

APR 16 2009

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1169

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY CHARLES G. GRIGSBY, M.D., LICENSE NO. 13046, 120 NORTH EAGLE CREEK DRIVE, #321, LEXINGTON, KENTUCKY 40509

**AGREED ORDER**

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Hearing Panel B, and Charles G. Grigsby, M.D., and, based upon their mutual desire to fully and finally resolve this pending Complaint without an evidentiary hearing, 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, CHARLES G. GRIGSBY, M.D., was licensed by the Kentucky Board of Medical Licensure (hereafter "the Board") to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. On December 20, 2007, the Board received a grievance from Paula York, R.Ph., Drug Enforcement and Professional Practices Branch, Cabinet for Health Services, stating that "this office has received numerous complaints from pharmacists and other medical professionals, as well as regulatory agencies, expressing concern over Dr. Charles Grigsby's prescribing practices." Ms. York indicated that after reviewing the licensee's KASPER records, "several concerns became apparent." She listed those concerns as follows:

- Long-term use of one or more controlled substances;
- Combinations of controlled substances favored by persons who abuse or divert controlled substances:
- Patients using multiple pharmacies
- Long-term use of a controlled substance for which short-term use is generally indicated
- Patients traveling long distances to obtain medications; and
- Improper refills of controlled substances based on days supply

She referred the case to the Board for additional investigation, listing patient records which should be reviewed.

4. A Board consultant reviewed fifteen of the patient charts identified by Ms. York as well as a 905-page KASPER report concerning the licensee's patients. The consultant found that the licensee's prescribing of controlled substances of his patients fell below minimum standards of acceptable medical care, and his overall opinion was that the licensee's treatment with controlled substances had clearly fallen below minimal standards. The consultant found that the licensee had violated acceptable medical standards of care in the following ways:

... His consistent controlled substance prescribing pattern (specifically analgesics) fails to conform to the standards of medical practice in the Commonwealth of Kentucky. Often the indications for his initiation of treatment with narcotics are unclear, or are simply not the standard and usual mode of treatment. He has prescribed significant quantities of narcotic analgesics for long-term use without clear justification through objective analysis or investigative medical testing. Although a controlled substance agreement has been signed by several of his reviewed patients, there are clear violations of the agreement by the patients without any documented action taken by Dr. Grigsby. These violations include on the part of the patient(s): early refills; using multiple pharmacies to obtain controlled substances; and requests for replacement prescriptions that were lost or misplaced. Violations of the agreement on the part of Dr. Grigsby include: refilling controlled substances early (often with a large quantity of medication); prescribing long-term narcotics without clear documentation of treatment modality failures, use of alternative non-narcotic medications, or evaluation or consultation with a specialist. (All of these requirements are documented clearly in Dr. Grigsby's *M2K Controlled Substance Agreement*.)

5. The Board consultant found that the licensee was grossly ignorant:

... the pattern of prescribing narcotic analgesia by Dr. Grigsby to many of his patients would be deemed gross ignorance. A physician following the standard of care in the Commonwealth of Kentucky would not prescribe narcotic analgesics either initially or long-term in the extraordinary amounts that have been written by Dr. Grigsby. There is no evidence of negligence in the cases reviewed.

6. The Board consultant also found that the licensee's practice constitutes a danger to the health, welfare, and safety to the physician's patients or the general public:

Dr. Grigsby's controlled substance prescribing patterns as a whole and to certain individual patients do constitute a danger to the health, welfare, and safety of his patients. The specific danger is the haphazard prescribing of narcotic analgesics to *many* of his patients. He has failed to comply with his own controlled substance agreement, and by his letter of response, does not seem to understand the gravity or nature of his prescribing habits. His response letter implies that this is not the first time he has been under scrutiny by the Board. Given the body of evidence reviewed, and a history of continued ill prescribing habits, Dr. Grigsby's ability to prescribed controlled substances should be revoked.

7. The licensee responded by stating that he believes that his prescribing of

controlled substances is within acceptable medical standards. As he indicated,

As a brief explanation as to my methodology of prescribing controlled substances let me say that no patient of mine is given a prescription for these drugs unless I have hard copy documentation in the permanent record that confirms that the patient has an underlying pathological process. With hard copy documentation I will be convinced that the patient's complaints are legitimate. Other considerations including physical findings, past history, etc. may influence the decision. If I am convinced that the patient is experiencing pain and cannot receive relief by lesser means, i.e., NSAIDS, etc. I do not hesitate to prescribe medication.

8. On May 15, 2008, the Inquiry Panel reviewed the case concerning the licensee and voted to ask the licensee to enter into an Agreed Order of Indefinite Restriction, and, if he refused, to issue a Complaint and an Emergency Order of Restriction against him. The licensee chose not to enter into the proposed Agreed Order of Indefinite Restriction. On June 13, 2008, a Complaint and an

Emergency Order of Restriction, prohibiting the licensee from prescribing controlled substances, were issued against him.

9. At the request of the Licensee, a physician expert specializing in Internal Medicine reviewed the patient records previously reviewed by the Board's consultant. The licensee's consultant also reviewed the Board consultant's criticisms and the Licensee's responses to the Board consultants' criticisms.

Based upon his review, the Licensee's consultant concluded as follows:

- (a) Competence of general medical care:

Dr. Grigsby's initial patient encounters are detailed and complete. He addresses their various problems in a thorough manner and in general these evaluations are very good. All of the charts document follow-up notes that is how a continuing concern for health issues quite apart from the problems of pain management. These are not one line, vague, records that are only concerned with the dispensing of pain medications.

- (b) The Licensee's consultant responded as follows to the specific criticisms raised by the Board consultant:

- (i) Failure to start pain therapy with more conservative drugs:

Dr. Grigsby's charts well document that almost all of these patients came to him already on opiate pain control, attempting to discontinue opiates in these patients and prescribe Tramadol or NSAID drugs that they have most certainly failed in the past would be futile. The suggestion that this was a fault in his management, in the face of well documented sources of chronic pain is appalling. In fact in these charts the intent to use opiates was on the whole moderate and aside from the Kasper problems they were not excessively prescribed.

- (ii) The Consultant's apparent ability to correlate pain intensity with diagnostic imaging results.

Intensity and duration of pain is a very complex problem, many soft tissue problems, comorbidities, pain thresholds, and much more go into the evaluation of how to manage these patients. In these charts I have reviewed there is evidence in each one to give me considerable reluctance before I would be critical of Dr. Grigsby's management. Objective testing

is only a part of the total evaluation of a chronic pain syndrome. The clinical evaluation considers the entire picture and it is very unrealistic to expect Dr. Grigsby to spend 20-30 minutes detailing his entire basis for decision making in a office follow-up note.

(iii) Kasper evaluation:

These remarks are a fair evaluation of the Kasper records provided with these charts.

(iv) Kasper Data:

There is probably room for some of the irregularity to be on the basis of Pharmacy errors. Some of the early refills may have been duplicate entry for some reason, perhaps a patient prevailed on a Pharmacy to give an early refill but on review it appears there is merit to the examiner's opinion of the Kasper data.

