

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1427

JAN 17 2013

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY JAMES A. DENNIS, M.D., LICENSE NO. 25083, P.O. BOX 580, 127 SHELBY YARD STREET, SHELBIANA, KENTUCKY 41562

AGREED ORDER OF SURRENDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Hearing Panel B, and James A. Dennis, M.D. ("the licensee"), and, based upon their mutual desire to fully and finally resolve the pending Complaint without an evidentiary hearing, 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, James A. Dennis, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Pathology.
3. On April 24, 2012, the Board received a grievance from a family member of Patient A. They advised that they had found approximately 35 empty pill bottles with prescriptions for controlled substances written by the licensee in the names of five different individuals in Patient A's possession. Some of the prescriptions had been issued to Patient A. The others had been issued in the names of Patient A's acquaintances. Two of the prescriptions had erroneous addresses listed. The medications included Hydrocodone/APAP 10-650mg, Hydrocodone/APAP 7.5-

650mg, Alprazolam 1mg, and Tizanidine 4mg. According to the family member, the licensee did not have a private practice. Instead, he practiced as a pathologist in a local hospital.

4. When interviewed, Patient A provided the following information:

Until May 2011, she had been receiving medication from a pain clinic in the Pikeville area. The clinic charged \$175.00 for each visit in addition to the cost of the medication.

She told the licensee that she could not afford those costs anymore and asked if he would provide her with the controlled substances. At the time, she was addicted to Hydrocodone, taking as many as 30 10mg pills each day.

The licensee never performed a physical examination of her. He wrote controlled substances prescriptions in her name and in the names of 4 of her acquaintances. Between March 2011 and April 2012, the licensee provided her with 9630 dose units of Hydrocodone, using her name and the 4 other names.

During the time he was prescribing controlled substances to her, the licensee started talking to her at different times about having sex with him. The licensee kissed her one time in his hospital office and once in a vehicle in the hospital parking lot. The licensee hugged her several times at the hospital. When he would hug her, he would rub his erect penis against her, through his pants. He felt her breasts several times inside his office. On one occasion, she touched his penis in his hospital office. However, they never had sexual intercourse.

5. Two of the people whose names were used for prescriptions for Patient A advised that they were had never sought or received treatment from the licensee and were not aware that he was writing controlled substance prescriptions in their name. However, they each knew Patient A. The Board was unable to locate the other two individuals whose names were used by the licensee to provide controlled substances to Patient A.
6. At the Board's request, a review of the licensee's controlled substance prescribing was performed. For the period May 2011 through May 2012, the printout totaled 21 pages. The Cabinet investigator identified 17 patients, including Patient A, whose controlled substances prescribing by the licensee should be reviewed based upon age, addictive drug combinations, early refills, polypharmacy and similar last names.

7. The licensee was unable to provide medical records for any of the 17 persons selected for review.

8. The licensee was interviewed and provided the following information,

He is a pathologist on staff at the Pikeville Medical Center. He became acquainted with Patient A because she was also a hospital employee. She would come by his office and complain of back and leg pain. She told him she could not afford her medication. So, he began writing prescriptions for her and did so for about 6 months. He had never performed a physical exam on her and did not have a medical record for her. At some point, she asked him to write prescriptions for several of her friends. He did so, without ever seeing them. He did not have medical records on those individuals either.

He stopped writing the prescriptions for Patient A and her friends because he became scared after completing his license renewal application. The application asked whether he had ever written more than 90 doses of controlled substances.

He denied ever having a sexual relationship with Patient A.

9. At the licensee's request, an emergency hearing was conducted on October 15, 2012.

By Order dated October 22, 2012, the assigned Hearing Officer concluded that there was substantial evidence to support the allegations and affirmed the Emergency Order of Suspension.

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 Kentucky medical license is subject to regulation and discipline by this 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(1)(a), (b) and (d), (3) and (4). While the licensee denies engaging in any sexual contact with Patient A, he agrees that, based upon the Stipulations of Fact, the Panel could conclude that he has also violated the provisions of KRS 311.595(5) and (9), as

illustrated by KRS 311.597(4). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Surrender.

