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OCT 22 2021

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1896

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY SAMSON K. ORUSA, M.D., LICENSE NO. 33408,
2848 CARRIAGE WAY, CLARKSVILLE, TENNESSEE 37043-2851

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the its Inquiry Panel A, considered an Indictment, filed December 12, 2018, in *USA v. Orusa*, Case No. 3:18-00342 (U.S. District Court, Middle District of Tennessee, Nashville Division); the Verdict Form, filed August 13, 2021, in *USA v. Orusa*, Case No. 3:18-00342 (U.S. District Court, Middle District of Tennessee, Nashville Division); and the Complaint and Emergency Order of Restriction, KBML Case No. 1896, issued in January and February 2019, and having considered this information and being sufficiently advised, Inquiry Panel A enters the following EMERGENCY ORDER OF SUSPENSION, to supersede the previously issued 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, Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support this Emergency Order of Suspension:

1. At all relevant times, Samson K. Orusa, M.D. (“the licensee”), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee’s medical specialty is internal medicine.

3. On or about December 12, 2018, in the United States District Court, Middle District of Tennessee, Nashville Division, the licensee was indicted on felony charges related to controlled substances.

4. Specifically, on or about December 12, 2018, the licensee was indicted on one (1) count of having knowingly opened, used and maintained a medical practice for the purpose of distributing Schedule II controlled substances, including Oxycodone, not for legitimate medical purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 856(a)(1). In support of said charge, it is alleged that

- The licensee diagnosed Patient M.H. with “Chronic Pain Syndrome” without attempting to diagnose a specific pain etiology; prescribed Patient M.H. “The Holy Trinity” of potentially deadly drug cocktails, being Oxycodone, Oxymorphone, Soma and Alprazolam at the patient’s last appointment; and that Patient M.H. died of Alprazolam, Oxymorphone and Meprobamate intoxication;
- The licensee prescribed Oxycodone to Patient L.A. in her initial visit, even though she stated that she had not been on any prescription medications because she had been “without a doctor” but tested positive for Oxycodone, Benzodiazepines and marijuana;
- The licensee prescribed Oxycodone to Patient M.P. on his initial visit, and went on to prescribe Oxycodone and other Schedule II controlled substances without obtaining Patient M.P.’s prior medical history and without performing credible physical examination or diagnostic workup. (Patient M.P. eventually suffered a heroin overdose in the licensee’s waiting room);
- The licensee prescribed Oxycodone to Patient M.W., whom he knew had tested positive for heroin metabolite and negative for prescribed Alprazolam. On another occasion he prescribed Oxycodone to Patient M.W., whom he knew had tested negative for prescribed medications, including Oxycodone;
- The licensee prescribed Oxycodone to Patient D.C., whom he knew had tested positive for cocaine and marijuana and negative for prescribed Oxycodone;
- The licensee prescribed Schedule II controlled substances to Patient M.S., whom he had identified as “high risk” and whom had tested negative for all prescribed medications;

- The licensee prescribed Oxycodone to Patient C.R. without having seen Patient C.R. and falsely documented that he had conducted a physical examination;
 - Between July 1, 2018 and August 21, 2018, the licensee wrote approximately 2,494 prescriptions for Schedule II controlled substances; and
 - The Tennessee Department of Health (TDH) audited the licensee's pain management certificate and identified regulatory defects, including failure to document treatment options, failure to conduct controlled substance monitoring after starting a course of opioid treatment and failure to establish patient urine drug screen compliance. On the very date that the TDH revoked the licensee's pain management certificate, the licensee wrote approximately 164 individual prescriptions for approximately 12,754 Schedule II controlled substance pills.
5. The licensee was also indicted on thirteen (13) counts of having devised and participated in a scheme and artifice to defraud health insurance benefit programs, including Medicare, and having obtained money and property owned by and under the custody and control of health care benefit programs, including Medicare, by means of materially false and fraudulent pretenses, representations and promises, in violation of Title 18, United States Code, Section 1347. In support of said charges, it is alleged, in part, that
- The licensee "up-coded" reimbursement claims to Medicare;
 - The licensee would accept 50, 60 or even more patients for office visits in a single day;
 - The licensee would require insurance patients, including Medicare beneficiaries, to visit his office approximately four to six times in a single month in order to increase and inflate reimbursement claims, while cash-paying patients were only required to visit his office twice per month;
 - The licensee would require insurance patients, including Medicare beneficiaries, to accept injections in order to increase and inflate reimbursement claims. He would and did threaten to withhold prescriptive medications from insurance patients who refused injections. Cash-paying patients were not required to accept injections in order to receive medications;

