

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION  
STATE OF NEW HAMPSHIRE  
DIVISION OF HEALTH PROFESSIONS

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LOUISE LAVERTU  
Executive Director

SARAH BLODGETT  
Division Director



January 14, 2016

Her Excellency, Governor Margaret Wood Hassan  
And the Honorable Council  
State House  
Concord, New Hampshire 03301

Your Excellency and Members of the Council:

REQUESTED ACTION

Please accept Board of Medicine's enclosed annual report for FY15,  
submitted pursuant to RSA 329:19.

Respectfully submitted,

*Penny Taylor*  
Penny Taylor  
Administrator

Enclosure

**New Hampshire  
Board of Medicine  
Annual Report  
For Fiscal Year 2015**

*January 14, 2016*

Pursuant to RSA 329:19

**Personnel Data**  
Organizational Chart

Honorable Governor Margaret Wood Hassan  
And the  
Executive Council

Joseph D. Kenney  
Colin Van Ostern  
Christopher T. Sununu  
Christopher C. Pappas  
David K. Wheeler

Department of Health  
and Human Services

<u>New Hampshire Board of Medicine</u>	<u>Appointed</u>	<u>Expires</u>
Mark Sullivan, P.A., President	06/04/08	04/21/18
Michael Barr, M.D., Vice President	08/08/12	04/21/20
Amy Feitelson, M.D.	04/21/06	04/21/16
Robert J. Andelman, M.D.	01/25/07	12/03/16
Robert M. Vidaver, M.D., DHHS Commissioner's Designee	Pursuant to RSA 329:2	
Louis E. Rosenthal, M.D.	12/18/08	12/03/16
John H. Wheeler, D.O.	05/12/10	05/12/20
Emily R. Baker, M.D.	01/17/14	04/21/19
Gail Barba, Public Member	02/07/07	02/07/17
Daniel Morrissey, O.P., Public Member	07/16/08	12/18/16
Edmund J. Waters, Jr., Public Member	06/23/10	10/14/16

<u>Medical Review Subcommittee</u>	<u>Appointed</u>	<u>Expires</u>
David C. Conway, MD, Chair	02/02/11	12/03/16
Nina C. Gardner, Public Member	12/19/12	12/03/15
Mark Iber, PA (Resigned)	07/14/10	12/09/15
Frank M. Mele, Jr., MD	02/25/15	01/01/17
Colin O'Brien, MD	04/22/15	12/09/15
Louis E. Rosenthal, MD	04/22/13	12/03/16
Leonard M. Rudolf, MD	02/25/15	12/03/17
Ira S. Schwartz, MD	02/16/11	01/01/17
Patricia Sherman, Public Member	07/24/13	06/27/16
Michael Sochat, MD (Resigned)	12/09/09	11/20/14
Thomas V. Trevethick	06/24/15	06/27/17
Peter H. Wilson, MD	12/05/12	12/03/15

**Administrative Staff:**

5 Administrative Staff (Executive Director, Administrator, Administrative Supervisor, 2 License Clerks)  
2 Investigative Unit Staff (investigator and secretary) and a contracted physician investigator

**Board of Medicine**

**Annual Report**

**Fiscal Year 2015**

July 1, 2014- June 30, 2015

RSA 329:19

**ORGANIZATION AND FUNCTION**

The Board of Medicine, established in 1897, is responsible for administering the Medical Practice Act, RSA 329. The Board licenses allopathic physicians, osteopathic physicians, and physician assistants. The Board protects the New Hampshire public by carefully reviewing license applications, investigating allegations of professional misconduct, and undertaking disciplinary actions against licensees who have violated the Medical Practice Act.

**RECEIPTS AND EXPENDITURES**

	<u>FY14</u>	<u>FY15</u>
Revenue	\$1,068,640	\$1,474,258
Expenditures		
Administration & Support	\$ 753,279	\$ 869,162
Required to Meet 125%	\$ 941,599	\$1,086,453
Excess of Revenue Over 125%	\$ 127,041	\$ 387,805

**OPERATIONS**

The Board of Medicine is comprised of the following eleven volunteer members: five physicians; one osteopathic physician; one physician assistant, three public members; and the department of health and human services' commissioner, its medical director, or a designee of the commissioner. With the exception of the

commissioner's position, all other members are appointed by the Governor with the advice and consent of the Council.

The Board of Medicine issued initial licenses to 489 physicians and 73 physician assistants in FY15. There were approximately 3,095 physician licenses renewed and 373 licenses lapsed for non-renewal. Physicians renew on a biennial basis, therefore, approximately half of all licensees renew each year. Physician assistants renew on an annual basis and approximately 647 physician assistants renewed their license during FY15.

