FILED OF RECORD

JUN 15 2017

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1780

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, P.O. BOX 3283, LOUISVILLE, KENTUCKY 40201-3283

AGREED ORDER OF SURRENDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Hearing Panel A, and Glen D. Richards, M.D. (hereafter "the licensee"), and, based upon their mutual desire to fully and finally resolve the pending Complaint, 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, Glen D. Richards, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain management.
3. On or about September 14, 2011, the licensee entered into an Agreed Order in case number 1345 which precluded the licensee from the prescribing, distributing, or otherwise utilizing controlled substances. The Agreed Order included a stipulation to the following facts:

   - On October 8, 2010, the Board received a grievance from Anthony J. McEldowney, M.D., reporting that, after performing peer reviews for motor vehicle accidents for the previous two years, he had continued to see what he considered dangerous prescribing practices by the licensee.
   - The Board requested a KASPER review of the licensee's prescribing practices. On January 6, 2011, the Board received a report from Paula York, R.Ph., Pharmacist Consultant, Office of Inspector General, Cabinet for Health and

Family Services. Ms. York identified the following possible concerns with numerous individuals: Long-term use of one or more controlled substances; Combinations of controlled substances favored by persons who abuse or divert controlled substances; Long-term use of a controlled substance for which short-term use is generally indicated; and Individuals of younger ages obtaining high doses of narcotics.

- Ms. York identified 22 patient records that should be reviewed by a Board consultant.

- The Board obtained 16 of the licensee's patient records and provided them to a Board consultant for review. The consultant concluded, in part,

> The physician in question, Dr. Richards, managed mainly motor vehicle accident cases and occasionally a couple of other situations. The accident cases were treated with either chiropractic physicians or another pain management rehabilitation or physical therapy or psychiatry group of physicians. The indication is that the goal was to prescribe large doses of medication, especially the medications which are short acting, namely hydrocodone or oxycodone with Tylenol or acetaminophen, and this dose range was particularly large. There was no case which I review where any of the other medications were used, such as morphine, methadone, Duragesic, hydromorphone, oxymorphone or any of the other long-acting pain medications. Obviously it can be stated that he was treating only acute pain, but he was not only treating acute pain, he was treating chronic pain and he had been persisting with the treatment with large doses of short-acting medication repeated p.r.n. dosing while the prescription meant for one to two tablets every four to six to eight hours p.r.n., the patient seems to have filled all the prescriptions with the maximum number prescribed and that too without missing a beat. So, the p.r.n. prescription did not mean anything and I am not sure why someone should be prescribing a large amount of medication on a p.r.n. basis. Whether one treats chronic pain or acute pain, there has to be a baseline level of pain medication in the system and then only after the baseline is accomplished p.r.n. for breakthrough pain relief is used. At least that is the general consent. In Dr. Richards' case, all he did was almost in every case prescribe large doses of medication on a p.r.n. basis, thereby telling the patient to take as many as he wants or as many as he needs. After having prescribed it for one or two patients, it should be quite evident that the patient used all the medication which has been filled or prescribed to the maximum. If they did not use, one has to figure out where did the medicine go. Dr. Richards did not seem to have inquired that. My assumption is that the patient used every pill which was prescribed and in that case the population for which he made the prescription in fairly large, large dose of pain medication and I do not think there is any medical indication. When musculoskeletal pain from automobile accidents are

compared to other forms of pain, I understand that musculoskeletal pain is hard to deal with, but adjunct drugs in addition to opioid medication would be the best way of managing it rather than large doses of opioid medications. The second point is that the acute musculoskeletal pain usually is short lived. If one can postulate that the biggest pain from an operation in the abdomen lasts only a week or less or maybe up to 10 days, pain produced from an automobile accident should not be lasting two months, three months, four months or years at a time which requires medication prescription of this kind. The other point has already been reviewed. The total acetaminophen content in the amount of medications he prescribed in most cases are high.

It is a fact that a lot of people take acetaminophen or Tylenol on a regular basis for one reason or the other. It does not mean that they are aware of the organ toxicity of the drug, especially when there is a large dose acute exposure or large dose chronic exposure. I believe almost every physician practice in this country has seen a case or two of hepatic failure due to acetaminophen overload. Therefore, it is imperative that Dr. Richards also should be aware of this matter. The amount of exposure he subjected his patients to on the average is at least 2 grams, if not 3 grams, of Tylenol per day and maybe in some cases more, as I have stated in the case review. This is a dangerous practice and this fact had to be recognized when you prescribe compounds which contain acetaminophen in addition to the pain or opioid medication. Then again, these patients who have pain may even want to or decide to supplement their pain medications by prescription with non-prescription medication such as over-the-counter and some of these compounds contain Tylenol if they are not Tylenol in itself. Therefore, Dr. Richards has to modify his practice of pain medicine in prescribing hydrocodone which contains 500 mg of Tylenol or more with each pill. ...

...Long-term use of hydrocodone or oxycodone in intermittent doses is not recommended according to my knowledge for more than a few weeks at a time. For use of these drugs for months at a time or years continually would be inappropriate in my view and in the medication literature. ...

The physician has shown a certain degree of incompetence and some level of ignorance and some levels in prescribing medication without investigating the cause of the problem and without making a definitive diagnosis and without making a definitive statement of medical necessity. In the 16 cases I have reviewed, there was one case in which the patient had a liver transplant and the prescription of hydrocodone with acetaminophen started without any evidence of the physician having checked liver function or the status of the liver function, etc. Further, in other situations, and in all situation even though large doses of medications were given, there is no indication that Dr. Richards monitored

> the use of the medication by the patient and any definite system was in place to see that the patient utilizing all the medications occurred and whether the patient has any remaining or the patient is diverting them....No attempt has been made in any case to change the drug or even its dose. How can one justify continuing the large doses of pain medication for any given patient weeks or months after the starting of the treatment, especially when it is said that the acute pain is what is being treated. That is where I think the combination of incompetence, ignorance and negligence, etc, occurred.
>
> ...
>
> As stated in my review, this type of practice where a large amount of medication is delivered to the patient without monitoring for its use or monitoring its use and/or presence of abuse or misuse, constitutes a danger to the health, welfare and safety of the patients and the general public. Besides that, Dr. Richards prescribes only hydrocodone or oxycodone mainly also indicates this is a situation which should be a subject for education and reassessment......

- On May 4-6, 2011, the licensee voluntarily enrolled in and successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course through the University of South Florida, College of Medicine.

- On April 15, 2011, the licensee voluntarily enrolled in the Patient Care Documentation Seminar scheduled for September 30, 2011 by the Center for Personalized Education for Physicians (CPEP) in Louisville, Kentucky.

4. On or about January 3, 2013, the licensee entered into an Amended Agreed Order which permitted him to resume the professional utilization of controlled substances. Pursuant to the Amended Agreed Order, the licensee agreed to the following terms:

   a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

c. 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;

d. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

e. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

f. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Amended Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Amended Agreed Order;

g. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Amended Agreed Order;

h. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

i. The licensee SHALL pay the costs of the investigation in the amount of $2,656.70 within twelve (12) months from entry of the original Agreed Order;

j. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

5. Further, pursuant to the Amended Agreed Order, the licensee agreed:

The licensee expressly agrees that if he should violate any term or condition of this Amended 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 Amended 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 Amended 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 Amended Agreed Order.

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

6. Neither the Panel nor its Chair has approved a practice location for the licensee.

7. On or about April 22, 2016 the Board's Medical Investigator was contacted by Julie Thoben, ARNP, with Baptist Health Louisville regarding an order for blood work filed by the licensee.

8. Ms. Thoben stated that the licensee filed an order for blood work to be performed on his mother-in-law.

9. During an interview with the Board's medical investigator, the licensee acknowledged that he ordered the blood work for his mother-in-law because she was visiting from Mexico City.

10. When asked if he wrote any prescriptions, the licensee stated that he does refill his wife's thyroid medication.

11. The licensee stated that he felt he was in compliance with his Agreed Order as he had not opened a new practice and he keeps his license for such things as this. He stated

that he felt he was totally within his rights to order labs and write non-controlled prescriptions.

12. On or about April 29, 2016, the Chair of the Board's Inquiry Panel A determined that the licensee's practices placed patients and the public at risk and in danger. As a result, the licensee was suspended from the practice of medicine in the Commonwealth of Kentucky pending resolution of the Complaint filed on June 20, 2016.
13. On August 24, 2016, the Hearing Officer's Recommended Order Finding Glen D. Richards, M.D. in Default and Canceling Administrative Hearing was filed of record.
14. At its meeting on September 15, 2016, Hearing Panel B took this case up for final action. The members of Panel B reviewed the Complaint, filed of record June 20, 2016; the Hearing Officer's Recommended Order Finding Glen D. Richards, M.D. in Default and Canceling Administrative Hearing, filed of record August 24, 2016; the licensee's exceptions, filed of record August 22, 2016; and an August 25, 2016, memorandum from the Board's counsel.
15. The Panel issued an Order of Indefinite Restriction, filed of record on September 19, 2016, the terms and conditions which required, in part:

    a. Within twenty (20) days of the effective date of this Order, the licensee SHALL make all necessary arrangements to enroll in the *ProBe* Program offered through the Center for Personalized Education for Physicians (CPEP), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232, at the earliest time;

        i. The licensee SHALL complete and "unconditionally pass" the *ProBe* Program at the time and date(s) scheduled, at his expense and as directed by CPEP's staff;
        ii. The licensee SHALL provide the Board's staff with written verification that he has completed and "unconditionally passed" CPEP's *ProBe* Program, promptly after completing the program;

iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations, reports or essays from the *ProBe* Program to the Board's Legal Department promptly after their completion; and

b. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense.

16. On or about November 30, 2016, CPEP confirmed that the licensee had not enrolled in the ProBE course.

17. On or about December 2, 2016, CPEP confirmed that the licensee had not completed the Personalized Implementation Program.

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. 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(13). 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 matter without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Surrender.

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 the pending Complaint, the parties hereby ENTER INTO the following **AGREED ORDER OF SURRENDER:**

1. The licensee hereby SURRENDERS his Kentucky medical license, in lieu of revocation, with that surrender to become effective immediately upon the filing of this Agreed Order of Surrender, and continuing until further order of the Panel.

2. Immediately upon the filing of this Agreed Order of Surrender, the licensee shall not engage in any act which would constitute the "practice of medicine or osteopathy" 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 petition and the Panel SHALL NOT consider a petition for reinstatement of his license unless:

   a. A minimum period of two (2) years from the date of filing of this Agreed Order of Surrender has passed;

   b. The licensee has obtained a clinical skills assessment at the Center for Personalized Education for Physicians ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232 Fax: (303) 577-3241, at his expense, and has ensured that the Board has received copy of the Assessment Report as well as an Education Plan (if recommended);

4. The licensee understands and agrees that, if he should petition for reinstatement of his license, the burden shall be upon him to satisfy the Panel that he is presently of good moral character and qualified both physically and mentally to resume the practice of medicine without undue risk or danger to his patients or the public.

