

MAR 21 2022

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

ORDER OF REVOCATION

On March 17, 2022, the Kentucky Board of Medical Licensure (hereinafter “the Board”), acting by and through its Hearing Panel B, took up this case for final action. The Panel reviewed the Amended Complaint, filed October 22, 2021; the hearing officer’s Findings of Fact, Conclusions of Law and Recommended Order, dated January 15, 2022; the licensee’s Exceptions, filed January 19, 2022; and a memorandum from Board counsel, dated January 28, 2022.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS AND ADOPTS the hearing officer’s findings of fact and conclusions of law and ADOPTS and INCORPORATES them BY REFERENCE into this Order; Hearing Panel B FURTHER ACCEPTS and ADOPTS the hearing officer’s recommended order. (Attachment)

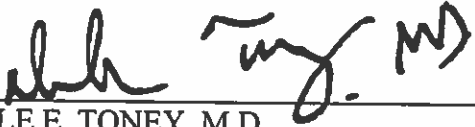
Having considered all statutorily available sanctions and the nature of the violations in this case, Hearing Panel B hereby **ORDERS**:

1. The license to practice medicine held by Samson K. Orusa, M.D., is hereby REVOKED and he shall not perform 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 – in the Commonwealth of Kentucky;
2. The provisions of KRS 311.607 SHALL apply to any petition for reinstatement filed by the licensee;
3. If the licensee’s license to practice medicine in the Commonwealth of Kentucky should ever become reinstated, following a petition pursuant to KRS 311.607, that

reinstatement SHALL be contingent upon the licensee entering into an agreed order pursuant to which the licensee SHALL be indefinitely and permanently banned from prescribing or dispensing controlled substances in accordance with the legislative intent set forth in KRS 218A.205 and any other terms deemed appropriate by the Board at that time; and

4. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the costs of these proceedings in the amount of \$906.25, prior to filing any petition for reinstatement of his license to practice medicine in the Commonwealth of Kentucky.


SO ORDERED this 21st day of March, 2022.



DALE E. TONEY, M.D.
CHAIR, HEARING PANEL B

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Order of Revocation 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, first-class postage prepaid, to the hearing officer, Keith Hardison, Esq., 2616 Bardstown Road, Louisville, Kentucky 40205, and copies were mailed, certified return-receipt requested, to the licensee, Samson K. Orusa, M.D., License No. 33408, 2848 Carriage Way, Clarksville, Tennessee 37043-2851 and to the licensee's counsel, Brian Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207 on this 21st day of March, 2022.



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

EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order of Revocation is received by the licensee or the licensee's attorney, whichever shall occur first.

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

COMMONWEALTH OF KENTUCKY
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

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND RECOMMENDED ORDER**

This action is before the hearing officer on the *Motion for Summary Disposition* (hereinafter the *Motion*) filed by the Kentucky Board of Medical Licensure (hereinafter “the Board”) on December 29, 2021. On January 4, 2022, Dr. Samson Orusa, the licensee, filed a response opposing the motion entitled *Response to Motion For Summary Disposition*, (hereinafter the *Response*). No reply has been filed. After reviewing the *Motion*, including attachments, the *Response*, the other pleadings of record and the applicable law, the hearing officer finds there are no genuine issues of material fact in dispute and that judgment as a matter of law is appropriate pursuant to KRS 13B.090(2). Therefore the hearing officer recommends the Board grant the *Motion for Summary Disposition*, find Dr. Orusa in violation of KRS 311.595 (4), KRS 311.595 (9), as illustrated by KRS 311.597(4) and KRS 311.595 (12), and impose any appropriate sanction for those violations.

In light of this recommendation, the administrative hearing scheduled for February 8, 2022, is hereby **CANCELLED**.

In support of this recommendation the hearing officer submits the following Findings of Fact, Conclusions of Law and Recommended Order:

FINDINGS OF FACT

1. At all relevant times Dr. Orusa was licensed by the Board to practice medicine in the Commonwealth of Kentucky. *Answer ¶ 1*

2. Dr. Orusa’s medical specialty is internal medicine. *Answer ¶ 1*

3. His medical practice was located in Clarksville Tennessee where he was also licensed to practice medicine and operate a pain clinic. *Motion, Attachment 1 ¶ 1*

4. On or about December 12, 2018, Dr. Orusa was indicted in the United States District Court for the Middle District of Tennessee, Nashville Division, on one 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 course of medical practice, and beyond the bounds of medical practice in violation of Title 21, United States Code, Section 856(a) (1). *Motion, Attachment 1, Count 1*