The investigative functions of the board are delegated to the Medical Review Subcommittee (MRSC). The MRSC also consists of eleven volunteer members: seven physicians (including one board member); one physician assistant; and three public members. The MRSC is tasked with investigating all cases of alleged professional misconduct that come to the board. The Board's investigative staff consists of a full-time investigator, a part-time physician investigator (30 hours/month) and a full-time administrative assistant.

During FY15, the Board opened 472 new investigative cases. These cases came from numerous sources, including consumer complaints, the filing of malpractice suits, hospital disciplinary actions, and disciplinary reports from other jurisdictions. Members of the public can file complaints by the following methods:

- Calling the Board office at 1-800-780-4757 or (603) 271-4161;
- E-mailing Board investigator Dori Lefebvre at [dori.lefebvre@nh.gov](mailto:dori.lefebvre@nh.gov); or
- Mailing a complaint to the Board at 121 South Fruit Street, Concord, New Hampshire 03301-2412. Complaint forms can be found on the Board's website at [www.nh.gov/medicine](http://www.nh.gov/medicine) by clicking the link to "Consumers."

Each new case is reviewed by both the physician investigator and Board investigator. Based on this initial analysis, various documents, such as licensee responses, relevant medical records, police reports and witness statements are obtained.

Once all investigative materials have been received, the physician investigator assigns the case to an MRSC member with the appropriate specialty. The physician investigator and Board investigator are also assigned investigative cases. When a case requires medical expertise that is unavailable at the MRSC, the physician investigator obtains a physician consultant with the appropriate specialty.

The reviewer summarizes his or her findings in a report of investigation and then presents the case to the MRSC. The MRSC votes on an appropriate resolution for the case.<sup>1</sup> The report of investigation, along with the MRSC's recommendation, is forwarded to the Board for final action.

During FY 2015, the Board closed 435 cases, and took the following actions:

- Issued 208 confidential letters of concern
- Approved 9 Settlement Agreements against licensees
- Approved 1 voluntary surrender of license
- Denied 1 application for licensure
- Issued licenses with restrictions to 2 licensees
- Approved 2 Preliminary Agreements for Practice Restrictions
- Issued 1 final order imposing disciplinary sanctions
- Issued 1 Prehearing Conference Order imposing restrictions on a license
- Issued 2 emergency suspensions of licenses
- Issued an Order Lifting License Restrictions to 2 licensees

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<sup>1</sup> Cases may be disposed of by a decision to take no further action, a non-public, non-disciplinary letter of concern, or with public discipline. The Board is statutorily authorized to dismiss a case as frivolous or to take non-disciplinary remedial action when appropriate.

**LICENSURE**

<u>Physicians</u>	<u>FY2015</u>
Biennial Renewal	3,095
Non-renewal	373
New licenses	489
Temporary licenses	62
Training licenses	156
Reinstatement of license	32

<u>Physician Assistants</u>	<u>FY2015</u>
Annual Renewal	647
New Licenses	73

**BOARD INVESTIGATIONS**

	<u>FY2015</u>
Complaints filed	472

(This includes consumer complaints, notice of malpractice suits, and/or complaints from other sources, including National Practitioner Database Reports, insurance claim reports and reports of hospital disciplinary action).

**BOARD ACTIONS**

	<u>FY2015</u>
Letters of Concern issued	208
Formal Discipline	19
No further action taken	235

## PUBLIC BOARD ACTIONS TAKEN IN FY 2015

### **Christopher B. Kirby, M.D. – License # 8450**

7/8/14 - The Board of Medicine approved a Settlement Agreement for Christopher Kirby, M.D. Dr. Kirby twice violated an alcohol-monitoring contract. Dr. Kirby is reprimanded and his previous license suspension is lifted subjected to the following restrictions: Dr. Kirby cannot be a solo practitioner, cannot be self-employed and must remain under the treatment and monitoring of the NHPHP for as long as he holds a New Hampshire license. Dr. Kirby cannot work as a physician in addiction medicine until he has successfully completed a fellowship-training program in addiction medicine.

### **Tzvetan Tzvetanov, M.D. – License #10405**

7/8/14 – The Board of Medicine approved a Settlement Agreement for Tzvetan Tzvetanov, M.D. Dr Tzvetanov entered into a consent order with the Massachusetts Board of Registration in Medicine whereby Dr. Tzvetanov was found to have repeatedly engaged in negligent treatment of patients. Dr. Tzvetanov is reprimanded.

