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President

JOHN H. WHEELER, D.O.
Vice President of the Board

KATHRYN M. BRADLEY
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New Hampshire Board of Medicine

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January 6, 2014

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 the attached annual report for FY13 of the Board of Medicine submitted pursuant to RSA 329:19.

Respectfully submitted,

Penny Taylor
Penny Taylor
Administrator

enclosure

**New Hampshire
Board of Medicine**

Annual Report

For Fiscal Year 2013

January 6, 2014

Pursuant to RSA 329:19

Personnel Data
Organizational Chart

Honorable Governor Margaret Wood Hassan
And the
Executive Council

Raymond S. Burton
Colin Van Ostern
Christopher T. Sununu
Christopher C. Pappas
Debora B. Pignatelli

Department of Health
and Human Services

<u>New Hampshire Board of Medicine</u>	<u>Appointed</u>	<u>Expires</u>
Mark Sullivan, P.A., President	6/4/08	4/21/18
John H. Wheeler, D.O., Vice President	5/12/10	5/12/15
Amy Feitelson, M.D.	4/21/06	4/21/16
Robert J. Andelman, M.D.	1/25/07	12/3/16
Robert M. Vidaver, M.D., DHHS Commissioner's Designee Pursuant to RSA 329:2		
Louis E. Rosenthal, M.D.	12/18/08	12/3/16
Nick P. Perencevich, M.D.	10/7/09	8/01/12
Robert P. Cervenka, M.D.	5/02/07	7/19/13
Michael Barr, M.D. (Replacing Dr. Perencevich)	8/08/12	4/21/15
Gail Barba, Public Member	2/7/07	2/7/17
Daniel Morrissey, O.P., Public Member	7/16/08	12/18/16
Edmund J. Waters, Jr., Public Member	6/23/10	10/14/16

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

Medical Review Subcommittee
Teresa Ponn, MD, Chair
Michael Sochat, MD
Paul J. Scibetta, Jr., DO
Michael Barr, MD (Resigned)
David C. Conway, MD
Ira S. Schwartz, MD
Peter H. Wilson, MD
Louis E. Rosenthal, MD
Mark Iber, PA
Patricia Waldvogel, Public Member (Resigned)
Linda Tatarczuch, Public Member (Resigned)
Christine Fales, Public Member
Nina C. Gardner, Public Member

Board of Medicine

Annual Report

Fiscal Year 2013

July 1, 2012 - June 30, 2013

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 all consumer complaints, and undertaking disciplinary actions against licensee violations of the Medical Practice Act.

RECEIPTS AND EXPENDITURES

	<u>FY13</u>	<u>FY12</u>
Revenue (actual – medicine)	\$1,055,959	\$1,035,275
Impaired Physicians	\$ 175,015	\$ 142,360
Sale of Publications	\$ 6,958	\$ 6,060
Physician Assistants	<u>\$ 33,005</u>	<u>\$ 33,655</u>
Total	\$1,270,937	\$1,217,350
Expenditures		
Administration & Support	<u>\$ 841,653</u>	<u>\$883,142</u>
Total	\$ 841,653	\$883,142
Required to Meet 125%	\$1,052,066	\$1,103,928
Excess of Revenue Over 125%	\$ 218,871	\$ 113,542

OPERATIONS

The Board of Registration in Medicine licensed 468 new physicians and 55 physician assistants in fiscal year 2013. There were approximately 2,954 physician licenses renewed and 312 licenses lapsed for non-renewal. Physicians renew on a biennial basis, therefore, approximately ½ of the physicians renew each year. About 527 physician assistants renewed their license in the state during FY13.

The FY 2013 budget has funded the part time Medical Review Subcommittee Investigator. The Medical Review Subcommittee is responsible for investigating complaints against physicians and making disciplinary recommendations to the full Board. The Subcommittee consists of one member of the Board. A physician serves as Subcommittee Investigator. He directs the activities of the subcommittee and provides more direct clinical analysis to the committee's investigations. Nonetheless, the Board anticipates an increased use of specialty physician-consultants to review medical files when allegations of professional misconduct occur.