5. The licensee understands and agrees that the decision whether or not to permit him to resume the practice of medicine within the Commonwealth of Kentucky lies in the sole discretion of the Panel.

6. The licensee understands and agrees that if the Panel should grant his request to resume the practice of medicine within the Commonwealth of Kentucky, it shall do so pursuant to an Agreed Order with terms and conditions deemed appropriate by the panel that that time, including but not limited to:

a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

c. Within twenty (20) days of the effective date of the Agreed Order, the licensee SHALL make all necessary arrangements to enroll in the *ProBe* Program offered through the Center for Personalized Education for Physicians (CPEP), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232, at the earliest time;

    i. The licensee SHALL complete and "unconditionally pass" the *ProBe* Program at the time and date(s) scheduled, at his expense and as directed by CPEP's staff;
    ii. The licensee SHALL provide the Board's staff with written verification that he has completed and "unconditionally passed" CPEP's *ProBe* Program, promptly after completing the program;
    iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations, reports or essays from the *ProBe* Program to the Board's Legal Department promptly after their completion;

d. 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, <u>legible</u> 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;

e. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

f. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

g. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Order;

h. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Order;

i. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

j. The licensee SHALL reimburse the costs of the investigation in the amount of $375.00 within twelve (12) months from entry the Agreed Order;

k. Pursuant to KRS 311.565(1)(v), the licensee SHALL pay a fine in the amount of one thousand ($1000.00) dollars within (12) months from entry of the Agreed Order; and

l. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

7. If the Board should receive information that, after the date of filing of this Agreed Order of Surrender, the licensee has performed an act which would constitute the "practice of medicine or osteopathy" within the Commonwealth of Kentucky, it shall refer the licensee to the Attorney General or appropriate Commonwealth Attorney for prosecution of such acts of practicing osteopathy without a license.

8. The licensee expressly agrees that if he should violate any term or condition of the 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 agrees that 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.

9. 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 4 day of April, 2017.

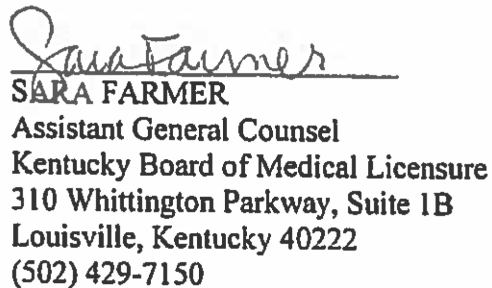
FOR THE LICENSEE:

GLEN D. RICHARDS, M.D. 13659

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:

C. WILLIAM BRISCOE, M.D.
CHAIR, HEARING PANEL A



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

WAIVER OF RIGHTS

I, Glen D. Richards, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 1780. 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 of Surrender 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 of Surrender, 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 4th day of April, 2017.

GLEN D. RICHARDS, M.D. 13689
Respondent

COUNSEL FOR THE RESPONDENT
(IF APPLICABLE)

FILED OF RECORD
FEB 09 2017
K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1780

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, P.O. BOX 3283, LOUISVILLE, KENTUCKY 40201-3283

COMPLAINT

Comes now the Complainant, Russell L. Travis, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel B, and on behalf of the Panel which met on January 19, 2017, states for its Complaint against the licensee, Glen D. Richards, M.D., as follows:

1. At all relevant times, Glen D. Richards, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain management.
3. On or about September 14, 2011, the licensee entered into an Agreed Order in case number 1345 which precluded the licensee from the prescribing, distributing, or otherwise utilizing controlled substances. The Agreed Order included a stipulation to the following facts:
    - On October 8, 2010, the Board received a grievance from Anthony J. McEldowney, M.D., reporting that, after performing peer reviews for motor vehicle accidents for the previous two years, he had continued to see what he considered dangerous prescribing practices by the licensee.
    - The Board requested a KASPER review of the licensee's prescribing practices. On January 6, 2011, the Board received a report from Paula York, R.Ph., Pharmacist Consultant, Office of Inspector General, Cabinet for Health and Family Services. Ms. York identified the following possible concerns with numerous individuals: Long-term use of one or more controlled substances; Combinations of controlled substances favored by persons who abuse or divert controlled substances; Long-term use of a controlled substance for which short-term use is generally indicated; and Individuals of younger ages obtaining high doses of narcotics.

- Ms. York identified 22 patient records that should be reviewed by a Board consultant.

- The Board obtained 16 of the licensee's patient records and provided them to a Board consultant for review. The consultant concluded, in part,

> The physician in question, Dr. Richards, managed mainly motor vehicle accident cases and occasionally a couple of other situations. The accident cases were treated with either chiropractic physicians or another pain management rehabilitation or physical therapy or psychiatry group of physicians. The indication is that the goal was to prescribe large doses of medication, especially the medications which are short acting, namely hydrocodone or oxycodone with Tylenol or acetaminophen, and this dose range was particularly large. There was no case which I review where any of the other medications were used, such as morphine, methadone, Duragesic, hydromorphone, oxymorphone or any of the other long-acting pain medications. Obviously it can be stated that he was treating only acute pain, but he was not only treating acute pain, he was treating chronic pain and he had been persisting with the treatment with large doses of short-acting medication repeated p.r.n. dosing while the prescription meant for one to two tablets every four to six to eight hours p.r.n., the patient seems to have filled all the prescriptions with the maximum number prescribed and that too without missing a beat. So, the p.r.n. prescription did not mean anything and I am not sure why someone should be prescribing a large amount of medication on a p.r.n. basis. Whether one treats chronic pain or acute pain, there has to be a baseline level of pain medication in the system and then only after the baseline is accomplished p.r.n. for breakthrough pain relief is used. At least that is the general consent. In Dr. Richards' case, all he did was almost in every case prescribe large doses of medication on a p.r.n. basis, thereby telling the patient to take as many as he wants or as many as he needs. After having prescribed it for one or two patients, it should be quite evident that the patient used all the medication which has been filled or prescribed to the maximum. If they did not use, one has to figure out where did the medicine go. Dr. Richards did not seem to have inquired that. My assumption is that the patient used every pill which was prescribed and in that case the population for which he made the prescription in fairly large, large dose of pain medication and I do not think there is any medical indication. When musculoskeletal pain from automobile accidents are compared to other forms of pain, I understand that musculoskeletal pain is hard to deal with, but adjunct drugs in addition to opioid medication would be the best way of managing it rather than large doses of opioid medications. The second point is that the acute musculoskeletal pain usually is short lived. If one can postulate that the biggest pain from an operation in the abdomen lasts only a week or less or maybe up to 10 days,

pain produced from an automobile accident should not be lasting two months, three months, four months or years at a time which requires medication prescription of this kind. The other point has already been reviewed. The total acetaminophen content in the amount of medications he prescribed in most cases are high.

It is a fact that a lot of people take acetaminophen or Tylenol on a regular basis for one reason or the other. It does not mean that they are aware of the organ toxicity of the drug, especially when there is a large dose acute exposure or large dose chronic exposure. I believe almost every physician practice in this country has seen a case or two of hepatic failure due to acetaminophen overload. Therefore, it is imperative that Dr. Richards also should be aware of this matter. The amount of exposure he subjected his patients to on the average is at least 2 grams, if not 3 grams, of Tylenol per day and maybe in some cases more, as I have stated in the case review. This is a dangerous practice and this fact had to be recognized when you prescribe compounds which contain acetaminophen in addition to the pain or opioid medication. Then again, these patients who have pain may even want to or decide to supplement their pain medications by prescription with non-prescription medication such as over-the-counter and some of these compounds contain Tylenol if they are not Tylenol in itself. Therefore, Dr. Richards has to modify his practice of pain medicine in prescribing hydrocodone which contains 500 mg of Tylenol or more with each pill. ...

...Long-term use of hydrocodone or oxycodone in intermittent doses is not recommended according to my knowledge for more than a few weeks at a time. For use of these drugs for months at a time or years continually would be inappropriate in my view and in the medication literature. ...

The physician has shown a certain degree of incompetence and some level of ignorance and some levels in prescribing medication without investigating the cause of the problem and without making a definitive diagnosis and without making a definitive statement of medical necessity. In the 16 cases I have reviewed, there was one case in which the patient had a liver transplant and the prescription of hydrocodone with acetaminophen started without any evidence of the physician having checked liver function or the status of the liver function, etc. Further, in other situations, and in all situation even though large doses of medications were given, there is no indication that Dr. Richards monitored the use of the medication by the patient and any definite system was in place to see that the patient utilizing all the medications occurred and whether the patient has any remaining or the patient is diverting them....No attempt has been made in any case to change the drug or even its dose. How can one justify continuing the large doses of pain medication for any given patient weeks or months after the starting of the

treatment, especially when it is said that the acute pain is what is being treated. That is where I think the combination of incompetence, ignorance and negligence, etc, occurred.

...

As stated in my review, this type of practice where a large amount of medication is delivered to the patient without monitoring for its use or monitoring its use and/or presence of abuse or misuse, constitutes a danger to the health, welfare and safety of the patients and the general public. Besides that, Dr. Richards prescribes only hydrocodone or oxycodone mainly also indicates this is a situation which should be a subject for education and reassessment......

- On May 4-6, 2011, the licensee voluntarily enrolled in and successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course through the University of South Florida, College of Medicine.

- On April 15, 2011, the licensee voluntarily enrolled in the Patient Care Documentation Seminar scheduled for September 30, 2011 by the Center for Personalized Education for Physicians (CPEP) in Louisville, Kentucky.

4. On or about January 3, 2013, the licensee entered into an Amended Agreed Order which permitted him to resume the professional utilization of controlled substances. Pursuant to the Amended Agreed Order, the licensee agreed to the following terms:

   a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

   b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

c. 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;

d. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

e. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

f. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Amended Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Amended Agreed Order;

g. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Amended Agreed Order;

h. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

i. The licensee SHALL pay the costs of the investigation in the amount of $2,656.70 within twelve (12) months from entry of the original Agreed Order;

j. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

5. Further, pursuant to the Amended Agreed Order, the licensee agreed:

The licensee expressly agrees that if he should violate any term or condition of this Amended 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 Amended 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 Amended 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 Amended Agreed Order.

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

6. Neither the Panel nor its Chair has approved a practice location for the licensee.
7. On or about April 22, 2016 the Board's Medical Investigator was contacted by Julie Thoben, ARNP, with Baptist Health Louisville regarding an order for blood work filed by the licensee.
8. Ms. Thoben stated that the licensee filed an order for blood work to be performed on his mother-in-law.
9. During an interview with the Board's medical investigator, the licensee acknowledged that he ordered the blood work for his mother-in-law because she was visiting from Mexico City.
10. When asked if he wrote any prescriptions, the licensee stated that he does refill his wife's thyroid medication.
11. The licensee stated that he felt he was in compliance with his Agreed Order as he had not opened a new practice and he keeps his license for such things as this. He stated that he felt he was totally within his rights to order labs and write non-controlled prescriptions.

