FILED OF RECORD
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K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1645

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MICHAEL D. PERKINS, M.D., LICENSE NO. 19098, 65 CENTER AVENUE, P.O. BOX 129, WHITLEY CITY, KENTUCKY 42653

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, and MICHAEL D. PERKINS, M.D., (hereafter "the licensee"), and, based upon their mutual desire to fully and finally resolve this pending complaint without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER:**

STIPULATIONS OF FACT

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

1. At all relevant times, Michael D. Perkins, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Family Medicine.
3. On February 13, 1995, the licensee entered into an Agreed Order of Suspension/Probation in Case No. 546 as a result of action taken by the Tennessee Board of Medical Examiners wherein the licensee was disciplined for "practicing medicine in an impaired condition, ...abused his prescribing privileges...and had been a danger to patients and to himself."
4. On December 8, 1999, the licensee entered into an Agreed Order of Probation to resolve a pending Complaint in Case No. 717 as a result of his non-compliance

with the Agreed Order in Case No. 546 and as a result of improper prescribing practices with controlled substances.

5. On September 15, 2000, the Agreed Order of Probation was amended by an Order Amending Agreed Order of Probation.

6. On January 26, 2001, the Order Amending Agreed Order of Probation was amended to a Second Amended Agreed Order of Probation, which required the licensee to submit to a chemical dependency evaluation as arranged by the Kentucky Physicians Health Foundation ("the Foundation"), submit to any treatment recommendations, and maintain a contractual relationship with the Foundation.

7. On or about March 18, 2003, the licensee entered into an Agreed Order of Probation in Case No. 888 as a result of non-compliance with his contract with the Foundation.

8. On or about July 1, 2014, Whitley County Coroner, Andy Croley, reported to the Board that he had worked four overdose deaths in the past twelve months that were patients of the licensee. Coroner Croley also reported that several people had told him that patients travel to see the licensee because he will write controlled substances easily.

9. On July 7, 2014, the Board requested a review of the licensee's prescribing practices by the Drug Enforcement and Professional Practices Branch of the Office of Inspector General.

10. On or about June 12, 2014, Chris Johnson, an Investigator with the Office of Inspector General, Division of Audits and Investigations ("OIG"), reviewed and

analyzed the licensee's KASPER records (dated July 5, 2013 until July 5, 2014) and noted several concerns, including:

- Patient age;
- Addictive drug combinations;
- Distance traveled; and
- Patients with similar last names

Mr. Johnson identified fifteen (15) of the licensee's patients for further investigation by the Board.

11. The licensee responded in writing, in which he described his practice and treatment of patients with controlled substances.

12. A Board consultant reviewed fifteen (15) of the licensee's patient charts and found that the licensee departed from or failed to conform to acceptable and prevailing medical practices in regard to diagnosis in one (1) chart, in regard to treatment in nine (9) charts, and in regard to record keeping in nine (9) charts. The Board consultant stated in part,

> ...it is my opinion that Dr. Perkin's current practice is below the minimum standards for the following reasons: poor documentation with the majority of charts, not having signed pain contracts. Charts with no documentation of controlled substances which were given on multiple occasions. One episode of what appeared to be cloned office notes with wrong medications listed. Patients were treated with addictive drug combinations. The majority of these patients were on opiates, and Xanax, the most abused benzodiazepines in its class. There was one episode of 2 short acting opiates being used together in large numbers. Patients of young age were given addictive drug combinations without any trial or non-narcotic or non-addictive treatments documented. His prescribing patterns seem to include addictive drug combinations frequently.

The Board consultant's report is attached and incorporated herein in its entirety.

13. On January 29, 2015, the licensee responded in writing to the Board consultant's report. The licensee stated, in part,

> Among other issues, this review emphasized the importance of thorough and complete documentation in patient's records currently in use at this practice. I would like to report that in several instances, other treatments had been attempted when I saw these patients at previous practices, or pain medication agreements had been signed but not placed in the chart. As such, in addition to continually striving to provide better patient care, I will be more vigilant with documentation of that care.

14. On March 19, 2015, the Board's Inquiry Panel B reviewed the investigation. The licensee was given notice of the meeting but did not appear.

STIPULATED CONCLUSIONS OF LAW

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

1. The licensee's Kentucky 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). 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 investigation without an evidentiary hearing by entering into an informal resolution such as this Agreed Order.

AGREED ORDER

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

1. The license to practice medicine in the Commonwealth of Kentucky held by MICHAEL D. PERKINS, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Order;

2. During the effective period of this Agreed Order, the licensee's 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 prescribe, dispense, or otherwise professionally utilize controlled substances unless and until approved to do so by the Panel;

    b. Within six (6) months of the filing of this Agreed Order, the licensee SHALL successfully complete the "Prescribing Controlled Drugs" course at The Center for Professional Health at Vanderbilt University Health Center, Nashville, Tennessee, Tel. (615) 936-0678 or the University of Florida, Gainesville, Florida , Tel. (352) 265-5300, at his expense;

    c. Within twenty (20) days of the filing of this Agreed Order, the licensee SHALL contact 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, to schedule a clinical skills assessment for the earliest dates available to both CPEP and the licensee;

        i. Both parties may provide relevant information to CPEP for consideration as part of the clinical skills assessment. In order to permit the Board to provide such relevant information, the licensee SHALL immediately notify the Board's Legal Department of the assessment dates once the assessment is scheduled;

        ii. The licensee SHALL travel to CPEP and complete the assessment as scheduled, at his expense;

        iii. The licensee expressly understands and agrees that CPEP will issue its final Assessment Report, in accordance with its internal policies;

iv. 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 the Assessment Report to the Board's Legal Department promptly after its completion;

v. If the Assessment Report recommends development of an Educational Plan, the licensee SHALL take all necessary steps to arrange for CPEP to immediately develop such a plan, at the licensee's expense, so that the proposed Educational Plan may be presented to the Panel for review along with the Assessment Report;

vi. The licensee expressly understands and agrees that if the CPEP Assessment Report recommends that the licensee retrain in a residency or residency-like setting, the licensee SHALL NOT perform any act which would constitute the "practice of medicine or osteopathy," 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 approved to do so by the Panel;

vii. If the CPEP Assessment Report recommends that the licensee retrain in a residency or residency-like setting, the Panel shall neither modify nor terminate this Agreed Order unless and until he completes a residency or residency-like program and obtains a CPEP clinical skills assessment demonstrating that he is competent to engage in the "practice of medicine or osteopathy" without additional education;

d. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the costs of the investigation in the amount of $4,625.00 within six (6) months from the date of entry of this Agreed Order; and

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

3. The licensee expressly understands and agrees that the Panel will not consider a request to resume the professional utilization of controlled substances unless and until he successfully completes the prescribing course and has ensured that CPEP has provided copies of its assessment and education plan, if so recommended, to the Panel for review.

4. The licensee expressly understands and agrees that if the Panel should grant the licensee's request to resume the prescribing, dispensing or professional utilization of controlled substances in the future, it will do so by an Amended Agreed Order, which shall at least require that:

    a. The licensee successfully complete the CPEP Educational Plan, if such a plan is recommended and developed, at his expense and as directed by CPEP;

    b. The licensee maintain a "controlled substances log" for all controlled substances prescribed, dispensed or otherwise utilized and shall provide for at least two (2) favorable consultant reviews of the log and relevant records by Board agents before the order may be terminated;

    c. The licensee fully comply with the provisions of 201 KAR 9:260, Professional Standards for Prescribing or Dispensing Controlled Substances and the professional standards applicable to the licensee's specialty; and

    d. Any other conditions deemed necessary by the Panel or Panel Chair at that time.

5. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order, the licensee's practice shall constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive information that he has violated any term or condition of this Agreed Order, the Panel Chair is authorized by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of any term or condition of this Agreed Order would render the licensee's practice an immediate danger to the health,

welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order.

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

SO AGREED on this 3rd day of July, 2015.

FOR THE LICENSEE:

MICHAEL B. PERKINS, M.D.

JESSICA BURKE
COUNSEL FOR THE LICENSEE

FOR THE BOARD:

C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY 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, Michael D. Perkins, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 1645. I understand that, under 201 KAR 9:082, I must waive certain rights if I wish to resolve this matter by informal dispensation. Accordingly, I WAIVE my right to raise any constitutional, statutory or common law objection(s) I may have to the Hearing Panel rejecting the proposed informal dispensation or to the curtailment of such a settlement by the Board's General Counsel or Assistant General Counsel.

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

Executed this 3rd day of July 2015.

MICHAEL D. PERKINS, M.D.
Respondent

JESSICA BURKE
Counsel for Respondent

Barton, Watts, & Perry, P.S.C. Dr. John Watts Dr. Truman Perry Dr. Kelvin Perry

121 Bishop Street, Corbin, Ky 40701 Phone 606-528-2124 Fax 606-528-8272

November 21, 2014

Re: Michael Perkins, M.D.

To: Kentucky Board of Medical Licensure

The following letter is a narrative summary of the consultation on Michael Perkins, M.D. that I performed. I was sent 15 charts to review as well as KASPER reports and also a letter from Dr. Perkins. After reviewing all of these documents as well as the 15 charts in their entirety and the KASPER reports, the following are my findings.

Patient #1: [redacted]

Diagnosis: Generalized Anxiety Disorder, Depression, LBP/DJD, Hepatitis B
Treatment dates reviewed: 6-7-12 thru 6-20-14
Medication: Lortab 10mg q4h prn, #120 per month, changed to Lortab 10mg tid, #90 per month on 1-24-13, changed to Lortab 10mg bid, #60 per month on 7-29-13, changed to Oxycodone 10mg bid, #60 per month on 11-20-13, Xanax 0.5mg tid, #90 per month, changed to Xanax 1mg bid, #60 per month on 12-14-13

The diagnosis, treatment, and records were all within minimum standards. Overall, this case was clearly within minimum standards.

Patient #2: [redacted]

Diagnosis: Laryngeal Cancer, Lung Cancer, COPD, Coronary Artery Disease
Treatment dates reviewed: 5-31-12 thru 4-4-14
Medication: Xanax 0.5mg tid, #90 per month, changed to Valium 10mg bid, #60 per month on 2-4-13, Neurontin 800mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 2-4-14, Halcion 0.25mg 1-2qhs, #60 per month, d/c'd 2-4-13, Oxycodone 30mg qid, #120 per month, changed to Oxycodone 30mg tid, #90 per month on 12-5-13, Percocet 10/325 tid, #90 per month

The diagnosis was within minimum standards, treatment was below minimum standards, records were below minimum standards; overall this case was clearly below minimum standards for the following reasons: the patient had addictive drug combinations used, he had a combination of 2 short acting narcotics, Percocet and Oxycodone for a total pill count of 180-210 per month, there was no signed pain contract on the chart. There is no gross ignorance, gross negligence, or gross incompetence and this can be addressed in an orderly process.

Patient #3 [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder
Treatment dates reviewed: he only had 3 visits
Medication: Xanax 1mg bid, #60 per month, Percocet 10/650 bid, #60 per month, Hydrocodone 10/325 bid, 360 per month, Neurontin 400mg qid, #120 per month, changed to Neurontin 800mg, qid, #120 per month on 5/30/14, Floricet bid, #60 per month

The diagnosis was within minimum standards, treatment was below minimum standards, and records were ~~within~~ (barely) minimum standards; this case was clearly ~~within~~ (below) minimum standards for the following reasons: controlled medications were given monthly without documentation in chart, there were no office records documenting visits or medication given, only 3 visits were documented yet controlled substances were given for greater than 1 year, there was no signed pain contract in the chart, there was no gross ignorance, negligence, or incompetence and this can be addressed in an orderly process.

Patient #4: [redacted]

Diagnosis: LBP/DJD, Panic Disorder, Headaches, Diabetes Mellitus II, Peripheral Neuropathy
Treatment dates reviewed: 2-4-13 thru 4-8-14
Medication: Neurontin 800mg qid, #120 per month, Xanax 1mg bid, #60 per month, Phendimetrazine 35mg tid, #90 per month, Bupap 50mg tid, #90 per month, Percocet 10/650 bid/tid, #70 per month, changed to Lorcet 10mg tid, #90 per month on 4/12/13, changed to Tylenol #3 bid, #60 per month on 2/24/14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards for the following reasons: no office notes from 4/12/13 to 2/7/14, the patient filled controlled substances monthly as stated, with no documentation. There was no signed pain contract in the chart, there was no gross negligence, incompetence, or ignorance. This may be addressed in an orderly process.

Patient #5: [redacted]

Diagnosis: Generalized Anxiety Disorder, Knee DJD/OA, Hypertension, T12 fracture, LBP/DJD, Diabetes Mellitus II, Peripheral Neuropathy
Treatment dates reviewed: 2-5-13 thru 5-27-14
Medication: Neurontin 600mg tid, #90 per month, Xanax 1mg tid, #90 per month, Lorcet 10mg tid, #90 per month, changed to Lorcet 10mg bid, #60 per month on 10-4-13

The diagnosis was within minimum standards, the treatment was within minimum standards; the records were below minimum standards. This was a borderline case for the following reasons: there was no signed pain contract in the chart, he had addictive drug combinations used, there was no gross ignorance, negligence or incompetence and this may be addressed in an orderly fashion.

Patient #6: [redacted]

Diagnosis: Right hip DJD/OA, Depression, Generalized Anxiety Disorder, Right hip wound infection status post multiple debridements
Treatment dates reviewed: 10-31-12 thru 6-27-14
Medication: Soma 350mg bid, #60 per month, Xanax 1mg tid, #90 per month changed to Xanax 1mg bid,

#60 per month on 4-1-13, Neurontin 400mg tid, #90 per month, Lorcet 10mg qid, #120 per month, changed to Lorcet 10mg tid, #90 per month on 4-1-13

The diagnosis was within minimum standards, the treatment was within minimum standards, the records were below minimum standards; overall this was a borderline case for the following reasons: no signed pain contract in the chart, addictive drug combinations of opiates, Xanax, and Soma. There was no gross negligence, ignorance, or incompetence and this can be handled in an orderly process.

Patient #7 [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Neuropathy| Hypertension
Treatment dates reviewed: 8-23-12 thru 4-4-14
Medication: Xanax 0.5mg qid, #120 per month, changed to Xanax 0.5mg tid, #90 per month on 10-24-12, changed to Xanax 1mg bid, #60 per month on 4-4-13, Neurontin 300mg tid, #90 per month, changed to Neurontin 600mg tid, #90 per month on 4-11-14, Hydrocodone 7.5/325 tid, #90 per month, changed to Tylenol #3 bid, #60 per month on 4-11-14

The diagnosis was within minimum standards, the treatment was within minimum standards, the records were below minimum standards. This was a borderline case for the following reasons: there was no signed pain contract in the chart, there was cloned notes on the following dates with wrong medications listed: Klonopin instead of Xanax, 8-23-12, 9-19-12, and 10-24-12. There was no gross ignorance, gross negligence, or gross incompetence and this may be addressed in an orderly process.