5. Dr. Orusa was also indicted on 22 counts of knowingly and intentionally distributing oxycodone, a schedule II controlled substances 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 841(a) (1) . *Motion, Attachment 1, Counts 2 - 23*

6. Dr. Orusa was indicted on 13 counts of knowingly and willfully executing and attempting to execute a scheme and artifice to defraud health care benefit programs, including Medicare, and to obtain, by materially false and fraudulent pretenses, representations and promises, money and property owned by and under the custody and control of health care benefit programs, including Medicare, in connection with the delivery of a payment for health care benefits, items and services by submitting and causing to be submitted to Medicare reimbursement claims for which he falsely represented that he provided certain office visits and medical services in the manner consistent with billing and medical guidelines in violation of Title 18, United States Code, Section 1347. *Motion, Attachment 1, Counts 24 - 36*

7. In this same indictment Dr. Orusa was charged with seven counts of knowingly conducting and attempting to conduct a financial transaction affecting interstate commerce which involved the proceeds of a specified unlawful activity, namely, maintaining a drug-involved premises, in violation of Title 21, United States Code, Section 856, unlawful distribution of a controlled substance prescribed outside the bounds of professional medical practice , in violation of Title 21, United States Code, Section 841, and health care fraud, in

violation of Title 18, United States Code, Section 1347, and knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of said specified unlawful activity, while knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity. *Motion, Attachment 1, Counts 37 - 43*

8. Dr. Orusa was also indicted in this same document with two counts of knowingly engaging and attempting to engage in monetary transactions in criminally derived property of a value greater than \$10,000, affecting interstate commerce, by, through and to a financial intuition in violation of Title 18, United States Code, Section 1957. The indictment alleged that the criminally derived property specified in these counts was obtained as the result of the criminal activity alleged previously in the indictment. *Motion, Attachment 1, Counts 37 - 43*

9. On February 26, 2019, the Board issued a *Complaint* against Dr. Orusa's license to practice medicine in the Commonwealth of Kentucky based upon the conduct alleged in this indictment, alleging that he was in violation of KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(12). *Complaint* ¶8

10. Dr. Orusa's filed a response, the matter was held in abeyance pending resolution of the criminal charges, and numerous status conferences were conducted to follow the progress of the pending criminal matter . See Administrative Record generally.

11. A jury trial was conducted in the United States District Court, Middle District of Tennessee, and on August 13, 2021, the jury returned of guilty as to 36 of the 45 counts contained in the above referenced indictment. *Motion, Attachment 2*

12. All counts for which Dr. Orusa was convicted were felony offenses containing maximum prison sentences of anywhere from 10 to 20 years in prison. *Motion, Attachment 1, Criminal Cover Sheet*

13. The Board filed an *Amended Complaint* on October 22, 2021. This Complaint

reiterated the allegations contained in the original *Complaint*, that Dr. Orusa was in violation of KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(12). An allegation that he was also in violation of KRS 311.595 (4) based upon his felony conviction was added.

14. Dr. Orusa filed an *Amended Answer* in response to this *Amended Complaint*, admitting that the jury convicted him of criminal offenses, but denying any criminal conduct. He further denied being in violation of the statutory provisions of KRS Chapter 311 as alleged by the Board. *Amended Answer* ¶2

15. Based on the verdict of the jury it is found that Dr. Orusa stands convicted of one (1) count of the felony offense 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 course of medical practice, and beyond the bounds of medical practice in violation of Title 21, United States Code, Section 856(a)(1). This offense occurred between January 1, 2014, and September 6, 2018, at the medical practice he operated in Clarksville Tennessee. The factual basis for this count of the indictment is set forth below. *Motion, Attachment 2, p. 1*

16. Specifically, on February 4, 2015, Dr. Orusa diagnosed patient “M.H.”, on his first visit, with “Chronic Pain Syndrome” without attempting to diagnose a specific pain etiology. He prescribed oxycodone (an opioid), oxymorphone (an opioid), Soma (a muscle relaxer) and alprazolam (a benzodiazepine), a drug combination commonly referred to as the “Holy Trinity”, a potentially deadly drug cocktail. This patient died of alprazolam, oxymorphone, meprobamate intoxication on February 24, 2018. *Motion, Attachment 1, Count 1, ¶ 21(a)*

