

OCT 20 2022

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1904

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY CHRISTOPHER L. NELSON, M.D., LICENSE NO.  
37667, 10241 CHAMPION FARMS DRIVE, LOUISVILLE, KENTUCKY  
40241

**AGREED ORDER OF SURRENDER**

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Hearing Panel A, and Christopher L. Nelson, M.D., ("the licensee"), and, based upon their mutual desire to fully and finally resolve the complaint without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER OF SURRENDER**:

**STIPULATIONS OF FACT**

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

1. At all relevant times, Christopher L. Nelson, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain medicine.
3. On or about April 3, 2019, the licensee was indicted on one (1) count of conspiracy to defraud, in violation of 18 U.S.C. § 1349, and four (4) counts of health care fraud, in violation of 18 U.S.C. § 371 and 42 U.S.C. § 1320a-7b. According to the indictment, the manner and means by which the licensee sought to accomplish the objects and the purposes of the conspiracy included, in part, that
  - The licensee increased his profits by knowingly and willfully receiving kickback payments in exchange for referring his patients, including Medicare and Tricare patients, to Assured RX, LLC to receive compounded drug products; and

- He paid bonuses to his nurse practitioners and physician assistants for the sole purpose of inducing them to prescribe prescription compounded drug products to patients, including Medicare and Tricare patients, to be filled at Assured RX, LLC in order to maximize those kickback payments.
4. On or about April 18, 2019, an Emergency Order of Suspension was issued against the licensee's license to practice medicine.
  5. On or about August 24, 2022, the licensee waived indictment by the grand jury and entered a plea of guilty to Superseding Felony Information, charging the licensee with felony violations of Title 18, United States Code, Sections 2 and 1347; Title 21, United States Code, Sections 843 and 846; and Title 42, United States Code, Section 1320a-76. Specifically, the licensee entered a voluntary plea of guilty and stipulated the following facts as the basis of his plea:
    - Beginning no later than on or about November 1, 2014, and continuing through on or about July 1, 2018, in the Western District of Kentucky, and elsewhere, Nitesh Patel, through various entities, made kickback payments totaling \$1,414,790.33 to the licensee in which the licensee knowingly solicited and received the kickbacks via electronic transfer in exchange for the licensee referring his patients, including Medicare and Tricare patients, to Assured RX Pharmacy, owned by Patel, to receive compounded drug products. Assured RX billed Federal health care programs for the prescriptions. The licensee knowingly established multiple companies in other peoples' names, which allowed the nominal owners to enter into Marketing Subagent Agreements with Assured RX to become a marketing representative for Assured RX. Assured RX then paid the marketing representatives 50% of the net collections on all prescriptions referred by the marketer and filled by Assured RX. These marketing payments were deposited into bank accounts controlled by the licensee. The licensee, in turn, paid his nurse practitioners (NPs) and physician assistants (PAs) bonuses to induce them to prescribe compounded drug products. The licensee provided his staff with doctor signature stamps so prescription compounded drug products could be ordered without the patient seeing a medical doctor.
    - Beginning no later than on or about January 1, 2015, and continuing through on or about July 1, 2018, in the Western District of Kentucky, the licensee did knowingly pay his NPs and PAs bonuses to induce them to prescribe medically unnecessary back braces to patients. The licensee provided his staff with doctor signature stamps from doctors in the practice, including his own, to allow a doctor's signature to appear on back brace order forms. The other doctors were

not aware their signatures were being used to order back braces. The licensee used pre-printed Kentucky Medicaid order forms with CPT Code L0637 and the amount to be billed (\$1300) pre-printed on the forms. The licensee's staff would complete the patient biographical data and stamp a doctor's signature on the form to complete the order form. NPs, PAs, and staff failed to properly fit all Kentucky Medicaid patients with a customized back brace even though each brace was billed using CPT Code L0637, which requires customization pursuant to the Kentucky Administrative Regulations. Based on the incentives, many NPs and/or PAs prescribed medically unnecessary back braces to Kentucky Medicaid patients.

- Beginning no later than on or about March 1, 2017, and continuing through on or about July 1, 2018, in the Western District of Kentucky, the licensee did knowingly pay his NPs and PAs bonuses to induce them to prescribe medically unnecessary prescription compounded drug products. The licensee provided his staff with two doctor signature stamps with doctors' names from his practice. The licensee directed his staff to stamp Assured RX prescription compounded drug product order forms with one of these two doctor's signatures for Medicare patients. Assured RX billed Medicare for the prescriptions. These other doctors were not aware their signatures were being used to order compounded prescription drug products.
- Beginning no later than on or about January 1, 2015, and continuing through on or about June 12, 2018, in the Western District of Kentucky, the licensee did knowingly conspire with NPs and PAs, and other employees of Bluegrass Pain Consultants, to provide and use pre-signed blank controlled substance prescriptions. PAs, who did not possess any legal authority to issue controlled substances, used these pre-signed blank controlled substance prescriptions to issue Schedule II-IV controlled substances to patients. These pre-signed blank controlled substance prescriptions were provided to PAs to allow them to see patients and issue controlled substance prescriptions without the need to burden a medical doctor and improve overall revenue.