(v) Plan to avoid future prescribing issues:

Adopting a few simple tasks should address future prescribing concerns, including:

- (a) Adopt a medication list placed in each chart that lists all prescribed medications and include drug name, date of prescription, dosage, quantity and # of refills;
- (b) The medication list should be filled out by staff at the time of each visit;
- (c) Obtain pill counts at least once per year and more often, if suspicion is aroused by early or frequent requests for refills, stronger or larger quantities of medication, or loss of medications;
- (d) Request and review Kasper reports at least once a year and more often on questionable patients, and make a comment in the patient chart regarding that such a review has been performed; and
- (e) Obtain drug screens and conduct them often and unannounced.

10. On August 12, 2008, the Board received another grievance against the licensee, again alleging that the licensee had failed to properly prescribe controlled substances to his patients. Dr. Benjamin Huneycutt filed his grievance after he had taken over the care of some of the licensee's patients, subsequent to the licensee having been placed on June 13, 2008 under an Emergency Order of

Restriction prohibiting him from prescribing controlled substances. This physician stated:

I believe, upon reviewing greater than 100 patient records, that Dr. Charles Grigsby is making numerous errors in patient management. Additionally, he is prescribing medications and doses well outside the standard practice of medicine. The quantity and types of medications that I have seen used are not only dangerous, but are also harmful to patients and families.

I have found that the degree of medical problems (specifically pain and suffering) frequently do not correspond with the quantities of pain medications/anxiolytics prescribed. I have also seen numerous dangerous medications prescribed simultaneously without adequate supervision/oversight/monitoring (eg. Lithium use).

Fundamentally based on patient history and chart reviews, it greatly concerns me that Dr. Grigsby is practicing non-standard and dangerous medicine, bordering on malpractice.

11. At the request of the Licensee, a physician expert specializing in Internal Medicine reviewed the patient records reviewed by the Board's consultant. This consultant also reviewed Dr. Huneycutt's criticisms and the Licensee's responses to Dr. Huneycutt's criticisms. Based upon his review, the Licensee's consultant found that most of Dr. Huneycutt's allegations were unfounded. The Licensee's consultant concluded:

I found Dr. Grigsby's record keeping regarding refills, doses and reasons for prescribing various medications to be good. He had appropriate consultation records. He apparently did not obtain many KASPER reports and although I saw pain contracts on some patients, these were not present in all the records I saw. When he discovered patients were duplicating medications by going to other physicians, he dismissed them.

During the 34 years I was in practice in Lexington, as well as our years together as medical residents, I know Dr. Grigsby quite well and observed him over that period of time. I can say that he has been a diligent physician, attentive to the needs of his patients, and not given to casual use of medications for pain unless clinically indicated. He is known to carry a very heavy load of patients with chronic severe pain, the type of patients that many other physicians refuse to care for.

12. On July 8, 2008, the Board received another grievance concerning the licensee, this one from Gary W. Ginn, Fayette County Coroner. Mr. Ginn wrote that “several death investigation conducted by my office have revealed that Dr. Charles Grigsby was the decedent’s physician in cases in which prescription drugs were a factor in the death. The primary cause of death or a contributing cause of death was directly related to the same type of prescription medication that Dr. Grigsby had prescribed for his patient. Additionally, prescriptions in many cases were for high doses and large quantities.”
13. The same Board consultant who reviewed the fifteen charts identified by Ms. York also reviewed the charts of the six deceased patients of the licensee, their pertinent KASPER data, the Medical Examiner and Coroner reports, and the grievance filed by Mr. Ginn. On or about January 28, 2009, the Board consultant completed his report, in which he concluded that “I find no evidence that Dr. Grigsby’s deviation from the Commonwealth of Kentucky’s standard of medical care lead directly to the deaths of any of these patients.” However, he found that the licensee’s treatment of the patients was below minimum standards and that the licensee had demonstrated gross ignorance in the misuse of prescribing controlled substances. He specified that “a physician following the standard of care in the Commonwealth of Kentucky would not prescribe narcotic analgesics either initially or long-term in the extraordinary amounts that have been consistently written by Dr. Grigsby. A reasonable physician caring for similar patients in similar situations would undoubtedly question the treatment regimens and judgment of Dr. Grigsby.”

14. On September 12, 2008, the licensee successfully completed the Center for Personalized Education for Physicians ("CPEP") *Documentation* seminar. On August 4, 2008, he enrolled in the CPEP post-program.
15. On October 22-24, 2008, the licensee successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course at Vanderbilt University Medical Center.
16. The licensee also successfully completed other Continuing Medical Education (CME) courses, including: The Discovery Institute of Medical Education's *Easing the Strain of Chronic Pain: Optimizing Analgesia and Minimizing Risks* (1.25 credits), Penn State's *Managing Chronic Pain Safely with Opioid Analgesics* (1.5 credits), and the American Academy of Pain Management's *Cultivating a Community of Care* conference (26.0 credits).
17. The licensee has had a positive learning experience from these courses. While he believes he has striven to follow the instructions and guidelines of the Board, he now has a more clear understanding of the expectations of the Board. He intends to modify his practice to comply fully with the recommendations made herein. The licensee intends to provide no early refills of controlled substances, to maintain drug contracts with all patients, and to continue to refrain from calling in any controlled substances. He has developed form templates to be placed in every patient chart to be used by the licensee and his staff to improve his prescribing practices.

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 medical license is subject to regulation and discipline by the Board.
2. While the licensee denies committing any violation and denies engaging in any improper conduct, he recognizes that, based upon the Stipulations of Fact, the Hearing Panel could conclude that he has engaged in conduct which violates the provisions of KRS 311.595(9), as illustrated by KRS 311.597(3) and (4).

Accordingly, the licensee agrees that 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 pending Complaint without an evidentiary hearing 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 this pending Complaint without an evidentiary hearing, the parties hereby ENTER INTO the following

**AGREED ORDER:**

1. The license to practice medicine within the Commonwealth of Kentucky held by Charles G. Grigsby, M.D., SHALL BE SUBJECT to this Agreed Order for a period of five (5) years from the date of filing of the Agreed Order.

2. During the effective period of this Agreed Order, the licensee's medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- a. The licensee shall maintain a "controlled substances log" for all controlled substances prescribed. The controlled substances log must include date, patient name, patient complaint, medication prescribed, when it was last prescribed and how much on the last visit. Note: All log sheets will be consecutively numbered, legible i.e. printed or typed, and must reflect "call-in" and refill information. Prescriptions should be maintained in the following manner: 1) patient; 2) chart; and 3) log.
- b. The licensee SHALL permit the Board's agents to inspect, copy and/or obtain the controlled substance log and other relevant records, upon request, by review by the Board's agents and/or consultants.
- c. The licensee SHALL fully comply with the Board's Opinion Regarding the Use of Controlled Substances in Pain Treatment, published as Board Opinion on October 10, 2008. For purposes of this Agreed Order, the parties agree that that Opinion shall be considered to articulate the standards of acceptable and prevailing medical practice in the Commonwealth of the use of controlled substances in pain treatment, as otherwise required in KRS 311.597(4);
- d. The licensee SHALL:
  - (i). Place in each patient chart a medication list that lists all prescribed medications, drug name, date of prescription, dosage, quantity and number of refills.
  - (ii) Ensure that either he or staff fill out the medication list for each patient visit, and keep copies each patient prescription in a designated section of the patient chart, so that they are readily accessible for review.

