

DEC 17 2021

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2034

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MICHAEL E. FLETCHER, M.D., LICENSE NO. 31154, 210 THOMAS MORE PARKWAY, CRESTVIEW HILLS, KENTUCKY 41017

**COMPLAINT**

Comes now the Complainant Waqar A. Saleem, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on December 16, 2021, states for its Complaint against the licensee, MICHAEL E. FLETCHER, M.D., as follows:

1. At all relevant times, Michael E. Fletcher, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is interventional pain management.
3. On or about November 18, 2021, in the United States District Court, Eastern District of Kentucky, Northern Division, the licensee was indicted on felony charges related to controlled substances.
4. Specifically, the licensee was indicted on three (3) counts of knowingly and intentionally distributing and dispensing controlled substances pursuant to prescriptions that were not issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice, in violation of Title 21, United States Code, Section 841(a)(1), as set forth below:

| Count | Approximate Date Prescription Written | Substances Distributed To | Substance Name          | Quantity |
|-------|---------------------------------------|---------------------------|-------------------------|----------|
| 1     | June 6, 2016                          | CH                        | Oxycodone Hydrochloride | 20       |

|   |                |    |                            |    |
|---|----------------|----|----------------------------|----|
| 2 | June 30, 2016  | CH | Oxycodone<br>Hydrochloride | 20 |
| 3 | August 8, 2016 | SK | Oxycodone<br>Hydrochloride | 84 |

5. On or about November 23, 2021, the Chair of the Board's Inquiry Panel A determined that the licensee's practice placed his patients and the public at risk and in danger. As a result, the licensee was restricted from utilizing controlled substances in the practice of medicine in the Commonwealth of Kentucky pending resolution of the Complaint.
6. By his conduct, the licensee has violated the provisions of KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(12). Accordingly, legal grounds exist for disciplinary action against his Kentucky medical license.
7. 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.
8. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for June 7, 2021 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 MICHAEL E. FLETCHER, M.D.

This 17<sup>th</sup> day of December, 2021.

*W. Saleem.*

WAQAR A. SALEEM, M.D.  
CHAIR, INQUIRY PANEL A

**CERTIFICATE OF SERVICE**

I certify that the original of this Complaint was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to Thomas J. Hellmann, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601; and a copy was mailed via certified mail return-receipt requested to the licensee, Michael E. Fletcher, M.D., License No. 31154, 210 Thomas More Parkway, Crestview Hills, Kentucky 41017, and sent to his counsel, Jessica Burke, Esq., via email at [jblawoffices.net](mailto:jblawoffices.net) on this on this 17<sup>th</sup> day of December, 2021.

*Sara Farmer*

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

FILED OF RECORD

NOV 23 2021

K.B.M.L

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2034

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MICHAEL E. FLETCHER, M.D., LICENSE NO. 31154, 210 THOMAS MORE PARKWAY, CRESTVIEW HILLS, KENTUCKY 41017

**EMERGENCY ORDER OF RESTRICTION**

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the Chair of its Inquiry Panel A, considered an Indictment, filed November 18, 2021, in the United States District Court, Eastern District of Kentucky, Northern Division. Having considered this information and being sufficiently advised, the Chair of Inquiry Panel A enters the following EMERGENCY ORDER OF RESTRICTION, in accordance with KRS 311.592(1) and 13B.125(1):

**FINDINGS OF FACT**

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

1. At all relevant times, Michael E. Fletcher, M.D. (“the licensee”), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee’s medical specialty is interventional pain management.
3. On or about November 18, 2021, in the United States District Court, Eastern District of Kentucky, Northern Division, the licensee was indicted on felony charges related to controlled substances.
4. Specifically, the licensee was indicted on three (3) counts of knowingly and intentionally distributing and dispensing controlled substances pursuant to prescriptions that were not issued for a legitimate medical purpose by an individual

practitioner acting in the usual course of his professional practice, in violation of Title 21, United States Code, Section 841(a)(1), as set forth below:

| Count | Approximate Date Prescription Written | Substances Distributed To | Substance Name          | Quantity |
|-------|---------------------------------------|---------------------------|-------------------------|----------|
| 1     | June 6, 2016                          | CH                        | Oxycodone Hydrochloride | 20       |
| 2     | June 30, 2016                         | CH                        | Oxycodone Hydrochloride | 20       |
| 3     | August 8, 2016                        | SK                        | Oxycodone Hydrochloride | 84       |

### CONCLUSIONS OF LAW

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

1. The licensee's Kentucky medical license is subject to regulation and discipline by this Board.
2. KRS 311.592(1) provides that the Board may issue an emergency order suspending, limiting, or restricting a physician's license at any time an inquiry panel has probable cause to believe that a) the physician has violated the terms of an order placing him on probation; or b) a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
3. There is probable cause to believe that the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(12).
4. 201 KAR 9:240 §1 provides,
  - (1) An inquiry panel or the panel's chair, acting on behalf of the inquiry panel, may issue an emergency order restricting or suspending a physician's license to practice medicine or osteopathy within the

Commonwealth of Kentucky in accordance with KRS 311.592 and 13B.125.

(2) ...

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

5. 201 KAR 9:240 §3 provides

(1) If a licensee is indicted in any state for a crime classified as a felony in that state and the conduct charged relates to a controlled substance, that licensee's practice shall be considered an immediate danger to the public health, safety or welfare, pursuant to KRS 311.592 and 13B.125.

(2) If the Board receives verifiable information that a licensee has been indicted in any state for a crime classified as a felony in the state of indictment and the conduct charged relates to a controlled substance, the inquiry panel or panel chair, acting on behalf of the inquiry panel, shall immediately issue an emergency order suspending or restricting that licensee's Kentucky license....

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

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

cause to believe that the licensee will commit similar violations in the near future, during the course of the licensee's osteopathic practice.

8. 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 RESTRICTION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Chair of Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Michael E. Fletcher, M.D., is RESTRICTED and Dr. Fletcher is prohibited from prescribing, dispensing, or otherwise professionally utilizing controlled substances until the Board's hearing panel has finally resolved the Complaint after receipt of the court documents resolving the criminal charges in the indictment discussed in this pleading or until such further Order of the Board.

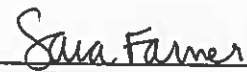
The Chair of Inquiry Panel A further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 23<sup>rd</sup> day of November, 2021.

  
WAQAR A. SALEEM, M.D.  
CHAIR, INQUIRY PANEL A

**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; a copy was mailed via certified mail return-receipt requested to the licensee, Michael E. Fletcher, M.D., License No. 31154, 210 Thomas More Parkway, Crestview Hills, Kentucky 41017, and emailed to his counsel, Jessica Burke, at jblawoffice.net on this 23<sup>rd</sup> day of November, 2021.

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