#### STIPULATED CONCLUSIONS OF LAW

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

1. The licensee's Kentucky medical license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates the provisions of KRS 311.595(4) and (9) - as illustrated by KRS

311.597(4) – and KRS 311.595(12). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Surrender.

3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve the complaint without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Surrender.

#### AGREED ORDER OF SURRENDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve the complaint, the parties hereby ENTER INTO the following **AGREED ORDER OF SURRENDER**:

1. The licensee, Christopher I. Nelson, M.D., **HEREBY SURRENDERS**, in lieu of revocation, his license to practice medicine/osteopathy within the Commonwealth of Kentucky for an indefinite period of time, with that surrender to become effective immediately upon the date of filing of this Agreed Order of Surrender;
2. Following the effective date of surrender of his license, the licensee **SHALL NOT** engage in any act which would constitute the “practice of medicine or osteopathy” as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities – until approved to do so by the Board;
3. The licensee **SHALL NOT** petition the Board for a license to again practice medicine/osteopathy in the Commonwealth unless and until:
  - a. At least three (3) years have passed from the date of entry of this Agreed Order of Surrender;
  - b. The licensee has satisfied all terms and conditions of the judgment, including but not limited to any terms of imprisonment, probation and/or supervised release, entered against him in *USA v. Nelson*, Case No. 3:19-CR-00058 (U.S. District Court, Western District of Kentucky); and
  - c. The licensee has fully reimbursed the Board the costs of these proceedings in the amount of \$1,281.25.

4. If the licensee should in the future petition for a license to again practice medicine/ostcopathy in the Commonwealth, he understands and agrees that the provisions of KRS 311.607 SHALL apply to said petition;
  - a. The licensee understands and agrees that the burden SHALL be upon him to satisfy the Board that he is presently of good moral character and is qualified both physically and mentally to resume the practice of medicine/osteopathy, without undue risk or danger to his patients or the public;
  - b. The licensee understands and agrees that the Board SHALL require him to successfully complete a Board-approved clinical skills assessment(s) and/or evaluation(s), at his expense, prior to considering his petition to resume the practice of medicine/osteopathy and to assist the Board in its consideration of the petition;
  - c. The licensee understands and agrees that the decision whether to permit him to resume the active practice of medicine/osteopathy lies within the sole discretion of the Board and that the Board shall not be required to issue a new license; and
  - d. In the event that the Board should allow the licensee to resume the active practice of medicine/osteopathy at any time in the future, the licensee understands and agrees that it shall do so conditioned upon him entering into an agreed order pursuant to which (1) he shall be indefinitely and permancntly restricted from the prescribing, dispensing or professional utilization of controlled substances as a condition, consistent with the legislative intent set forth in KRS 218A.205, and (2) he shall otherwise be under probation for a period of no less than two years nor more than five years, such that any subsequent violation during the probation period shall result in automatic revocation of license;
5. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order of Surrender, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive information that he has violated any term or condition of this Agreed Order of Surrender, the Panel Chair is authorized by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of any term or condition of this Agreed Order of Surrender would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant

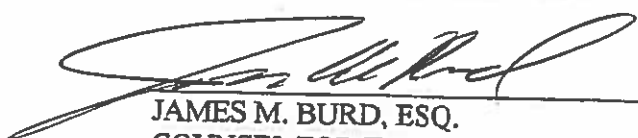
question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order of Surrender; and

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

SO AGREED on this 20<sup>th</sup> day of October, 2022.

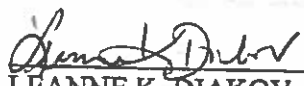
FOR THE LICENSEE:

  
CHRISTOPHER L. NELSON, M.D.

  
JAMES M. BURD, ESQ.  
COUNSEL FOR THE LICENSEE

FOR THE BOARD:

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

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


#### WAIVER OF RIGHTS

I, Christopher L. Nelson, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 1904. I understand that, under 201 KAR 9:082, I must waive certain rights if I wish to resolve this matter by informal dispensation. Accordingly, I WAIVE my right to raise any constitutional, statutory or common law objection(s) I may have to the Hearing Panel rejecting the proposed informal dispensation or to the curtailment of such a settlement by the Board's General Counsel or Assistant General Counsel.