17. On or about May 20, 2016, Dr. Orusa prescribed oxycodone to patient “L.A.” on her initial visit. Despite reporting that she was not taking any prescription medications because she was “without a doctor”, an initial toxicology screen was positive for oxycodone, benzodiazepines and marijuana. *Motion, Attachment 1, Count 1, ¶ 21(b)*

18. On September 6, 2016, patient “M.P.” first visited Dr. Orusa. He noted that he

needed specific medical records from another practitioner but proceeded to prescribe oxycodone on that visit. He continued to prescribe oxycodone and other Scheduled II controlled substances without obtaining a prior medical history or performing a credible physical exam or diagnostic workup. Patient "M.P." suffered a heroin overdose in the waiting room at Dr. Samson's medical office. . *Motion, Attachment 1, Count 1, ¶ 21(c)*

19. On September 16, 2016, Dr. Orusa prescribed oxycodone to patient "M.W." knowing that he had tested positive for heroin metabolite on August 23, 2016, and negative for prescribed alprazolam. On May 2, 2017, he again prescribed oxycodone to this patient who then tested negative for all prescribed medication, including oxycodone, on May 8, 2017. *Motion, Attachment 1, Count 1, ¶ 21(d)*

20. On May 12, 2017, Dr. Orusa prescribed oxycodone to patient "D.C." whom Dr. Samson knew had tested positive for cocaine and marijuana on or about October 2, 2016 and tested negative for prescribed oxycodone on April 17, 2017. *Motion, Attachment 1, Count 1, ¶ 21(e)*

21. On or about June 23, 2017, patient "M.S." first visited Dr. Orusa after having been discharged from another pain management practice for testing positive cocaine and having submitted a falsified drug screen. Dr. Orusa identified this patient as "high risk", but nevertheless prescribed a schedule II controlled substance without comment in the patient's chart. On September 13, 2017, Dr. Orusa continued to prescribe schedule II controlled substances despite an "all negative" drug screen. *Motion, Attachment 1, Count 1, ¶ 21(f)*

22. On or about October 18, 2017, Dr. Orusa prescribed oxycodone to patient "C.R." without having seen that patient on that date and then documented in the patient's chart that he had conducted a physical examination on that date. *Motion, Attachment 1, Count 1, ¶ 21(g)*

23. Also based upon the jury verdict of guilty on this count it is found that between July 1, 2018, and August 21, 2018, Dr. Orusa wrote approximately 2494 prescriptions for schedule II controlled substances. *Motion, Attachment 1, Count 1¶, 22*

24. As far back as 2013 and continuing in 2014 and 2016, the Tennessee Department of Health audited Dr. Orusa's practice and identified certain regulatory defects which went uncorrected, including failure to document treatment options, failure to conduct controlled substance monitoring after starting a course of opioid treatment and failure to establish patient drug screen compliance. On September 14, 2018, the state of Tennessee permanently revoked Dr. Orusa's pain management certificate. That same day he wrote 164 individual prescriptions for approximately 12,754 schedule II controlled substance pills. *Motion, Attachment 1, Count 1*, ¶ 23

25. As far back as 2014, and continuing through September 2018, several pharmacies in Dr. Orusa's geographic area stopped honoring his prescriptions for schedule II controlled substances. *Motion, Attachment 1, Count 1*, ¶ 24

26. Based on the verdict of the jury, it is found that Dr. Orusa stands convicted of thirteen (13) counts of the felony offense of knowingly and intentionally distributing oxycodone, a schedule II controlled substance, 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 841(a) (1). *Motion, Attachment 2, pp. 1 - 8*

27. Specifically, on thirteen (13) occasions between April 12, 2017, and September 5, 2018, Dr. Orusa issued prescriptions to thirteen individual patients 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 841 (a)(1) . *Motion, Attachment 1, Counts 2 – 23*, ¶ 2

28. Based on the verdict of the jury it is found that Dr. Orusa stands convicted of thirteen (13) counts of the felony offense of knowingly and willfully executing and attempting to execute a scheme and artifice to defraud health care benefit programs, including Medicare, and to obtain, by materially false and fraudulent pretenses, representations and promises, money and property owned by and under the custody and control of health care benefit programs, including

Medicare, in connection with delivery of an payment for health care benefits, items and services by submitting and causing to be submitted to Medicare reimbursement claims for which he falsely represented that he provided certain office visits and medical services in the manner consistent with billing and medical guidelines in violation of Title 18, United States Code, Section 1347. *Motion, Attachment 2, pp.9 - 13*