12. On or about April 29, 2016, the Chair of the Board's Inquiry Panel A determined that the licensee's practices placed patients and the public at risk and in danger. As a result, the licensee was suspended from the practice of medicine in the Commonwealth of Kentucky pending resolution of the Complaint filed on June 20, 2016.

13. On August 24, 2016, the Hearing Officer's Recommended Order Finding Glen D. Richards, M.D. in Default and Canceling Administrative Hearing was filed of record.

14. At its meeting on September 15, 2016, Hearing Panel B took this case up for final action. The members of Panel B reviewed the Complaint, filed of record June 20, 2016; the Hearing Officer's Recommended Order Finding Glen D. Richards, M.D. in Default and Canceling Administrative Hearing, filed of record August 24, 2016; the licensee's exceptions, filed of record August 22, 2016; and an August 25, 2016, memorandum from the Board's counsel.

15. The Panel issued an Order of Indefinite Restriction, filed of record on September 9, 2016, the terms and conditions which required, in part:

    a. Within twenty (20) days of the effective date of this Order, the licensee SHALL make all necessary arrangements to enroll in the *ProBe* Program offered through the Center for Personalized Education for Physicians (CPEP), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232, at the earliest time;

        i. The licensee SHALL complete and "unconditionally pass" the *ProBe* Program at the time and date(s) scheduled, at his expense and as directed by CPEP's staff;
        ii. The licensee SHALL provide the Board's staff with written verification that he has completed and "unconditionally passed" CPEP's *ProBe* Program, promptly after completing the program;
        iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations, reports or essays from the

ProBe Program to the Board's Legal Department promptly after their completion; and

b. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense.

16. On or about November 30, 2016, CPEP confirmed that the licensee had not enrolled in the ProBE course.

17. On or about December 2, 2016, CPEP confirmed that the licensee had not completed the Personalized Implementation Program.

18. On January 19, 2017, the Board's Inquiry Panel B determined that the licensee's practices place his patients and the public at risk and in danger. As a result, the licensee was suspended from the practice of medicine in the Commonwealth of Kentucky pending resolution of this Complaint.

13. By his conduct, the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(13).

14. Accordingly, legal grounds exist for disciplinary action against his license to practice medicine in the Commonwealth of Kentucky.

15. 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.

16. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for June 6, 2017, 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 in the Commonwealth of Kentucky held by GLEN D. RICHARDS, M.D.

This 9th day of February, 2017.

RUSSELL L. TRAVIS, M.D.
CHAIR, INQUIRY PANEL B

CERTIFICATE OF SERVICE

I certify that the original of this Complaint was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to Thomas J. Hellman, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601; and a copy was mailed via certified mail return-receipt requested to the licensee, Glen D. Richards, M.D., License No. 13689, P.O. Box 3283, Louisville, Kentucky 40201-3283, on this 9th day of February, 2017.

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

FILED OF RECORD

FEB 09 2017

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1780

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, P.O. BOX 3283, LOUISVILLE, KENTUCKY 40201-3283

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel B, considered this matter at its January 19, 2017 meeting. At that meeting the Panel considered a Memorandum from Medical Investigator John Lewis, dated December 2, 2016, and an Order of Indefinite Restriction, filed of record September 19, 2016 and having considered this information and being sufficiently advised, Inquiry Panel B ENTERS the following EMERGENCY ORDER OF SUSPENSION, 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 B concludes there is probable cause to make the following Findings of Fact, which support this Emergency Order of Suspension:

1. At all relevant times, Glen D. Richards, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain management.
3. On or about September 14, 2011, the licensee entered into an Agreed Order in case number 1345 which precluded the licensee from the prescribing, distributing, or otherwise utilizing controlled substances. The Agreed Order included a stipulation to the following facts:

- On October 8, 2010, the Board received a grievance from Anthony J. McEldowney, M.D., reporting that, after performing peer reviews for motor vehicle accidents for the previous two years, he had continued to see what he considered dangerous prescribing practices by the licensee.

- The Board requested a KASPER review of the licensee's prescribing practices. On January 6, 2011, the Board received a report from Paula York, R.Ph., Pharmacist Consultant, Office of Inspector General, Cabinet for Health and Family Services. Ms. York identified the following possible concerns with numerous individuals: Long-term use of one or more controlled substances; Combinations of controlled substances favored by persons who abuse or divert controlled substances; Long-term use of a controlled substance for which short-term use is generally indicated; and Individuals of younger ages obtaining high doses of narcotics.

- Ms. York identified 22 patient records that should be reviewed by a Board consultant.

- The Board obtained 16 of the licensee's patient records and provided them to a Board consultant for review. The consultant concluded, in part,

> The physician in question, Dr. Richards, managed mainly motor vehicle accident cases and occasionally a couple of other situations. The accident cases were treated with either chiropractic physicians or another pain management rehabilitation or physical therapy or psychiatry group of physicians. The indication is that the goal was to prescribe large doses of medication, especially the medications which are short acting, namely hydrocodone or oxycodone with Tylenol or acetaminophen, and this dose range was particularly large. There was no case which I review where any of the other medications were used, such as morphine, methadone, Duragesic, hydromorphone, oxymorphone or any of the other long-acting pain medications. Obviously it can be stated that he was treating only acute pain, but he was not only treating acute pain, he was treating chronic pain and he had been persisting with the treatment with large doses of short-acting medication repeated p.r.n. dosing while the prescription meant for one to two tablets every four to six to eight hours p.r.n., the patient seems to have filled all the prescriptions with the maximum number prescribed and that too without missing a beat. So, the p.r.n. prescription did not mean anything and I am not sure why someone should be prescribing a large amount of medication on a p.r.n. basis. Whether one treats chronic pain or acute pain, there has to be a baseline level of pain medication in the system and then only after the baseline is accomplished p.r.n. for breakthrough pain relief is used. At least that is the general consent. In Dr. Richards' case, all he did was almost in every case prescribe large doses of medication on a p.r.n. basis, thereby telling the patient to take as many as he wants or as many as he needs. After

having prescribed it for one or two patients, it should be quite evident that the patient used all the medication which has been filled or prescribed to the maximum. If they did not use, one has to figure out where did the medicine go. Dr. Richards did not seem to have inquired that. My assumption is that the patient used every pill which was prescribed and in that case the population for which he made the prescription in fairly large, large dose of pain medication and I do not think there is any medical indication. When musculoskeletal pain from automobile accidents are compared to other forms of pain, I understand that musculoskeletal pain is hard to deal with, but adjunct drugs in addition to opioid medication would be the best way of managing it rather than large doses of opioid medications. The second point is that the acute musculoskeletal pain usually is short lived. If one can postulate that the biggest pain from an operation in the abdomen lasts only a week or less or maybe up to 10 days, pain produced from an automobile accident should not be lasting two months, three months, four months or years at a time which requires medication prescription of this kind. The other point has already been reviewed. The total acetaminophen content in the amount of medications he prescribed in most cases are high.

It is a fact that a lot of people take acetaminophen or Tylenol on a regular basis for one reason or the other. It does not mean that they are aware of the organ toxicity of the drug, especially when there is a large dose acute exposure or large dose chronic exposure. I believe almost every physician practice in this country has seen a case or two of hepatic failure due to acetaminophen overload. Therefore, it is imperative that Dr. Richards also should be aware of this matter. The amount of exposure he subjected his patients to on the average is at least 2 grams, if not 3 grams, of Tylenol per day and maybe in some cases more, as I have stated in the case review. This is a dangerous practice and this fact had to be recognized when you prescribe compounds which contain acetaminophen in addition to the pain or opioid medication. Then again, these patients who have pain may even want to or decide to supplement their pain medications by prescription with non-prescription medication such as over-the-counter and some of these compounds contain Tylenol if they are not Tylenol in itself. Therefore, Dr. Richards has to modify his practice of pain medicine in prescribing hydrocodone which contains 500 mg of Tylenol or more with each pill. ...

...Long-term use of hydrocodone or oxycodone in intermittent doses is not recommended according to my knowledge for more than a few weeks at a time. For use of these drugs for months at a time or years continually would be inappropriate in my view and in the medication literature. ...

The physician has shown a certain degree of incompetence and some level of ignorance and some levels in prescribing medication without

investigating the cause of the problem and without making a definitive diagnosis and without making a definitive statement of medical necessity. In the 16 cases I have reviewed, there was one case in which the patient had a liver transplant and the prescription of hydrocodone with acetaminophen started without any evidence of the physician having checked liver function or the status of the liver function, etc. Further, in other situations, and in all situation even though large doses of medications were given, there is no indication that Dr. Richards monitored the use of the medication by the patient and any definite system was in place to see that the patient utilizing all the medications occurred and whether the patient has any remaining or the patient is diverting them....No attempt has been made in any case to change the drug or even its dose. How can one justify continuing the large doses of pain medication for any given patient weeks or months after the starting of the treatment, especially when it is said that the acute pain is what is being treated. That is where I think the combination of incompetence, ignorance and negligence, etc, occurred.

...

As stated in my review, this type of practice where a large amount of medication is delivered to the patient without monitoring for its use or monitoring its use and/or presence of abuse or misuse, constitutes a danger to the health, welfare and safety of the patients and the general public. Besides that, Dr. Richards prescribes only hydrocodone or oxycodone mainly also indicates this is a situation which should be a subject for education and reassessment......

- On May 4-6, 2011, the licensee voluntarily enrolled in and successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course through the University of South Florida, College of Medicine.

- On April 15, 2011, the licensee voluntarily enrolled in the Patient Care Documentation Seminar scheduled for September 30, 2011 by the Center for Personalized Education for Physicians (CPEP) in Louisville, Kentucky.

4. On or about January 3, 2013, the licensee entered into an Amended Agreed Order which permitted him to resume the professional utilization of controlled substances. Pursuant to the Amended Agreed Order, the licensee agreed to the following terms:

   a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice

medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

c. 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;

d. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

e. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

f. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Amended Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Amended Agreed Order;

g. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Amended Agreed Order;

h. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

i. The licensee SHALL pay the costs of the investigation in the amount of $2,656.70 within twelve (12) months from entry of the original Agreed Order;

j. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

5. Further, pursuant to the Amended Agreed Order, the licensee agreed:

> The licensee expressly agrees that if he should violate any term or condition of this Amended 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 Amended 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 Amended 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 Amended Agreed Order.
>
> The licensee understands and agrees that any violation of the terms of this Amended Agreed Order would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13).

6. Neither the Panel nor its Chair has approved a practice location for the licensee.

7. On or about April 22, 2016 the Board's Medical Investigator was contacted by Julie Thoben, ARNP, with Baptist Health Louisville regarding an order for blood work filed by the licensee.