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

Executed this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

  
CHRISTOPHER L. NELSON, M.D.  
RESPONDENT

  
JAMES M. BURD, ESQ.  
COUNSEL FOR THE RESPONDENT

MAY 20 2019

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1904

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY CHRISTOPHER L. NELSON, M.D., LICENSE NO.  
37667, 10241 CHAMPION FARMS DRIVE, LOUISVILLE, KENTUCKY  
40241

**COMPLAINT**

Comes now the Complainant Sandra R. Shuffett, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel B, and on behalf of the Panel which met on May 16, 2019, states for its Complaint against the licensee, Christopher L. Nelson, M.D., as follows:

1. At all relevant times, Christopher L. Nelson, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is pain medicine.
3. On or about April 3, 2019, the licensee was indicted on one (1) count of conspiracy to defraud, in violation of 18 U.S.C. § 1349, and four (4) counts of health care fraud, in violation of 18 U.S.C. § 371 and 42 U.S.C. § 1320a-7b. According to the indictment, the manner and means by which the licensee sought to accomplish the objects and the purposes of the conspiracy included, in part, that
  - The licensee increased his profits by knowingly and willfully receiving kickback payments in exchange for referring his patients, including Medicare and Tricare patients, to Assured RX, LLC to receive compounded drug products; and
  - He paid bonuses to his nurse practitioners and physician assistants for the sole purpose of inducing them to prescribe prescription compounded drug products to patients, including Medicare and Tricare patients, to be filled at Assured RX, LLC in order to maximize those kickback payments.
4. On or about April 18, 2019, an Emergency Order of Suspension was issued against the licensee's license to practice medicine



5. 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.
6. 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.
7. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for October 1, 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 Christopher L. Nelson, M.D.

This 20<sup>th</sup> day of May, 2019.




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SANDRA R. SHUFFETT, M.D.  
CHAIR, INQUIRY PANEL B

**CERTIFICATE OF SERVICE**

I certify that the original of this Complaint was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to 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, Christopher L. Nelson, M.D., License No. 37667, 10241 Champion Farms Drive, Louisville, Kentucky 40241 and 1701 Lynn Way, Louisville, Kentucky 40222, and his counsel James M. Burd, Esq., 100 Mallard Creek Road, Suite 250, Louisville, Kentucky 40207, on this 20<sup>th</sup> day of May, 2019.

  
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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. 1904

APR 18 2019

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY CHRISTOPHER L. NELSON, M.D., LICENSE NO. 37667, 10241 CHAMPION FARMS DRIVE, LOUISVILLE, KENTUCKY 40241

**EMERGENCY ORDER OF SUSPENSION**

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the Chair of its Inquiry Panel B, considered an Indictment, filed April 3, 2019, in the United States District Court, Western District of Kentucky, Case No. 3:19-CR-58-CRS, and having considered this information and being sufficiently advised, the Chair of Inquiry Panel B enters the following EMERGENCY ORDER OF SUSPENSION in accordance with KRS 311.592(1) and 13B.125(1):

**FINDINGS OF FACT**

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

1. At all relevant times, Christopher L. Nelson, M.D. (“the licensee”), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee’s medical specialty is pain medicine.
3. On or about April 3, 2019, the licensee was indicted on one (1) count of conspiracy to defraud, in violation of 18 U.S.C. § 1349, and four (4) counts of health care fraud, in violation of 18 U.S.C. § 371 and 42 U.S.C. § 1320a-7b. According to the indictment, the manner and means by which the licensee sought to accomplish the objects and the purposes of the conspiracy included, in part, that

- The licensee increased his profits by knowingly and willfully receiving kickback payments in exchange for referring his patients, including Medicare and Tricare patients, to Assured RX, LLC to receive compounded drug products; and
- He paid bonuses to his nurse practitioners and physician assistants for the sole purpose of inducing them to prescribe prescription compounded drug products to patients, including Medicare and Tricare patients, to be filled at Assured RX, LLC in order to maximize those kickback payments.

### CONCLUSIONS OF LAW

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

Based upon the foregoing Findings of Fact and Conclusions of Law, the Chair of Inquiry Panel B hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Christopher L. Nelson, M.D., is SUSPENDED and Dr. Nelson 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 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 B further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 18<sup>th</sup> day of April, 2019.



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SANDRA R. SHUFFETT, M.D.  
CHAIR, INQUIRY PANEL B

**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 a copy was mailed via certified mail return-receipt requested to the licensee, Christopher L. Nelson, M.D., License No. 37667, 10241 Champion Farms Drive, Louisville, Kentucky 40241, on this 18<sup>th</sup> day of April, 2019.



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Leanne K. Diakov  
General Counsel  
Kentucky Board of Medical Licensure  
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