(iii) Obtain pill counts at least once per year and more often, if suspicion is aroused by early or frequent requests for refills, stronger or larger quantities of medication, or loss of medications.

(iv) Request and review KASPER reports at least once a year and more often on questionable patients, and make a comment in the patient chart regarding that such a review has been performed.

(v) Maintain drug contracts with each patient.

(vi) Not provide early refills of controlled substances or call in any controlled substances.

e. The licensee SHALL pay the costs of the investigation in the amount of \$2,500.00 within six (6) months from entry of this Agreed Order.

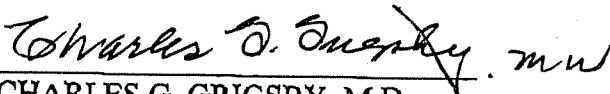
f. The licensee will successfully complete the CPEP post-documentation course.

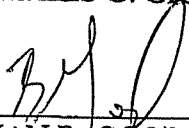
3. The licensee expressly agrees that if he should violate any term or condition of the Agreed Order, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive 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.

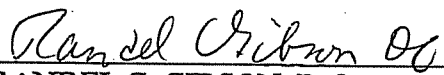
4. The licensee understands and agrees that any violation of the terms of this Agreed Order would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13) and may provide a legal basis for criminal prosecution for practicing medicine without a license.

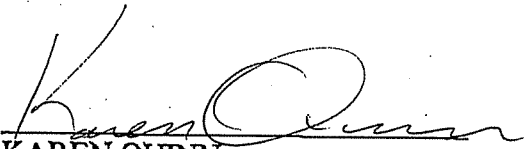
SO AGREED on this 21 day of Feb, 2009.

  
\_\_\_\_\_  
CHARLES G. GRIGSBY, M.D.

  
\_\_\_\_\_  
BRIAN R. GOOD  
L. CHAD ELDER  
COUNSEL FOR THE LICENSEE

FOR THE BOARD:

  
\_\_\_\_\_  
RANDEL C. GIBSON, D.O.  
CHAIR, HEARING PANEL B

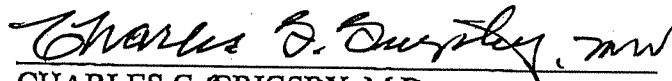
  
\_\_\_\_\_  
KAREN QUINN  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-7150

**WAIVER OF RIGHTS**

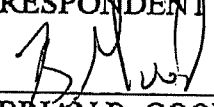
I Charles G. Grigsby, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 1169. I understand that, under 201 KAR 9:082, I must waive certain rights if I wish to resolve this matter by informal dispensation. Accordingly, I WAIVE my right to raise any constitutional, statutory 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 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 I will have the right to raise any objections normally available in such proceedings.

Executed this 27<sup>th</sup> day of Feb., 2009.



CHARLES G. GRIGSBY, M.D.  
RESPONDENT

  
BRIAN R. GOOD  
L. CHAD ELDER  
COUNSEL FOR DR. GRIGSBY

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1169

FILED OF RECORD

AUG 22 2008

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY CHARLES G. GRIGSBY, M.D., LICENSE NO. 13046, 120 NORTH EAGLE CREEK DRIVE, #321, LEXINGTON, KENTUCKY 40509

**AMENDED COMPLAINT**

Comes now the Complainant Donald J. Swikert, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on August 21, 2008, states for its Amended Complaint against the licensee, CHARLES G. GRIGSBY, M.D., as follows:

1. At all relevant times, CHARLES G. GRIGSBY, M.D., was licensed by the Kentucky Board of Medical Licensure (hereafter "the Board") to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. On December 20, 2007, the Board received a grievance from Paula York, R.Ph., Drug Enforcement and Professional Practices Branch, Cabinet for Health Services, stating that "this office has received numerous complaints from pharmacists and other medical professionals, as well as regulatory agencies, expressing concern over Dr. Charles Grigsby's prescribing practices." Ms. York indicated that after reviewing the licensee's KASPER records, "several concerns became apparent." She listed those concerns as follows:
  - Long-term use of one or more controlled substances;
  - Combinations of controlled substances favored by persons who abuse or divert controlled substances;
  - Patients using multiple pharmacies

- Long-term use of a controlled substance for which short-term use is generally indicated
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She referred the case to the Board for additional investigation, listing patient records which should be reviewed.

4. A Board consultant reviewed fifteen of the patient charts identified by Ms. York as well as a 905-page KASPER report concerning the licensee's patients. The consultant found that the licensee's treatment of his patients fell below minimum standards of acceptable medical care, and his overall opinion was that the license had clearly fallen below minimal standards. The consultant found that the licensee had violated acceptable medical standards of care in the following ways:

... His consistent controlled substance prescribing pattern (specifically analgesics) fails to conform to the standards of medical practice in the Commonwealth of Kentucky. Often the indications for his initiation of treatment with narcotics are unclear, or are simply not the standard and usual mode of treatment. He has prescribed significant quantities of narcotic analgesics for long-term use without clear justification through objective analysis or investigative medical testing. Although a controlled substance agreement has been signed by several of his reviewed patients, there are clear violations of the agreement by the patients without any documented action taken by Dr. Grigsby. These violations include on the part of the patient(s): early refills; using multiple pharmacies to obtain controlled substances; and requests for replacement prescriptions that were lost or misplaced. Violations of the agreement on the part of Dr. Grigsby include: refilling controlled substances early (often with a large quantity of medication); prescribing long-term narcotics without clear documentation of treatment modality failures, use of alternative non-narcotic medications, or evaluation or consultation with a specialist. (All of these requirements are documented clearly in Dr. Grigsby's *M2K Controlled Substance Agreement*.)

5. The Board consultant found that the licensee was grossly ignorant:

... the pattern of prescribing narcotic analgesia by Dr. Grigsby to many of his patients would be deemed gross ignorance. A physician following the standard of care in the Commonwealth of Kentucky would not prescribe narcotic analgesics either initially or long-term in the extraordinary amounts that have been written by Dr. Grigsby. There is no evidence of negligence in the cases reviewed.