8. Ms. Thoben stated that the licensee filed an order for blood work to be performed on his mother-in-law.

9. During an interview with the Board's medical investigator, the licensee acknowledged that he ordered the blood work for his mother-in-law because she was visiting from Mexico City.
10. When asked if he wrote any prescriptions, the licensee stated that he does refill his wife's thyroid medication.
11. The licensee stated that he felt he was in compliance with his Agreed Order as he had not opened a new practice and he keeps his license for such things as this. He stated that he felt he was totally within his rights to order labs and write non-controlled prescriptions.
12. On or about April 29, 2016, the Chair of the Board's Inquiry Panel A determined that the licensee's practices placed patients and the public at risk and in danger. As a result, the licensee was suspended from the practice of medicine in the Commonwealth of Kentucky pending resolution of the Complaint filed on June 20, 2016.
13. On August 24, 2016, the Hearing Officer's Recommended Order Finding Glen D. Richards, M.D. in Default and Canceling Administrative Hearing was filed of record.
14. At its meeting on September 15, 2016, Hearing Panel B took this case up for final action. The members of Panel B reviewed the Complaint, filed of record June 20, 2016; the Hearing Officer's Recommended Order Finding Glen D. Richards, M.D. in Default and Canceling Administrative Hearing, filed of record August 24, 2016; the licensee's exceptions, filed of record August 22, 2016; and an August 25, 2016, memorandum from the Board's counsel.

15. The Panel issued an Order of Indefinite Restriction, filed of record on September 9, 2016, the terms and conditions which required, in part:

    a. Within twenty (20) days of the effective date of this Order, the licensee SHALL make all necessary arrangements to enroll in the *ProBe* Program offered through the Center for Personalized Education for Physicians (CPEP), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232, at the earliest time;

        i. The licensee SHALL complete and "unconditionally pass" the *ProBe* Program at the time and date(s) scheduled, at his expense and as directed by CPEP's staff;
        ii. The licensee SHALL provide the Board's staff with written verification that he has completed and "unconditionally passed" CPEP's *ProBe* Program, promptly after completing the program;
        iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations, reports or essays from the *ProBe* Program to the Board's Legal Department promptly after their completion; and

    b. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense.

16. On or about November 30, 2016, CPEP confirmed that the licensee had not enrolled in the ProBE course.

17. On or about December 2, 2016, CPEP confirmed that the licensee had not completed the Personalized Implementation Program.

CONCLUSIONS OF LAW

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

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(4), and KRS 311.595(13).
4. The Inquiry Panel concludes there is probable cause to believe this licensee'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 licensee's practice by considering certain facts about a licensee's practice. If there is proof that a licensee has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the licensee 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 licensee's practice presents representative proof of the nature of that licensee's practice in general. Accordingly, probable cause to believe that the licensee has committed certain violations in the recent past presents probable cause to believe that the licensee will commit similar violations in the near future, during the course of the licensee'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, 520 U.S. 924 (1997), 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 SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, Inquiry Panel B hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Glen D. Richards, M.D. is SUSPENDED and Dr. Richards is prohibited from performing any act which constitutes the "practice of medicine or osteopathy," 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 - until the Board's hearing panel has finally resolved the Complaint or until such further Order of the Board.

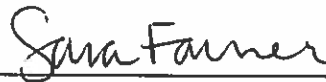
Inquiry Panel B further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 9th day of February, 2017.

RUSSELL L. TRAVIS, M.D.
CHAIR, INQUIRY PANEL B

CERTIFICATE OF SERVICE

I certify that the original of this Emergency Order of Suspension was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and a copy was mailed via certified mail return-receipt requested to the licensee, Glen D. Richards, M.D., License No. 13689, P.O. Box 3283, Louisville, Kentucky 40201-3283, on this 9th day of February, 2017.



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

FILED OF RECORD

SEP 19 2016

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1735

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, P.O. BOX 3283, LOUISVILLE, KENTUCKY 40201-3283

ORDER OF INDEFINITE RESTRICTION

At its September 15, 2016, meeting, the Kentucky Board of Medical Licensure (hereinafter "the Board"), acting by and through its Hearing Panel B, took up this case for final action. The members of Panel B reviewed the Complaint, filed of record June 20, 2016; the Hearing Officer's Recommended Order Finding Glen D. Richards, M.D. in Default and Canceling Administrative Hearing, filed of record August 24, 2016; the licensee's exceptions, filed of record August 22, 2016; and an August 25, 2016, memorandum from the Board's counsel.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS the hearing officer's recommended findings and ADOPTS those findings and INCORPORATES them BY REFERENCE into this Order; Hearing Panel B FURTHER ACCEPTS AND ADOPTS the hearing officer's Recommended Order. (Attachment) Having considered all of the sanctions available under KRS 311.595 and the nature of the violations in this case, Hearing Panel B ORDERS:

1. The license to practice medicine held by Glen D. Richards, M.D., SHALL BE RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME to begin immediately upon the date of filing of this Order of Indefinite Restriction and continuing until further order of the Board;
2. During the effective period of this Order of Indefinite Restriction, the licensee's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS

AND CONDITIONS OF RESTRICTION/LIMITATION until further order of the Board:

a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

c. Within twenty (20) days of the effective date of this Order, the licensee SHALL make all necessary arrangements to enroll in the *ProBe* Program offered through the Center for Personalized Education for Physicians (CPEP), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232, at the earliest time;

    i. The licensee SHALL complete and "unconditionally pass" the *ProBe* Program at the time and date(s) scheduled, at his expense and as directed by CPEP's staff;
    ii. The licensee SHALL provide the Board's staff with written verification that he has completed and "unconditionally passed" CPEP's *ProBe* Program, promptly after completing the program;
    iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations, reports or essays from the *ProBe* Program to the Board's Legal Department promptly after their completion;

d. 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, <u>legible</u> 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;

e. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

f. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

g. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Order;

h. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Order;

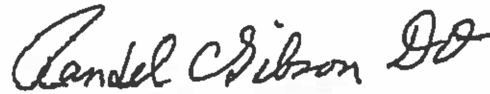
i. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

j. The licensee SHALL reimburse the costs of the investigation in the amount of $375.00 within twelve (12) months from entry this Order;

k. Pursuant to KRS 311.565(1)(v), the licensee SHALL pay a fine in the amount of one thousand ($1000.00) dollars within (12) months from entry of this Order; and

l. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

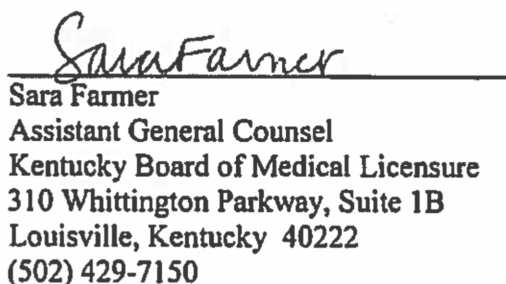
SO ORDERED on this 19th day of September, 2016.



RANDEL C. GIBSON, D.O.
ACTING CHAIR, HEARING PANEL B

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Order of Indefinite Restriction was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to Thomas J. Hellman, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601; and a copy was mailed via certified mail return-receipt requested to the licensee, Glen D. Richards, M.D., License No. 13689, P.O. Box 3283, Louisville, Kentucky 40201-3283, on this 19th day of September, 2016.



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

EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order of Indefinite Restriction is received by the licensee.

The licensee may appeal from this Order, pursuant to KRS 311.593 and 13B.140-.150, by filing a Petition for Judicial Review in Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service. Copies of the petition shall be served by the licensee upon the Board and its General Counsel or Assistant General Counsel. The Petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested, along with a copy of this Order.

FILED OF RECORD
AUG 2 4 2016
K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1735

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, P.O. BOX 3283, LOUISVILLE, KENTUCKY 40201-3283

RECOMMENDED ORDER FINDING GLEN D. RICHARDS, M.D., IN DEFAULT AND CANCELING ADMINISTRATIVE HEARING

This action is before the hearing officer on the *Motion for Default Ruling* filed by the Kentucky Board of Medical Licensure. Dr. Glen D. Richards has not file a response, and after reviewing the motion, the hearing officer finds it has substantial merit. Therefore, the hearing officer recommends the Board find Dr. Richards in default and take any appropriate action against his license. In support of that recommendation, the hearing officer states the following:

On June 20, 2016, the Board issued the *Complaint* against Dr. Richards. The Board alleged he failed to comply with the terms of the *Amended Agreed Order* dated January 3, 2013. Under the terms of the agreed order he was not permitted to engage in the practice of medicine as defined in KRS 311.550(10) "unless and until the [Board] Panel or its Chair has approved, in writing, the practice location at which he will practice medicine." *Complaint*, page 4. The Board alleged that neither the Panel nor its Chair had approved a practice location for Dr. Richards, but on April 22, 2016, a representative of Baptist Health Louisville contacted a Board investigator to report that Dr. Richards had filed an order for blood work to be performed on his mother-in-law. *Id*, page 6. The Board also alleged in the *Complaint* that during a subsequent interview by a Board investigator, Dr. Richards admitted he had refilled prescription medications for his wife. *Id.*

In response to the investigator's questions regarding Dr. Richards' continued practice of medicine, he asserted his actions were in compliance with his agreed order with the Board since he had not opened a new practice and had the right to order lab work and to write non-controlled prescriptions. *Id.*, pages 6-7.

Based upon the Board's allegations and Dr. Richards' explanation for his conduct, the Board charged him with engaging in dishonorable, unethical, or unprofessional conduct in violation of KRS 311.595(9), as illustrated by KRS 311.597(4), and with failing to comply with the terms of his agreed order with the Board in violation of KRS 311.595(13). *Id.*, page 7.

In the *Complaint* the Board placed Dr. Richards on notice that he was required to file a response within thirty days of service of the charges against him. *Id.* Attached to the *Motion for Default Ruling* is a certified mail receipt showing the *Complaint* was delivered to Dr. Richards' address of record on June 23, 2016. Therefore, under the provisions of KRS 311.591(4), he was required to file a response to the Board's charges by July 25, 2016, and when he failed to file a response, the Board filed its motion for a default ruling.

Upon the hearing officer's receipt of the motion, he issued an order directing Dr. Richards to respond to the *Complaint* and to the *Motion for Default Ruling* within ten days of the date of the hearing officer's order. *Order Requiring Filing of Response*, dated August 1, 2016. As of the date of this recommendation, he has filed nothing in response to the hearing officer's order.

Under KRS 311.591(4), a licensee's "failure to submit a timely response or willful avoidance of service may be taken by the board as an admission of the charges." Dr. Richards is in default due to his failure to file a response to the allegations in the *Complaint*, and pursuant to

KRS 311.591(4), the Board may assume he admits that the allegations against him are true. Based upon his admission of the Board's allegations, Dr. Richards is in violation of KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(13).

Because Dr. Richards is in default, the administrative hearing scheduled for September 27-28, 2016, is canceled.

