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K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2078

IN RE: THE LICENSE TO PRACTICE OSTEOPATHY IN THE COMMONWEALTH OF KENTUCKY HELD BY KENNETH SCHROETER, D.O., LICENSE NO. 04819, 9 RUTH RAY ROAD, CHESTER, NEW HAMPSHIRE 03036

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (“the Board”), acting by and through its Hearing Panel A, and Kenneth Schroeter, D.O. (“the licensee”), and, based upon their mutual desire to fully and finally resolve the Complaint, 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, Kenneth Schroeter, D.O., (“the licensee”) was licensed by the Board to practice osteopathy within the Commonwealth of Kentucky.
2. The licensee’s osteopathic specialty is addiction medicine.
3. On or about January 26, 2022, the Cabinet for Health and Family Services’ Office of Inspector General, Drug Enforcement and Professional Practices Branch (“OIG”), initiated an investigation into the licensee’s prescribing after receiving a call alleging as follows:

NuYu obtains KASPER reports regularly on patients treated with the diet medication, phentermine, and was surprised to see another amphetamine like substance, Adderall, in “Patient A’s” KASPER report. NuYu called the prescriber, the licensee, to determine if in fact it was the same patient and if the licensee was aware the patient was being treated simultaneously for weight loss. The licensee did not have patient A’s social security number to verify identity and the licensee was unaware of diet medications because he did not run a KASPER report on the patient. NuYu was concerned that the licensee was seeing the patient via telemedicine and was prescribing a

schedule II medication without proper identity verification or KASPER reporting.

4. Jill Lee, R.Ph., OIG investigator, reviewed and analyzed the licensee's KASPER records (dated February 14, 2021 through February 14, 2022) and noted that the licensee only prescribed medication assisted treatment (MAT) for opioid use disorder (61%) and Schedule II amphetamines (39%) and that the licensee appeared to be compliant with mandatory KASPER queries except for a large gap with no requests from June 22, 2021 to January 26, 2022. Ms. Lee recommended review of ten (10) patient charts.
5. On or about May 25, 2022, a Board consultant reviewed the patient charts and opined that the licensee violated, directly or indirectly, Board regulations and departed from or failed to conform to acceptable and prevailing medical practices within the Commonwealth of Kentucky and in regard to charts reviewed as follows:
 - In regard to Patient JD, the licensee noted vital signs but did not document a physical examination; failed to document that he queried KASPER for patient data (especially of concern since the licensee had been warned by another provider in the past about this requirement); did not wait to assess the full effect of medication before increasing the dose on each and every visit; and prescribed a higher dosage of a long-acting medication three times a day instead of once per day;
 - In regard to Patient GH, the licensee failed to obtain sufficient history in a 30-year old morbidly obese patient who was being seen at a weight loss clinic and was taking phentermine; noted vital signs but did not document a physical examination; failed to query KASPER, instead of or in addition to PDMP, for patient data and did not document findings of PDMP; increased the patient's Adderall prescription from 10mg/2x daily to 20mg/2x daily without independently evaluating the patient and over the recommendation of the evaluating practitioner; and after being informed by another provider that the patient was on phentermine, the licensee did not contact the patient and advise him to discontinue Adderall and to schedule a follow up appointment as soon as possible;
 - In regard to Patient AE, the licensee failed to obtain sufficient history or conduct a sufficient physical examination and mental health assessment for a patient with hypertension, anxiety disorder, chronic pain syndrome and on multiple controlled substances; noted vital signs but did not document a physical examination; failed to query KASPER, instead of or in addition to PDMP, for patient data and did not

document findings of PDMP; prescribed dextroamphetamine/amphetamine to a patient taking phentermine, increasing risk of hypertension and other cardiovascular and central nervous system stimulatory effects; and there were significant red flags as to whether the patient increased the dosage of her medication on her own or at the direction of the provider;

- In regard to Patient CB, the licensee noted vital signs but did not document a physical examination; failed to query KASPER for patient data; prescribed dextroamphetamine/amphetamine to a patient taking suboxone, increasing risk for Serotonin syndrome which should be monitored especially during drug titration and failing to document this potential risk and plan of monitoring including patient education; and not scheduling a timely follow up for re-evaluation when he changed the patient to a short-acting medication based stressful circumstances in the patient's life;
 - In regard to Patient RF, the licensee queried KASPER on the initial visit of 12/1/2020, but on subsequent visits, he documented PDMP findings instead of KASPER and did not document a physical examination; and
 - In regard to Patients CB, JB, NN, CT and MA, the licensee did not document a physical examination or KASPER findings.
6. On or about July 6, 2022, the licensee responded to the Board consultant's review, providing additional explanation for his practice and treatment of the reviewed patients.
7. Upon review of the additional information, the Board consultant did not change his opinion, noting

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1a: It is customary to perform a detailed physical examination along with a detailed history, especially for initial visit for a patient before prescribing controlled substances like dextroamphetamine-amphetamine. Like any other controlled substance, these medications have side effects that need to be monitored closely.