Patient #8: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Headaches
Treatment dates reviewed: 3-31-14 thru 6-27-14
Medication: Floricet qid, #120 per month, Neurontin 800mg qid, #120 per month, Xanax 1mg bid, #60 per month, Percocet 10/325 bid, #60 per month

The diagnosis was below minimum standards, the treatment was below minimum standards, and records were below minimum standards. Overall this case was clearly below minimum standards for the following reasons: patient had a positive urine drug screen on 3-31-14 for Benzodiazepine, Opiates, Barbiturates, and Oxycodone and was still prescribed controlled medications. The patient was given Tylenol 3 and Xanax on 3-31-14 and not documented in the chart, given 60 Xanax 1mg tablets on 4-28-14 and again on 5-30-14, no signed pain contract in chart, addictive drug combinations; Neurontin, Percocet, Xanax, per documentation for pain medication, no MRI, no X-ray, no physical therapy, young age for addictive age combinations. There was no gross negligence, incompetence or ignorance, and this may be addressed in an orderly process.

Patient #9: [redacted]

Diagnosis: Hypertension, LBP/DJD, Generalized Anxiety Disorder, Cervical DJD/OA, Headaches
Treatment dates reviewed: 9-21-12 thru 5-23-14
Medication: Neurontin 800mg tid, #90 per month, Floricet bid, #60 per month, Xanax 1mg bid, #60 per month, Lorcet 10mg bid, #45 per month, changed to Lorcet 10mg bid, #60 per month on 4-9-13, changed to Percocet 10/325 bid, #60 per month on 3-24-14

The diagnosis, treatment and records were within minimum standards. This case was clearly within minimum standards.

Patient #10: [redacted]

Diagnosis: LBP/DJD, Headaches, Generalized Anxiety Disorder
Treatment dates reviewed: 3-11-13 thru 7-10-14
Medication: Neurontin 600mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 6-13-14, Floricet bid, #60 per month, Xanax 1mg bid, #60 per month, Lortab 10/500 bid, #60 per month, changed to Lortab 10/325 bid, #60 per month on 1-16-14, changed to Percocet 10/325 bid, #60 per month on 3-13-14

The diagnosis, treatment and records were within minimum standards; overall this case was clearly within minimum standards.

Patient #11: [redacted]

Diagnosis: LBP/DJD, Cervical DJD, Hip DJD, Generalized Anxiety Disorder, Hypertension, Chest Pain
Treatment dates reviewed: 10-22-13 thru 7-16-14
Medication: Valium 5mg bid, #60 per month, Neurontin 800mg qid, #120 per month, Soma 350mg bid, #60 per month, Lorcet 10/325 bid, #60 per month, changed to Tylenol 3 bid, #60 per month on 2-8-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards. This was a borderline case, for the following reasons: addictive drug combinations with Valium, Soma, and opiates, and no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #12: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Headaches, Scoliosis
Treatment dates reviewed: 10-26-11 thru 5-27-14
Medication: Librium 25mg bid, #60 per month, changed to Xanax 0.5mg bid, #60 per month on 4-4-13, changed to Xanax 1mg bid, #60 per month on 6-3-13, Bupap 50mg bid, #60 per month, Lortab 5mg bid, #60 per month, changed to Lortab 7.5mg bid, #60 per month on 6-3-13, changed to Lortab 10mg bid, #60 per month on 7-30-13, changed to Hydrocodone 10/325 bid, #60 per month on 6-19-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards. This case was clearly below minimum standards for the following reasons: young age for addictive drug combinations, addictive drug combinations with Xanax, and opiates, no MRI, no trial of physical therapy prior to starting narcotic pain medications. There was no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #13: [redacted]

Diagnosis: LBP/DJD
Treatment dates reviewed: 8-3-13 thru 4-10-14
Medication: Floricet qid, #120 per month, Neurontin 800mg tid, #90 per month, Xanax 1mg bid, #60 per month, Lorcet 10mg bid, #60 per month, changed to Tramadol 50mg tid, #90 per month on 2-10-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: no diagnostic tests for lower back pain, such as MRI or X-rays, young age for addictive drug combinations, no trial of NSAID's, non-addictive anxiety medications, and addictive drug combinations. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #14: [redacted]

Diagnosis: LBP/DJD, Spina Bifida, Hydrocephalus, Generalized Anxiety Disorder, Headaches
Treatment dates reviewed: 2-16-12 thru 5-8-14
Medication: Lortab 5mg bid, #60 per month, changed to Lortab 7.5mg bid, #60 per month on 2-15-13, changed to Lortab 10mg bid, #60 per month on 6-3-13, changed to Hydrocodone 10/325 bid, #60 per month on 1-24-14, changed to Tylenol 3 bid, #60 per month on 3-24-14, Valium 10mg bid, #60 per month, changed to Xanax 1mg bid, #60 per month on 4-30-13

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: young age for addictive drug combinations, no trial for non-addictive drug for pain or anxiety, and no signed pain contract in the chart. There was no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #15: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder
Treatment dates reviewed: 2-18-13 thru 6-26-14
Medication: Neurontin 800mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 6-26-14, Fioricet bid, #60 per month, Valium 10mg qd, #30 per month, changed to Xanax 1mg bid, #60 per month on 12-3-13, changed to Klonopin 1mg bid, #60 per month on 6-26-14, Lortab 5mg qd, #30 per month, changed to Lorcet 10mg bid, #60 per month on 10-4-13, changed to Hydrocodone 10/325 bid, #60 per month on 12-3-13

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: young age for addictive drug combinations, no trial of non-addictive drug combinations for anxiety. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

In conclusion, I reviewed 15 charts of Dr. Perkins. Of these 15 charts, 3 are within minimum standards, 5 are below minimum standards, and 7 are borderline. After a thorough review of all of these charts as well as looking at their KASPER's in detail, it is my opinion that Dr. Perkins' current practice is below the minimum standards for the following reasons: poor documentation with the majority of charts, not having signed pain contracts. Charts with no documentation of controlled substances which were given on multiple occasions. One episode of what appeared to be cloned office notes with wrong medications listed. Patients were treated with addictive drug combinations. The majority of these patients were on opiates, and Xanax, the most abused benzodiazepines in its class. There was one episode of 2 short acting opiates being used together in large numbers. Patients of young age were given addictive drug combinations without any trial of non-narcotic or non-addictive treatments documented. His prescribing patterns seem to include addictive drug combinations frequently.

This physician has not committed any acts or serious acts that be deemed gross incompetent, gross ignorance, gross negligence, or malpractice. He does not constitute a danger to the health, welfare, or safety of the physicians, patients, or the general public. He did not make any false statements and none of the documents appear to be falsified.

Sincerely,

Truman L. Perry, M.D.

