

FEB 25 2013

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1460

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY HOWARD T. DEHAVEN, M.D., LICENSE NO. 12429, 200 SUNNYSIDE LANE, COLUMBIA, TENNESSEE 38401

AGREED ORDER OF SURRENDER

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel B, and Howard T. DeHaven, M.D. ("the licensee"), and, based upon their mutual desire to fully and finally resolve this pending grievance without an evidentiary hearing and in consideration of the licensee's intent to retire from the practice of medicine, hereby ENTER INTO the following **AGREED ORDER OF SURRENDER**:

STIPULATIONS OF FACT

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

1. At all relevant times, Howard T. DeHaven, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is pathology.
3. In or around June and July 2012, the licensee practiced medicine at the Auxier Pain Clinic, in Auxier, Kentucky, through a locum tenens assignment. Auxier Pain Clinic was owned by Ray Stapleton, a non-physician.
4. On July 12, 2012, the licensee prescribed 90 Lorcet, 90 Neurontin and 30 Xanax to Patient A, without acceptable medical reasoning and without appropriately monitoring Patient A for diversion or abuse.

5. On July 12, 2012, Patient A filled the prescriptions written to him by the licensee at the Medicine Cabinet Pharmacy in Paintsville, Kentucky.
6. On July 12, 2012, Patient A and his girlfriend began consuming the prescribed medication. Patient A took approximately 5 Xanax, 8 to 10 Lorcet and 12 to 13 Neurontin; Patient A's girlfriend consumed the rest of the prescribed medication.
7. On July 13, 2012, Patient A's girlfriend was found deceased in bed at the couple's residence, with a large amount of pill residue caked in her nose. The Johnson County Coroner determined the cause of death to be "acute combined effects of alprazolam and hydrocodone" and estimated that the deceased had consumed approximately 170 pills during a 17-hour period.
8. On or about September 18, 2012, the Johnson County Attorney referred the death of Patient A's girlfriend to the Kentucky Board of Medical Licensure for further investigation, alleging that the Auxier Pain Clinic was a well-known pill mill in Johnson County and that there was no legitimate medical purpose for the licensee to prescribe 90 Lorcet, 90 Neurontin and 30 Xanax on the date before Patient A's girlfriend died.
9. In July 2012, the Auxier Pain Clinic closed and its non-physician owner, Ray Stapleton, was indicted on federal drug-related charges.
10. The licensee has not practiced medicine in the Commonwealth of Kentucky since July 2012, and during the course of the Board's investigation, the licensee indicated his desire to retire from the practice of medicine. In light of these circumstances, the Panel agreed to allow the licensee to surrender his Kentucky medical license pursuant

to this Agreed Order of Surrender, in lieu of initiating formal disciplinary proceedings.

STIPULATED CONCLUSIONS OF LAW

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

1. The licensee's medical license is subject to regulation and discipline by the Board.
2. The licensee has engaged in conduct which violates the provisions of KRS 311.595(9), as illustrated by KRS 311.597(4). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Surrender.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending grievance without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Surrender.
4. For the purposes of KRS 311.607, this Agreed Order of Surrender is the legal equivalent of revocation.

AGREED ORDER OF SURRENDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve this pending grievance without an evidentiary hearing and in consideration of the licensee's intent to retire from the practice of medicine, the parties hereby ENTER INTO the following **AGREED ORDER OF SURRENDER:**

1. The licensee, Howard T. DeHaven, M.D., shall SURRENDER his Kentucky medical license, with that surrender to become effective immediately upon the filing of this Agreed Order of Surrender, and continuing for an indefinite period.

2. Following the effective date of the surrender of his license, the licensee may not engage in any act which would constitute the “practice of medicine” as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities – in the Commonwealth of Kentucky, until approved to do so by the Panel.
3. The licensee SHALL NOT file a petition to reinstate or application to re-register his medical license without the express written approval of this Panel. The Panel will not consider such a request prior to the expiration of two (2) years from entry of this Agreed Order of Surrender.
4. The provisions of KRS 311.607, as they exist at the time of filing of the petition for reinstatement or application to re-register, SHALL apply to any application or petition filed by the licensee. The burden shall be upon the licensee to satisfy the Panel that he is presently of good moral character and is qualified both physically and mentally to resume the practice of medicine, without undue risk or danger to his patients or the public. To this end, prior to the filing of a petition for reinstatement or application to re-register, the licensee SHALL at least undergo a neuropsychological examination, a physical examination, and complete a clinical skills assessment program.
5. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order of Surrender, 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 of Surrender, 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 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 of Surrender.

6. The licensee understands and agrees that any violation of the terms of this Agreed Order of Surrender would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution for practicing medicine without a license.

SO AGREED on this 1 day of Feb, 2013.

FOR THE LICENSEE:



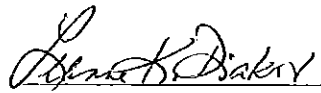
HOWARD T. DeHAVEN, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



RANDEL C. GIBSON, D.O.
CHAIR, INQUIRY PANEL B



LEANNE K. DIAKOV
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150