1b: KASPER is a requirement for prescribing controlled substances in the Commonwealth of Kentucky. ...

1c: It is important to gather complete information before initiating a controlled substance for a new patient on the very first visit as incomplete information could potentially lead to adverse effects, drug interactions or abuse.

1d: I believe that even if the assumption is that the patient was not actually taking the prescribed phentermine, the provider should not have prescribed

dextroamphetamine-amphetamine while the patient was also on phentermine which increases the risk of cardiovascular and central nervous system adverse effects. To the very least, medical records should reflect the prescriber acknowledgement of multiple medications and counseling to avoid using them together to avoid adverse outcomes.

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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 osteopathic license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates 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 the Complaint 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 Complaint, the parties hereby ENTER INTO the following **AGREED ORDER**:

1. The license to practice osteopathy within the Commonwealth of Kentucky held by Kenneth Schroeter, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Agreed Order.
2. During the effective period of this Agreed Order, the licensee's osteopathic license shall be subject to the following terms and conditions until further order of the Board:

- a. The licensee SHALL NOT prescribe, dispense, or otherwise professionally utilize controlled substances unless and until approved to do so by the Panel;
 - b. The licensee SHALL NOT request and the Panel SHALL NOT consider a request to allow the licensee to resume the professional utilization of controlled substances unless and until:
 - i. The licensee has successfully completed the following courses offered through Professional Boundaries, Inc., Tel. (904) 860-6204, <https://pbieducation.com/>:
 1. Proper Prescribing (RX-21) and
 2. Medical Record Keeping (MR-17);
 - ii. The licensee has read 201 KAR 9:016, 201 KAR 9:260, 201 KAR 9:270, and the Board Opinion Regarding the Use of Telemedicine Technologies in the Practice of Medicine (September 15, 2022), and the licensee has executed and returned an affidavit attesting that he has read and understands the provisions contained therein;
 - iii. The licensee has submitted full payment of a FINE in the amount of \$2,500.00; and
 - iv. The licensee has REIMBURSED in full the costs of the Board's proceedings in the amount of \$4,312.50; and
 - c. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee expressly agrees and understands that if the Panel should allow him to resume the professional utilization of controlled substances, it shall do so contingent upon him entering into 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.
 4. The licensee expressly 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 the licensee 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.

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

SO AGREED on this 10th day of April, 2023.

FOR THE LICENSEE:

Kenneth A. Schroeter, D.O.
KENNETH SCHROETER, M.D. D.O.

NA
COUNSEL FOR LICENSEE
(IF APPLICABLE)

FOR THE BOARD:

W. Saleem
WAQAR A. SALEEM, M.D.
CHAIR, HEARING PANEL A

Handwritten initials



LEANNE K. DIAKOV
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Kentucky Board of Medical Licensure
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WAIVER OF RIGHTS

I, Kenneth Schroeter, D.O., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 2078. I understand that, under 201 KAR 9:082, I must waive certain rights if I wish to resolve this matter by informal dispensation. Accordingly, I WAIVE my right to raise any constitutional, statutory or common law objection(s) I may have to the Hearing Panel rejecting the proposed informal dispensation or to the curtailment of such a settlement by the Board's General Counsel or Assistant General Counsel.

Furthermore, if the Hearing Panel accepts the proposed Agreed Order as submitted, I WAIVE my right to demand an evidentiary hearing a petition for judicial review, or to raise additional constitutional or statutory objections in this matter. However, if the Hearing Panel should reject the proposed Agreed Order, I understand that further proceedings will be conducted in accordance with KRS 311.530, *et. seq.*, and KRS Chapter 13B and I will have the right to raise any objections normally available in such proceedings.

Executed this 10th day of April, 2023.



KENNETH SCHROETER, D.O.
RESPONDENT

N/A

COUNSEL FOR THE RESPONDENT
(IF APPLICABLE)