The Board receives complaints against physicians from a number of sources, including consumer complaints made directly to the Board in person or through the 800-telephone line. During FY 2013, the Board received 109 complaints and 51 malpractice suits filed in New Hampshire. The Board also received 299 referrals for investigation from other sources, including National Practitioner Database Reports, insurance claim reports and reports of hospital disciplinary action. The average investigation took 12-16 weeks and resulted in 29 formal disciplinary actions. The Board suspended 3 licenses; revoked 3 licenses; approved 5 voluntary surrender of licenses; issued an Emergency License Suspension and Notice of Hearing to 6 licensees; suspended prescribing privileges of 1 licensee; approved 3 preliminary agreements for practice restrictions; and imposed a reprimand on 8 other licenses. An administrative fine was attached to 5 of those actions. Included in 5 of the disciplinary actions, 5 physicians were required to take additional continuing medical education (CME's) in their area of specialty. The Board also issued 56 confidential letters of concern, which do not represent disciplinary action, but are intended as formal warnings to licensees.

LICENSURE

<u>Physicians</u>	<u>FY2013</u>
Biennial Renewal	2,954
Non-renewal	312
New licenses	468
Temporary licenses	70
Training licenses	143
Reinstatement of license	23

<u>Physician Assistants</u>	<u>FY2013</u>
Licenses Issued	55
Annual Renewal	527

BOARD INVESTIGATIONS

<u>Sources of Notice</u>	<u>FY 2013</u>
Complaints filed	109
Malpractice writs	51
Referred from other sources	299

BOARD ACTIONS

	<u>FY2013</u>
Letters of Concern issued	56
Formal Discipline	29

PUBLIC BOARD ACTIONS TAKEN IN FY 2013

Nadia H. Khan, M.D. – License #13627 – Hollis, NH

7/13/12 - The Board of Medicine approved a Settlement Agreement for Nadia H. Khan, M.D. Dr. Khan failed to recognize that an EKG showed a complete heart block at the heart rate of 29, which would most likely have required hospitalization, and sent the patient home. The following day, the patient was admitted to the hospital's emergency department for the placement of a pacemaker. Dr. Khan is reprimanded and is required to participate in 28 hours of continuing medical education in the areas of electrocardiography and arrhythmias.

John A. Eppolito Jr., M.D. – License #10156 – Bridgewater, NH

7/13/12 - the Board approved a Settlement Agreement for John A. Eppolito Jr., M.D. Dr. Eppolito prescribed medications, including controlled medications, for three separate individuals employed by the hospital where he was working, while failing to maintain appropriate medical records and without forming valid physician-patient relationships. Dr. Eppolito is reprimanded and required to participate in the Case Western Reserve University School of Medicine intensive course in Medical Ethics, Boundaries and Professionalism.

Christopher B. Kirby, M.D. – License # 8450 – Londonderry, NH

7/13/12 - The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Kirby presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Kirby's license to practice medicine pending a hearing that is scheduled for July 25, 2012.

7/26/12 – The Board approved a Preliminary Agreement for Practice Restrictions for Christopher B. Kirby, M.D. Dr. Kirby has professional misconduct allegations pending before the Board. Dr. Kirby 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.

Corey J. Meyers, M.D. – License # 11817 – Pittsfield, MA

8/7/12 - The Board of Medicine issued a Final Decision and Order in the Matter of Corey J. Meyers, M.D. The Board held a hearing on July 11, 2012, to determine whether reciprocal disciplinary sanctions to a New York revocation order were appropriate. The Board has serious concerns about Dr. Meyer's competency to practice medicine and therefore is indefinitely suspending his license pending a full evaluation of his competency to practice clinical medicine.