FILED OF RECORD
APR 10 2015
K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1645

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MICHAEL D. PERKINS, M.D., LICENSE NO. 19098, 65 CENTER AVENUE, P.O. BOX 129, WHITLEY CITY, KENTUCKY 42653

EMERGENCY ORDER OF RESTRICTION

The Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel B, considered this matter at its March 19, 2015, meeting. At that meeting the Panel considered a memorandum prepared by Billy Madden, Medical Investigator, dated February 19, 2015; a memorandum prepared by Michael Rodman, Executive Director, dated July 7, 2014; an Investigative Report from Stephen C. Johnson, Investigator, Cabinet for Health and Family Services, Office of Inspector General, dated July 7, 2014; the licensee's response to the grievance, undated; the licensee's Investigative Physician Profile/Background; the licensee's Curriculum Vitae; a Board consultant Report dated November 21, 2014 and attached expert review worksheets; and the licensee's response to the Board consultant's report, dated January 29, 2015.

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

FINDINGS OF FACT

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

1. At all relevant times, Michael D. Perkins, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Family Medicine.
3. On February 13, 1995, the licensee entered into an Agreed Order of Suspension/Probation in Case No. 546 as a result of action taken by the Tennessee Board of Medical Examiners wherein the licensee was disciplined for "practicing medicine in an impaired condition, ...abused his prescribing privileges...and had been a danger to patients and to himself."
4. On December 8, 1999, the licensee entered into an Agreed Order of Probation to resolve a pending Complaint in Case No. 717 as a result of his non-compliance with the Agreed Order in Case No. 546 and as a result of improper prescribing practices with controlled substances.
5. On September 15, 2000, the Agreed Order of Probation was amended by an Order Amending Agreed Order of Probation.
6. On January 26, 2001, the Order Amending Agreed Order of Probation was amended to a Second Amended Agreed Order of Probation, which required the licensee to submit to a chemical dependency evaluation as arranged by the Kentucky Physicians Health Foundation ("the Foundation"), submit to any treatment recommendations, and maintain a contractual relationship with the Foundation.
7. On or about March 18, 2003, the licensee entered into an Agreed Order of Probation in Case No. 888 as a result of non-compliance with his contract with the Foundation.
8. On or about July 1, 2014, Whitley County Coroner, Andy Croley, reported to the Board that he had worked four overdose deaths in the past twelve months that were patients of

the licensee. Coroner Croley also reported that several people had told him that patients travel to see the licensee because he will write controlled substances easily.

9. On July 7, 2014, the Board requested a review of the licensee's prescribing practices by the Drug Enforcement and Professional Practices Branch of the Office of Inspector General.

10. On or about July 7, 2014, Chris Johnson, an Investigator with the Office of Inspector General, Division of Audits and Investigations ("OIG"), reviewed and analyzed the licensee's KASPER records (dated July 5, 2013 until July 5, 2014) and noted several concerns, including:

    - Patient age;
    - Addictive drug combinations;
    - Distance traveled; and
    - Patients with similar last names

    Mr. Johnson identified fifteen (15) of the licensee's patients for further investigation by the Board.

11. The licensee responded in writing, in which he described his practice and treatment of patients with controlled substances.

12. A Board consultant reviewed fifteen (15) of the licensee's patient charts and found that the licensee departed from or failed to conform to acceptable and prevailing medical practices in regard to diagnosis in one (1) chart, in regard to treatment in nine (9) charts, and in regard to record keeping in nine (9) charts. The Board consultant stated in part,

    > ...it is my opinion that Dr. Perkin's current practice is below the minimum standards for the following reasons: poor documentation with the majority of charts, not having signed pain contracts. Charts with no documentation of controlled substances which were given on multiple occasions. One episode of what appeared to be cloned office notes with wrong medications listed. Patients were treated with addictive drug combinations. The majority of these patients were on opiates, and Xanax, the most abused benzodiazepines in its class. There

was one episode of 2 short acting opiates being used together in large numbers. Patients of young age were given addictive drug combinations without any trial or non-narcotic or non-addictive treatments documented. His prescribing patterns seem to include addictive drug combinations frequently.

The Board consultant's report is attached and incorporated herein in its entirety.

13. On January 29, 2015, the licensee responded in writing to the Board consultant's report.

The licensee stated, in part,

> Among other issues, this review emphasized the importance of thorough and complete documentation in patient's records currently in use at this practice. I would like to report that in several instances, other treatments had been attempted when I saw these patients at previous practices, or pain medication agreements had been signed but not placed in the chart. As such, in addition to continually striving to provide better patient care, I will be more vigilant with documentation of that care.

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 Restriction:

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

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

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

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

EMERGENCY ORDER OF RESTRICTION

Based upon the foregoing Findings of Fact and Conclusions of Law, Inquiry Panel B hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by MICHAEL D. PERKINS, M.D., is RESTRICTED and Dr. Perkins is prohibited from prescribing, dispensing, or otherwise professionally utilizing controlled substances until the resolution of the Complaint setting forth the allegations discussed in this pleading 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 10th day of April, 2015.

Russell L. Travis M.D.

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

CERTIFICATE OF SERVICE

I certify that the original of this Emergency Order of Restriction was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were sent via certified mail return-receipt requested to the licensee, Michael D. Perkins, M.D., License No. 19098, 65 Center Avenue, P.O. Box 129, Whitley City, Kentucky 42653; and his counsel, Jessica A. Burke, Esq., 127 South Main Street, P.O. Box 1510, Whitley City, Kentucky 42653 on this 10th day of April, 2015.

Sara Farmer

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

Barton, Watts, & Perry, P.S.C. Dr. John Watts Dr. Truman Perry Dr. Kelvin Perry

121 Bishop Street, Corbin, Ky 40701 Phone 606-528-2124 Fax 606-528-8272

November 21, 2014

Re: Michael Perkins, M.D.

To: Kentucky Board of Medical Licensure

The following letter is a narrative summary of the consultation on Michael Perkins, M.D. that I performed. I was sent 15 charts to review as well as KASPER reports and also a letter from Dr. Perkins. After reviewing all of these documents as well as the 15 charts in their entirety and the KASPER reports, the following are my findings.

Patient #1 [redacted]

Diagnosis: Generalized Anxiety Disorder, Depression, LBP/DJD, Hepatitis B
Treatment dates reviewed: 6-7-12 thru 6-20-14
Medication: Lortab 10mg q4h prn, #120 per month, changed to Lortab 10mg tid, #90 per month on 1-24-13, changed to Lortab 10mg bid, #60 per month on 7-29-13, changed to Oxycodone 10mg bid, #60 per month on 11-20-13, Xanax 0.5mg tid, #90 per month, changed to Xanax 1mg bid, #60 per month on 12-14-13

The diagnosis, treatment, and records were all within minimum standards. Overall, this case was clearly within minimum standards.

Patient #2: [redacted]

Diagnosis: Laryngeal Cancer, Lung Cancer, COPD, Coronary Artery Disease
Treatment dates reviewed: 5-31-12 thru 4-4-14
Medication: Xanax 0.5mg tid, #90 per month, changed to Valium 10mg bid, #60 per month on 2-4-13, Neurontin 800mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 2-4-14, Halcion 0.25mg 1-2qhs, #60 per month, d/c'd 2-4-13, Oxycodone 30mg qid, #120 per month, changed to Oxycodone 30mg tid, #90 per month on 12-5-13, Percocet 10/325 tid, #90 per month

The diagnosis was within minimum standards, treatment was below minimum standards, records were below minimum standards; overall this case was clearly below minimum standards for the following reasons: the patient had addictive drug combinations used, he had a combination of 2 short acting narcotics, Percocet and Oxycodone for a total pill count of 180-210 per month, there was no signed pain contract on the chart. There is no gross ignorance, gross negligence, or gross incompetence and this can be addressed in an orderly process.