RECOMMENDED ORDER

Based upon Dr. Glen D. Richard's failure to respond to the charges in the *Complaint*, the hearing officer recommends the Board find Dr. Richards in default, find that he has admitted to the allegations in the *Complaint*, and find that he has violated the provisions of KRS 311.595(9), as illustrated by KRS 311,597(4), and of KRS 311.595(13). The hearing officer further recommends the Board take any appropriate action against the license of Dr. Richards for his violation of the Board's statutes governing the practice of medicine.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4) a party has the right to file exceptions to this recommended decision:

> A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

A party also has a right to appeal the Final Order of the agency pursuant to KRS 13B.140(1) which states:

> All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue,

as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the circuit court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

SO RECOMMENDED this 18th day of August, 2016.

THOMAS J. HELLMANN
HEARING OFFICER
810 HICKMAN HILL RD
FRANKFORT KY 40601
(502) 330-7338
thellmann@mac.com

CERTIFICATE OF SERVICE

I hereby certify that the original of this RECOMMENDATION was mailed this 18th day of August, 2016, by first-class mail, postage prepaid, to:

JILL LUN
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

for filing; and a true copy was sent by first-class mail, postage prepaid, to:

GLEN D RICHARDS MD
PO BOX 3283
LOUISVILLE KY 40201-3283

SARA FARMER
ASSISTANT GENERAL COUNSEL
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

THOMAS J. HELLMANN

1735FC

FILED OF RECORD
JUN 2 0 2016
K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1735

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, P.O. BOX 3283, LOUISVILLE, KENTUCKY 40201-3283

COMPLAINT

Comes now the Complainant C. William Briscoe, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on June 16, 2016, states for its Complaint against the licensee, Glen D. Richards, M.D., as follows:

1. At all relevant times, Glen D. Richards, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain management.
3. On or about September 14, 2011, the licensee entered into an Agreed Order in case number 1345 which precluded the licensee from the prescribing, distributing, or otherwise utilizing controlled substances. The Agreed Order included a stipulation to the following facts:

   - On October 8, 2010, the Board received a grievance from Anthony J. McEldowney, M.D., reporting that, after performing peer reviews for motor vehicle accidents for the previous two years, he had continued to see what he considered dangerous prescribing practices by the licensee.

   - The Board requested a KASPER review of the licensee's prescribing practices. On January 6, 2011, the Board received a report from Paula York, R.Ph., Pharmacist Consultant, Office of Inspector General, Cabinet for Health and Family Services. Ms. York identified the following possible concerns with numerous individuals: Long-term use of one or more controlled substances; Combinations of controlled substances favored by persons who abuse or divert controlled substances; Long-term use of a controlled substance for which short-term use is generally indicated; and Individuals of younger ages obtaining high doses of narcotics.

- Ms. York identified 22 patient records that should be reviewed by a Board consultant.

- The Board obtained 16 of the licensee's patient records and provided them to a Board consultant for review. The consultant concluded, in part,

> The physician in question, Dr. Richards, managed mainly motor vehicle accident cases and occasionally a couple of other situations. The accident cases were treated with either chiropractic physicians or another pain management rehabilitation or physical therapy or psychiatry group of physicians. The indication is that the goal was to prescribe large doses of medication, especially the medications which are short acting, namely hydrocodone or oxycodone with Tylenol or acetaminophen, and this dose range was particularly large. There was no case which I review where any of the other medications were used, such as morphine, methadone, Duragesic, hydromorphone, oxymorphone or any of the other long-acting pain medications. Obviously it can be stated that he was treating only acute pain, but he was not only treating acute pain, he was treating chronic pain and he had been persisting with the treatment with large doses of short-acting medication repeated p.r.n. dosing while the prescription meant for one to two tablets every four to six to eight hours p.r.n., the patient seems to have filled all the prescriptions with the maximum number prescribed and that too without missing a beat. So, the p.r.n. prescription did not mean anything and I am not sure why someone should be prescribing a large amount of medication on a p.r.n. basis. Whether one treats chronic pain or acute pain, there has to be a baseline level of pain medication in the system and then only after the baseline is accomplished p.r.n. for breakthrough pain relief is used. At least that is the general consent. In Dr. Richards' case, all he did was almost in every case prescribe large doses of medication on a p.r.n. basis, thereby telling the patient to take as many as he wants or as many as he needs. After having prescribed it for one or two patients, it should be quite evident that the patient used all the medication which has been filled or prescribed to the maximum. If they did not use, one has to figure out where did the medicine go. Dr. Richards did not seem to have inquired that. My assumption is that the patient used every pill which was prescribed and in that case the population for which he made the prescription in fairly large, large dose of pain medication and I do not think there is any medical indication. When musculoskeletal pain from automobile accidents are compared to other forms of pain, I understand that musculoskeletal pain is hard to deal with, but adjunct drugs in addition to opioid medication would be the best way of managing it rather than large doses of opioid medications. The second point is that the acute musculoskeletal pain usually is short lived. If one can postulate that the biggest pain from an operation in the abdomen lasts only a week or less or maybe up to 10 days,

pain produced from an automobile accident should not be lasting two months, three months, four months or years at a time which requires medication prescription of this kind. The other point has already been reviewed. The total acetaminophen content in the amount of medications he prescribed in most cases are high.

It is a fact that a lot of people take acetaminophen or Tylenol on a regular basis for one reason or the other. It does not mean that they are aware of the organ toxicity of the drug, especially when there is a large dose acute exposure or large dose chronic exposure. I believe almost every physician practice in this country has seen a case or two of hepatic failure due to acetaminophen overload. Therefore, it is imperative that Dr. Richards also should be aware of this matter. The amount of exposure he subjected his patients to on the average is at least 2 grams, if not 3 grams, of Tylenol per day and maybe in some cases more, as I have stated in the case review. This is a dangerous practice and this fact had to be recognized when you prescribe compounds which contain acetaminophen in addition to the pain or opioid medication. Then again, these patients who have pain may even want to or decide to supplement their pain medications by prescription with non-prescription medication such as over-the-counter and some of these compounds contain Tylenol if they are not Tylenol in itself. Therefore, Dr. Richards has to modify his practice of pain medicine in prescribing hydrocodone which contains 500 mg of Tylenol or more with each pill. …

…Long-term use of hydrocodone or oxycodone in intermittent doses is not recommended according to my knowledge for more than a few weeks at a time. For use of these drugs for months at a time or years continually would be inappropriate in my view and in the medication literature. …

The physician has shown a certain degree of incompetence and some level of ignorance and some levels in prescribing medication without investigating the cause of the problem and without making a definitive diagnosis and without making a definitive statement of medical necessity. In the 16 cases I have reviewed, there was one case in which the patient had a liver transplant and the prescription of hydrocodone with acetaminophen started without any evidence of the physician having checked liver function or the status of the liver function, etc. Further, in other situations, and in all situation even though large doses of medications were given, there is no indication that Dr. Richards monitored the use of the medication by the patient and any definite system was in place to see that the patient utilizing all the medications occurred and whether the patient has any remaining or the patient is diverting them….No attempt has been made in any case to change the drug or even its dose. How can one justify continuing the large doses of pain medication for any given patient weeks or months after the starting of the

treatment, especially when it is said that the acute pain is what is being treated. That is where I think the combination of incompetence, ignorance and negligence, etc, occurred.

...

As stated in my review, this type of practice where a large amount of medication is delivered to the patient without monitoring for its use or monitoring its use and/or presence of abuse or misuse, constitutes a danger to the health, welfare and safety of the patients and the general public. Besides that, Dr. Richards prescribes only hydrocodone or oxycodone mainly also indicates this is a situation which should be a subject for education and reassessment......

- On May 4-6, 2011, the licensee voluntarily enrolled in and successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course through the University of South Florida, College of Medicine.

- On April 15, 2011, the licensee voluntarily enrolled in the Patient Care Documentation Seminar scheduled for September 30, 2011 by the Center for Personalized Education for Physicians (CPEP) in Louisville, Kentucky.

4. On or about January 3, 2013, the licensee entered into an Amended Agreed Order which permitted him to resume the professional utilization of controlled substances. Pursuant to the Amended Agreed Order, the licensee agreed to the following terms:

   a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

   b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or

restrictions as a condition of it granting approval for a new practice location;

c. 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;

d. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

e. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

f. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Amended Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Amended Agreed Order;

g. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Amended Agreed Order;

h. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

i. The licensee SHALL pay the costs of the investigation in the amount of $2,656.70 within twelve (12) months from entry of the original Agreed Order;

j. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

5. Further, pursuant to the Amended Agreed Order, the licensee agreed:

The licensee expressly agrees that if he should violate any term or condition of this Amended 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 Amended 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 Amended 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 Amended Agreed Order.

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

6. Neither the Panel nor its Chair has approved a practice location for the licensee.

7. On or about April 22, 2016 the Board's Medical Investigator was contacted by Julie Thoben, ARNP, with Baptist Health Louisville regarding an order for blood work filed by the licensee.

8. Ms. Thoben stated that the licensee filed an order for blood work to be performed on his mother-in-law.

9. During an interview with the Board's medical investigator, the licensee acknowledged that he ordered the blood work for his mother-in-law because she was visiting from Mexico City.

10. When asked if he wrote any prescriptions, the licensee stated that he does refill his wife's thyroid medication.

11. The licensee stated that he felt he was in compliance with his Agreed Order as he had not opened a new practice and he keeps his license for such things as this. He stated

that he felt he was totally within his rights to order labs and write non-controlled prescriptions.

12. On or about April 29, 2016, the Chair of the Board's Inquiry Panel A determined that the licensee's practices place his patients and the public at risk and in danger. As a result, the licensee was suspended from the practice of medicine in the Commonwealth of Kentucky pending resolution of this Complaint.
13. By his conduct, the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(13).
14. Accordingly, legal grounds exist for disciplinary action against his license to practice medicine in the Commonwealth of Kentucky.
15. 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.

16. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for September 27-28, 2016, 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 in the Commonwealth of Kentucky held by GLEN D. RICHARDS, M.D.

This 20th day of June, 2016.

C. William Briscoe MD

C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Complaint was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to Thomas J. Hellman, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601; and a copy was mailed via certified mail return-receipt requested to the licensee, Glen D. Richards, M.D., License No. 13689, P.O. Box 3283, Louisville, Kentucky 40201-3283, on this 20th day of June, 2016.

Sara Farmer

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

FILED OF RECORD

APR 29 2016

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1735

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, P.O. BOX 3283, LOUISVILLE, KENTUCKY 40201-3283

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure ("the Board"), acting by and through the Chair of its Inquiry Panel A, considered an Amended Agreed Order, filed January 3, 2013 and a Memorandum from Medical Investigator John Lewis, dated April 29, 2016, and having considered this information and being sufficiently advised, the Chair of Inquiry Panel A ENTERS the following EMERGENCY ORDER OF SUSPENSION, 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 him, the Chair of Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support this Emergency Order of Suspension:

1. At all relevant times, Glen D. Richards, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain management.
3. On or about September 14, 2011, the licensee entered into an Agreed Order in case number 1345 which precluded the licensee from the prescribing, distributing, or otherwise utilizing controlled substances. The Agreed Order included a stipulation to the following facts:

- On October 8, 2010, the Board received a grievance from Anthony J. McEldowney, M.D., reporting that, after performing peer reviews for motor vehicle accidents for the previous two years, he had continued to see what he considered dangerous prescribing practices by the licensee.