- The licensee submitted reimbursement claims indicating that he provided office visits and services to Medicare beneficiaries in a single day in excess of 24 hours; and
 - The licensee entered or caused to be entered into patient files inconsistent, false or rote information in order to create documentation supporting reimbursement claims.
6. In addition, the licensee was indicted on twenty-two (22) counts of having knowingly and intentionally distributed Oxycodone, a Schedule II controlled substance, not for legitimate purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 841(a)(1); seven (7) counts of having knowingly conducted and attempted to conduct a financial transaction affecting interstate commerce which involved the proceeds of an unlawful activity (being the maintenance of drug-involved premises, unlawful distribution of controlled substances outside the bounds of professional medical practice, and health care fraud) and knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and controls of the proceeds of said unlawful activity, while knowing the property involved in the financial transaction represented proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and two (2) counts of having knowingly engaged or attempted to engage in monetary transactions in criminally derived property of a value greater than \$10,000 affecting interstate commerce and by, through and to a financial institution, in violation of Title 18, United States Code, Section 1957.
7. On or about January 15, 2019, an Emergency Order of Restriction was issued against the licensee's license to practice medicine in the Commonwealth of Kentucky.

8. On or about August 13, 2021, following a jury trial in the United States District Court, Middle District of Tennessee, the licensee was convicted of

- one (1) count of having knowingly opened, used and maintained a medical practice for the purpose of distributing Schedule II controlled substances, including Oxycodone, not for legitimate medical purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 856(a)(1);
- thirteen (13) counts of having knowingly and intentionally distributed Oxycodone, a Schedule II controlled substance, not for legitimate purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 841(a)(1);
- thirteen (13) counts of having devised and participated in a scheme and artifice to defraud health insurance benefit programs, including Medicare, and having obtained money and property owned by and under the custody and control of health care benefit programs, including Medicare, by means of materially false and fraudulent pretenses, representations and promises, in violation of Title 18, United States Code, Section 1347;
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- two (2) counts of having knowingly engaged or attempted to engage in monetary transactions in criminally derived property of a value greater than \$10,000 affecting interstate commerce and by, through and to a financial institution, in violation of Title 18, United States Code, Section 1957.

CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available, 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(4), (9), as illustrated by KRS 311.597(4), and KRS 311.595(12).
4. The Inquiry Panel concludes there is probable cause to believe this licensee's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
5. The Board may draw logical and reasonable inferences about a licensee's practice by considering certain facts about a licensee's practice. If there is proof that a licensee has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the licensee will similarly violate the Medical Practice Act when presented with a similar set of circumstances. Similarly, the Board concludes that proof of a set of facts about a licensee's practice presents representative proof of the nature of that licensee's practice in general. Accordingly, probable cause to believe that the licensee has committed certain violations in the recent past presents probable cause to believe that the licensee will commit similar violations in the near future, during the course of the licensee's medical practice.
6. The United States Supreme Court has ruled that it is no violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior

evidentiary hearing, so long as 1) the immediate action is based upon a probable cause finding that there is a present danger to the public safety; and, 2) the statute provides for a prompt post-deprivation hearing. Barry v. Barchi, 443 U.S. 55, 61 L.Ed.2d 365, 99 S.Ct. 2642 (1979); FDIC v. Mallen, 486 U.S. 230, 100 L.Ed.2d 265, 108 S.Ct. 1780 (1988) and Gilbert v. Homar, 520 U.S. 924 (1997), 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

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

EMERGENCY ORDER OF SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Samson K. Orusa, M.D., is SUSPENDED and Dr. Orusa is prohibited from performing any act which constitutes the "practice of medicine or osteopathy," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities - until the Board's Hearing Panel has finally resolved the Amended Complaint 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 22nd day of October, 2021.