6. The Board consultant also found that the licensee's practice constitutes a danger to the health, welfare, and safety to the physician's patients or the general public:

Dr. Grigsby's controlled substance prescribing patterns as a whole and to certain individual patients do constitute a danger to the health, welfare, and safety of his patients. The specific danger is the haphazard prescribing of narcotic analgesics to *many* of his patients. He has failed to comply with his own controlled substance agreement, and by his letter of response, does not seem to understand the gravity or nature of his prescribing habits. His response letter implies that this is not the first time he has been under scrutiny by the Board. Given the body of evidence reviewed, and a history of continued ill prescribing habits, Dr. Grigsby's ability to prescribed controlled substances should be revoked.

7. The licensee responded by stating that he believes that his prescribing of

controlled substances is within acceptable medical standards. As he indicated,

As a brief explanation as to my methodology of prescribing controlled substances let me say that no patient of mine is given a prescription for these drugs unless I have hard copy documentation in the permanent record that confirms that the patient has an underlying pathological process. With hard copy documentation I will be convinced that the patient's complaints are legitimate. Other considerations including physical findings, past history, etc. may influence the decision. If I am convinced that the patient is experiencing pain and cannot receive relief by lesser means, i.e., NSAIDS, etc. I do not hesitate to prescribe medication.

8. On August 12, 2008, the Board received another grievance against the licensee, again alleging that the licensee had failed to properly prescribe controlled substances to his patients. This grievance was filed by a physician who had taken over the care of some of the licensee's patients, subsequent to the licensee having been placed on June 13, 2008 under an Emergency Order of Restriction prohibiting him from prescribing controlled substances. This physician stated:

I believe, upon reviewing greater than 100 patient records, that Dr. Charles Grigsby is making numerous errors in patient management. Additionally, he is prescribing medications and doses well outside the standard practice of medicine. The quantity and types of medications that I have seen used are not only dangerous, but are also harmful to patients and families.

I have found that the degree of medical problems (specifically pain and suffering) frequently do not correspond with the quantities of pain medications/anxiolytics prescribed. I have also seen numerous dangerous medications prescribed simultaneously without adequate supervision/oversight/monitoring (eg. Lithium use).

Fundamentally based on patient history and chart reviews, it greatly concerns me that Dr. Grigsby is practicing non-standard and dangerous medicine, bordering on malpractice.

9. By his conduct, the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(3) and (4). Accordingly, legal grounds exist for disciplinary action against his Kentucky medical license.
10. The licensee is directed to respond to the allegation delineated in paragraph eight (8) of the Amended Complaint within thirty (30) days of service thereof and is further given notice that:
  - (a) His failure to respond may be taken as an admission of the charges;
  - (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.
11. NOTICE IS HEREBY GIVEN that a hearing on this Amended Complaint is scheduled for December 2, 3 and 4, 2008 at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS Chapter 13B. This hearing shall proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.

WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine held by CHARLES G. GRIGSBY, M.D.

This 22nd day of August, 2008.



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DONALD J. SWIKERT, M.D.  
CHAIR, INQUIRY PANEL A

**CERTIFICATE OF SERVICE**

I certify that the original of this Amended Complaint was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and a copy was mailed to Thomas J. Hellmann, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601 and copies were mailed via certified mail return-receipt requested to Charles G. Grigsby, M.D., 120 North Eagle Creek Drive, #321, Lexington, Kentucky 40509; and Brian Good, Esq., 1950 One Riverfront Plaza, 401 West Main Street, Louisville, Kentucky 40202 on this 22nd day of August, 2008.



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KAREN QUINN  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
502/429-7150

JUN 13 2008

COMMONWEALTH OF KENTUCKY  
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**EMERGENCY ORDER OF RESTRICTION**

The Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, considered this matter at its May 15, 2008 meeting. At that meeting, Inquiry Panel A considered a Memorandum prepared by Eric Tout, Medical Investigator; a grievance from Paula York, R.Ph, Cabinet For Health & Family Services, dated December 18, 2007; the licensee's response dated January 21, 2008, with attachments; and a Board Consultant report dated April 15, 2008, with an Expert Review Worksheet dated April 15, 2008 attached.

Having considered all of this information and being sufficiently advised, Inquiry Panel A ENTERS the following EMERGENCY ORDER OF RESTRICTION, in accordance with KRS 311.592(1) and 13B.125(1):

**FINDINGS OF FACT**

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support its Emergency Order of Restriction:

1. At all relevant times, CHARLES G. GRIGSBY, M.D., was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.

3. On December 20, 2007, the Board received a grievance from Paula York, R.Ph., Drug Enforcement and Professional Practices Branch, Cabinet for Health Services, stating that "this office has received numerous complaints from pharmacists and other medical professionals, as well as regulatory agencies, expressing concern over Dr. Charles Grigsby's prescribing practices." Ms. York indicated that after reviewing the licensee's KASPER records, "several concerns became apparent." She listed those concerns as follows:

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- Combinations of controlled substances favored by persons who abuse or divert controlled substances:
- Patients using multiple pharmacies
- Long-term use of a controlled substance for which short-term use is generally indicated
- Patients traveling long distances to obtain medications; and
- Improper refills of controlled substances based on days supply

She referred the case to the Board for additional investigation, listing patient records which should be reviewed.

4. A Board consultant reviewed fifteen of the patient charts identified by Ms. York as well as a 905-page KASPER report concerning the licensee's patients. The consultant found that the licensee's treatment of his patients fell below minimum standards of acceptable medical care, and his overall opinion was that the license had clearly fallen below minimal standards. The consultant found that the licensee had violated acceptable medical standards of care in the following ways:

... His consistent controlled substance prescribing pattern (specifically analgesics) fails to conform to the standards of medical practice in the Commonwealth of Kentucky. Often the indications for his initiation of treatment with narcotics are unclear, or are simply not the standard and usual mode of treatment. He has prescribed significant quantities of narcotic analgesics for long-term use without clear justification through objective analysis or investigative medical testing. Although a controlled substance agreement has been signed by several of his

reviewed patients, there are clear violations of the agreement by the patients without any documented action taken by Dr. Grigsby. These violations include on the part of the patient(s): early refills; using multiple pharmacies to obtain controlled substances; and requests for replacement prescriptions that were lost or misplaced. Violations of the agreement on the part of Dr. Grigsby include: refilling controlled substances early (often with a large quantity of medication); prescribing long-term narcotics without clear documentation of treatment modality failures, use of alternative non-narcotic medications, or evaluation or consultation with a specialist. (All of these requirements are documented clearly in Dr. Grigsby's *M2K Controlled Substance Agreement*.)

5. The Board consultant found that the licensee was grossly ignorant:

... the pattern of prescribing narcotic analgesia by Dr. Grigsby to many of his patients would be deemed gross ignorance. A physician following the standard of care in the Commonwealth of Kentucky would not prescribe narcotic analgesics either initially or long-term in the extraordinary amounts that have been written by Dr. Grigsby. There is no evidence of negligence in the cases reviewed.

