

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

In the Matter of:  
**Jayakumar Patil, M.D.**  
**No.: 7955**  
(Misconduct Allegations)

Docket No.: 19-04  
Complaint No.: 2018-370

**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 Jayakumar Patil, M.D. (“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 August 10, 1988. Respondent holds license number 7955. Respondent practices psychiatry in Bedford, New Hampshire.
3. On July 5, 2018, the Board received a complaint from a patient (“Patient A”) alleging that Respondent failed to provide adequate care, made repeated prescription errors, and committed HIPPA violations.

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4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's alleged conduct. A hearing was conducted on June 5, 2019.
5. On January 10, 2020, the Board issued a Final Decision and Order revoking Respondent's license. On January 31, 2020, Respondent requested a stay of the Board's Final Decision and Order until the Board considered and reached a determination of Respondent's Motion for Reconsideration and Rehearing. The Board granted Respondent's request to stay his license revocation by order dated February 7, 2020. The stay of revocation was approved through March 30, 2020.
6. On February 10, 2020, Respondent filed a Motion for Reconsideration and Rehearing requesting that the Board reconsider and reverse its decision to revoke Respondent's license and conduct a rehearing on the underlying complaint and the proper measure of disciplinary action to be imposed.
7. By order dated March 9, 2020, the Board upheld its decision that Respondent committed seven acts of misconduct and granted Respondent a rehearing on the issue of the proper measure of disciplinary action to be imposed.
8. Respondent's stay of revocation, and the attendant conditions, is continued pending a rehearing on the issue of the proper measure of disciplinary action to be imposed, which is scheduled to be held on November 20, 2020.
9. On November 1, 2018, the Board received a complaint from the Aunt of another patient ("Patient B") alleging that Respondent misdiagnosed and improperly medicated Patient B.

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10. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's alleged conduct. This complaint is still pending and is part of this global resolution of all complaints pertaining to Respondent that are pending before the Board.
11. Respondent stipulates that if: a rehearing on the issue of the proper measure of disciplinary action to impose on the Patient A complaint; and a disciplinary hearing on the Patient B complaint were to take place, Hearing Counsel would present evidence to seek to prove that Respondent engaged in professional misconduct, in violation of RSA 329:17, VI, by the following facts:

Complaint I

- A. Respondent treated Patient A from February 8, 2017 through May 23, 2018.
- B. On or about February 8, 2017, Respondent failed to obtain past treatment records to verify Patient A's verbal report of his treatment history, determine the identity of the previous prescriber, and understand the reasoning and rationale underlying Patient A's initial diagnosis.
- C. Respondent diagnosed Patient A with ADHD, combined type, with insufficient documentation to support the diagnosis.
- D. While providing treatment to Patient A, Respondent engaged in a pattern of prescribing medications at inappropriately high doses while failing to assess the effects of the prescribed medications on Patient A, and implementing changes in Patient A's medications and dosages without properly documenting the underlying rationale for those changes.

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- E. While providing treatment to Patient A, Respondent continued to prescribe inappropriately high doses of stimulants to Patient A, either alone or in combination with alternative formulations, while Patient A continued to experience the adverse side effects of hypertension and tachycardia, thereby creating a significant risk to Patient A.
- F. Respondent failed to provide clear documentation of the reasons for, and rationale behind, his multiple decisions to change or alter Patient A's medical formulations, and there was no documentation that Respondent considered the alternatives to the medical formulations he prescribed for Patient A.
- G. While providing treatment to Patient A, Respondent provided Patient A with prescriptions for eighteen (18) months of Vyvanse, over an approximate thirteen (13) month period of time.
- H. Respondent treated Patient A for hypertension, including prescribing Lisinopril, which is outside of the scope of practice for a psychiatrist.