3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending Complaint 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 this pending Complaint without an evidentiary hearing, the parties hereby ENTER INTO the following

AGREED ORDER OF SURRENDER:

1. The licensee SHALL SURRENDER his license to practice medicine within the Commonwealth of Kentucky, with that surrender to become effective immediately upon the date of filing of this Agreed Order of Surrender, and continuing for an indefinite period.
2. During the effective period of this Agreed Order of Surrender, the licensee SHALL NOT perform any act within the Commonwealth of Kentucky 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," unless and until approved to do so by the Panel, in response to a properly filed petition for reinstatement.
3. The licensee may not file a petition for reinstatement for a minimum period of two (2) years from the date of filing of this Agreed Order of Surrender. Before

the Panel will consider any petition for reinstatement, payment of the costs of the investigation in the amount of \$906.25 must be paid. If the licensee should file a petition for reinstatement, the provisions of KRS 311.607(2) and (3) shall apply to the Panel's consideration of such petition. The licensee understands and agrees that the Panel may require him to successfully complete an approved evaluation(s) and/or assessment(s), at his expense, to assist the Panel in its consideration of any petition filed. The licensee further understands and agrees that the decision whether to grant any petition for reinstatement lies within the sole discretion of the Panel.

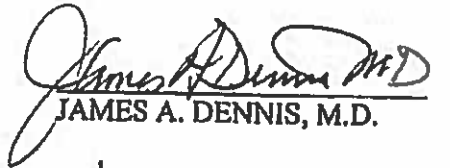
4. The licensee SHALL NOT violate any provisions of KRS 311.595 and/or 311.597.
5. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order of Surrender, the licensee's practice shall constitute an immediate danger to the public health, safety, or welfare, as 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 of Surrender, the Panel Chair is authorized by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of any term or condition of this Order would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general

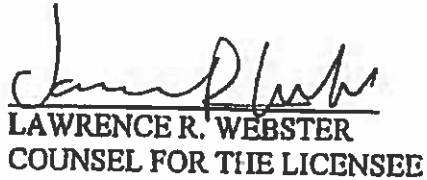
public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order of Surrender.

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

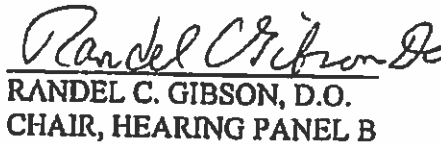
SO AGREED on this 17th day of January, ~~2012~~ ²⁰¹³ *BY NW*
5/20/16

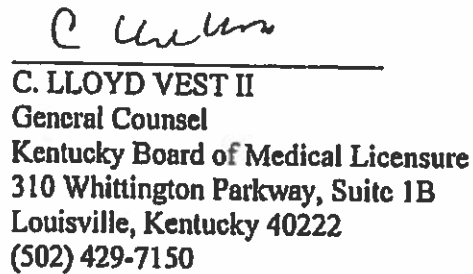
FOR THE LICENSEE:


JAMES A. DENNIS, M.D.


LAWRENCE R. WEBSTER
COUNSEL FOR THE LICENSEE

FOR THE BOARD:


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

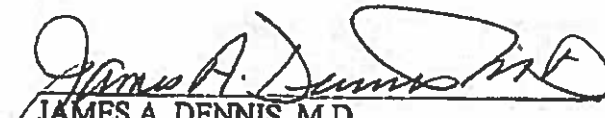

C. LLOYD VEST II
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150

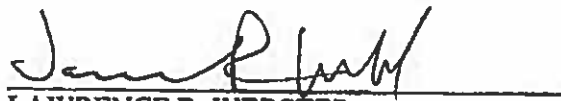
WAIVER OF RIGHTS

I, James A. Dennis, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 1427. 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 17th day of January, ~~2012~~ ²⁰¹³ By LW 5/20/16