### **Corey J. Meyers, M.D. – License # 11817**

7/9/14 – The Board of Medicine approved an Order of Conditional Approval for the reinstatement application for Corey J. Meyers, M.D. On August 7, 2012 the Board issued a Final Decision and Order indefinitely suspending the license of Dr. Meyers and required him to meaningfully participate in an assessment of his medical skills through the Center for Personalized Education for Physicians (“CPEP”). Dr. Meyers has completed the assessment and the recommendations made by CPEP. Dr. Meyer’s is issued a license with restrictions and/or conditions.

### **William D. Foord, M.D. – License #5307**

7/2/14 – The Board of Medicine accepted a Settlement Agreement for William D. Foord, M.D. The Board has received information indicating that Dr. Foord may be engaged in professional misconduct by inappropriately prescribing controlled substances to patients under his care. Dr. Foord is reprimanded and assessed an administrative fine in the amount of \$2,000. Dr. Foord’s prescribing privileges are hereby restricted as follows: Dr. Foord is permanently prohibited from prescribing scheduled II, III, IV and V controlled substances and is required to participate in eight hours of continuing medical education focused on professional boundaries and medical ethics related to prescribing practices.

### **Gail S. Ford, D.O. – License #8215**

7/15/14 – The Board of Medicine issued a Final Decision and Order for Gail S. Ford, D.O. The Board finds that Dr. Ford engaged in professional misconduct by knowingly providing false information on her license renewal application in the form of making false affirmative statements and/or failing to disclose material facts, as indicated. Dr. Ford’s license is suspended indefinitely.

### **Conor D. Shea, M.D. – License #16462**

8/14/14 – The Board approved a Preliminary Agreement for Practice Restrictions for Conor Shea, M.D. Dr. Shea has professional misconduct allegations pending before the Board. Dr. Shea voluntarily agrees not to practice medicine, not to write prescriptions, and not to treat or see patients in the State of New Hampshire until such time as the Board approves his return to practice.

**Charles C. Canver, M.D. License # 8603**

8/14/14- The Board issued an Order Lifting License Restrictions. The Board finds that Dr. Canver has complied with all provisions of the March 10, 2006 Settlement Agreement and finds that it is appropriate to lift the restrictions of his license at this time.

**Anton A. Heins III, M.D. – License # 12382**

8/18/14 - Dr. Heins agreed to and was granted a restricted license to practice medicine in New Hampshire as long as he continues to abide by the AMI compliance plan and has a contract with the NHPHP. Dr. Heins must participate in 15 hours of continuing medical education in the areas of medical ethics, boundary training and proper prescribing training. (*Also see action in 2015*)

**Gregory J. Bahder, M.D. – License # 10739**

9/5/14 – The Board accepted a Settlement Agreement for Gregory J. Bahder, M.D. Dr. Bahder engaged in unprofessional conduct by failing to adhere to the AMA code of Ethics based on allegations of sexual misconduct. Dr. Bahder license is suspended for five years retroactive to March 16, 2009.

**David N. Lunianski, D.O. – License #14714**

9/9/14 – The Board approved an Order Lifting License Restrictions. The Board finds that Dr. Lunianski has fulfilled the concerns of the Board and the NH Professionals Health Program therefore finds it appropriate to lift the restrictions of his license at this time. Dr. Lunianski holds a full, unrestricted license in the State of New Hampshire.

**Christopher J Clough, P.A. – License #0440**

**John J. Schermerhorn, M.D. – License # 5682**

8/28/14 - The Board of Medicine held a prehearing conference regarding Christopher Clough, PA (“Mr. Clough”) and John Schermerhorn, M.D. (Dr. Schermerhorn”) based on a Notice of Hearing dated August 11, 2014. On September 4, 2014, the Board issued a Prehearing Conference Order (“Order”) granting a continuance of the original hearing date, conditioned on specific practice restrictions. During the relevant time period, Dr. Schermerhorn was Mr. Clough’s Registered Supervisory Physician (“RSP”). Pursuant to the terms of the Order, Dr. Schermerhorn will not provide supervision to Mr. Clough or any other any other physician assistant associated, affiliated or employed with PainCare, Pinewood Medical or its affiliates. Mr. Clough will have all procedures preapproved by his new Registered Supervisory Physician (RSP) of record or a newly named Alternate Registered Supervisor Physician (ARSP). All prescriptions written by Mr. Clough will be reviewed, in writing, post issuance by the RSP or ARSP.