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

CERTIFICATE OF SERVICE

I certify that the original of this Emergency Order of Suspension was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested to the licensee, Samson K. Orusa, M.D., License No. 33408 at 2848 Carriage Way, Clarksville, Tennessee 37043-2851 and at 261 Stonecrossing Drive, Clarksville, Tennessee 37042-8404, and to his counsel, Brian Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207 on this 22nd day of October, 2021.


Leanne K. Diakov
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150

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BOARD OF MEDICAL LICENSURE
CASE NO. 1896

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IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY SAMSON K. ORUSA, M.D., LICENSE NO. 33408, 2848 CARRIAGE WAY, CLARKSVILLE, TENNESSEE 37043-2851

AMENDED 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 October 21, 2021, states for its Complaint against the licensee, Samson K. Orusa, M.D., as follows:

1. At all relevant times, Samson K. Orusa, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is internal medicine.
3. On or about December 12, 2018, in the United States District Court, Middle District of Tennessee, Nashville Division, the licensee was indicted on felony charges related to controlled substances.
4. Specifically, on or about December 12, 2018, the licensee was indicted on one (1) count of having knowingly opened, used and maintained a medical practice for the purpose of distributing Schedule II controlled substances, including Oxycodone, not for legitimate medical purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 856(a)(1). In support of said charge, it is alleged that
 - The licensee diagnosed Patient M.H. with "Chronic Pain Syndrome" without attempting to diagnose a specific pain etiology; prescribed Patient M.H. "The Holy Trinity" of potentially deadly drug cocktails, being Oxycodone, Oxymorphone, Soma and Alprazolam at the patient's last appointment; and that Patient M.H. died of Alprazolam, Oxymorphone and Meprobamate intoxication;

- The licensee prescribed Oxycodone to Patient L.A. in her initial visit, even though she stated that she had not been on any prescription medications because she had been “without a doctor” but tested positive for Oxycodone, Benzodiazepines and marijuana;
 - The licensee prescribed Oxycodone to Patient M.P. on his initial visit, and went on to prescribe Oxycodone and other Schedule II controlled substances without obtaining Patient M.P.’s prior medical history and without performing credible physical examination or diagnostic workup. (Patient M.P. eventually suffered a heroin overdose in the licensee’s waiting room);
 - The licensee prescribed Oxycodone to Patient M.W., whom he knew had tested positive for heroin metabolite and negative for prescribed Alprazolam. On another occasion he prescribed Oxycodone to Patient M.W., whom he knew had tested negative for prescribed medications, including Oxycodone;
 - The licensee prescribed Oxycodone to Patient D.C., whom he knew had tested positive for cocaine and marijuana and negative for prescribed Oxycodone;
 - The licensee prescribed Schedule II controlled substances to Patient M.S., whom he had identified as “high risk” and whom had tested negative for all prescribed medications;
 - The licensee prescribed Oxycodone to Patient C.R. without having seen Patient C.R. and falsely documented that he had conducted a physical examination;
 - Between July 1, 2018 and August 21, 2018, the licensee wrote approximately 2,494 prescriptions for Schedule II controlled substances; and
 - The Tennessee Department of Health (TDH) audited the licensee’s pain management certificate and identified regulatory defects, including failure to document treatment options, failure to conduct controlled substance monitoring after starting a course of opioid treatment and failure to establish patient urine drug screen compliance. On the very date that the TDH revoked the licensee’s pain management certificate, the licensee wrote approximately 164 individual prescriptions for approximately 12,754 Schedule II controlled substance pills.
5. The licensee was also indicted on thirteen (13) counts of having devised and participated in a scheme and artifice to defraud health insurance benefit programs, including Medicare, and having obtained money and property owned by and under the custody and control of health care benefit programs, including Medicare, by means of materially false and fraudulent pretenses, representations and promises, in violation of