6. The Board consultant also found that the licensee's practice constitutes a danger

to the health, welfare, and safety to the physician's patients or the general public:

Dr. Grigsby's controlled substance prescribing patterns as a whole and to certain individual patients do constitute a danger to the health, welfare, and safety of his patients. The specific danger is the haphazard prescribing of narcotic analgesics to *many* of his patients. He has failed to comply with his own controlled substance agreement, and by his letter of response, does not seem to understand the gravity or nature of his prescribing habits. His response letter implies that this is not the first time he has been under scrutiny by the Board. Given the body of evidence reviewed, and a history of continued ill prescribing habits, Dr. Grigsby's ability to prescribed controlled substances should be revoked.

The consultant's report is attached here as Exhibit 1 and incorporated in its entirety.

7. The licensee responded by stating that he believes that his prescribing of

controlled substances is within acceptable medical standards. As he indicated,

As a brief explanation as to my methodology of prescribing controlled substances let me say that no patient of mine is given a prescription for these drugs unless I have hard copy documentation in the permanent record that confirms that the patient has an underlying pathological process. With hard copy documentation I will be convinced that the patient's complaints are legitimate. Other considerations including physical findings, past history, etc. may influence the decision. If I am convinced that the patient is experiencing pain and cannot

receive relief by lesser means, i.e., NSAIDS, etc. I do not hesitate to prescribe medication.

8. The Panel has reviewed the investigation and finds that the licensee's failure to meet minimum standards of care in the overall treatment of patients and documentation of treatment demonstrates that the licensee has not exhibited the ability to practice medicine safely.

### **CONCLUSIONS OF LAW**

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel A finds there is probable cause to support the following Conclusions of Law, which serve as the legal bases for this Emergency Order of Restriction:

1. The licensee's Kentucky medical license is subject to regulation and discipline by this Board.
2. KRS 311.592(1) provides that the Board may issue an emergency order suspending, limiting, or restricting a physician's license at any time an inquiry panel has probable cause to believe that a) the physician has violated the terms of an order placing him on probation; or b) a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
3. There is probable cause to believe that the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(3) and (4).
4. The Panel concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.

5. The Board may draw logical and reasonable inferences about a physician's practice by considering certain facts about a physician's practice. If there is proof that a physician has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the physician will similarly violate the Medical Practice Act when presented with a similar set of circumstances. Similarly, the Board concludes that proof of a set of facts about a physician's practice presents representative proof of the nature of that physician's practice in general.

Accordingly, probable cause to believe that the physician has committed certain violations in the recent past presents probable cause to believe that the physician will commit similar violations in the near future, during the course of the physician's medical practice.

6. The United States Supreme Court has ruled that it is no violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior evidentiary hearing, so long as 1) the immediate action is based upon a probable cause finding that there is a present danger to the public safety; and, 2) the statute provides for a prompt post-deprivation hearing. Barry v. Barchi, 443 U.S. 55, 61 L.Ed.2d 365, 99 S.Ct. 2642 (1979); FDIC v. Mallen, 486 U.S. 230, 100 L.Ed.2d 265, 108 S.Ct. 1780 (1988) and Gilbert v. Homar, 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

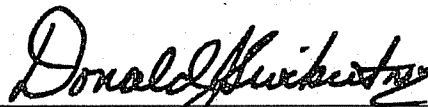
KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

**EMERGENCY ORDER OF RESTRICTION**

Based upon the foregoing Findings of Fact and Conclusions of Law, Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by CHARLES G. GRIGSBY, M.D., is RESTRICTED and Dr. CHARLES G. GRIGSBY is prohibited from prescribing, dispensing, or otherwise professionally utilizing controlled substances in the Commonwealth of Kentucky unless and until the resolution of the Complaint setting forth the allegations discussed in this pleading or until such further Order of the Board.

Inquiry Panel A further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 13<sup>th</sup> day of June, 2008.



DONALD J. SWIKERT, M.D.  
CHAIRMAN, INQUIRY PANEL A

**CERTIFICATE OF SERVICE**

I certify that the original of this Emergency Order of Restriction was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested to Charles G. Grigsby, M.D., 120 North Eagle Creek Drive, #321, Lexington, Kentucky 40509; and Gerry L. Calvert, Esq., 115 West Short Street, Lexington, Kentucky 40507 on this 13<sup>th</sup> day of June, 2008.



KAREN QUINN  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-7150

# KENTUCKY BOARD OF MEDICAL LICENSURE

## EXPERT REVIEW WORKSHEET

(Please type)

Case #08119

Charles G. Grigsby, MD

Expert's Name:



Brief description of symptom, dx and course of treatment:

The prescribing patterns of Dr. Grigsby have been the object of scrutiny and concern from pharmacists and regulatory agencies who have directly observed his frequent use of controlled substances in his patient population. The complaint filed by Paula York, RPh, a pharmacist consultant for the Drug Enforcement and Professional Practices Branch of the Kentucky Cabinet for Health and Family Services Office of the Inspector General, outlines six specific concerns: long-term use of one or more controlled substances; combinations of controlled substances favored by persons who abuse or divert controlled substances; patients using multiple pharmacies; long-term use of a controlled substance for which short-term use is generally indicated; patients traveling long distances to obtain medications; and improper refills of controlled substances based on days supply. The complaint lists the names of thirty three of Dr. Grigsby's patients who were identified to exemplify the improper prescribing of controlled substances. I was asked to review the charts of the first fifteen patients on the list, as well as 905 pages of KASPER data pertaining to Dr. Grigsby's patients.

1. Can you form an opinion? Based on your background and experience and review of all information provided you, and assuming that the treatment as documented was provided, can you form an opinion as to whether the care rendered by the care provider, including diagnosis, treatment or record keeping, departed from or failed to conform to the minimal standards of acceptable and prevailing medical practice (in the medical community at large)?

Yes, I can form an opinion.

No, I cannot form an opinion.

I need more information (specify):

2. What is your opinion? Please use the definitions below as "guidelines" to be used in defining standard of practice. You are not limited to these guidelines in forming your opinion, but please state your own additional criteria if applicable.

a. Diagnosis. Evaluation of a medical problem using means such as history, physical examination, laboratory, and radiographic studies, when applicable.

EXHIBIT # 3

- \_\_\_\_\_ Below minimum standards  
XX Within minimum standards

b. **Treatment.** Use of medications and other modalities based on generally accepted and approved indications, with proper precautions to avoid adverse physical reactions, habituation or addiction.

- XX Below minimum standards  
\_\_\_\_\_ Within minimum standards

c. **Records.**

Maintenance of records which should contain, at a minimum, the following: (1) appropriate history and physical and/or mental examination for the patient's chief complaint relevant to the physician's specialty; (2) results of diagnostic tests (when indicated); (3) a working diagnosis; (4) notes on treatment(s) undertaken; (5) a record by date of all prescriptions for drugs, with names of medications, strengths, dosages, quantity, and number of refills; and (6) a record of billings.

- \_\_\_\_\_ Below minimum standards  
XX Within minimum standards

d. **Overall Opinion.** Based on the foregoing, what is your overall opinion?