Patient #3: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder
Treatment dates reviewed: he only had 3 visits
Medication: Xanax 1mg bid, #60 per month, Percocet 10/650 bid, #60 per month, Hydrocodone 10/325 bid, 360 per month, Neurontin 400mg qid, #120 per month, changed to Neurontin 800mg, qid, #120 per month on 5/30/14, Floricet bid, #60 per month

The diagnosis was within minimum standards, treatment was below minimum standards, and records were ~~within~~ below minimum standards; this case was clearly ~~within~~ below minimum standards for the following reasons: controlled medications were given monthly without documentation in chart, there were no office records documenting visits or medication given, only 3 visits were documented yet controlled substances were given for greater than 1 year, there was no signed pain contract in the chart, there was no gross ignorance, negligence, or incompetence and this can be addressed in an orderly process.

Patient #4: [redacted]

Diagnosis: LBP/DJD, Panic Disorder, Headaches, Diabetes Mellitus II, Peripheral Neuropathy
Treatment dates reviewed: 2-4-13 thru 4-8-14
Medication: Neurontin 800mg qid, #120 per month, Xanax 1mg bid, #60 per month, Phendimetrazine 35mg tid, #90 per month, Bupap 50mg tid, #90 per month, Percocet 10/650 bid/tid, #70 per month, changed to Lorcet 10mg tid, #90 per month on 4/12/13, changed to Tylenol #3 bid, #60 per month on 2/24/14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards for the following reasons: no office notes from 4/12/13 to 2/7/14, the patient filled controlled substances monthly as stated, with no documentation. There was no signed pain contract in the chart, there was no gross negligence, incompetence, or ignorance. This may be addressed in an orderly process.

Patient #5: [redacted]

Diagnosis: Generalized Anxiety Disorder, Knee DJD/OA, Hypertension, T12 fracture, LBP/DJD, Diabetes Mellitus II, Peripheral Neuropathy
Treatment dates reviewed: 2-5-13 thru 5-27-14
Medication: Neurontin 600mg tid, #90 per month, Xanax 1mg tid, #90 per month, Lorcet 10mg tid, #90 per month, changed to Lorcet 10mg bid, #60 per month on 10-4-13

The diagnosis was within minimum standards, the treatment was within minimum standards; the records were below minimum standards. This was a borderline case for the following reasons: there was no signed pain contract in the chart, he had addictive drug combinations used, there was no gross ignorance, negligence or incompetence and this may be addressed in an orderly fashion.

Patient #6: [redacted]

Diagnosis: Right hip DJD/OA, Depression, Generalized Anxiety Disorder, Right hip wound infection status post multiple debridements
Treatment dates reviewed: 10-31-12 thru 6-27-14
Medication: Soma 350mg bid, #60 per month, Xanax 1mg tid, #90 per month changed to Xanax 1mg bid,

#60 per month on 4-1-13, Neurontin 400mg tid, #90 per month, Lorcet 10mg qid, #120 per month, changed to Lorcet 10mg tid, #90 per month on 4-1-13

The diagnosis was within minimum standards, the treatment was within minimum standards, the records were below minimum standards; overall this was a borderline case for the following reasons: no signed pain contract in the chart, addictive drug combinations of opiates, Xanax, and Soma. There was no gross negligence, ignorance, or incompetence and this can be handled in an orderly process.

Patient #7: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Neuropathy, Hypertension
Treatment dates reviewed: 8-23-12 thru 4-4-14
Medication: Xanax 0.5mg qid, #120 per month, changed to Xanax 0.5mg tid, #90 per month on 10-24-12, changed to Xanax 1mg bid, #60 per month on 4-4-13, Neurontin 300mg tid, #90 per month, changed to Neurontin 600mg tid, #90 per month on 4-11-14, Hydrocodone 7.5/325 tid, #90 per month, changed to Tylenol #3 bid, #60 per month on 4-11-14

The diagnosis was within minimum standards, the treatment was within minimum standards, the records were below minimum standards. This was a borderline case for the following reasons: there was no signed pain contract in the chart, there was cloned notes on the following dates with wrong medications listed: Klonopin instead of Xanax, 8-23-12, 9-19-12, and 10-24-12. There was no gross ignorance, gross negligence, or gross incompetence and this may be addressed in an orderly process.

Patient #8: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Headaches
Treatment dates reviewed: 3-31-14 thru 6-27-14
Medication: Fioricet qid, #120 per month, Neurontin 800mg qid, #120 per month, Xanax 1mg bid, #60 per month, Percocet 10/325 bid, #60 per month

The diagnosis was below minimum standards, the treatment was below minimum standards, and records were below minimum standards. Overall this case was clearly below minimum standards for the following reasons: patient had a positive urine drug screen on 3-31-14 for Benzodiazepine, Opiates, Barbiturates, and Oxycodone and was still prescribed controlled medications. The patient was given Tylenol 3 and Xanax on 3-31-14 and not documented in the chart, given 60 Xanax 1mg tablets on 4-28-14 and again on 5-30-14, no signed pain contract in chart, addictive drug combinations; Neurontin, Percocet, Xanax, per documentation for pain medication, no MRI, no X-ray, no physical therapy, young age for addictive age combinations. There was no gross negligence, incompetence or ignorance, and this may be addressed in an orderly process.

Patient #9: [redacted]

Diagnosis: Hypertension, LBP/DJD, Generalized Anxiety Disorder, Cervical DJD/OA, Headaches
Treatment dates reviewed: 9-21-12 thru 5-23-14
Medication: Neurontin 800mg tid, #90 per month, Fioricet bid, #60 per month, Xanax 1mg bid, #60 per month, Lorcet 10mg bid, #45 per month, changed to Lorcet 10mg bid, #60 per month on 4-9-13, changed to Percocet 10/325 bid, #60 per month on 3-24-14

The diagnosis, treatment and records were within minimum standards. This case was clearly within minimum standards.

Patient #10: [redacted]

Diagnosis: LBP/DJD, Headaches, Generalized Anxiety Disorder
Treatment dates reviewed: 3-11-13 thru 7-10-14
Medication: Neurontin 600mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 6-13-14, Fioricet bid, #60 per month, Xanax 1mg bid, #60 per month, Lortab 10/500 bid, #60 per month, changed to Lortab 10/325 bid, #60 per month on 1-16-14, changed to Percocet 10/325 bid, #60 per month on 3-13-14

The diagnosis, treatment and records were within minimum standards; overall this case was clearly within minimum standards.