Title 18, United States Code, Section 1347. In support of said charges, it is alleged, in part, that

- The licensee “up-coded” reimbursement claims to Medicare;
 - The licensee would accept 50, 60 or even more patients for office visits in a single day;
 - The licensee would require insurance patients, including Medicare beneficiaries, to visit his office approximately four to six times in a single month in order to increase and inflate reimbursement claims, while cash-paying patients were only required to visit his office twice per month;
 - The licensee would require insurance patients, including Medicare beneficiaries, to accept injections in order to increase and inflate reimbursement claims. He would and did threaten to withhold prescriptive medications from insurance patients who refused injections. Cash-paying patients were not required to accept injections in order to receive medications;
 - The licensee submitted reimbursement claims indicating that he provided office visits and services to Medicare beneficiaries in a single day in excess of 24 hours; and
 - The licensee entered or caused to be entered into patient files inconsistent, false or rote information in order to create documentation supporting reimbursement claims.
6. In addition, the licensee was indicted on twenty-two (22) counts of having knowingly and intentionally distributed Oxycodone, a Schedule II controlled substance, not for legitimate purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 841(a)(1); seven (7) counts of having knowingly conducted and attempted to conduct a financial transaction affecting interstate commerce which involved the proceeds of an unlawful activity (being the maintenance of drug-involved premises, unlawful distribution of controlled substances outside the bounds of professional medical practice, and health care fraud) and knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and controls

of the proceeds of said unlawful activity, while knowing the property involved in the financial transaction represented proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and two (2) counts of having knowingly engaged or attempted to engage in monetary transactions in criminally derived property of a value greater than \$10,000 affecting interstate commerce and by, through and to a financial institution, in violation of Title 18, United States Code, Section 1957.

7. On or about January 15, 2019, an Emergency Order of Restriction was issued against the licensee's license to practice medicine in the Commonwealth of Kentucky.
8. On or about August 13, 2021, following a jury trial in the United States District Court, Middle District of Tennessee, the licensee was convicted of
 - one (1) count of having knowingly opened, used and maintained a medical practice for the purpose of distributing Schedule II controlled substances, including Oxycodone, not for legitimate medical purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 856(a)(1);
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activity, while knowing the property involved in the financial transaction represented proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and

- two (2) counts of having knowingly engaged or attempted to engage in monetary transactions in criminally derived property of a value greater than \$10,000 affecting interstate commerce and by, through and to a financial institution, in violation of Title 18, United States Code, Section 1957.
9. On or about October 21, 2021, an Emergency Order of Suspension was issued against the licensee's license to practice medicine in the Commonwealth of Kentucky, to supersede the previously rendered Emergency Order of Restriction.
 10. By his conduct, the licensee has violated KRS 311.595(4), (9), as illustrated by KRS 311.597(4), and KRS 311.595(12). Accordingly, legal grounds exist for disciplinary action against his license to practice medicine in the Commonwealth of Kentucky.
 11. The licensee is directed to respond to the allegations delineated in the Amended Complaint within thirty (30) days of service thereof and is further given notice that:
 - (a) His failure to respond may be taken as an admission of the charges;
 - (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.
 12. NOTICE IS HEREBY GIVEN that a hearing on this Amended Complaint is scheduled for February 8, 2022, 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.

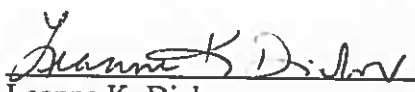
WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine in the Commonwealth of Kentucky held by SAMSON K. ORUSA, M.D.

This 22nd day of October, 2021.