- The Board requested a KASPER review of the licensee's prescribing practices. On January 6, 2011, the Board received a report from Paula York, R.Ph., Pharmacist Consultant, Office of Inspector General, Cabinet for Health and Family Services. Ms. York identified the following possible concerns with numerous individuals: Long-term use of one or more controlled substances; Combinations of controlled substances favored by persons who abuse or divert controlled substances; Long-term use of a controlled substance for which short-term use is generally indicated; and Individuals of younger ages obtaining high doses of narcotics.

- Ms. York identified 22 patient records that should be reviewed by a Board consultant.

- The Board obtained 16 of the licensee's patient records and provided them to a Board consultant for review. The consultant concluded, in part,

> The physician in question, Dr. Richards, managed mainly motor vehicle accident cases and occasionally a couple of other situations. The accident cases were treated with either chiropractic physicians or another pain management rehabilitation or physical therapy or psychiatry group of physicians. The indication is that the goal was to prescribe large doses of medication, especially the medications which are short acting, namely hydrocodone or oxycodone with Tylenol or acetaminophen, and this dose range was particularly large. There was no case which I review where any of the other medications were used, such as morphine, methadone, Duragesic, hydromorphone, oxymorphone or any of the other long-acting pain medications. Obviously it can be stated that he was treating only acute pain, but he was not only treating acute pain, he was treating chronic pain and he had been persisting with the treatment with large doses of short-acting medication repeated p.r.n. dosing while the prescription meant for one to two tablets every four to six to eight hours p.r.n., the patient seems to have filled all the prescriptions with the maximum number prescribed and that too without missing a beat. So, the p.r.n. prescription did not mean anything and I am not sure why someone should be prescribing a large amount of medication on a p.r.n. basis. Whether one treats chronic pain or acute pain, there has to be a baseline level of pain medication in the system and then only after the baseline is accomplished p.r.n. for breakthrough pain relief is used. At least that is the general consent. In Dr. Richards' case, all he did was almost in every case prescribe large doses of medication on a p.r.n. basis, thereby telling the patient to take as many as he wants or as many as he needs. After

having prescribed it for one or two patients, it should be quite evident that the patient used all the medication which has been filled or prescribed to the maximum. If they did not use, one has to figure out where did the medicine go. Dr. Richards did not seem to have inquired that. My assumption is that the patient used every pill which was prescribed and in that case the population for which he made the prescription in fairly large, large dose of pain medication and I do not think there is any medical indication. When musculoskeletal pain from automobile accidents are compared to other forms of pain, I understand that musculoskeletal pain is hard to deal with, but adjunct drugs in addition to opioid medication would be the best way of managing it rather than large doses of opioid medications. The second point is that the acute musculoskeletal pain usually is short lived. If one can postulate that the biggest pain from an operation in the abdomen lasts only a week or less or maybe up to 10 days, pain produced from an automobile accident should not be lasting two months, three months, four months or years at a time which requires medication prescription of this kind. The other point has already been reviewed. The total acetaminophen content in the amount of medications he prescribed in most cases are high.

It is a fact that a lot of people take acetaminophen or Tylenol on a regular basis for one reason or the other. It does not mean that they are aware of the organ toxicity of the drug, especially when there is a large dose acute exposure or large dose chronic exposure. I believe almost every physician practice in this country has seen a case or two of hepatic failure due to acetaminophen overload. Therefore, it is imperative that Dr. Richards also should be aware of this matter. The amount of exposure he subjected his patients to on the average is at least 2 grams, if not 3 grams, of Tylenol per day and maybe in some cases more, as I have stated in the case review. This is a dangerous practice and this fact had to be recognized when you prescribe compounds which contain acetaminophen in addition to the pain or opioid medication. Then again, these patients who have pain may even want to or decide to supplement their pain medications by prescription with non-prescription medication such as over-the-counter and some of these compounds contain Tylenol if they are not Tylenol in itself. Therefore, Dr. Richards has to modify his practice of pain medicine in prescribing hydrocodone which contains 500 mg of Tylenol or more with each pill. …

…Long-term use of hydrocodone or oxycodone in intermittent doses is not recommended according to my knowledge for more than a few weeks at a time. For use of these drugs for months at a time or years continually would be inappropriate in my view and in the medication literature. …

The physician has shown a certain degree of incompetence and some level of ignorance and some levels in prescribing medication without

investigating the cause of the problem and without making a definitive diagnosis and without making a definitive statement of medical necessity. In the 16 cases I have reviewed, there was one case in which the patient had a liver transplant and the prescription of hydrocodone with acetaminophen started without any evidence of the physician having checked liver function or the status of the liver function, etc. Further, in other situations, and in all situation even though large doses of medications were given, there is no indication that Dr. Richards monitored the use of the medication by the patient and any definite system was in place to see that the patient utilizing all the medications occurred and whether the patient has any remaining or the patient is diverting them....No attempt has been made in any case to change the drug or even its dose. How can one justify continuing the large doses of pain medication for any given patient weeks or months after the starting of the treatment, especially when it is said that the acute pain is what is being treated. That is where I think the combination of incompetence, ignorance and negligence, etc, occurred.

...

As stated in my review, this type of practice where a large amount of medication is delivered to the patient without monitoring for its use or monitoring its use and/or presence of abuse or misuse, constitutes a danger to the health, welfare and safety of the patients and the general public. Besides that, Dr. Richards prescribes only hydrocodone or oxycodone mainly also indicates this is a situation which should be a subject for education and reassessment......

- On May 4-6, 2011, the licensee voluntarily enrolled in and successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course through the University of South Florida, College of Medicine.

- On April 15, 2011, the licensee voluntarily enrolled in the Patient Care Documentation Seminar scheduled for September 30, 2011 by the Center for Personalized Education for Physicians (CPEP) in Louisville, Kentucky.

4. On or about January 3, 2013, the licensee entered into an Amended Agreed Order which permitted him to resume the professional utilization of controlled substances. Pursuant to the Amended Agreed Order, the licensee agreed to the following terms:

   a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice

medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

c. 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;

d. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

e. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

f. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Amended Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Amended Agreed Order;

g. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Amended Agreed Order;

h. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

i. The licensee SHALL pay the costs of the investigation in the amount of <u>$2,656.70</u> within twelve (12) months from entry of the original Agreed Order;

j. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

5. Further, pursuant to the Amended Agreed Order, the licensee agreed:

   The licensee expressly agrees that if he should violate any term or condition of this Amended 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 Amended 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 Amended 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 Amended Agreed Order.

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

6. Neither the Panel nor its Chair has approved a practice location for the licensee.

7. On or about April 22, 2016 the Board's Medical Investigator was contacted by Julie Thoben, ARNP, with Baptist Health Louisville regarding an order for blood work filed by the licensee.

8. Ms. Thoben stated that the licensee filed an order for blood work to be performed on his mother-in-law.

9. During an interview with the Board's medical investigator, the licensee acknowledged that he ordered the blood work for his mother-in-law because she was visiting from Mexico City.
10. When asked if he wrote any prescriptions, the licensee stated that he does refill his wife's thyroid medication.
11. The licensee stated that he felt he was in compliance with his Agreed Order as he had not opened a new practice and he keeps his license for such things as this. He stated that he felt he was totally within his rights to order labs and write non-controlled prescriptions.

CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to him, the Chair of 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 Suspension:

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(4), and KRS 311.595(13).

4. 201 KAR 9:240 §1 provides,

> (1) An inquiry panel or the panel's chair, acting on behalf of the inquiry panel, may issue an emergency order restricting or suspending a physician's license to practice medicine or osteopathy within the Commonwealth of Kentucky in accordance with KRS 311.592 and 13B.125.
> (2) …
> (3) (a) An inquiry panel's chair may act on behalf of the inquiry panel and issue an emergency order restricting or suspending a physician's license to practice medicine or osteopathy within the Commonwealth of Kentucky if the panel chair determines that a basis for an emergency order as established in subsection (1) of this section exists and the circumstances of the specific case warrant emergency action prior to the next regularly scheduled meeting of the inquiry panel.

5. The Inquiry Panel Chair concludes there is probable cause to believe this licensee's practice constitutes a danger to the health, welfare and safety of his patients or the general public.

6. The Board may draw logical and reasonable inferences about a licensee's practice by considering certain facts about a licensee's practice. If there is proof that a licensee has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the licensee 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 licensee's practice presents representative proof of the nature of that licensee's practice in general. Accordingly, probable cause to believe that the licensee has committed certain violations in the recent past presents probable cause to believe that the licensee will commit similar violations in the near future, during the course of the licensee's medical practice.

7. 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, 520 U.S. 924 (1997), 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 SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Chair of Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Glen D. Richards, M.D. is SUSPENDED and Dr. Richards is prohibited from performing any act which constitutes the "practice of medicine or osteopathy," 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 - until the Board's hearing panel has finally resolved the Complaint or until such further Order of the Board.

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

SO ORDERED this 29th day of April, 2016.

C. William Briscoe MD

C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Emergency Order of Suspension was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and a copy was mailed via certified mail return-receipt requested to the licensee, Glen D. Richards, M.D., License No. 13689, P.O. Box 3283, Louisville, Kentucky 40201-3283, on this 29th day of April, 2016.

Sara Farmer

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

FILED OF RECORD
JAN - 3 2013
K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1345

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, 2019 BARINGER AVENUE, LOUISVILLE, KENTUCKY 40204

AMENDED AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, and Glen D. Richards, M.D. ("the licensee"), and, based upon the Panel's decision to permit the licensee to resume the professional utilization of controlled substances, hereby ENTER INTO the following **AMENDED AGREED ORDER**:

STIPULATIONS OF FACT

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

1. At all relevant times, Glen D. Richards, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain management.
3. On October 8, 2010, the Board received a grievance from Anthony J. McEldowney, M.D., reporting that, after performing peer reviews for motor vehicle accidents for the previous two years, he had continued to see what he considered dangerous prescribing practices by the licensee.
4. The Board requested a KASPER review of the licensee's prescribing practices. On January 6, 2011, the Board received a report from Paula York, R.Ph., Pharmacist Consultant, Office of Inspector General, Cabinet for Health and

Family Services. Ms. York identified the following possible concerns with numerous individuals:

- Long-term use of one or more controlled substances;
- Combinations of controlled substances favored by persons who abuse or divert controlled substances;
- Long-term use of a controlled substance for which short-term use is generally indicated;
- Individuals of younger ages obtaining high doses of narcotics.