Patient #11: [redacted]

Diagnosis: LBP/DJD, Cervical DJD, Hip DJD, Generalized Anxiety Disorder, Hypertension, Chest Pain
Treatment dates reviewed: 10-22-13 thru 7-16-14
Medication: Valium 5mg bid, #60 per month, Neurontin 800mg qid, #120 per month, Soma 350mg bid, #60 per month, Lorcet 10/325 bid, #60 per month, changed to Tylenol 3 bid, #60 per month on 2-8-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards. This was a borderline case, for the following reasons: addictive drug combinations with Valium, Soma, and opiates, and no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #12: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Headaches, Scoliosis
Treatment dates reviewed: 10-26-11 thru 5-27-14
Medication: Librium 25mg bid, #60 per month, changed to Xanax 0.5mg bid, #60 per month on 4-4-13, changed to Xanax 1mg bid, #60 per month on 6-3-13, Bupap 50mg bid, #60 per month, Lortab 5mg bid, #60 per month, changed to Lortab 7.5mg bid, #60 per month on 6-3-13, changed to Lortab 10mg bid, #60 per month on 7-30-13, changed to Hydrocodone 10/325 bid, #60 per month on 6-19-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards. This case was clearly below minimum standards for the following reasons: young age for addictive drug combinations, addictive drug combinations with Xanax, and opiates, no MRI, no trial of physical therapy prior to starting narcotic pain medications. There was no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #13: [redacted]

Diagnosis: LBP/DJD
Treatment dates reviewed: 8-3-13 thru 4-10-14
Medication: Fioricet qid, #120 per month, Neurontin 800mg tid, #90 per month, Xanax 1mg bid, #60 per month, Lorcet 10mg bid, #60 per month, changed to Tramadol 50mg tid, #90 per month on 2-10-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: no diagnostic tests for lower back pain, such as MRI or X-rays, young age for addictive drug combinations, no trial of NSAID's, non-addictive anxiety medications, and addictive drug combinations. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #14: [redacted]

Diagnosis: LBP/DJD, Spina Bifida, Hydrocephalus, Generalized Anxiety Disorder, Headaches
Treatment dates reviewed: 2-16-12 thru 5-8-14
Medication: Lortab 5mg bid, #60 per month, changed to Lortab 7.5mg bid, #60 per month on 2-15-13, changed to Lortab 10mg bid, #60 per month on 6-3-13, changed to Hydrocodone 10/325 bid, #60 per month on 1-24-14, changed to Tylenol 3 bid, #60 per month on 3-24-14, Valium 10mg bid, #60 per month, changed to Xanax 1mg bid, #60 per month on 4-30-13

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: young age for addictive drug combinations, no trial for non-addictive drug for pain or anxiety, and no signed pain contract in the chart. There was no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #15: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder
Treatment dates reviewed: 2-18-13 thru 6-26-14
Medication: Neurontin 800mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 6-26-14, Fioricet bid, #60 per month, Valium 10mg qd, #30 per month, changed to Xanax 1mg bid, #60 per month on 12-3-13, changed to Klonopin 1mg bid, #60 per month on 6-26-14, Lortab 5mg qd, #30 per month, changed to Lorcet 10mg bid, #60 per month on 10-4-13, changed to Hydrocodone 10/325 bid, #60 per month on 12-3-13

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: young age for addictive drug combinations, no trial of non-addictive drug combinations for anxiety. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

In conclusion, I reviewed 15 charts of Dr. Perkins. Of these 15 charts, 3 are within minimum standards, 5 are below minimum standards, and 7 are borderline. After a thorough review of all of these charts as well as looking at their KASPER's in detail, it is my opinion that Dr. Perkins' current practice is below the minimum standards for the following reasons: poor documentation with the majority of charts, not having signed pain contracts. Charts with no documentation of controlled substances which were given on multiple occasions. One episode of what appeared to be cloned office notes with wrong medications listed. Patients were treated with addictive drug combinations. The majority of these patients were on opiates, and Xanax, the most abused benzodiazepines in its class. There was one episode of 2 short acting opiates being used together in large numbers. Patients of young age were given addictive drug combinations without any trial of non-narcotic or non-addictive treatments documented. His prescribing patterns seem to include addictive drug combinations frequently.

This physician has not committed any acts or serious acts that be deemed gross incompetent, gross ignorance, gross negligence, or malpractice. He does not constitute a danger to the health, welfare, or safety of the physicians, patients, or the general public. He did not make any false statements and none of the documents appear to be falsified.

Sincerely,

Truman L. Perry, M.D.

FILED OF RECORD

APR 10 2015

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1645

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MICHAEL D. PERKINS, M.D., LICENSE NO. 19098, 65 CENTER AVENUE, P.O. BOX 129, WHITLEY CITY, KENTUCKY 42653

COMPLAINT

Comes now the Complainant Russell L. Travis, M.D., Acting Chair of the Kentucky Board of Medical Licensure's Inquiry Panel B, and on behalf of the Panel which met on March 19, 2015, states for its Complaint against the licensee, Michael D. Perkins, M.D., as follows:

1. At all relevant times, Michael D. Perkins, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Family Medicine.
3. On February 13, 1995, the licensee entered into an Agreed Order of Suspension/Probation in Case No. 546 as a result of action taken by the Tennessee Board of Medical Examiners wherein the licensee was disciplined for "practicing medicine in an impaired condition, ...abused his prescribing privileges...and had been a danger to patients and to himself."
4. On December 8, 1999, the licensee entered into an Agreed Order of Probation to resolve a pending Complaint in Case No. 717 as a result of his non-compliance with the Agreed Order in Case No. 546 and as a result of improper prescribing practices with controlled substances.
5. On September 15, 2000, the Agreed Order of Probation was amended by an Order Amending Agreed Order of Probation.

6. On January 26, 2001, the Order Amending Agreed Order of Probation was amended to a Second Amended Agreed Order of Probation, which required the licensee to submit to a chemical dependency evaluation as arranged by the Kentucky Physicians Health Foundation ("the Foundation"), submit to any treatment recommendations, and maintain a contractual relationship with the Foundation.

7. On or about March 18, 2003, the licensee entered into an Agreed Order of Probation in Case No. 888 as a result of non-compliance with his contract with the Foundation.

8. On or about July 1, 2014, Whitley County Coroner, Andy Croley, reported to the Board that he had worked four overdose deaths in the past twelve months that were patients of the licensee. Coroner Croley also reported that several people had told him that patients travel to see the licensee because he will write controlled substances easily.

9. On July 7, 2014, the Board requested a review of the licensee's prescribing practices by the Drug Enforcement and Professional Practices Branch of the Office of Inspector General.

10. On or about June 12, 2014, Chris Johnson, an Investigator with the Office of Inspector General, Division of Audits and Investigations ("OIG"), reviewed and analyzed the licensee's KASPER records (dated July 5, 2013 until July 5, 2014) and noted several concerns, including:

    - Patient age;
    - Addictive drug combinations;
    - Distance traveled; and
    - Patients with similar last names

Mr. Johnson identified fifteen (15) of the licensee's patients for further investigation by the Board.

11. The licensee responded in writing, in which he described his practice and treatment of patients with controlled substances.

12. A Board consultant reviewed fifteen (15) of the licensee's patient charts and found that the licensee departed from or failed to conform to acceptable and prevailing medical practices in regard to diagnosis in one (1) chart, in regard to treatment in nine (9) charts, and in regard to record keeping in nine (9) charts. The Board consultant stated in part,

> ...it is my opinion that Dr. Perkin's current practice is below the minimum standards for the following reasons: poor documentation with the majority of charts, not having signed pain contracts. Charts with no documentation of controlled substances which were given on multiple occasions. One episode of what appeared to be cloned office notes with wrong medications listed. Patients were treated with addictive drug combinations. The majority of these patients were on opiates, and Xanax, the most abused benzodiazepines in its class. There was one episode of 2 short acting opiates being used together in large numbers. Patients of young age were given addictive drug combinations without any trial or non-narcotic or non-addictive treatments documented. His prescribing patterns seem to include addictive drug combinations frequently.

The Board consultant's report is attached and incorporated herein in its entirety.

13. On January 29, 2015, the licensee responded in writing to the Board consultant's report. The licensee stated, in part,

> Among other issues, this review emphasized the importance of thorough and complete documentation in patient's records currently in use at this practice. I would like to report that in several instances, other treatments had been attempted when I saw these patients at previous practices, or pain medication agreements had been signed but not placed in the chart. As such, in addition to continually striving to provide better patient care, I will be more vigilant with documentation of that care.