29. Specifically, Dr. Orusa submitted reimbursement claims to Medicare that were “up-coded” (i.e. they indicated the provision of a higher level of service than actually performed) submitted false and fraudulent claims to Medicare for services that were medically unnecessary and therefore not eligible for reimbursement, caused claims to be submitted to Medicare for prescriptions that were issued in violation of law or otherwise outside the bounds of accepted medial practice and diverted the proceeds of this fraud. *Motion, Attachment 1, Counts 24 – 36, ¶ 3*

30. In addition, based upon his conviction under these counts of the indictment, it is found that Dr. Orusa would accept “up to 50, 60 or more” patients for office visits in one day. *Motion, Attachment 1, Counts 24 – 36, ¶ 4*

31. Dr. Orusa would require insurance patients, including Medicare patients, to visit his office four to six times in a month to increase and inflate reimbursement claims. Patients who paid cash were only required to visit Dr. Orusa’s office twice per month. *Motion, Attachment 1, Counts 24 – 36, ¶ 6*

32. Dr. Orusa would require insurance patients, including Medicare patients, to accept injections in order to inflate reimbursement claims while cash paying patients were generally not required to accept injections to receive pain management prescriptions. Dr. Orusa would threaten to withhold pain management prescriptions if the patients refused to accept injections. *Motion, Attachment 1, Counts 24 – 36, ¶ 7*

33. Dr. Orusa submitted claims for reimbursement indicating that he provided visits and services to Medicare beneficiaries exceeding 24 hours in a single day. This occurred specifically

on October 17, 2017, October 18, 2017, November 13, 2017, December 4, 2017, January 5, 2018, January 8, 2018, January 10, 2018, February 5, 2018, and March 30, 2018. *Motion, Attachment 1, Counts 24 – 36, ¶ 8*

34. Dr. Orusa would enter or cause others to enter into patient files false, inconsistent and rote information in order to create documentation supporting the reimbursement claims submitted to Medicare and other insurance benefit programs. *Motion, Attachment 1, Counts 24 – 36, ¶ 9*

35. Based on the verdict of the jury it is found that Dr. Orusa stands convicted of seven (7) counts of the felony offense of knowingly conducting and attempting to conduct a financial transaction affecting interstate commerce which involved the proceeds of a specified unlawful activity in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i). *Motion, Attachment 2, pp. 13 - 15*

36. Specifically the “proceeds of illegal activity” referred to in these counts of the indictment were the proceeds he derived from his illegal distribution of controlled substances and his health care reimbursement fraud. The transactions involved were seven wire transfers of funds amounting to between \$8500.00 and \$9000.00 from his bank account to a foreign account between September 6, 2016, and February 9, 2017. *Motion, Attachment 1 Counts 37 - 43 ¶ 9*

37. Based on the verdict of the jury it is found that Dr. Orusa stands convicted of two (2) counts of the felony offense of knowingly engaging and attempting to engage in monetary transactions in criminally derived property of a value greater than \$10,000, affecting interstate commerce, by, through and to a financial institution in violation of Title 18, United States Code, Section 1957. *Motion Attachment #2, pp. 15 - 16*

38. Specifically Dr. Orusa used “criminally derived property”, the proceeds from his illegal distribution of controlled substances and his health care reimbursement fraud, to purchase, by check drawn from clinic proceeds, \$100,000.00 worth of securities and to make a down payment of \$12,451.00 on a Mercedes luxury car again using a check drawn on clinic proceeds

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this action pursuant to KRS 311.591 and KRS 311.595.
2. The administrative proceeding was conducted in accordance with the provisions of KRS Chapter 13B and KRS 311.591.
3. Under KRS 13B.090 (7) the Board has the burden to prove, by a preponderance of the evidence, the allegations against Dr. Orusa .
4. Pursuant to KRS 13B. 090 (2), “the hearing officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determines there are no genuine issues of material fact in dispute”.
5. Summary proceeding, such as those contemplated by KRS 13B. 090 (2) are generally appropriate when, construing all evidence in favor of the party against whom the motion is made, there are no disputed issues of fact upon which reasonable minds could differ. *Bierman v. Klapheke*, 967 S.W. 2d. 16, 18 – 19 (Ky.1998)
6. 201 KAR 9:081 Section 9 (2) (e) (1) requires that the Board “... take appropriate steps to expedite the resolution of that complaint” when the only violation of against a licensee is a criminal conviction. This section is not cited by the Board as ground for seeking summary disposition. *Motion*
7. The licensee however argues that this provision prevents the Board from seeking summary disposition in this case because, in addition to the allegation that he has a criminal conviction in violation of KRS 311.595(4), there are also allegations in the complaint that he has violated KRS 311.595(9), as illustrated by KRS 311.594 (4), and KRS 311.595(12).
8. This argument is logically flawed. It does not logically follow that a regulation requiring the Board to take a specific action in one type of case (where the only allegation is new

criminal conduct), prohibits it from taking that same statutorily authorized action in any other type of violation.