Ms. York identified 22 patients records that should be reviewed by a Board consultant.

5. The Board obtained 16 of the licensee's patient records and provided them to a Board consultant for review. The consultant concluded, in part,

The physician in question, Dr. Richards, managed mainly motor vehicle accident cases and occasionally a couple of other situations. The accident cases were treated with either chiropractic physicians or another pain management rehabilitation or physical therapy or physiatry group of physicians. The indication is that the goal was to prescribe large doses of medication, especially the medications which are short acting, namely hydrocodone or oxycodone with Tylenol or acetaminophen, and this dose range was particularly large. There was no case which I review where any of the other medications were used, such as morphine, methadone, Duragesic, hydromorphone, oxymorphone or any of the other long-acting pain medications. Obviously it can be stated that he was treating only acute pain, but he was not only treating acute pain, he was treating chronic pain and he had been persisting with the treatment with large doses of short-acting medication repeated p.r.n. dosing while the prescription meant for one to two tablets every four to six to eight hours p.r.n., the patient seems to have filled all the prescriptions with the maximum number prescribed and that too without missing a beat. So, the p.r.n. prescription did not mean anything and I am not sure why someone should be prescribing a large amount of medication on a p.r.n. basis. Whether one treats chronic pain or acute pain, there has to be a baseline level of pain medication in the system and then only after the baseline is accomplished p.r.n. for breakthrough pain relief is used. At least that is the general consent. In Dr. Richards' case, all he did was almost in every case prescribe large doses of medication on a p.r.n. basis, thereby telling the patient to take as many as he wants or as many as he needs. After having prescribed it for one or two patients, it should be quite evident that the patient used all the medication which has been filled or prescribed to the maximum. If they did not use, one has to figure out where did the medicine go. Dr. Richards did not seem to have inquired that. My assumption is that the patient used every pill which was

prescribed and in that case the population for which he made the prescription in fairly large, large dose of pain medication and I do not think there is any medical indication. When musculoskeletal pain from automobile accidents are compared to other forms of pain, I understand that musculoskeletal pain is hard to deal with, but adjunct drugs in addition to opioid medication would be the best way of managing it rather than large doses of opioid medications. The second point is that the acute musculoskeletal pain usually is short lived. If one can postulate that the biggest pain from an operation in the abdomen lasts only a week or less or maybe up to 10 days, pain produced from an automobile accident should not be lasting two months, three months, four months or years at a time which requires medication prescription of this kind. The other point has already been reviewed. The total acetaminophen content in the amount of medications he prescribed in most cases are high.

It is a fact that a lot of people take acetaminophen or Tylenol on a regular basis for one reason or the other. It does not mean that they are aware of the organ toxicity of the drug, especially when there is a large dose acute exposure or large dose chronic exposure. I believe almost every physician practice in this country has seen a case or two of hepatic failure due to acetaminophen overload. Therefore, it is imperative that Dr. Richards also should be aware of this matter. The amount of exposure he subjected his patients to on the average is at least 2 grams, if not 3 grams, of Tylenol per day and maybe in some cases more, as I have stated in the case review. This is a dangerous practice and this fact had to be recognized when you prescribe compounds which contain acetaminophen in addition to the pain or opioid medication. Then again, these patients who have pain may even want to or decide to supplement their pain medications by prescription with non-prescription medication such as over-the-counter and some of these compounds contain Tylenol if they are not Tylenol in itself. Therefore, Dr. Richards has to modify his practice of pain medicine in prescribing hydrocodone which contains 500 mg of Tylenol or more with each pill. ...

...Long-term use of hydrocodone or oxycodone in intermittent doses is not recommended according to my knowledge for more than a few weeks at a time. For use of these drugs for months at a time or years continually would be inappropriate in my view and in the medication literature. ...

The physician has shown a certain degree of incompetence and some level of ignorance and some levels in prescribing medication without investigating the cause of the problem and without making a definitive diagnosis and without making a definitive statement of medical necessity. In the 16 cases I have reviewed, there was one case in which the patient had a liver transplant and the prescription of hydrocodone with acetaminophen started without any evidence of the physician having checked liver function or the status of the liver function, etc. Further, in other situations, and in all situation even though large doses of medications were given, there is no indication that Dr. Richards monitored the use of the medication by the patient and any definite system was in place to see that

the patient utilizing all the medications occurred and whether the patient has any remaining or the patient is diverting them....No attempt has been made in any case to change the drug or even its dose. How can one justify continuing the large doses of pain medication for any given patient weeks or months after the starting of the treatment, especially when it is said that the acute pain is what is being treated. That is where I think the combination of incompetence, ignorance and negligence, etc, occurred.

...

As stated in my review, this type of practice where a large amount of medication is delivered to the patient without monitoring for its use or monitoring its use and/or presence of abuse or misuse, constitutes a danger to the health, welfare and safety of the patients and the general public. Besides that, Dr. Richards prescribes only hydrocodone or oxycodone mainly also indicates this is a situation which should be a subject for education and reassessment......

6. On May 4-6, 2011, the licensee voluntarily enrolled in and successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course (21.25) CME hours) through the University of South Florida, College of Medicine.

7. On April 15, 2011, the licensee voluntarily enrolled in the Patient Care Documentation Seminar scheduled for September 30, 2011 by the Center for Personalized Education for Physicians (CPEP) in Louisville, KY.

8. Through his counsel, the licensee addressed some of the criticisms by the Board's consultant, in the following manner:

    a. KASPER: The clinic utilizes KASPER reports for initiating treatment and to ensure compliance with Drug Contracts....For the period of April 2010 through April 2011, the clinic requested 5,071 reports.
    b. Controlled Substance contract: The Consultant did not criticize this aspect but we wanted to point out that contracts are utilized and enforced. (ie. Patient N.P. who was terminated for non-compliance with contract after review of KASPER)
    c. Urine Drug Screens (UDS): UDS are utilized consistent with the controlled substance contract and the KBML opinion on *Use of Controlled Substances in Pain Treatment.* UDS are requested when there is suspicion of misuse of medication based upon KASPER review or other circumstances. Dr. Richards and the APRNs are implementing UDS

randomly, however, the challenge is balancing the necessity for monitoring of appropriate use with the financial ability of the patient.

d. Use of short-acting medications: Because the majority of their patients do not have insurance, and due to the expense of long-acting opioids, the clinic's patients are unable to afford the long-acting forms of medications. Thus, the less expensive short acting medications are prescribed.
e. Acetaminophen: The patients' acetaminophen doses are monitored to avoid crossing the 4000 mg daily limit. Many references by the Consultant involved patients not exceeding the recommended maximum daily dose.

9. The licensee provided the Board with a report by an expert pain consultant, James Patrick Murphy, M.D., for its consideration. In his report, Dr. Murphy opines, in part,

> "the minimum documentation requirements are present....and Dr. Richards practice does not appear to stray beyond the bounds of acceptable medical practice.
> ...
> I recommend the practice continue adhering to a universal precautions approach when monitoring for compliance, perform frequent (and at times random) urine drug screens, make attempts to wean drug dosages, and incorporate attempts to treat the root cause of the pain into the plan of care with the requisite documentation...Since the majority of the patients are self-pay, a high level of scrutiny must accompany the prescribing process.

10. The licensee completed the Patient Documentation Seminar provided by the Center for Personalized Education for Physicians (CPEP) on September 30, 2011.

11. The licensee completed the Prescribing Controlled Drugs program provided by the University of Florida College of Medicine during May 4-6, 2011.

12. The licensee appeared at the Panel's May 2012 meeting to request that he be permitted to resume the professional utilization of controlled substances. The Panel deferred action upon that request until its August 16, 2012 meeting.

STIPULATED CONCLUSIONS OF LAW

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

1. The licensee's medical license is subject to regulation and discipline by the Board.
2. While the licensee denies engaging in any unprofessional or illegal conduct, he agrees that, based upon the information provided to them, the Panel could conclude that he has violated the provisions of KRS 311.595(9), as illustrated by KS 311.597(1), (3) and (4). Accordingly, there are legal grounds for the parties to enter into this Amended Agreed Order.
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 Amended Agreed Order.

AMENDED AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon the Panel's decision to permit the licensee to resume the professional utilization of controlled substances, the parties hereby ENTER INTO the following **AMENDED AGREED ORDER:**

1. The license to practice medicine within the Commonwealth of Kentucky held by Glen D. Richards, M.D., SHALL BE SUBJECT to this Amended Agreed Order through the remainder of the original five (5) year period, ending on September 14, 2016.

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

    a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

    b. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

c. 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;

d. The licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;

e. The licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant;

f. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Amended Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Amended Agreed Order;

g. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Amended Agreed Order;

h. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

i. The licensee SHALL pay the costs of the investigation in the amount of $2,656.70 within twelve (12) months from entry of the original Agreed Order;

j. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

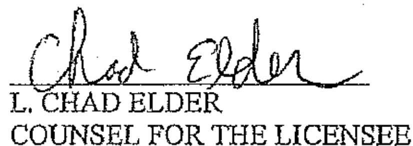
3. The licensee expressly agrees that if he should violate any term or condition of this Amended Agreed Order, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should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

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

SO AGREED on this 6th day of Dec, 2012.

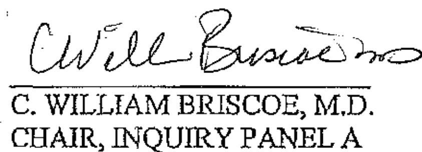
FOR THE LICENSEE:

GLEN D. RICHARDS, M.D.

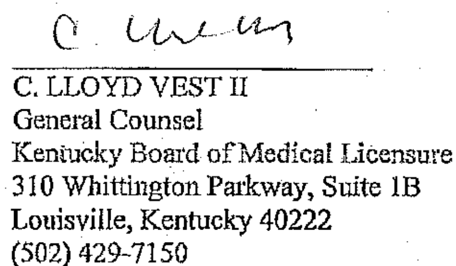


L. CHAD ELDER
COUNSEL FOR THE LICENSEE

FOR THE BOARD:



C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY PANEL A



C. LLOYD VEST II
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150

FILED OF RECORD
SEP 14 2011
K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1345

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY GLEN D. RICHARDS, M.D., LICENSE NO. 13689, 2019 BARINGER AVENUE, LOUISVILLE, KENTUCKY 40204

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, and Glen D. Richards, M.D. ("the licensee"), and, based upon their mutual desire to fully and finally resolve this pending grievance 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, Glen D. Richards, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain management.
3. On October 8, 2010, the Board received a grievance from Anthony J. McEldowney, M.D., reporting that, after performing peer reviews for motor vehicle accidents for the previous two years, he had continued to see what he considered dangerous prescribing practices by the licensee.
4. The Board requested a KASPER review of the licensee's prescribing practices. On January 6, 2011, the Board received a report from Paula York, R.Ph., Pharmacist Consultant, Office of Inspector General, Cabinet for Health and

Family Services. Ms. York identified the following possible concerns with numerous individuals:

- Long-term use of one or more controlled substances;
- Combinations of controlled substances favored by persons who abuse or divert controlled substances;
- Long-term use of a controlled substance for which short-term use is generally indicated;
- Individuals of younger ages obtaining high doses of narcotics.