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

CERTIFICATE OF SERVICE

I certify that the original of this Amended 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 the hearing officer, Keith Hardison, Esq., 2616 Bardstown Road, Louisville, Kentucky 40205; and copies were mailed via certified mail return-receipt requested to the licensee, Samson K. Orusa, M.D., License No. 33408 at 2848 Carriage Way, Clarksville, Tennessee 37043-2851 and at 261 Stonecrossing Drive, Clarksville, Tennessee 37042-8404, and to his counsel, Brian Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207 on this 22nd day of October, 2021.


Leanne K. Diakov
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2848 CARRIAGE WAY, CLARKSVILLE, TENNESSEE 37043-2851

COMPLAINT

Comes now the Complainant Dale E. Toney, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on February 21, 2019, states for its Complaint against the licensee, Samson K. Orusa, M.D., as follows:

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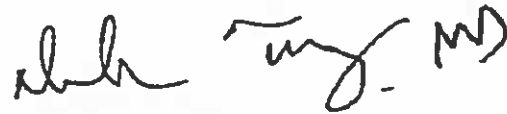
- **The licensee “up-coded” reimbursement claims to Medicare;**
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of the proceeds of said unlawful activity, while knowing the property involved in the financial transaction represented proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and two (2) counts of having knowingly engaged or attempted to engage in monetary transactions in criminally derived property of a value greater than \$10,000 affecting interstate commerce and by, through and to a financial institution, in violation of Title 18, United States Code, Section 1957.

7. On or about January 15, 2019, an Emergency Order of Restriction was issued against the licensee's license to practice medicine in the Commonwealth of Kentucky.
8. By his conduct, the licensee has violated 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 license to practice medicine in the Commonwealth of Kentucky.
9. The licensee is directed to respond to the allegations delineated in the Complaint within thirty (30) days of service thereof and is further given notice that:
 - (a) His failure to respond may be taken as an admission of the charges;
 - (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.
10. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for August 6 & 7, 2019, 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 SAMSON K. ORUSA, M.D.

This 26th day of February, 2019.



DALE E. TONEY, 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 Daphne Criscillis, Docket Clerk, Administrative Hearings Branch, Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601 and copies were mailed via certified mail return-receipt requested to the licensee, Samson K. Orusa, M.D., License No. 33408 at 2848 Carriage Way, Clarksville, Tennessee 37043-2851 and at 261 Stonecrossing Drive, Clarksville, Tennessee 37042-8404, on this 26th day of February, 2019.



Leanne K. Diakov
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COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1896

FILED OF RECORD

JAN 15 2019

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY SAMSON K. ORUSA, M.D., LICENSE NO. 33408, 2848 CARRIAGE WAY, CLARKSVILLE, TENNESSEE 37043-2851

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 December 12, 2018, in the United States District Court, Middle District of Tennessee, Nashville Division, and 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, Samson K. Orusa, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is internal medicine.
3. On or about December 12, 2018, in the United States District Court, Middle District of Tennessee, Nashville Division, the licensee was indicted on felony charges related to controlled substances.
4. Specifically, on or about December 12, 2018, the licensee was indicted on one (1) count of having knowingly opened, used and maintained a medical practice for the purpose

of distributing Schedule II controlled substances, including Oxycodone, not for legitimate medical purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 856(a)(1). In support of said charge, it is alleged that

