relative to an agreed disposition of this matter can only make

recommendations to the North Dakota State Board of Medical Examiners, which recommendation can in no way be considered as binding upon the full membership of the Board who would ultimately decide the pending contested case, and this agreement is subject to acceptance by the full membership of the Board.

14. That Respondent understands that he has the right and has been afforded the opportunity to have this agreement reviewed by his attorneys, and that in the event he chooses to execute this document without taking the opportunity to avail himself of this right, such failure shall be deemed to be a waiver of such right.
15. Respondent specifically waives any claim that any disclosures made to the full membership of the Board for the purposes of the consideration of this agreement have prejudiced his rights to a fair and impartial hearing in the event this agreement is not accepted by the full Board and if further proceedings ensue.
16. Respondent further agrees that there have been no inducements, threats or promises made in order to obtain his entry into this agreement.
17. That the parties further agree that all statements contained herein are based upon the facts known to the Board on the date of execution of this agreement.

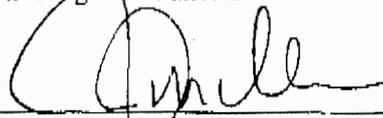
Dated this 14th day of April, 2009.



William Yvorchuk, M.D.

Dated this ¹⁶16 day of April, 2009.

NORTH DAKOTA STATE BOARD
OF MEDICAL EXAMINERS
Investigative Panel B



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BEFORE THE BOARD OF MEDICAL EXAMINERS
STATE OF NORTH DAKOTA

North Dakota State Board of Medical)
Examiners - Investigative Panel B,)
)
Complainant,)
)
vs.)
)
William Yvorchuk, M.D.,)
)
Respondent.)

ORDER

WHEREAS the North Dakota State Board of Medical Examiners issued an Ex Parte Order of Temporary Suspension dated March 13, 2008;

WHEREAS the Respondent has acknowledged that the facts alleged in the Complaint dated March 13, 2008, are true, and;

WHEREAS the Respondent and the Investigative Panel B have entered into a Stipulation dated April 16, 2009, and;

WHEREAS the North Dakota Board of Medical Examiners finds that the terms of that Stipulation are an appropriate disposition of this case;

NOW THEREFORE it is hereby the ORDER of the North Dakota Board of Medical Examiners that the Respondent's license to practice medicine in North Dakota is indefinitely suspended effective April 21, 2009.

NORTH DAKOTA STATE BOARD
OF MEDICAL EXAMINERS



JOHN P. JOYCE, M.D.
Chairman