14. On or about April 9, 2015, an Emergency Order of Restriction was issued against the licensee's dispensing, prescribing or otherwise utilizing controlled substances in the Commonwealth of Kentucky.

15. By his conduct, the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(4). Accordingly, legal grounds exist for disciplinary action against his license to practice medicine in the Commonwealth of Kentucky.

16. 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.

17. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for July 7, 8, 9 & 10, 2015, 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 MICHAEL D. PERKINS, M.D.

This 10th day of April, 2015.

Russell L. Travis M.D.

RUSSELL L. TRAVIS, M.D.
ACTING 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. Hellmann, Esq., Hearing Officer, 415 West Main Street, P.O. Box 676, Frankfort, Kentucky 40602-0676 and copies were sent via certified mail return-receipt requested to the licensee, Michael D. Perkins, M.D., License No. 19098, 65 Center Avenue, P.O. Box 129, Whitley City, Kentucky 42653; and his counsel, Jessica A. Burke, Esq., 127 South Main Street, P.O. Box 1510, Whitley City, Kentucky 42653 on this 10th day of April, 2015.

Sara Farmer

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

Barton, Watts, & Perry, P.S.C. Dr. John Watts Dr. Truman Perry Dr. Kelvin Perry

121 Bishop Street, Corbin, Ky 40701 Phone 606-528-2124 Fax 606-528-8272

November 21, 2014

Re: Michael Perkins, M.D.

To: Kentucky Board of Medical Licensure

The following letter is a narrative summary of the consultation on Michael Perkins, M.D. that I performed. I was sent 15 charts to review as well as KASPER reports and also a letter from Dr. Perkins. After reviewing all of these documents as well as the 15 charts in their entirety and the KASPER reports, the following are my findings.

Patient #1 [redacted]

Diagnosis: Generalized Anxiety Disorder, Depression, LBP/DJD, Hepatitis B
Treatment dates reviewed: 6-7-12 thru 6-20-14
Medication: Lortab 10mg q4h prn, #120 per month, changed to Lortab 10mg tid, #90 per month on 1-24-13, changed to Lortab 10mg bid, #60 per month on 7-29-13, changed to Oxycodone 10mg bid, #60 per month on 11-20-13, Xanax 0.5mg tid, #90 per month, changed to Xanax 1mg bid, #60 per month on 12-14-13

The diagnosis, treatment, and records were all within minimum standards. Overall, this case was clearly within minimum standards.

Patient #2: [redacted]

Diagnosis: Laryngeal Cancer, Lung Cancer, COPD, Coronary Artery Disease
Treatment dates reviewed: 5-31-12 thru 4-4-14
Medication: Xanax 0.5mg tid, #90 per month, changed to Valium 10mg bid, #60 per month on 2-4-13, Neurontin 800mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 2-4-14, Halcion 0.25mg 1-2qhs, #60 per month, d/c'd 2-4-13, Oxycodone 30mg qid, #120 per month, changed to Oxycodone 30mg tid, #90 per month on 12-5-13, Percocet 10/325 tid, #90 per month

The diagnosis was within minimum standards, treatment was below minimum standards, records were below minimum standards; overall this case was clearly below minimum standards for the following reasons: the patient had addictive drug combinations used, he had a combination of 2 short acting narcotics, Percocet and Oxycodone for a total pill count of 180-210 per month, there was no signed pain contract on the chart. There is no gross ignorance, gross negligence, or gross incompetence and this can be addressed in an orderly process.

Patient #3: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder
Treatment dates reviewed: he only had 3 visits
Medication: Xanax 1mg bid, #60 per month, Percocet 10/650 bid, #60 per month, Hydrocodone 10/325 bid, 360 per month, Neurontin 400mg qid, #120 per month, changed to Neurontin 800mg, qid, #120 per month on 5/30/14, Fioricet bid, #60 per month

The diagnosis was within minimum standards, treatment was below minimum standards, and records were ~~within~~ below minimum standards; this case was clearly ~~within~~ below minimum standards for the following reasons: controlled medications were given monthly without documentation in chart, there were no office records documenting visits or medication given, only 3 visits were documented yet controlled substances were given for greater than 1 year, there was no signed pain contract in the chart, there was no gross ignorance, negligence, or incompetence and this can be addressed in an orderly process.

Patient #4: [redacted]

Diagnosis: LBP/DJD, Panic Disorder, Headaches, Diabetes Mellitus II, Peripheral Neuropathy
Treatment dates reviewed: 2-4-13 thru 4-8-14
Medication: Neurontin 800mg qid, #120 per month, Xanax 1mg bid, #60 per month, Phendimetrazine 35mg tid, #90 per month, Bupap 50mg tid, #90 per month, Percocet 10/650 bid/tid, #70 per month, changed to Lorcet 10mg tid, #90 per month on 4/12/13, changed to Tylenol #3 bid, #60 per month on 2/24/14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards for the following reasons: no office notes from 4/12/13 to 2/7/14, the patient filled controlled substances monthly as stated, with no documentation. There was no signed pain contract in the chart, there was no gross negligence, incompetence, or ignorance. This may be addressed in an orderly process.

Patient #5 [redacted]

Diagnosis: Generalized Anxiety Disorder, Knee DJD/OA, Hypertension, T12 fracture, LBP/DJD, Diabetes Mellitus II, Peripheral Neuropathy
Treatment dates reviewed: 2-5-13 thru 5-27-14
Medication: Neurontin 600mg tid, #90 per month, Xanax 1mg tid, #90 per month, Lorcet 10mg tid, #90 per month, changed to Lorcet 10mg bid, #60 per month on 10-4-13

The diagnosis was within minimum standards, the treatment was within minimum standards; the records were below minimum standards. This was a borderline case for the following reasons: there was no signed pain contract in the chart, he had addictive drug combinations used, there was no gross ignorance, negligence or incompetence and this may be addressed in an orderly fashion.

Patient #6: [redacted]

Diagnosis: Right hip DJD/OA, Depression, Generalized Anxiety Disorder, Right hip wound infection status post multiple debridements
Treatment dates reviewed: 10-31-12 thru 6-27-14
Medication: Soma 350mg bid, #60 per month, Xanax 1mg tid, #90 per month changed to Xanax 1mg bid,

#60 per month on 4-1-13, Neurontin 400mg tid, #90 per month, Lorcet 10mg qid, #120 per month, changed to Lorcet 10mg tid, #90 per month on 4-1-13

The diagnosis was within minimum standards, the treatment was within minimum standards, the records were below minimum standards; overall this was a borderline case for the following reasons: no signed pain contract in the chart, addictive drug combinations of opiates, Xanax, and Soma. There was no gross negligence, ignorance, or incompetence and this can be handled in an orderly process.

Patient #7: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Neuropathy, Hypertension
Treatment dates reviewed: 8-23-12 thru 4-4-14
Medication: Xanax 0.5mg qid, #120 per month, changed to Xanax 0.5mg tid, #90 per month on 10-24-12, changed to Xanax 1mg bid, #60 per month on 4-4-13, Neurontin 300mg tid, #90 per month, changed to Neurontin 600mg tid, #90 per month on 4-11-14, Hydrocodone 7.5/325 tid, #90 per month, changed to Tylenol #3 bid, #60 per month on 4-11-14

The diagnosis was within minimum standards, the treatment was within minimum standards, the records were below minimum standards. This was a borderline case for the following reasons: there was no signed pain contract in the chart, there was cloned notes on the following dates with wrong medications listed: Klonopin instead of Xanax, 8-23-12, 9-19-12, and 10-24-12. There was no gross ignorance, gross negligence, or gross incompetence and this may be addressed in an orderly process.