- XX Clearly below minimum standards.  
\_\_\_\_\_ Clearly within minimum standards  
\_\_\_\_\_ Borderline Case

e. **Gross Ignorance, Gross Negligence, Gross Incompetence.** If you found that this physician did not meet the minimum standards of care in treating a patient(s), did you also conclude that any of these departures from the minimum standards of care were so serious that you consider them to exhibit gross ignorance, gross negligence, and/or gross incompetence on the physician's part. If "yes," please identify each of these instances, classify it appropriately and explain your reasoning in reaching that conclusion(s). If "yes," please also indicate whether you found a pattern of gross ignorance, gross negligence and/or gross incompetence in this physician's practice as evidenced by the records reviewed and explain your conclusion(s).

Yes, this case contains evidence of gross ignorance as exemplified in the misuse of prescribing controlled substances, and specifically the writing of narcotic analgesic prescriptions by Dr. Grigsby (please see #5 under section 3 (other questions from the Board - Prescribing).

**3. Other questions from the Medical Board:**

**PRESCRIBING**

- 1. Has the named physician prescribed or dispensed medication(s) with the intent or knowledge that the medication would be used or was likely to be used other than medicinally or other than for an accepted therapeutic purpose? If so, please explain?**

No, there is no evidence that Dr. Grigsby prescribed medication with the intent or knowledge that it would be misused.

- 2. Has the named physician prescribed or dispensed medication(s) for the licensee's personal use or for the use of his immediate family when the licensee knew or had reason to know that an abuse of controlled substance(s) was occurring, or may result from such a practice? If so, please describe.**

No, there is no evidence that Dr. Grigsby has prescribed medication for himself or family members.

- 3. Has the named physician prescribed or dispensed medication(s) in such amounts that the licensee knew or had reason to know, under the attendant circumstances, that said amount(s) so prescribed or dispensed were excessive under acceptable and prevailing medical practice standards? If so, please explain.**

No, there is no evidence that Dr. Grigsby *knowingly* prescribed excessive quantities of controlled substances to his patients.

- 4. Has the named physician engaged in conduct which departs from or fails to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky? If so, how?**

Yes, Dr. Grigsby has engaged in conduct which deviates from the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky. His consistent controlled substance prescribing pattern (specifically analgesics) fails to conform to the standards of medical practice in the Commonwealth of Kentucky. Often the indications for his initiation of treatment with narcotics are unclear, or are simply not the standard and usual mode of treatment. He has prescribed significant quantities of narcotic analgesics for long-term use without clear justification through objective analysis or investigative medical testing. Although a controlled substance agreement has been signed by several of his reviewed patients, there are clear violations of the agreement by the patients without any documented action taken by Dr. Grigsby. These violations include on the part of the patient(s): early refills; using multiple pharmacies to obtain controlled substances; and requests for replacement prescriptions that were lost or misplaced. Violations of the agreement on the part of Dr. Grigsby include: refilling controlled substances early (often with a large quantity of medication); prescribing long-term narcotics without clear documentation of treatment modality failures, use of alternative non-narcotic medications, or evaluation or consultation with a specialist. (All of these requirements are documented clearly in Dr. Grigsby's *M2K Controlled Substance Agreement*.)

5. Has the named physician committed a serious act, or pattern of acts, during the course of the physician's medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence or malpractice? If so, please describe and categorize the act(s).

Yes, the pattern of prescribing narcotic analgesia by Dr. Grigsby to many of his patients would be deemed gross ignorance. A physician following the standard of care in the Commonwealth of Kentucky would not prescribe narcotic analgesics either initially or long-term in the extraordinary amounts that have been written by Dr. Grigsby. There is no evidence of negligence in the cases reviewed.

6. Given your findings, does the physician's practice constitute a danger to the health, welfare, and safety of the physician's patients or the general public? If so, please describe the danger.

Dr. Grigsby's controlled substance prescribing patterns as a whole and to certain individual patients do constitute a danger to the health, welfare, and safety of his patients. The specific danger is the haphazard prescribing of narcotic analgesics to *many* of his patients. He has failed to comply with his own controlled substance agreement, and by his letter of response, does not seem to understand the gravity or nature of his prescribing habits. His response letter implies that this is not the first time he has been under scrutiny by the Board. Given the body of evidence reviewed, and a history of continued ill prescribing habits, Dr. Grigsby's ability to prescribe controlled substances should be revoked.

4/15/08

Date of Review

  
ert

April 15, 2008

Eric V. Tout  
Medical Investigator  
Kentucky Board of Medical Licensure  
Hurstbourne Office Park  
310 Whittington Parkway, Suite 1B  
Louisville, KY 40222

RE: Charles Grigsby, MD  
Case #08119

Dear Mr. Tout:

I have carefully reviewed the detailed information provided to me regarding Dr. Charles Grigsby and the grievance filed by Ms. Paula York, RPh. The specific questions put forth by the Board are outlined and answered in the accompanying Expert Review Worksheet. There are fifteen patient charts that were reviewed in detail along with their individual KASPER reports. There are also 905 pages of KASPER reports that detail similar prescribing habits in other patients whose charts were not part of this review. The common themes in this information include: a significant prescribing of large quantities of controlled substances especially narcotic analgesics; chronic prescribing of narcotic analgesics for short-term indications without documented justification for doing so; long-term prescribing of narcotic analgesics without any adherence to Dr. Grigsby's own M2K Controlled Substance Agreement; the use of multiple pharmacies by patients to obtain controlled substances (including those that had signed a controlled substance agreement); the frequent approval of early refills of controlled substances often in unusually large quantities. The concise listing below contains information regarding Dr. Grigsby's prescribing patterns for the patients whose charts were reviewed.

Patient: [REDACTED] Pain management recommended in April 2003 (not undertaken). Initially pt. given Lortab in June 2003 by a neurosurgeon for unclear indication. Lortab continued to be written for "chronic pain" despite lack of objective testing, evidence of an ongoing specific painful condition, or trial of non-narcotic analgesia or neurotropic medication. Lortab prescribed in quantities of 120 to 150 (for 30 day supply), but often refilled after only 20 days. Percocet written in August 2007 for quantities of 60 to 150, while pt. continued to fill Lortab prescription. Duration of Lortab usage from 2003 through January 2008. Duration of Percocet usage from August 2007 through January 2008. Different pharmacies used in Lexington & Winchester.

Patient: [REDACTED] New pt. in January 2007 (signed controlled substance agreement). Given Lortab & Xanax on initial visit for diagnoses of "chronic pain and anxiety disorder." Pt. also with history

of small cell lung cancer, but no specific mention of cancer-related pain. Xanax changed to Valium in May 2007, but pt. continues to get both benzos filled routinely. Lortab dose escalates in June 2007 (no documented reason other than increasing pain), and later that month Percocet written. Patient requests Soma & given prescription which is continued for unclear reasons. Duration of Lortab from January 2007 to August 2007. Duration of Percocet June 2007 to December 2007. Duration of Xanax January 2007 to August 2007. Duration of Valium May 2007 to December 2007. Multiple early refills of all controlled substances. Different pharmacies used in Richmond. Lack of objective testing, evidence of an ongoing specific painful condition, or trial of non-narcotic analgesia or neurotropic medication.