Ms. York identified 22 patients records that should be reviewed by a Board consultant.

5. The Board obtained 16 of the licensee's patient records and provided them to a Board consultant for review. The consultant concluded, in part,

The physician in question, Dr. Richards, managed mainly motor vehicle accident cases and occasionally a couple of other situations. The accident cases were treated with either chiropractic physicians or another pain management rehabilitation or physical therapy or physiatry group of physicians. The indication is that the goal was to prescribe large doses of medication, especially the medications which are short acting, namely hydrocodone or oxycodone with Tylenol or acetaminophen, and this dose range was particularly large. There was no case which I review where any of the other medications were used, such as morphine, methadone, Duragesic, hydromorphone, oxymorphone or any of the other long-acting pain medications. Obviously it can be stated that he was treating only acute pain, but he was not only treating acute pain, he was treating chronic pain and he had been persisting with the treatment with large doses of short-acting medication repeated p.r.n. dosing while the prescription meant for one to two tablets every four to six to eight hours p.r.n., the patient seems to have filled all the prescriptions with the maximum number prescribed and that too without missing a beat. So, the p.r.n. prescription did not mean anything and I am not sure why someone should be prescribing a large amount of medication on a p.r.n. basis. Whether one treats chronic pain or acute pain, there has to be a baseline level of pain medication in the system and then only after the baseline is accomplished p.r.n. for breakthrough pain relief is used. At least that is the general consent. In Dr. Richards' case, all he did was almost in every case prescribe large doses of medication on a p.r.n. basis, thereby telling the patient to take as many as he wants or as many as he needs. After having prescribed it for one or two patients, it should be quite evident that the patient used all the medication which has been filled or prescribed to the maximum. If they did not use, one has to figure out where did the medicine go. Dr. Richards did not seem to have inquired that. My assumption is that the patient used every pill which was

prescribed and in that case the population for which he made the prescription in fairly large, large dose of pain medication and I do not think there is any medical indication. When musculoskeletal pain from automobile accidents are compared to other forms of pain, I understand that musculoskeletal pain is hard to deal with, but adjunct drugs in addition to opioid medication would be the best way of managing it rather than large doses of opioid medications. The second point is that the acute musculoskeletal pain usually is short lived. If one can postulate that the biggest pain from an operation in the abdomen lasts only a week or less or maybe up to 10 days, pain produced from an automobile accident should not be lasting two months, three months, four months or years at a time which requires medication prescription of this kind. The other point has already been reviewed. The total acetaminophen content in the amount of medications he prescribed in most cases are high.

It is a fact that a lot of people take acetaminophen or Tylenol on a regular basis for one reason or the other. It does not mean that they are aware of the organ toxicity of the drug, especially when there is a large dose acute exposure or large dose chronic exposure. I believe almost every physician practice in this country has seen a case or two of hepatic failure due to acetaminophen overload. Therefore, it is imperative that Dr. Richards also should be aware of this matter. The amount of exposure he subjected his patients to on the average is at least 2 grams, if not 3 grams, of Tylenol per day and maybe in some cases more, as I have stated in the case review. This is a dangerous practice and this fact had to be recognized when you prescribe compounds which contain acetaminophen in addition to the pain or opioid medication. Then again, these patients who have pain may even want to or decide to supplement their pain medications by prescription with non-prescription medication such as over-the-counter and some of these compounds contain Tylenol if they are not Tylenol in itself. Therefore, Dr. Richards has to modify his practice of pain medicine in prescribing hydrocodone which contains 500 mg of Tylenol or more with each pill. ...

...Long-term use of hydrocodone or oxycodone in intermittent doses is not recommended according to my knowledge for more than a few weeks at a time. For use of these drugs for months at a time or years continually would be inappropriate in my view and in the medication literature. ...

The physician has shown a certain degree of incompetence and some level of ignorance and some levels in prescribing medication without investigating the cause of the problem and without making a definitive diagnosis and without making a definitive statement of medical necessity. In the 16 cases I have reviewed, there was one case in which the patient had a liver transplant and the prescription of hydrocodone with acetaminophen started without any evidence of the physician having checked liver function or the status of the liver function, etc. Further, in other situations, and in all situation even though large doses of medications were given, there is no indication that Dr. Richards monitored the use of the medication by the patient and any definite system was in place to see that

the patient utilizing all the medications occurred and whether the patient has any remaining or the patient is diverting them....No attempt has been made in any case to change the drug or even its dose. How can one justify continuing the large doses of pain medication for any given patient weeks or months after the starting of the treatment, especially when it is said that the acute pain is what is being treated. That is where I think the combination of incompetence, ignorance and negligence, etc, occurred.

...

As stated in my review, this type of practice where a large amount of medication is delivered to the patient without monitoring for its use or monitoring its use and/or presence of abuse or misuse, constitutes a danger to the health, welfare and safety of the patients and the general public. Besides that, Dr. Richards prescribes only hydrocodone or oxycodone mainly also indicates this is a situation which should be a subject for education and reassessment......

6. On May 4-6, 2011, the licensee voluntarily enrolled in and successfully completed the *Prescribing Controlled Drugs: Critical Issues and Common Pitfalls* course (21.25) CME hours) through the University of South Florida, College of Medicine.

7. On April 15, 2011, the licensee voluntarily enrolled in the Patient Care Documentation Seminar scheduled for September 30, 2011 by the Center for Personalized Education for Physicians (CPEP) in Louisville, KY.

8. Through his counsel, the licensee addressed some of the criticisms by the Board's consultant, in the following manner:

    a. KASPER: The clinic utilizes KASPER reports for initiating treatment and to ensure compliance with Drug Contracts....For the period of April 2010 through April 2011, the clinic requested 5,071 reports.
    b. Controlled Substance contract: The Consultant did not criticize this aspect but we wanted to point out that contracts are utilized and enforced. (ie. Patient N.P. who was terminated for non-compliance with contract after review of KASPER)
    c. Urine Drug Screens (UDS): UDS are utilized consistent with the controlled substance contract and the KBML opinion on *Use of Controlled Substances in Pain Treatment.* UDS are requested when there is suspicion of misuse of medication based upon KASPER review or other circumstances. Dr. Richards and the APRNs are implementing UDS

randomly, however, the challenge is balancing the necessity for monitoring of appropriate use with the financial ability of the patient.

d. Use of short-acting medications: Because the majority of their patients do not have insurance, and due to the expense of long-acting opioids, the clinic's patients are unable to afford the long-acting forms of medications. Thus, the less expensive short acting medications are prescribed.
e. Acetaminophen: The patients' acetaminophen doses are monitored to avoid crossing the 4000 mg daily limit. Many references by the Consultant involved patients not exceeding the recommended maximum daily dose.

9. The licensee provided the Board with a report by an expert pain consultant, James Patrick Murphy, M.D., for its consideration. In his report, Dr. Murphy opines, in part,

   "the minimum documentation requirements are present….and Dr. Richards practice does not appear to stray beyond the bounds of acceptable medical practice.
   …
   I recommend the practice continue adhering to a universal precautions approach when monitoring for compliance, perform frequent (and at times random) urine drug screens, make attempts to wean drug dosages, and incorporate attempts to treat the root cause of the pain into the plan of care with the requisite documentation…Since the majority of the patients are self-pay, a high level of scrutiny must accompany the prescribing process.

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 engaging in any unprofessional or illegal conduct, he agrees that, based upon the information provided to them, the Panel could conclude that he has violated the provisions of KRS 311.595(9), as illustrated by

KS 311.597(1), (3) and (4). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.

3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending grievance 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 grievance 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 Glen D. Richards, 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 NOT prescribe, dispense, or otherwise utilize controlled substances unless and until approved to do so by the Panel;
    b. The Panel will not consider a request by the licensee to resume the professional utilization of controlled substances prior to its regularly scheduled meeting in February 2012 and only after the licensee has successfully completed the Documentation Seminar presented by the Center for Personalized Education for Physicians (CPEP), at his expense;

c. If the Panel should grant the licensee's request to resume the professional utilization of controlled substances, it will do so by an Amended Agreed Order, which shall include the following conditions, at a minimum:

    1) the licensee shall maintain a "controlled substances log" for all controlled substances prescribed, dispensed or otherwise utilized;
    2) the licensee shall successfully complete the CPEP Documentation Personalized Implementation Program (PIP), at his expense;
    3) the licensee shall permit the Board's agents to obtain his controlled substances log and relevant records for review by a Board consultant, at his expense; and,
    4) any other conditions deemed necessary by the Panel at that time;

d. The licensee SHALL NOT enter into and/or maintain a collaborative agreement with any Advanced Registered Nurse Practitioner;

e. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location

lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety.

f. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location.

g. The Panel has approved the licensee to continue to engage in his solo practice at 1126 S. Third Street and at 1300 S. Fourth Street, Louisville, Kentucky, under the following additional conditions:

I. The licensee SHALL MAINTAIN a "controlled substances referral log" for any patients whom he refers to another health care provider to obtain a controlled substance prescription, which SHALL include the following information for any/all controlled substance referrals: the patient's name; the date of treatment; the patient's presenting complaint on that date; the controlled substances prescription(s) recommended by the licensee; and, the name and address of the health care provider to whom

the licensee referred the patient for a controlled substance prescription(s); and,

II. The licensee SHALL provide the Board's agents a copy of the "controlled substances referral log" and any relevant patient records, upon request, for review by a Board consultant.

h. The licensee SHALL pay the costs of the investigation in the amount of $2,656.70 within twelve (12) months from entry of this Agreed Order;

i. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

3. 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 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

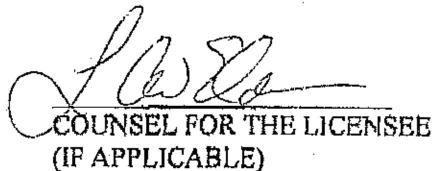
conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order.

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 8 day of Sept, 2011.

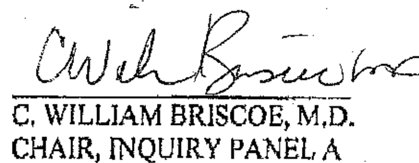
FOR THE LICENSEE:

GLEN D. RICHARDS, M.D.

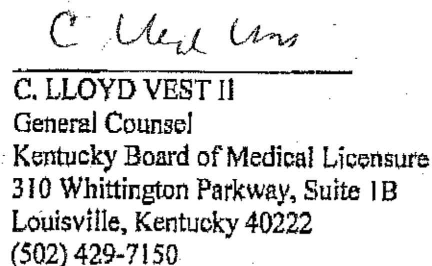


COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY PANEL A



C. LLOYD VEST II
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150