Complaint II

- I. Respondent began treating Patient B on or about March 23, 2011, and was continuing to provide treatment to Patient B when the complaint was received by the Board on or about November 1, 2018.
- J. Respondent's treatment of Patient B included conduct similar in nature to the instances of conduct that occurred with regard to Patient A, as referenced above, including issues pertaining to documentation and prescribing practices.



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12. The Board finds that there is sufficient evidence to conclude that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 329:17, VI(c), (d) and (k), and Med 501.02(d) and (e).
13. 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.
14. Respondent consents to the Board imposing the following discipline, pursuant to RSA 329:17, VII:
  - A. Respondent is granted a **PROBATIONARY LICENSE** for a period of five (5) years from the date the Board approves this *Settlement Agreement*. During the probationary period, Respondent must comply with all of the terms and conditions of this *Settlement Agreement*. If Respondent fails to comply with all the terms and conditions of this *Settlement Agreement*, the Board shall schedule a show cause hearing and may impose increased discipline up to, and including, revocation of Respondent's license to practice medicine.
  - B. During the entire period of probationary licensure, Respondent is required to continue with the **INDEPENDENT MONITORING** that is currently being performed by Dr. Leonard Korn. The independent monitoring shall continue during the entire period Respondent's probationary license is in effect. Dr. Korn shall continue to meet with Respondent monthly, for at least one hour and thirty minutes, to review relevant patient records and discuss clinical

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treatment. In addition, Dr. Korn shall spend an additional thirty minutes reviewing at least five (5) patient records prior to the monthly meeting with Respondent. Dr. Korn shall continue to review Respondent's treatment of patients to determine Respondent's compliance with accepted medical practices and all applicable states and federal laws, regulations, and administrative rules, as well as the American Medical Association's Code of Medical Ethics.

1) Dr. Korn shall continue to provide written reports to the Board and to Respondent every ninety (90) days. The written reports shall:

- a. Evaluate Respondent's clinical care in the areas identified as needing further education in Reviewer's Report;
- b. Identify any deficiencies in Respondent's care which reasonably warrant corrective action; and
- c. Provide an assessment of Respondent's progress in implementing recommendations for his clinical care and recordkeeping practices.

2) Respondent shall take any and all corrective actions that are reasonably necessary to correct any and all deficiencies identified in any review by Dr. Korn. Not later than thirty (30) days after Respondent's receipt of the monitor's report, Respondent shall submit to the Board a detailed written report identifying the steps that have been taken, or are being taken, to correct the deficiencies cited in the Monitor's report, and the dates by which such corrective actions will be completed.

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3) The Board, in its discretion, may request at any time during the period of monitoring that a different monitor be selected. If the monitor becomes unable to serve or fulfill his obligations, Respondent is required to notify the Board within ten (10) days from the date he was notified of the monitor's intent to withdraw as Respondent's monitor. Respondent is responsible for nominating a different monitor to the Board for its approval within thirty (30) days of the date he was notified of the monitor's intent to withdraw as Respondent's monitor. Respondent may only receive monitoring from a qualified independent monitor who has been approved by the Board. In the event that the monitor is unable to complete his review or report in a timely fashion due to the monitor's own personal and/or professional commitments, Respondent shall notify the Board in writing of the reasons the monitor is unable to complete his/her review or the report by that date, and the Board, for good cause shown, may extend the deadline for completion of the review and report.

4) The terms and provisions of Respondent's monitoring agreement shall be incorporated into this *Settlement Agreement* by reference. Respondent's failure to comply with any monitoring agreement terms shall constitute a violation of the terms of the *Settlement Agreement*. It is the responsibility of Respondent to provide information to the monitor in a timely and complete manner and to assure that all written reports setting forth findings of the monitor are timely transmitted to the Board every ninety (90) days.

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5) Respondent is responsible for all costs incurred as a result of the independent monitoring.

C. During the entire period of probationary licensure, Respondent is required, at his own expense, to submit to a separate **INDEPENDENT AUDIT/REVIEW** of his patient records. The audit/review shall be performed by Dr. Korn or another qualified independent person or entity that has been approved by the Board. The independent audit/review shall assess Respondent's compliance with accepted medical practices and all applicable states and federal laws, regulations, and administrative rules, as well as the American Medical Association's Code of Medical Ethics.