9. KRS 13B.090 (2), the statutory authority upon which the Board's *Motion* is based, contains no limitations as to the type of allegation or complaint to which it may be applied.

10. The Board does rely on 201 KAR 9:081 Section (2)(e) (3) (a) for the proposition that the licensee may not re-litigate a new criminal conviction. In his answer Dr. Orusa admits to having received the conviction at issue here but denies having committed the criminal conduct charged. Dr. Orusa does not dispute the application of this regulation. *Motion; Response*

11. Even in the absence of this regulation, a licensee would be prohibited from re-litigating a criminal conviction in an administrative disciplinary proceeding or civil matter based on the doctrine of issue preclusion and the conviction itself can provide the basis for disciplinary action. *Kentucky Bar Association v. Horn* 4 S.W. 3d 135 (1999); *Kentucky Bar Association v. Rice* 229 S.W. 3d 903 (2007) See also *Yeoman M.D. v. Commonwealth* 983 S.W. 2d 459, 465 (1998); *Gossage v. Roberts*, 904 S.W.2d 246 (Ky. Ct. App. 1995)

12. In this action the hearing officer concludes, based upon the pleadings and the record, there are no genuine issues of material fact upon which reasonable minds could differ and that judgment is appropriate as a matter of law under the provisions of 13B.090 (2).

13. The preponderance of the evidence supports the conclusion that Dr. Orusa has violated KRS 311.595 (4) and is subject to sanctions by the Board as a result of his conviction in the United States District Court for the Middle District of Tennessee for the felony offenses 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 course of 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 knowingly and intentionally distributing oxycodone, a schedule II controlled substances 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 841(a) (1), thirteen (13) counts of the felony offense of knowingly and willfully executing and attempting to execute a scheme and artifice to

defraud health care benefit programs, including Medicare, and to obtain by materially false and fraudulent pretenses, representations and promises, money and property owned by and under the custody and control of health care benefit programs, including Medicare, in connection with delivery of an payment for health care benefits, items and services by submitting and causing to be submitted to Medicare reimbursement, claims for which he falsely represented that he provided certain office visits and medical services in the manner consistent with billing and medical guidelines in violation of Title 18, United States Code, Section 1347, seven (7) counts of knowingly conducting and attempting to conduct a financial transaction affecting interstate commerce which involved the proceeds of a specified unlawful activity and knowing that the transaction was designed in whole or in part to conceal and disguise the nature location, source, ownership and control of the proceeds of said specified unlawful activity, while knowing that the property involved in the financial transaction represented the 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 knowingly engaging and attempting to engage in monetary transactions in criminally derived property of a value greater than \$10,000, affecting interstate commerce, by, through and to a financial institution in violation of Title 18, United States Code, Section 1957.

14. Dr. Orusa argues that summary disposition is not appropriate as to the allegation contained in the *Complaint* and *Amended Complaint* alleging that he has violated KRS 311.595 (9), as illustrated by KRS 311.597 (4), based upon his general and conclusory denial contained in his answers that he has violated this statute. *Response* ¶5; *Answer* ¶3, *Amended Answer*¶4

15. These statutes prohibit “dishonorable unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof” and includes but is not limited to “conduct which is calculated or has the effect of bringing the medical profession into disrepute, including but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice”. KRS 311.595 (9) and KRS 311.597 (4)

16. Dr. Orusa makes the same argument as to the allegation that he has, by his conduct, violated KRS 311.595(12). That statute provides for disciplinary sanctions against a licensee who has:

Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act... or valid regulation of the board.

17. 201 KAR 9:260 contains the Board's regulations regarding the utilization of controlled substances and prohibits prescribing controlled substances not for legitimate purposes in the usual course of medical practice and beyond the bounds of medical practice.

18. Dr. Orusa's conclusory denial of having committed conduct in violation of these statutes is not sufficient to overcome the Board's Motion for Summary Disposition.