**Jeffrey E. Hubley, M.D. – License #8083**

11/13/14 – The Board approved a Settlement Agreement for Jeffrey E. Hubley, M.D. Prior to settlement, the Board received information regarding a medical injury lawsuit, which alleged substantial and permanent injuries to a child during birth. Dr. Hubley is reprimanded and is required to participate in eight hours of continuing medical education focused on FHR interpretation and additional twelve hours that focus on creating a culture of safety. Dr. Hubley is assessed an administrative fine in the amount of \$1000.00.

**Brent A. Reinheimer, M.D. – License #13003**

11/13/14 – The Board approved a Preliminary Agreement for Practice Restrictions for Brent A. Reinheimer, M.D. Dr. Reinheimer is physically unable to engage in the practice of medicine following an automobile accident on January 14, 2014. Dr. Reinheimer voluntarily agrees not to practice medicine, not to write prescriptions, and not to treat or see patients in the State of New Hampshire until such time as the Board approves his return to practice.

**John J. Schermerhorn, M.D. – License #5682**

1/7/15 – The Board of Medicine entered in a Settlement Agreement with John J. Schermerhorn, M.D. Dr. Schermerhorn failed to provide adequate supervision over Mr. Clough's performance in order to ensure that appropriate directions were given to, and under stood and executed by Mr. Clough and that medical and surgical conditions were appropriately evaluated and treated by Mr. Cough. Dr. Schermerhorn is reprimanded and before serving as a registered supervisory physician and/or an alternate registered supervisory physician in the future, he must obtain prior written permission of the Board and complete any continuing education courses that the Board may deem appropriate at the time that he seeks permission to supervise.

**Brian E. Claussen, M.D. – License # 10608**

2/6/15 – On January 21, 2015, the Board of Medicine approved a settlement agreement for Brian E. Claussen, M.D. Dr. Claussen was grossly and repeatedly negligent and displayed medical practice incompatible with the basic knowledge and competence expected of a person practicing Obstetrics when he failed to manage two patients with preeclampsia. Dr. Claussen is Reprimanded and assessed an Administrative Fine in the amount of \$2,000.00. Dr. Claussen must discontinue the practice of obstetrics and shall not take part in any obstetric cases. Dr. Claussen shall participate in twelve hours of Continuing Medical Education focused on diagnosis and management of hypertensive disorder of pregnancy.

**Lloyd H. Kasper, M.D. – License # 6205**

4/3/15 - On April 3, 2015, the Board of Medicine accepted a Voluntary Permanent Surrender of License from Lloyd H. Kasper, M.D. Dr. Kasper relinquishes all rights and privileges to practice medicine in the State of New Hampshire. Prior to the voluntary surrender Dr. Kasper was facing allegations of professional misconduct including allegations concerning the failure to ensure that communication protocols and systems in connection with certain drug trials were sufficient and were being followed to fully address clinical care and patient oversight; engaging in improper and disruptive behavior in the workplace; and failure to take appropriate remedial action.

**Bijoy L. Kundu, M.D. - License #5387**

2/4/15 - The Board denied Bijoy Kundu, M.D. application for an administrative license. Dr. Kundu entered into a settlement agreement on November 4, 2010 that dealt with quality of care issues. Within that settlement Dr. Kundu was to complete a three-year residency. The Board finds that the same concerns that led to the recommendation for a residency program would also apply with an administrative license. Dr. Kundu does not intend to complete the residency therefore, Dr. Kundu's application is denied based upon a determination that she does not meet the qualifications for an administrative license in New Hampshire.

**Arnold D. Scheller Jr., M.D. – License #8835**

5/6/15 - The Board of Medicine accepted a Settlement Agreement for Arnold D. Scheller Jr., M.D. for failure to notify his employer of his settlement agreement with the Board effective November 12, 2013 within ten days of its effective date. Dr. Scheller is assessed an administrative fine in the amount of \$250.00.

**Frank A. Fedele, M.D. – License #8499**

6/5/15 – On June 3, 2015, the Board approved a Settlement Agreement for Frank A. Fedele, M.D. The Board received information that Dr. Fedele may have engaged in professional misconduct by informally treating a co-worker before and during a romantic relationship. Dr. Fedele is reprimanded and his license is suspended for a period of six months. The suspension shall be stayed provide Dr. Fedele satisfies the following conditions. Shall participate in the NHPHP and follow all recommendations, participate in 8 hours of Continuing Medical Education focused on ethics, 30 hours focused on controlled substance prescribing, 24 hours of professional boundaries and pay an administrative fine in the amount of \$6000.00.