JAMES A. DENNIS, M.D.
Respondent


LAWRENCE R. WEBSTER
COUNSEL FOR THE RESPONDENT

AUG 17 2012

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1427

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY JAMES A. DENNIS, M.D., LICENSE NO. 25083, P.O. BOX 580, 127 SHELBY YARD STREET, SHELBIANA, KENTUCKY 41562

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, considered this matter at its August 16, 2012 meeting. At that meeting, Inquiry Panel A considered an investigative report by Billy Madden, Medical Investigator, including: the grievance; an investigative report by Stephen C. Johnson, Investigator for the Division of Audits and Investigations of the Cabinet for Health and Human Services; and, a Physician Profile/Background sheet for the licensee. Having considered all of this information and being sufficiently advised, 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 it, Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support its Emergency Order of Suspension:

1. At all relevant times, James A. Dennis, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Pathology.
3. On April 24, 2012, the Board received a grievance from a family member of Patient A. They advised that they had found approximately 35 empty pill bottles with

prescriptions for controlled substances written by the licensee in the names of five different individuals in Patient A's possession. Some of the prescriptions had been issued to Patient A. The others had been issued in the names of Patient A's acquaintances. Two of the prescriptions had erroneous addresses listed. The medications included Hydrocodone/APAP 10-650mg, Hydrocodone/APAP 7.5-650mg, Alprazolam 1mg, and Tizanidine 4mg. According to the family member, the licensee did not have a private practice. Instead, he practiced as a pathologist in a local hospital.

4. When interviewed, Patient A provided the following information:

Until May 2011, she had been receiving medication from a pain clinic in the Pikeville area. The clinic charged \$175.00 for each visit in addition to the cost of the medication.

She told the licensee that she could not afford those costs anymore and asked if he would provide her with the controlled substances. At the time, she was addicted to Hydrocodone, taking as many as 30 10mg pills each day.

The licensee never performed a physical examination of her. He wrote controlled substances prescriptions in her name and in the names of 4 of her acquaintances. Between March 2011 and April 2012, the licensee provided her with 9630 dose units of Hydrocodone, using her name and the 4 other names.

During the time he was prescribing controlled substances to her, the licensee started talking to her at different times about having sex with him. The licensee kissed her one time in his hospital office and once in a vehicle in the hospital parking lot. The licensee hugged her several times at the hospital. When he would hug her, he would rub his erect penis against her, through his pants. He felt her breasts several times inside his office. On one occasion, she touched his penis in his hospital office. However, they never had sexual intercourse.

5. Two of the people whose names were used for prescriptions for Patient A advised that they were had never sought or received treatment from the licensee and were not aware that he was writing controlled substance prescriptions in their name. However, they each knew Patient A. The Board was unable to locate the other two individuals whose names were used by the licensee to provide controlled substances to Patient A.

6. At the Board's request, a review of the licensee's controlled substance prescribing was performed. For the period May 2011 through May 2012, the printout totaled 21 pages. The Cabinet investigator identified 17 patients, including Patient A, whose controlled substances prescribing by the licensee should be reviewed based upon age, addictive drug combinations, early refills, polypharmacy and similar last names.
7. The licensee was unable to provide medical records for any of the 17 persons selected for review.
8. The licensee was interviewed and provided the following information,

He is a pathologist on staff at the Pikeville Medical Center. He became acquainted with Patient A because she was also a hospital employee. She would come by his office and complain of back and leg pain. She told him she could not afford her medication. So, he began writing prescriptions for her and did so for about 6 months. He had never performed a physical exam on her and did not have a medical record for her. At some point, she asked him to write prescriptions for several of her friends. He did so, without ever seeing them. He did not have medical records on those individuals either.
He stopped writing the prescriptions for Patient A and her friends because he became scared after completing his license renewal application. The application asked whether he had ever written more than 90 doses of controlled substances. He denied ever having a sexual relationship with Patient A.

CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel A finds there is probable cause to support the following Conclusions of Law, which serve as the legal bases for this Emergency Order of 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(5), (10), and (9), as illustrated by KRS 311.597(1)(a), (b), and (d), and (4).
4. The Panel concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
5. The Board may draw logical and reasonable inferences about a physician's practice by considering certain facts about a physician's practice. If there is proof that a physician has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the physician will similarly violate the Medical Practice Act when presented with a similar set of circumstances. Similarly, the Board concludes that proof of a set of facts about a physician's practice presents representative proof of the nature of that physician's practice in general.

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

6. The United States Supreme Court has ruled that it is no violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior evidentiary hearing, so long as 1) the immediate action is based upon a probable cause finding that there is a present danger to the public safety; and, 2) the statute provides for a prompt post-deprivation hearing. Barry v. Barchi, 443 U.S. 55, 61

L.Ed.2d 365, 99 S.Ct. 2642 (1979); FDIC v. Mallen, 486 U.S. 230, 100 L.Ed.2d 265, 108 S.Ct. 1780 (1988) and Gilbert v. Homar, 520 U.S. 924 (1997), 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

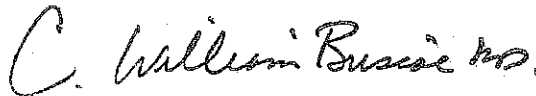
KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

EMERGENCY ORDER OF SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by James A. Dennis, M.D., is SUSPENDED and Dr. Dennis is prohibited from performing any act which constitutes the "practice of medicine," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities - until the resolution of the Complaint setting forth the allegations discussed in this pleading or until such further Order of the Board.

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

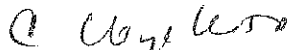
SO ORDERED this 17th day of August, 2012.



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; a copy was mailed via certified mail return-receipt requested to James A. Dennis, M.D., License No. 25083, P.O. Box 580, 127 Shelby Yard Street, Shelbiana, Kentucky 41562 on this 17th day of August, 2012.



C. LLOYD VEST II
General Counsel
Kentucky Board of Medical Licensure
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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 August 16, 2012, states for its Complaint against the licensee, James A. Dennis, M.D., as follows:

1. At all relevant times, James A. Dennis, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Pathology.
3. On April 24, 2012, the Board received a grievance from a family member of Patient A. They advised that they had found approximately 35 empty pill bottles with prescriptions for controlled substances written by the licensee in the names of five different individuals in Patient A's possession. Some of the prescriptions had been issued to Patient A. The others had been issued in the names of Patient A's acquaintances. Two of the prescriptions had erroneous addresses listed. The medications included Hydrocodone/APAP 10-650mg, Hydrocodone/APAP 7.5-650mg, Alprazolam 1mg, and Tizanidine 4mg. According to the family member, the licensee did not have a private practice. Instead, he practiced as a pathologist in a local hospital.
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He stopped writing the prescriptions for Patient A and her friends because he became scared after completing his license renewal application. The application asked whether he had ever written more than 90 doses of controlled substances. He denied ever having a sexual relationship with Patient A.

9. By his conduct, the licensee has violated KRS 311.595(5), (10), and (9), as illustrated by KRS 311.597(1)(a), (b), and (d), and (4). Accordingly, legal grounds exist for disciplinary action against his Kentucky medical license.
10. 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.

9. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for December 4 and 5, 2012 at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS Chapter 13B. This hearing shall proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.

WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine held by James A. Dennis, M.D.

This 17th day of August, 2012.

C. William Briscoe M.D.

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; and a copy was mailed to Thomas J. Hellmann, Esq., 415 West Main Street, P.O. Box 676, Frankfort, Kentucky 40602-0676 and mailed via certified mail return-receipt requested to James A. Dennis, M.D., License No. 25083, P.O. Box 580, 127 Shelby Yard Street, Shelbyana, Kentucky 41562 on this 17th day of August, 2012.

C. Lloyd Vest II

C. LLOYD VEST II
General Counsel
Kentucky Board of Medical Licensure
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Louisville, Kentucky 40222
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