Finally, under both the Kentucky and federal approach, a party opposing a properly supported summary judgment motion cannot defeat it without presenting at least some *affirmative evidence* showing that there is a genuine issue of material fact for trial. (emphasis added)

Steevest, Inc. v. Scansteel Services Center, Inc., 807 S.W. 2d 476 (1991)

19. Based upon the facts found by the jury to prove the allegations of criminal conduct, proven in court by proof beyond a reasonable doubt, the Board has put forth facts sufficient to conclusively establish violations of the relevant statutes. Dr. Orusa has presented no "affirmative evidence" such as affidavits or documents that would refute the factual claims made concerning his criminal conduct. Accordingly there are no genuine issues of material fact and the Board is also entitled to summary disposition as to allegations that Dr. Orusa has engaged in conduct in violation of KRS 311.595 (9) as illustrated by KRS 311.597 (4), and KRS 311.595(12)

20. Based upon the above Findings of Fact, the preponderance of the evidence supports the conclusion that Dr. Orusa has violated KRS 311.595 (9) as illustrated by KRS 311.597 (4), and is subject to sanction by the Board, by engaging in "dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof". Dr. Orusa's conduct in illegally distributing controlled substances not for legitimate purposes in the usual course of professional practice beyond the bounds of medical practice is, by its very nature, a departure from acceptable and prevailing medical practice and brings the medical profession into disrepute. It further is of a character likely to cause harm to the public.

21. Based upon the above Findings of Fact, the preponderance of the evidence supports the conclusion that Dr. Orusa has engaged in conduct likely to bring the medical profession into disrepute and cause harm to the public, by participating in a scheme and artifice to defraud health insurance benefit programs, conduct thereby also establishing a violation of KRS 311.595 (9) as illustrated by KRS 311.597 (4).

22. Based upon the above Findings of Fact, the preponderance of the evidence supports the conclusion that Dr. Orusa has also violated KRS 311.595 (12). Dr. Orusa's conduct in illegally distributing controlled substances not for legitimate purposes in the usual course of professional practice beyond the bounds of medical practice on numerous occasions is a violation of the provisions of 201 KAR 9:260, which contains the Board's regulations regarding the utilizations of controlled substances .

RECOMMENDED ORDER

Based upon the foregoing findings of fact and conclusions of law, the hearing officer recommends the Board find Dr. Orusa guilty of violating KRS 311.595 (4), KRS 311.595(9), as illustrated by KRS 311.597 (4), and KRS 311.595 (12) and impose any appropriate sanction for these violations.

NOTICE OF RIGHT TO FILE EXCEPTIONS AND TO APPEAL

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


A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party. Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal the circuit court will consider only the issues a party raised in written exceptions.

A party also has the right to appeal the Final Order of the agency pursuant to KRS 13B.140 (1 - 2) which states:

- (1) Except as provided in KRS 452.005, all final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the date of the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.
- (2) A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

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

So ORDERED this 15th day of January 2022.



KEITH HARDISON
HEARING OFFICER
2616 BARDSTOWN RD.
LOUISVILLE KY 40205
(502) 432-2332
keithdiver@bellsouth.net

CERTIFICATE OF SERVICE

I hereby certify that the original of this FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER was mailed this 15th day of January 2022, by first-class mail, postage prepaid, to:

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

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

HON. LEANNE K. DIAKOV
GENERAL COUNSEL
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

HON. BRIAN GOOD
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LOUISVILLE, KY 40207



KEITH HARDISON
HEARING OFFICER

FILED OF RECORD

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;
- 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, 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

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1896

FILED OF RECORD

OCT 22 2021

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

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);
 - 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;
 - 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.
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.

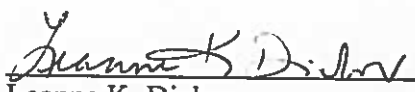
WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine in the Commonwealth of Kentucky held by SAMSON K. ORUSA, M.D.

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

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1896

FILED OF RECORD
FEB 26 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

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:

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

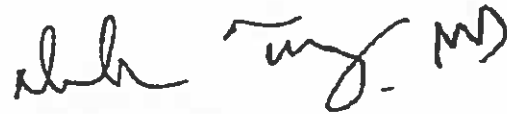
- The licensee “up-coded” reimbursement claims to Medicare;
 - The licensee would accept 50, 60 or even more patients for office visits in a single day;
 - The licensee would require insurance patients, including Medicare beneficiaries, to visit his office approximately four to six times in a single month in order to increase and inflate reimbursement claims, while cash-paying patients were only required to visit his office twice per month;
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 - 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. 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
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150

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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