Patient #8: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Headaches
Treatment dates reviewed: 3-31-14 thru 6-27-14
Medication: Fioricet qid, #120 per month, Neurontin 800mg qid, #120 per month, Xanax 1mg bid, #60 per month, Percocet 10/325 bid, #60 per month

The diagnosis was below minimum standards, the treatment was below minimum standards, and records were below minimum standards. Overall this case was clearly below minimum standards for the following reasons: patient had a positive urine drug screen on 3-31-14 for Benzodiazepine, Opiates, Barbiturates, and Oxycodone and was still prescribed controlled medications. The patient was given Tylenol 3 and Xanax on 3-31-14 and not documented in the chart, given 60 Xanax 1mg tablets on 4-28-14 and again on 5-30-14, no signed pain contract in chart, addictive drug combinations; Neurontin, Percocet, Xanax, per documentation for pain medication, no MRI, no X-ray, no physical therapy, young age for addictive age combinations. There was no gross negligence, incompetence or ignorance, and this may be addressed in an orderly process.

Patient #9: [redacted]

Diagnosis: Hypertension, LBP/DJD, Generalized Anxiety Disorder, Cervical DJD/OA, Headaches
Treatment dates reviewed: 9-21-12 thru 5-23-14
Medication: Neurontin 800mg tid, #90 per month, Fioricet bid, #60 per month, Xanax 1mg bid, #60 per month, Lorcet 10mg bid, #45 per month, changed to Lorcet 10mg bid, #60 per month on 4-9-13, changed to Percocet 10/325 bid, #60 per month on 3-24-14

The diagnosis, treatment and records were within minimum standards. This case was clearly within minimum standards.

Patient #10: [redacted]

Diagnosis: LBP/DJD, Headaches, Generalized Anxiety Disorder
Treatment dates reviewed: 3-11-13 thru 7-10-14
Medication: Neurontin 600mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 6-13-14, Fioricet bid, #60 per month, Xanax 1mg bid, #60 per month, Lortab 10/500 bid, #60 per month, changed to Lortab 10/325 bid, #60 per month on 1-16-14, changed to Percocet 10/325 bid, #60 per month on 3-13-14

The diagnosis, treatment and records were within minimum standards; overall this case was clearly within minimum standards.

Patient #11: [redacted]

Diagnosis: LBP/DJD, Cervical DJD, Hip DJD, Generalized Anxiety Disorder, Hypertension, Chest Pain
Treatment dates reviewed: 10-22-13 thru 7-16-14
Medication: Valium 5mg bid, #60 per month, Neurontin 800mg qid, #120 per month, Soma 350mg bid, #60 per month, Lorcet 10/325 bid, #60 per month, changed to Tylenol 3 bid, #60 per month on 2-8-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards. This was a borderline case, for the following reasons: addictive drug combinations with Valium, Soma, and opiates, and no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #12: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder, Headaches, Scoliosis
Treatment dates reviewed: 10-26-11 thru 5-27-14
Medication: Librium 25mg bid, #60 per month, changed to Xanax 0.5mg bid, #60 per month on 4-4-13, changed to Xanax 1mg bid, #60 per month on 6-3-13, Bupap 50mg bid, #60 per month, Lortab 5mg bid, #60 per month, changed to Lortab 7.5mg bid, #60 per month on 6-3-13, changed to Lortab 10mg bid, #60 per month on 7-30-13, changed to Hydrocodone 10/325 bid, #60 per month on 6-19-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were below minimum standards. This case was clearly below minimum standards for the following reasons: young age for addictive drug combinations, addictive drug combinations with Xanax, and opiates, no MRI, no trial of physical therapy prior to starting narcotic pain medications. There was no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #13: [redacted]

Diagnosis: LBP/DJD
Treatment dates reviewed: 8-3-13 thru 4-10-14
Medication: Fioricet qid, #120 per month, Neurontin 800mg tid, #90 per month, Xanax 1mg bid, #60 per month, Lorcet 10mg bid, #60 per month, changed to Tramadol 50mg tid, #90 per month on 2-10-14

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: no diagnostic tests for lower back pain, such as MRI or X-rays, young age for addictive drug combinations, no trial of NSAID's, non-addictive anxiety medications, and addictive drug combinations. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #14: [redacted]

Diagnosis: LBP/DJD, Spina Bifida, Hydrocephalus, Generalized Anxiety Disorder, Headaches
Treatment dates reviewed: 2-16-12 thru 5-8-14
Medication: Lortab 5mg bid, #60 per month, changed to Lortab 7.5mg bid, #60 per month on 2-15-13, changed to Lortab 10mg bid, #60 per month on 6-3-13, changed to Hydrocodone 10/325 bid, #60 per month on 1-24-14, changed to Tylenol 3 bid, #60 per month on 3-24-14, Valium 10mg bid, #60 per month, changed to Xanax 1mg bid, #60 per month on 4-30-13

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: young age for addictive drug combinations, no trial for non-addictive drug for pain or anxiety, and no signed pain contract in the chart. There was no signed pain contract in the chart. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

Patient #15: [redacted]

Diagnosis: LBP/DJD, Generalized Anxiety Disorder
Treatment dates reviewed: 2-18-13 thru 6-26-14
Medication: Neurontin 800mg tid, #90 per month, changed to Neurontin 800mg qid, #120 per month on 6-26-14, Fioricet bid, #60 per month, Valium 10mg qd, #30 per month, changed to Xanax 1mg bid, #60 per month on 12-3-13, changed to Klonopin 1mg bid, #60 per month on 6-26-14, Lortab 5mg qd, #30 per month, changed to Lorcet 10mg bid, #60 per month on 10-4-13, changed to Hydrocodone 10/325 bid, #60 per month on 12-3-13

The diagnosis was within minimum standards, the treatment was below minimum standards, and the records were within minimum standards. This was a borderline case for the following reasons: young age for addictive drug combinations, no trial of non-addictive drug combinations for anxiety. There was no gross ignorance, negligence, or incompetence and this may be addressed in an orderly process.

In conclusion, I reviewed 15 charts of Dr. Perkins. Of these 15 charts, 3 are within minimum standards, 5 are below minimum standards, and 7 are borderline. After a thorough review of all of these charts as well as looking at their KASPER's in detail, it is my opinion that Dr. Perkins' current practice is below the minimum standards for the following reasons: poor documentation with the majority of charts, not having signed pain contracts. Charts with no documentation of controlled substances which were given on multiple occasions. One episode of what appeared to be cloned office notes with wrong medications listed. Patients were treated with addictive drug combinations. The majority of these patients were on opiates, and Xanax, the most abused benzodiazepines in its class. There was one episode of 2 short acting opiates being used together in large numbers. Patients of young age were given addictive drug combinations without any trial of non-narcotic or non-addictive treatments documented. His prescribing patterns seem to include addictive drug combinations frequently.

This physician has not committed any acts or serious acts that be deemed gross incompetent, gross ignorance, gross negligence, or malpractice. He does not constitute a danger to the health, welfare, or safety of the physicians, patients, or the general public. He did not make any false statements and none of the documents appear to be falsified.

Sincerely,

Truman L. Perry, M.D.