

FILED OF RECORD

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COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2073

IN RE: THE LICENSE TO PRACTICE OSTEOPATHY IN THE COMMONWEALTH
OF KENTUCKY HELD BY CLARENCE F. LYONS, D.O., LICENSE NO.
02947, 775 E. TOM T. HALL BLVD., OLIVE HILL, KENTUCKY 41164

AGREED ORDER

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel A, and Clarence F. Lyons, D.O. ("the licensee"), and, based upon their mutual desire to resolve the pending investigation, hereby ENTER INTO the following **AGREED ORDER**:

STIPULATIONS OF FACT

The parties stipulate the following facts, which serve as the factual bases for this Agreed Order:

1. At all relevant times, Clarence F. Lyons, D.O., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is family medicine.
3. On or about April 20, 2022, a physician reported to the Board a concern that Patient A was receiving oxycodone prescriptions every two weeks from the licensee every two weeks, even though the licensee had allegedly closed his office.
4. On or about May 27, 2022, Jill Lee, R.Ph., investigator for the Cabinet for Health and Family Services' Office of Inspector General, Drug Enforcement and Professional Practices Branch ("OIG"), reviewed and analyzed the licensee's KASPER records (dated January 1, 2021 through April 30, 2022) and noted several concerns, including:
 - Long-term phentermine dosing;

- Prescribing combinations of controlled substances where combined effects may increase risk of adverse effects (examples observed were concomitant prescriptions for opioids plus benzodiazepines, opioids plus benzodiazepines and gabapentin, or benzodiazepines and other sedatives);
- Long-term Schedule II pain management controlled substances with no corresponding KASPER queries; and
- Between August-December 2021, the licensee only requested twelve (12) patient KASPER reports and he requested none between January-April 30, 2022.

Ms. Lee identified twelve (12) of the licensee's patients with prescribing patterns reflective of these concerns and recommended further investigation by the Board.

5. On or about August 16, 2022, a Board consultant reviewed the licensee's patient charts and found that the licensee departed from or failed to conform to acceptable and prevailing medical practices. Specifically, the consultant stated

In my review, Dr. Lyons charting has been very poor over the last few years. Routine medical concerns in the charts show poor standard of care in his follow up of diabetics, use of some medications, and rare documentation of health maintenance recommendations. One pediatric patient was treated with stimulants for ADHD but standardized assessment, e.g. Vanderbilt testing, was not done. There were no routine problems lists or medication lists kept.

Dr. Lyons did not do due diligence in his prescribing of controlled substances. A number of the charts had no documentation of visits after 2018. His recordkeeping was very poor and most of the records provided were not in chronological order. UDS screens were not ordered after 2019. KASPER reports were rarely documented.

Dr. Lyons did not conform to the standards of acceptable care for our commonwealth. ... It is possible that the lack of attentive followup of medical conditions could be due to the disruptions of the pandemic. However, the quality of care provided to his patients has suffered.

... He does prescribe combinations of medications that are unsafe.

I understand from his response that he has been through a lot ... But part of professionalism is knowing your limitations, and making certain your private life does not compromise the quality of your work. It appears that Dr. Lyons struggled with that.

6. On or about September 26, 2022, the Board consultant reviewed a narrative response from and additional records provided by the licensee and found that although additional KASPER reports and number of urine drugs screens were provided, "there is still a paucity of documentation over the past few years" and noted "inconsistencies in the urine drug screens that lacked documentation of having been addressed." Overall, the consultant's opinion remained that "Dr. Lyons has not conformed to standards of acceptable care in the past few years."
7. On October 20, 2022, the licensee appeared before and was heard by the Board's Inquiry Panel A.
8. The licensee enters into this Agreed Order, in lieu of the issuance of a Complaint and Emergency Order of Restriction.

STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Agreed Order:

1. The licensee's Kentucky osteopathic license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee is in violation of the provisions of KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(12). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this matter by entering into an informal resolution such as this Agreed Order.

AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law and based upon their mutual desire to fully and finally resolve the investigation without an evidentiary hearing, the parties hereby ENTER INTO the following AGREED ORDER:

1. The license to practice osteopathy held by Clarence F. Lyons, D.O., is hereby RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Order.
2. During the effective period of this Agreed Order, the licensee's osteopathic license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS OF RESTRICTION/LIMITATION for an indefinite term, or until further order of the Board:
 - a. Effective immediately, the licensee SHALL NOT prescribe, dispense, or otherwise professionally utilize controlled substances;
 - b. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the Board's costs of \$2,712.50 within five (5) years from entry of this Agreed Order; and
 - c. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee understands and agrees that the Panel SHALL NOT consider a request by the licensee to resume prescribing, dispensing or the professional utilization of controlled substances unless and until the Board has received an assessment report and educational or remediation plan (if recommended) following the licensee's completion of a clinical skills assessment(s) in specialties relevant to the licensee's scope of practice at the time of this investigation and future practice plans, at his expense, from either:

- a. Center for Personalized Education for Professionals ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232 Fax: (303) 577-3241; or
- b. LifeGuard, 400 Winding Creek Boulevard, Mechanicsburg, Pennsylvania, 17050, Tel. (717) 909-2590;

Further, the licensee understands and agrees that both the licensee and the Board may provide relevant information to either CPEP or LifeGuard for consideration as part of the clinical skills assessment. In order to permit the Board to provide such relevant information, the licensee shall immediately notify the Board's Legal Department of any scheduled assessment dates once an assessment is scheduled and the licensee shall complete any necessary waiver/release to facilitate communication between the Board and CPEP or LifeGuard.

4. The licensee understands and agrees that if the Panel should allow the licensee to resume prescribing, dispensing or the professional utilization of controlled substances in the future, it will do so by an Amended Agreed Order, which shall provide for the licensee to maintain a "controlled substances log" for all controlled substances prescribed, dispensed or otherwise utilized and shall provide for periodic review of the log and relevant records by Board agents upon request, along with any other conditions deemed necessary by the Panel at that time.
5. The licensee understands and agrees that if he should violate any term or condition of this Agreed Order, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive information that he has violated any term or condition of this Agreed Order, the Panel Chair is authorized

by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of any term or condition of this Agreed Order would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order.

6. The licensee understands and agrees that any violation of the terms of this Agreed Order would provide a legal basis for additional disciplinary action, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.

SO AGREED on this 4th day of November, 2022.

FOR THE LICENSEE:

Clarence F. Lyons, D.O.
CLARENCE F. LYONS, D.O.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:

William C. Thornbury, Jr., M.D.
WILLIAM C. THORNBURY, JR., M.D.
ACTING CHAIR, INQUIRY PANEL A

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