Patient:

New pt. in November 2005 & is pregnant (NO signed controlled substance agreement). [Records from Central Baptist from April 2006 (apparently not under Dr. Grigsby care at that time) reveal negative urine & serum drug screens despite being prescribed Lortab & Xanax. Pt's infant had drug withdrawal syndrome - treated successfully with Phenobarbital.] Pt given Lortab & Xanax for chronic right forearm pain after fracture (unclear as to when fracture occurred, but clearly not acute) in May 2006. Lortab continued for carpal tunnel (diagnosed by nerve conduction studies as mild in May 2006). Pt. incarcerated in September 2006 (no mention of charges, etc.). Pt. injured back in MVA November 2006 & given Lortab & Xanax. Continued routine prescribing of same medications despite documentation of: "tends to be violent" - October 2007. Duration of Lortab & Xanax from May 2006 to December 2007. Use of two different pharmacies in Lexington. Multiple early refills of controlled substances. Lack of follow up objective testing, evidence of an ongoing specific painful condition, or trial of non-narcotic analgesia or neurotropic medication.

Patient:

New pt. November 2006 & given Lortab & Xanax for chronic lumbar pain & anxiety disorder (controlled substance agreement signed). [Old records from 1999 show: CT lumbar spine with disk bulges & focal S1 nerve impingement, neurosurgical & radiographic evaluations.] In April 2007 has seizure while driving causing MVA. No documentation of no-driving advice & given prescriptions for Xanax, Flexeril, Lortab & Dilantin. In May 2007 diagnosed with cervical disk disease & lumbar stenosis. In May 2007 admitted to Good Samaritan after being found down with skull fracture, subdural hematoma, brain contusions - pt admits to drug & alcohol abuse. At follow up in Dr. Grigsby office June 2007 pt. given prescriptions for Lortab, Xanax, Remeron & Dilantin. Duration of Lortab from November 2006 to October 2007. Duration of Xanax from November 2006 to July 2007. All prescriptions filled at two different Lexington pharmacies. All prescriptions with excessive quantities & early refills.

Patient:

New pt. October 2006 given Lortab & Xanax for chronic pain related to severe injuries suffered in MVA in 2001 (controlled substance agreement signed). Changed from Lortab to Methadone in January 2007. Xanax continues to be written despite documentation in chart that Xanax caused "personality changes." No consistent early refills. Multiple pharmacies used in Lexington, Paris & Winchester. Indications & continued use of controlled substances is reasonable in this patient. No excessive quantities or frequent early refills noted.

Patient:

New pt. April 2006 (signed controlled substance agreement). Given Naproxen, Lortab & Xanax for chronic pain related to failed lumbar laminectomy in 1999 and anxiety disorder. Lortab stopped & Methadone started July 2006. Multiple early refills noted. Multiple pharmacies used in Lexington & Winchester. Indications for chronic controlled

substance use is reasonable.

Patient: [REDACTED] New pt. November 1992. Massive chart reviewed in detail. Pt. treated for painful diabetic neuropathy & anxiety disorder with Methadone & Xanax. Documentation from January 2007 to March 2007 – “husband here with list for refill.” Unclear if pt. in office or exam room (no documented physical exam) & refills given for Methadone & Xanax. Ninety day prescriptions filled early for Xanax. Indications for chronic controlled substance use is reasonable.

Patient: [REDACTED] New pt. February 2007 (signed controlled substance agreement). Given Xanax & Lortab for hip & knee pain and anxiety. No old records or objective data sufficient to warrant Lortab prescription. Duration of Lortab & Xanax from February 2007 to September 2007. Multiple early refills at multiple pharmacies. Lack of objective testing, evidence of an ongoing specific painful condition, or trial of non-narcotic analgesia or neurotropic medication. Patient died October 2007 (DOB 9/14/60).

Patient: [REDACTED] New pt. January 1999 (NO controlled substance agreement signed). Xanax continues to be prescribed for unclear reasons to November 2007. Multiple early refills at multiple pharmacies.

Patient: [REDACTED] New pt. January 2007 (controlled substance agreement signed). Given Lortab & Xanax for acute lumbar pain. Pt. forged prescription for Hydrocodone in July 2007. Duration of Lortab & Xanax January 2007 to July 2007. Methadone written in July 2007. Multiple early refills at pharmacies in Lexington & London, KY. Lack of objective testing, evidence of an ongoing specific painful condition, or trial of non-narcotic analgesia or neurotropic medication.

Patient: [REDACTED] New pt. February 2005 (controlled substance agreement signed). Pt. has severe degenerative lumbar disk & joint disease and responded well in past to neurostimulation (2004). Given Lortab. In July 2006 documented that “pt. has history of noncompliance with pain doctor in past.” Multiple early refills at multiple pharmacies. Duration of Lortab from February 2005 to December 2007. Duration of Xanax from sometime in 2006 to December 2007. Indication for Xanax unclear. Indication for chronic narcotic use is reasonable.

Patient: [REDACTED] New pt. November 1992 (NO controlled substance agreement signed). Given Lortab for low back pain in August 2001. Given Lortab for wrist pain in October 2001. Given Lortab for carpal tunnel March 2002. Told to taper off Lortab August 2002 (but continued to be refilled). Remains on Lortab until December 2007. Given Valium for chronic anxiety then Xanax. Multiple early refills of Lortab & Xanax at multiple pharmacies in Lexington & Georgetown. Lack of objective testing, evidence of an ongoing specific painful condition supported by history, physical finding or tests, or trial of non-narcotic analgesia or neurotropic medication.

Patient: [REDACTED] New pt. September 2005 (signed controlled substance agreement). Given Lortab at initial visit. [Old records clearly indicate long history of narcotic use with multiple orthopedic issues.] Develops rash in June 2006 thought to be allergic reaction to Lortab, given Percocet instead. In August 2006 is back on Lortab again (prescribed by Dr. Grigsby) – no documentation about safety given possible Lortab allergy or if rash unrelated to medication. Admitted to Good Samaritan for accidental Tylenol overdose & toxicity. Given Methadone & Fentanyl patch upon return to office in follow up of hospitalization.

Given Stadol nasal spray for migraines in December 2007. Frequent early refills of Lortab (less so for Xanax) at multiple pharmacies. Lack of objective testing, evidence of an ongoing specific painful condition supported by history, physical finding or tests, or trial of non-narcotic analgesia or neurotropic medication.