1) Dr. Korn, in his capacity as independent auditor, shall randomly review the documentation of at least ten percent (10%) of Respondent's active cases. The medical records reviewed by the independent auditor shall be in addition to the clients and documentation reviewed by Dr. Korn in his capacity as Respondent's monitor.

2) The independent audit/review of patient records must be completed on a semiannual basis and shall continue throughout the entire period of Respondent's probationary licensure.

3) The independent auditor shall provide written reports to the Board and to Respondent within ninety (90) days of each audit/review. The written reports shall:

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- a. Evaluate Respondent's clinical care and documentation in the areas identified as needing further education in Reviewer's Report;
  - b. Identify any deficiencies in Respondent's care which reasonably warrant corrective action; and
  - c. Provide an assessment of Respondent's progress in implementing recommendations for his clinical care and recordkeeping practices.
- 4) Respondent shall take any and all corrective actions that are reasonably necessary to correct any and all deficiencies identified in any audit/review. Not later than thirty (30) days after Respondent's receipt of the auditor's report, Respondent shall submit to the Board a detailed written report identifying the steps that have been taken, or are being taken, to correct the deficiencies cited in the Reviewer's report, and the dates by which such corrective actions will be completed.
- 5) In the event that the independent auditor is unable to complete his review or report in a timely fashion due to the auditor's own personal and/or professional commitments, Respondent shall notify the Board in writing of the reasons the auditor is unable to complete his/her review or the report by that date, and the Board, for good cause shown, may extend the deadline for completion of the audit/review and report.
- 6) The terms and provisions of Respondent's audit agreement shall be incorporated into this *Settlement Agreement* by reference. Respondent's failure to comply with any auditing agreement terms shall constitute a

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violation of the terms of the *Settlement Agreement*. It is the responsibility of Respondent to provide information to the auditor in a timely and complete manner and to assure that all written reports setting forth findings of the auditor are timely transmitted to the Board every ninety (90) days.

7) Respondent is responsible for all costs incurred as a result of the independent audit/review.

D. Respondent's Probationary License is subject to the following **CONDITIONS:**

1) For the first six (6) months of the Probationary License period, Respondent is required to carry a reduced patient caseload of no more than fifteen (15) patients per day and no more than seventy-five (75) patients per week, including patients that need to be seen on an emergency basis.

2) After the first (6) months of the Probationary License period, and after the first independent audit review is completed, Respondent may increase his patient caseload ONLY IF he has complied with all the terms and conditions of this *Settlement Agreement* and received approval from BOTH Dr. Korn AND the Board.

3) Respondent may accept new patients into his practice so long as he remains in compliance with the reduced patient caseload requirement. Respondent must review any new patients that he accepts with Dr. Korn at the next monthly monitoring meeting and must comply with all recommendations made by Dr. Korn regarding Respondent's plan of care for the new patient(s).

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- E. Respondent is required to meaningfully participate in an additional thirty (30) hours of **CONTINUING MEDICAL EDUCATION** focusing on areas recommended and approved by Dr. Korn and/or the independent auditor/reviewer. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within one (1) year from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these hours, Respondent shall notify the Board and provide written proof of completion.
- F. Respondent is assessed an **ADMINISTRATIVE FINE** in the amount of twelve thousand dollars (\$12,000.00). Respondent shall pay this fine in sixty (60) installments of two hundred dollars (\$200.00) each. The first payment shall be due within thirty (30) days of the effective date of this *Settlement Agreement*. The remaining payments shall be due within thirty (30) days of the previous payment. All payments shall be made in the form of a money order or bank check made payable to "Treasurer, State of New Hampshire" and delivered to the Board's office at 7 Eagle Square, Concord, New Hampshire 03301.
- G. Respondent is required to appear at five (5) **STATUS HEARINGS** to be conducted by the Board yearly for the entire period of this *Settlement Agreement*. At each status hearing, Respondent is required to provide the Board with proof of completion of all requirements set forth in the *Settlement Agreement* including, but not limited to, reports from the monitor and