- The licensee diagnosed Patient M.H. with “Chronic Pain Syndrome” without attempting to diagnose a specific pain etiology; prescribed Patient M.H. “The Holy Trinity” of potentially deadly drug cocktails, being Oxycodone, Oxymorphone, Soma and Alprazolam at the patient’s last appointment; and that Patient M.H. died of Alprazolam, Oxymorphone and Meprobamate intoxication;
- The licensee prescribed Oxycodone to Patient L.A. in her initial visit, even though she stated that she had not been on any prescription medications because she had been “without a doctor” but tested positive for Oxycodone, Benzodiazepines and marijuana;
- The licensee prescribed Oxycodone to Patient M.P. on his initial visit, and went on to prescribe Oxycodone and other Schedule II controlled substances without obtaining Patient M.P.’s prior medical history and without performing credible physical examination or diagnostic workup. (Patient M.P. eventually suffered a heroin overdose in the licensee’s waiting room);
- The licensee prescribed Oxycodone to Patient M.W., whom he knew had tested positive for heroin metabolite and negative for prescribed Alprazolam. On another occasion he prescribed Oxycodone to Patient M.W., whom he knew had tested negative for prescribed medications, including Oxycodone;
- The licensee prescribed Oxycodone to Patient D.C., whom he knew had tested positive for cocaine and marijuana and negative for prescribed Oxycodone;
- The licensee prescribed Schedule II controlled substances to Patient M.S., whom he had identified as “high risk” and whom had tested negative for all prescribed medications;
- The licensee prescribed Oxycodone to Patient C.R. without having seen Patient C.R. and falsely documented that he had conducted a physical examination;
- Between July 1, 2018 and August 21, 2018, the licensee wrote approximately 2,494 prescriptions for Schedule II controlled substances; and
- The Tennessee Department of Health (TDH) audited the licensee’s pain management certificate and identified regulatory defects, including failure to

document treatment options, failure to conduct controlled substance monitoring after starting a course of opioid treatment and failure to establish patient urine drug screen compliance. On the very date that the TDH revoked the licensee's pain management certificate, the licensee wrote approximately 164 individual prescriptions for approximately 12,754 Schedule II controlled substance pills.

5. The licensee was also indicted on thirteen (13) counts of having devised and participated in a scheme and artifice to defraud health insurance benefit programs, including Medicare, and having obtained money and property owned by and under the custody and control of health care benefit programs, including Medicare, by means of materially false and fraudulent pretenses, representations and promises, in violation of Title 18, United States Code, Section 1347. In support of said charges, it is alleged, in part, that

- The licensee "up-coded" reimbursement claims to Medicare;
- The licensee would accept 50, 60 or even more patients for office visits in a single day;
- The licensee would require insurance patients, including Medicare beneficiaries, to visit his office approximately four to six times in a single month in order to increase and inflate reimbursement claims, while cash-paying patients were only required to visit his office twice per month;
- The licensee would require insurance patients, including Medicare beneficiaries, to accept injections in order to increase and inflate reimbursement claims. He would and did threaten to withhold prescriptive medications from insurance patients who refused injections. Cash-paying patients were not required to accept injections in order to receive medications;
- The licensee submitted reimbursement claims indicating that he provided office visits and services to Medicare beneficiaries in a single day in excess of 24 hours; and
- The licensee entered or caused to be entered into patient files inconsistent, false or rote information in order to create documentation supporting reimbursement claims.

6. In addition, the licensee was indicted on twenty-two (22) counts of having knowingly and intentionally distributed Oxycodone, a Schedule II controlled substance, not for legitimate purposes in the usual course of professional medical practice and beyond the bounds of medical practice, in violation of Title 21, United States Code, Section 841(a)(1); seven (7) counts of having knowingly conducted and attempted to conduct a financial transaction affecting interstate commerce which involved the proceeds of an unlawful activity (being the maintenance of drug-involved premises, unlawful distribution of controlled substances outside the bounds of professional medical practice, and health care fraud) and knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and controls of the proceeds of said unlawful activity, while knowing the property involved in the financial transaction represented proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and two (2) counts of having knowingly engaged or attempted to engage in monetary transactions in criminally derived property of a value greater than \$10,000 affecting interstate commerce and by, through and to a financial institution, in violation of Title 18, United States Code, Section 1957.

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 Samson K. Orusa, M.D., is RESTRICTED and Dr. Orusa 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 15th day of January, 2019.



DALE E. TONEY, 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; and copies were mailed via certified mail return-receipt requested to the licensee, Samson K. Orusa, M.D., License No. 33408 at 2848 Carriage Way, Clarksville, Tennessee 37043-2851 and at 261 Stonecrossing Drive, Clarksville, Tennessee 37042-8404, on this 15th day of January, 2019.



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