Patient: 

New pt. July 1998 (signed controlled substance agreement). Given Lortab, Xanax & Naproxen for chronic low back pain. In August of 2001 pt. is noted to have a history of drug seeking behavior. Next visit is in October 2002 after being incarcerated for the past 21 months – he is given Lortab. Chart note from November 2003 that pt. is now on Methadone. KASPER in chart January 2004 shows pt. utilizing multiple controlled substance prescriptions by multiple physicians at multiple pharmacies. Given Methadone at January 2004 visit. Pt. told to make pain clinic appointment in September 2004. KASPER in 2007 shows multiple early refills of Methadone at multiple pharmacies. Obvious severe manipulation & abuse of the system by this pt. with in-chart documentation of controlled substance agreement misuse/abuse with continued prescribing of Methadone, Xanax & Fentanyl in significant quantities. This pt. does have lumbar spine disease.

Patient: 

New pt. August 2006 (NO signed controlled substance agreement). Pt. with self-proclaimed history of ankle fractures & chronic pain, but no evidence of fractures by x-rays August 2006. Given Ultracet & Naproxen initially then Lortab in August 2006. Valium added for undocumented reasons in June 2007 (later – diagnosis of anxiety is mentioned). Lortab & Valium filled early at different pharmacies. Lack of objective testing, evidence of an ongoing specific painful condition supported by physical finding or tests, or trial of non-narcotic analgesia or neurotropic medication.

In summary, it is my opinion that Dr. Grigsby's continued practice of medicine, and specifically his prescribing of controlled substances represents a danger to his patients and a clear deviation from the standard of acceptable medical care in the Commonwealth of Kentucky.

Sincerely,  


JUN 13 2008

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1169

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY CHARLES G. GRIGSBY, M.D., LICENSE NO. 13046, 120 NORTH EAGLE CREEK DRIVE, #321, LEXINGTON, KENTUCKY 40509

**COMPLAINT**

Comes now the Complainant Donald J. Swikert, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on May 15, 2008, states for its Complaint against the licensee, CHARLES G. GRIGSBY, M.D., as follows:

1. At all relevant times, CHARLES G. GRIGSBY, M.D., was licensed by the Kentucky Board of Medical Licensure (hereafter "the Board") to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. On December 20, 2007, the Board received a grievance from Paula York, R.Ph., Drug Enforcement and Professional Practices Branch, Cabinet for Health Services, stating that "this office has received numerous complaints from pharmacists and other medical professionals, as well as regulatory agencies, expressing concern over Dr. Charles Grigsby's prescribing practices." Ms. York indicated that after reviewing the licensee's KASPER records, "several concerns became apparent." She listed those concerns as follows:
  - Long-term use of one or more controlled substances;
  - Combinations of controlled substances favored by persons who abuse or divert controlled substances;
  - Patients using multiple pharmacies

- Long-term use of a controlled substance for which short-term use is generally indicated
- Patients traveling long distances to obtain medications; and
- Improper refills of controlled substances based on days supply

She referred the case to the Board for additional investigation, listing patient records which should be reviewed.

4. A Board consultant reviewed fifteen of the patient charts identified by Ms. York as well as a 905-page KASPER report concerning the licensee's patients. The consultant found that the licensee's treatment of his patients fell below minimum standards of acceptable medical care, and his overall opinion was that the license had clearly fallen below minimal standards. The consultant found that the licensee had violated acceptable medical standards of care in the following ways:

... His consistent controlled substance prescribing pattern (specifically analgesics) fails to conform to the standards of medical practice in the Commonwealth of Kentucky. Often the indications for his initiation of treatment with narcotics are unclear, or are simply not the standard and usual mode of treatment. He has prescribed significant quantities of narcotic analgesics for long-term use without clear justification through objective analysis or investigative medical testing. Although a controlled substance agreement has been signed by several of his reviewed patients, there are clear violations of the agreement by the patients without any documented action taken by Dr. Grigsby. These violations include on the part of the patient(s): early refills; using multiple pharmacies to obtain controlled substances; and requests for replacement prescriptions that were lost or misplaced. Violations of the agreement on the part of Dr. Grigsby include: refilling controlled substances early (often with a large quantity of medication); prescribing long-term narcotics without clear documentation of treatment modality failures, use of alternative non-narcotic medications, or evaluation or consultation with a specialist. (All of these requirements are documented clearly in Dr. Grigsby's *M2K Controlled Substance Agreement*.)

5. The Board consultant found that the licensee was grossly ignorant:

... the pattern of prescribing narcotic analgesia by Dr. Grigsby to many of his patients would be deemed gross ignorance. A physician following the standard of care in the Commonwealth of Kentucky would not prescribe narcotic analgesics either initially or long-term in the extraordinary amounts that have been written by Dr. Grigsby. There is no evidence of negligence in the cases reviewed.

6. The Board consultant also found that the licensee's practice constitutes a danger to the health, welfare, and safety to the physician's patients or the general public:

Dr. Grigsby's controlled substance prescribing patterns as a whole and to certain individual patients do constitute a danger to the health, welfare, and safety of his patients. The specific danger is the haphazard prescribing of narcotic analgesics to *many* of his patients. He has failed to comply with his own controlled substance agreement, and by his letter of response, does not seem to understand the gravity or nature of his prescribing habits. His response letter implies that this is not the first time he has been under scrutiny by the Board. Given the body of evidence reviewed, and a history of continued ill prescribing habits, Dr. Grigsby's ability to prescribed controlled substances should be revoked.

7. The licensee responded by stating that he believes that his prescribing of controlled substances is within acceptable medical standards. As he indicated,

As a brief explanation as to my methodology of prescribing controlled substances let me say that no patient of mine is given a prescription for these drugs unless I have hard copy documentation in the permanent record that confirms that the patient has an underlying pathological process. With hard copy documentation I will be convinced that the patient's complaints are legitimate. Other considerations including physical findings, past history, etc. may influence the decision. If I am convinced that the patient is experiencing pain and cannot receive relief by lesser means, i.e., NSAIDS, etc. I do not hesitate to prescribe medication.

8. By his conduct, the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(3) and (4). Accordingly, legal grounds exist for disciplinary action against his Kentucky medical license.

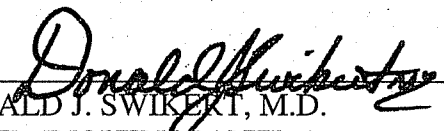
9. The licensee is directed to respond to the allegations delineated in the Complaint within thirty (30) days of service thereof and is further given notice that:

- (a) His failure to respond may be taken as an admission of the charges;
- (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.

10. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for December 2, 3 and 4, 2008 at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS Chapter 13B. This hearing shall proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.


WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine held by CHARLES G. GRIGSBY, M.D.

This 13<sup>th</sup> day of June, 2008.

  
DONALD J. SWIKERT, M.D.  
CHAIR, INQUIRY PANEL A

**CERTIFICATE OF SERVICE**

I certify that the original of this Complaint was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested to Charles G. Grigsby, M.D., 120 North Eagle Creek Drive, #321, Lexington, Kentucky 40509; and Gerry L. Calvert, Esq., 115 West Short Street, Lexington, Kentucky 40507 on this 13<sup>th</sup> day of June, 2008.

  
KAREN QUINN  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
502/429-7150