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independent auditor/reviewer, proof of completion of the requisite continuing education, proof of compliance with limitations of his practice as set forth in this *Settlement Agreement*, and any additional information the Board deems necessary to ensure compliance with the terms of the *Settlement Agreement*. Respondent shall be responsible for ensuring that all reports required by the terms of this *Settlement Agreement* are filed in a timely manner with the Board prior to each status hearing. Hearing Counsel shall be notified of each status hearing and reserves the right to petition the Board for imposition of increased disciplinary action if Respondent has failed to comply with any terms of the *Settlement Agreement*.

- H. After Respondent has successfully completed three (3) years of the probationary licensure period and if he has complied with all the terms and conditions of this *Settlement Agreement*, he may petition the Board to end the term of the probationary license.
- I. Respondent shall bear all costs of evaluation and reporting required by this *Settlement Agreement*, but he shall be permitted to share such costs with third parties.
- 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,



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certifies or credentials physicians, with which Respondent is presently affiliated.

- K. For the entire period of probationary licensure, 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.
15. 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. Should Respondent fail to comply with any of the terms of this *Settlement Agreement*, the Board reserves the right to suspend Respondent's license or impose other authorized discipline, in accordance with the following process:
- 1) The Board will notify Respondent, in writing, of the Board's finding of Respondent's non-compliance and the suspension and/or additional discipline it intends to impose for such non-compliance. Respondent will have ten (10) days, from the date of the Board's notification of non-compliance, to request a show cause hearing before the Board. If Respondent timely requests such a hearing, the Board will schedule a show cause hearing for its next available hearing slot. At the hearing, Respondent will have the burden of

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demonstrating to the Board either why his license should not be suspended or additional discipline imposed for non-compliance or that he is in compliance with this *Settlement Agreement*.

2) Respondent has stipulated to the facts set out in Section 11 of this agreement and acknowledges and agrees that those facts cannot be challenged in any hearing regarding enforcement of this *Settlement Agreement*. After the hearing, the Board will issue an order explaining its reasons for imposing, or not imposing, a suspension of Respondent's license, and/or any other discipline within the terms of RSA 329:17, VII.

3) If Respondent does not request a show cause hearing within ten days of the date of the Board's notification of non-compliance, the license suspension and/or additional discipline outlined in the notice of non-compliance shall be imposed. Any imposed suspension or additional discipline shall remain in effect until Respondent comes into compliance with this *Settlement Agreement* and the Board notifies Respondent in writing that the suspension or additional discipline has been lifted unless such discipline is a license revocation.

16. 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

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- Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
17. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
  18. 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.
  19. 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.
  20. 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.
  21. 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 *Settlement Agreement*.
  22. 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.
  23. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.



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24. 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.
25. 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.
26. Respondent shall have thirty (30) days from the date the *Settlement Agreement* is approved by the Board to reduce his patient caseload to the requirements enumerated in paragraph 14 D (1) above in order to ensure the safety and well-being of the patients Respondent is currently treating.

**FOR RESPONDENT**

Date: 11/19/2020 \_\_\_\_\_

Date: 11/19/2020 \_\_\_\_\_

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Jayakumar Patil, M.D.  
Respondent  
  
0523558A04964F6  
Christina A. Ferrari, Esq.  
Counsel for Respondent

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**FOR THE BOARD/\***

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

Date: 12/17/2020

Christine L. Sanko  
(Signature)

Christine L. Sanko, Interim  
(Print or Type Name) Administrator  
Authorized Representative of the  
New Hampshire Board of Medicine

Domen Potenza, MD, former Board President

/\* [recused member(s)], Board members, recused.