David N. Lunianski, D.O. – License # 14714 – Biddeford, ME

7/26/12 - The Board of Medicine issued an Order of Conditional Approval of Request for Reinstatement of License for David Lunianski, D.O. The Board voted to approve a conditional/restricted reinstatement of Dr. Lunianski's license with the specific conditions enumerated in the July 26, 2012 Order.

Stephen V. Friedman, M.D. – License # 15531 – Beverly, MA

8/28/12 - The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Friedman presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Friedman license to practice medicine pending a hearing that is scheduled for September 5, 2012. *(See action on 9/7/12)*

Jerome Sturm, M.D. – License # 7662 – Derry, NH

9/4/12 - The Board of Medicine approved a Settlement Agreement for Jerome Sturm, M.D. Dr. Sturm failed to personally examine and/or evaluate two patients (unrelated cases) in a timely manner. Dr. Sturm is reprimanded and is required to participate in a global assessment by CPEP. Dr. Sturm is assessed an administrative fine in the amount of \$1,000.

Stephen V. Friedman, M.D. – License # 15531 – Beverly, MA

9/7/12 – The Board approved a Preliminary Agreement for Practice Restrictions for Stephen V. Friedman, M.D. Dr. Friedman has professional misconduct allegations pending before the Board. Dr. Friedman voluntarily agrees not to practice medicine, not to write prescriptions, and not to treat or see patients in the State of New Hampshire until further order of the Board. *(See action on 11/9/12)*

Thomas G. Rousseau, P.A. – License # 0426 – Bedford, NH

9/7/12 - The Board of Medicine approved a Settlement Agreement for Thomas G. Rousseau, P. A. Mr. Rousseau failed to diagnose a pulmonary embolism in a patient with a one-month history of Achilles surgery who was wearing a surgical boot and presenting with pain made worse by taking a deep breath. Mr. Rousseau is reprimanded and is required to participate in 20 additional hours of CMEs in the area of high-risk emergency medicine (including recognizing and diagnosing pulmonary embolisms).

Richard J. Keller, M.D. – License # 11662 – Boston, MA

9/20/12 - The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Keller presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Keller's license to practice medicine pending a hearing that is scheduled for October 3, 2012.

Joseph B. Savage, M.D. – License # 6425 – Manchester, NH

9/21/12 - The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Savage presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Savage license to practice medicine pending a hearing that is scheduled for October 3, 2012.

Kevin M. Kendall, M.D. - License #10774 - Lewiston, ME

9/25/12 - The Board of Medicine issued an Order of Emergency Suspension and Notice of Hearing. The Board has received information indicating that the continued practice of medicine by Dr. Kendall presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Kendall license to practice medicine pending a hearing that is scheduled for October 3, 2012. *(Also see action in 2013)*

Jan Vanderlinde, M.D. – License #9956 – Exeter, NH

10/3/12 – The Board of Medicine approved a Settlement Agreement for Jan Vanderlinde, M.D. Dr. Vanderlinde failed to appropriately diagnose and treat a patient who had suffered a large stroke in the left side of her brain, requiring extensive rehabilitation. Dr. Vanderlinde is reprimanded and required to complete an additional 8 live CMEs in the areas of acute neurologic emergencies. Dr. Vanderlinde is assessed an administrative fine in the amount of \$1,000.

Gerard N. Kiernan, M.D. – License #11758 – Keene, NH

10/5/12 – The Board of Medicine approved a Settlement Agreement for Gerald N. Kiernan, M.D. Dr. Kiernan failed to appropriately diagnose and treat sepsis, resulting in multi-organ failure and other complications. Dr. Kiernan is reprimanded and required to complete an additional 25 CMEs in the areas of infectious diseases or critical care medicine. Dr. Kiernan is assessed an administrative fine in the amount of \$2,000.

