

**STATE OF NEW HAMPSHIRE  
BOARD OF NURSING  
Concord, NH**

In the matter of:

DOCKET #2023-NUR-Mandel-0327

**David Mandel**

Lic. #054853-21 – RN

Lic. #054853-23 – APRN-CRNA

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public, the New Hampshire Board of Nursing (“Board”) and David Mandel, RN, APRN-CRNA (“Mr. Mandel” or “Respondent”) do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board, pre-adjudication, according to the following terms and conditions:

1. Pursuant to RSA 326-B:4; RSA 326-B:38, RSA 541-A and Board of Nursing Administrative Rule (“Nur”) 207, 208, and 211, and in accordance with PART Plc 205, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by licensees. Pursuant to RSA 326-B:38, X, the Board may, at any time, dispose of such allegations by settlement and without commencing an adjudicative hearing.
2. The Board first granted Respondent a license to practice as a Registered Nurse in the State of New Hampshire on June 17, 2005, and as an Advance Practice Registered Nurse on December 23, 2014. Respondent holds Registered Nurse license number 058453-21 and Advance Practice Registered Nurse – Certified Registered Nurse Anesthetist license number 058453-23.
3. On March 10, 2023, the Board received a complaint from Amoskeag Anesthesia that alleged that the Respondent had diverted ketamine from the Elliot Hospital and

admitted to that diversion. The Respondent signed a Preliminary Agreement Not to Practice on May 11, 2023.

4. No notice of adjudicatory hearing has been issued in this matter.
5. The Respondent stipulates that Hearing Counsel could present the following evidence at an adjudicative proceeding in this matter:
  - A. On February 13, 2023, the Respondent diverted a 35mg dose of Ketamine from Elliot Hospital for personal use.
  - B. The Respondent self-reported and admitted his diversion to his employer, Amoskeag Anesthesia.
  - C. The Respondent was fully cooperative with the OPLC investigation.
  - D. The Respondent has been monitored by NHPHP continuously since April 7, 2023. His monitoring agreement with NHPHP is set to expire on April 6, 2025. He has complied with all terms and has not had any violations.
6. Respondent acknowledges that the conduct alleged above could constitute grounds for the Board to impose disciplinary sanctions against his license to practice in this state.
7. The Board finds that, by engaging in such conduct, Respondent has violated RSA 326-B:37, II(n) and Nur 402.04(b)(5).
8. Respondent consents to the Board imposing the following discipline pursuant to RSA 326-B:37, III:
  - A. The Board will issue a **REPRIMAND** against the Respondent for violation of RSA 326-B: 37, II, (n).

- B.** The Respondent shall be subject to a period of **PROBATION**. The period of probation shall last until such date as the Respondent has completed his existing Monitoring Agreement with NHPHP. During this probationary period, the following terms shall apply:
- 1) The Respondent shall not engage in any form of professional misconduct,
  - 2) The Respondent shall comply with all directives, treatment recommendations, and terms of his existing NHPHP Monitoring Agreement and as otherwise ordered by NHPHP; and,
  - 3) Respondent shall provide a copy of this *Settlement Agreement* to any supervisor within 10 days of obtaining employment within his licensed scope of practice or, if already so employed, within 10 days of the effective date of this agreement.
9. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant RSA 326-B:37, II(h), 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 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. Respondent further agrees that no coercion or duress from any person has caused him to sign this *Settlement Agreement*.
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. This *Settlement Agreement* shall constitute a final Board action on this matter.
14. Respondent understands that his execution of this *Settlement Agreement* is a final act and not subject to reconsideration, judicial review, or appeal.
15. Respondent acknowledges that he has had the opportunity to seek and obtain the advice of an attorney of his choosing prior to signing this *Settlement Agreement*.
16. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. The Respondent agrees to support the Board's acceptance of this *Settlement Agreement* in any further hearing on this matter. 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 or by 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 understands that the Board is required, pursuant to Nur 211.02(d)(1) and Plc 205.04, to provide notice of this *Settlement Agreement* to the Complainant, who has the opportunity to submit written comments concerning the proposed settlement.
18. Respondent certifies that he is not under the influence of any drugs or alcohol and is otherwise of sound mind and judgment at the time he signs this *Settlement Agreement*.
19. Respondent certifies that he has read this and understands all of the terms of this *Settlement Agreement*.
20. 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 in accordance with the procedures in Plc 205.04.

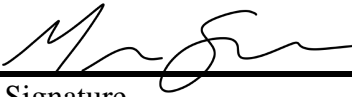
IN WITNESS WHEREOF, I hereby affix my signature on this 13<sup>th</sup> day of November, 2023.

  
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David Mandel

ACCEPTED BY THE BOARD OF NURSING on this 21st day of DEC, 2023.

12/22/2023

Date



Signature

Michael R. Gianunzio

Printed or Typed Name  
Authorized Representative of the  
New Hampshire Board of Nursing