Richard J. Keller, M.D. – License #11662 – Manchester, NH

10/11/12 - The Board of Medicine issued an Order for Dr. Richard J. Keller. In light of the information provided at the hearing, the Board finds by a preponderance of the evidence that Dr. Keller's continued practice at this time would constitute imminent danger to life or health and the public health, safety and welfare requires that Dr. Keller's license remain suspended for the duration of the adjudicative proceeding. Dr. Keller is prohibited from practicing medicine, writing prescriptions, treating or seeing patients in the State of New Hampshire until such time as the Board in writing approves his return to practice.

Joseph B. Savage, M.D. – License #6425 – Manchester, NH

10/11/12 - The Board of Medicine issued an Order for Dr. Joseph B. Savage. In light of the information provided at the hearing, the Board finds by a preponderance of the evidence that Dr. Savage's continued practice at this time would constitute imminent danger to life or health and the public health, safety and welfare requires that Dr. Savage's license remain suspended for the duration of the adjudicative proceeding. Dr. Savage is prohibited from practicing medicine, writing prescriptions, treating or seeing patients in the State of New Hampshire until such time as the Board in writing approves his return to practice.

Stephen V. Friedman, M.D. – License # 15531 – Beverly, MA

11/9/12 – The Board of Medicine approved a Settlement Agreement for Stephen V. Friedman, M.D. Dr. Friedman failed to provide accurate information in response to questions 12 on his New Hampshire application when the State of Massachusetts reprimanded Dr. Friedman for failing to properly dispose of a syringe containing Fentanyl. Dr. Friedman agrees to the permanent voluntary surrender of his license to practice medicine in the State of New Hampshire.

Bradley N. Libenson, D.O. – License # 10305 – Berwick, ME

11/14/12 - The Board of Medicine issued a final decision and order in the matter of Bradley N. Libenson, D.O. Subsequent to an adjudicatory hearing, the Board found that Dr. Libenson had engaged in professional misconduct for violating his April 7, 2009 Settlement Agreement by failing to comply with the requirements for documenting utilization of chaperones, failing to properly disseminate patient satisfaction surveys, and failing to provide each staff member with a copy of the conditions of the 2008 Maine order, with a signed and dated acknowledgement form from each of his office staff that he or she has read the conditions. Dr. Libenson is reprimanded and has to participate in a comprehensive multidisciplinary assessment conducted by Acumen. Dr. Libenson is assessed an administrative fine in the amount of \$2000.00.

Colin T. Kelley, M.D. – License # 10753 – New Zealand

1/11/13 – Colin T. Kelley, M.D. entered into a Settlement Agreement with the Board of Medicine. Dr. Kelley pled guilty to one count of Health Care Fraud; Aiding and Abetting, a felony while practicing in New York. Dr. Kelley's license to practice medicine in the state of New Hampshire is revoked.

Michael P. DiPre, M.D. – License #10234 – Salisbury, NH

2/8/13 - The Board issued a Settlement Agreement for Michael P. Dipre, M.D. based on allegations of inappropriate prescribing of narcotics, as well as failure to adequately monitor and document treatment of pain patients being prescribed narcotics. Dr. Dipre's controlled drug prescribing privileges are suspended for three years, starting from the date of issuance of the Settlement Agreement. The term "controlled drug" refers to any and all drugs contained in the Federal Controlled Substance Schedule. Dr. Dipre shall participate in a global assessment of his ability and skills as a physician conducted by Center for Personalized Education for Physicians ("CPEP") or by Acumen Assessments.

Thomas D. Wells, D.O. - License #9206 – Jefferson, NH

2/6/13 – Thomas D. Wells, D.O. entered into a Settlement Agreement with the Board of Medicine. The Board received information relating to allegations of professional misconduct. On or about March 7, 2009 Dr. Wells was arrested and charged with simple assault for punching his thirteen-year old son in the face and was later convicted of simple assault. After this incident, Dr. Wells voluntarily entered into a contract with NHPHP to address behavioral and substance abuse issues, which he completed. While working as an emergency room physician, concerns were raised that led to his going on medical leave. On his 2010 renewal, Dr. Wells provided inaccurate information concerning his illness and medical leave. He is reprimanded and shall undergo a complete assessment of his clinical skills at KSTAR. The Preliminary Agreement for Practice Restrictions, issued June 8, 2010, shall remain in effect until further order of the Board, and shall not be vacated until the KSTAR Program approves his return to the practice of medicine.

William D. Foord, M.D. – License #5307 – Berlin, NH

2/14/13 - The Board of Medicine issued an Order of Emergency Suspension of Prescribing Privileges and Notice of Hearing. The Board has received information indicating that the continued prescribing of all controlled substances, specifically scheduled drugs II, III, IV and V by Dr. Foord presently poses an imminent threat to life, safety and/or health, which warrants the temporary suspension of Dr. Foord's prescribing privileges pending a hearing that is scheduled for February 20, 2013.

2/21/13 – The Board approved a Preliminary Agreement for Practice Restrictions for William D. Foord, M.D. Dr. Foord has professional misconduct allegations pending before the Board. Dr. Foord voluntarily agrees not to prescribe any controlled substances, specifically scheduled drugs II, III, IV and V to any person in the State of New Hampshire until further order of the Board.

Dan W. Joachim, M.D. – License #14530 – Covington, LA

4/8/13 – The Board issued a Final Decision and Order on Dan W. Joachim, M.D. Dr. Joachim engaged in professional misconduct when he was convicted of felony level receipt of child pornography charges in violation of RSA 329:17, VI (j). Dr. Joachim's license to practice medicine in the State of New Hampshire is revoked.

Kevin M. Kendall, M.D. - License #10774 - Lewiston, ME

5/3/13 – The Board of Medicine accepted Dr. Kevin M. Kendall's voluntary surrender of his New Hampshire medical license due to pending disciplinary charges arising out of an incident where he reported to work while impaired and then hit a wooden object after leaving the hospital.

Jeffrey D. Rosen, M.D. – License #14695 – Ludlow, VT

5/3/13 – The Board of Medicine accepted Dr. Jeffrey D. Rosen's voluntary surrender of his New Hampshire medical license which occurred in settlement of pending disciplinary charges arising out of the denial of his application for licensure by the State of Vermont Medical Board and the subsequent voluntary surrender of his medical license in the State of West Virginia based on the Vermont Board's licensure denial. The Vermont Medical Board's denial was based on that State's finding that Dr. Rosen had mischaracterized a response to a Board Investigator's inquiry regarding the termination of Dr. Rosen's employment at the Women's Health Center of West Virginia.

Mark E. Splaine, M.D. – License #9131 – Lebanon, NH

5/3/13 – The Board of Medicine accepted Dr. Mark E. Splaine's voluntary surrender of his New Hampshire medical license in lieu of disciplinary action. Dr. Splaine failed to maintain medical records for over 2,000 patients he encountered while practicing medicine. Dr. Splaine was ordered to complete certain continuing medical education credits within a specified time and provide the Board with proof of completion from a previous order. Dr. Splaine failed to provide that proof to the Board.

Don A. Holshuh, M.D. – License #6016 – Keene, NH

5/8/13 – The Board issued a Final Decision and Order for Don A. Holshuh, M.D. Dr. Holshuh engaged in professional misconduct by attempting to order prescription drugs from a drug wholesaler for personal use while his medical license was under suspension. Dr. Holshuh's license is revoked and shall pay an administrative fine of three thousand dollars.

James R. Frede, M.D. - License #15058 – Wailuki, HI

6/7/13 – The Board of Medicine accepted a Voluntary Surrender of License from James R. Frede, M.D. Dr. Frede relinquishes all rights and privileges to practice medicine in the State of New Hampshire. The Voluntary Surrender of License is in settlement of the professional misconduct allegations against Dr. Frede before the Board concerning prescribing non-controlled substances for patients over the internet.