

FILED OF RECORD

SEP 18 2020

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1952

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY THOMAS E. SONNE, M.D., LICENSE NO. 43861,
4613 SOUTH SKYLINE DRIVE, FLOYDS KNOB, INDIANA 47119

AGREED ORDER OF RETIREMENT

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel B, and Thomas E. Sonne, M.D., (hereafter "the licensee"), and, based upon the licensee's request to retire in lieu of revocation for noncompliance, hereby ENTER INTO the following **AGREED ORDER OF RETIREMENT**:

STIPULATIONS OF FACT

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

1. At all relevant times, Thomas E. Sonne, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. Prior to 2018, the licensee identified his medical specialty as Otolaryngology on his renewal applications. On his 2018 and 2019 renewal applications, the licensee identified his medical specialty as occupational medicine.
3. Between 1982 and 2014, the licensee practiced a combination of family medicine and ENT medicine.
4. Between September 2018 and October 13, 2019, the licensee practiced at Horizon Weight Loss clinics in Ashland, Morehead and Louisville, Kentucky.
5. On or about January 25, 2019, on his 2019 Application for Renewal of Medical License, the licensee denied that he worked in a bariatric clinic.

6. On or about April 8, 2019, a grievant alleged that the licensee violated regulations related to the prescribing of amphetamine-like anorectic controlled substances, including but not limited to failing to obtain medical histories and appropriate laboratory tests, failing to perform appropriate physical examinations, and failing to formulate individualized treatment plans.
7. On or about June 20, 2019, the Office of Inspector General ("OIG") conducted a review of the licensee's KASPER information, for the period dated June 9, 2018 through June 9, 2019, and found the following:
 - According to the eKASPER "Account Maintenance", the licensee's "Area of Work/Specialty" was designated as "Medial Examiner;"
 - 6,033 KASPER reports were requested under the licensee's master account for the period reviewed;
 - The licensee's three (3) active DEA numbers were listed with the addresses of Horizon Weight Loss clinics in Ashland, Morehead and Louisville;
 - During the period reviewed, the licensee prescribed to approximately 4,358 unique patients from fourteen (14) different states. There were approximately 9,642 unique prescription numbers;
 - All patients, except for three (3), received one (1) or more prescriptions for phentermine 37.5 mg, which were primarily dispensed from the licensee's office locations;
 - During the period reviewed, approximately 6,647 unique phentermine prescriptions were dispensed from the licensee's Ashland practice location, 2,278 from his Morehead practice location and 713 from his Louisville practice location;
 - The three (3) patients who did not receive phentermine had refills and were filled at different pharmacies in Owensboro, Kentucky;
 - During the period reviewed, there were approximately 1,531 unique phentermine prescriptions in a quantity of sixty (60) for a 30-day supply, 3,717 unique phentermine prescriptions in a quantity of forty-five (45) for a 30-day supply and some patients may have received larger quantities of ninety (90) or one-hundred-and-twenty (120) for a 30-day supply;
 - On six separate dates, the licensee prescribed to more than ninety (90) unique patients per day; and
 - Some patients from the same household received the same or similar prescriptions on the same dates.

OIG identified several patient names illustrative of the noted concerns for further review.

8. A Board consultant reviewed the identified patient charts and opined that the licensee departed from or failed to conform to acceptable and prevailing medical practices and violated the Board's regulation regarding prescribing and dispensing controlled substances, including amphetamine and amphetamine-like substances.

The consultant stated in part

Dr. Sonne did not follow standard of care ... there is no carefully prescribed diet, behavior modification and other appropriate supportive and collateral therapies on initial visit. There is not an adequate patient record ... There is no justification of use of scheduled IV substances beyond three months. The newest medical history forms do not inquire about past anorectic or other controlled substances used other than phentermine. Eating and exercise habits are not asked on new forms. There is no weight gain or loss history. There is an incomplete history of prior weight reduction efforts. There are no questions on prior treatment compliance. There is no laboratory evaluation of any of the seven required levels. There are not individualized treatment plans documented.

...

I saw no evidence of him working up co-morbidities of obesity, properly exploring and investigating the disease of obesity causes or contributors, or individualizing the nutritional/lifestyle/behavioral/or medication plan based on the individual. There certainly may be individualized discussion with the patient in these areas, but without documenting anything to prove this, I cannot show it. Competence is knowledge put into action.

Since the charting that was done had no written assessment of the patient, or any evaluation for obesity related co-morbidities, or evidence that the physician had any knowledge of, or took any action on that bariatric knowledge in regards to evaluating and monitoring co-morbidities, and forming individualized plans for the best safety and well-being of the patient ... There is the unfortunate, yet legally true saying they teach in medical school: "if it is not documented, it didn't happen."

Dr. Sonne may not have realized in the state of Kentucky all of the required state laws and national standards of care for practicing

bariatric medicine that now must be followed in order to be compliant with state regulations. Of course, it is the responsibility of the physician to make sure that he is following appropriate law. Unfortunately, this lack of knowledge has led him to be in violation of a multitude of Kentucky State regulations of 201 KAR 9:016 and 201 KAR 9:260 and not practicing standards of care in this field.

... Not properly exploring the patient's history, symptoms, lab work, and vital signs could lead to potential medication complications or delay in treatment. A delay in diagnosis/treatment and adverse result could lead to harm in the patient....

...

[W]ork-up and detailed charting for the bariatric patients are incomplete or missing components. Detailed obesity related assessments are not present. Plans for medications as well as nutritional, psychological, and behavioral modifications are not individualized. There seems to be a "same plan for all" which is typically the initiation of phentermine 37.5mg titrated up to 1 tab qd. Usually the next visit it is increased to 1.5 tabs daily and the next visit to 2 tabs daily. There is no reasoning as to why that choice was made, no investigation into the causes of obesity or following of the co-morbidities. For example, if patient notes a history of hypertension, the physician does not address this, does not document about educating patient about checking for changes in blood pressure on medication, and does not explain his choice of phentermine over phendimetrazine which has much less risk of changes in blood pressure. If the patient tests positive on the eating disorder screening test, there is no discussion about it and no appropriate medication options or referrals discussed.

Although a dosage of phentermine 37.5mg 1 po bid can be used safely for some rare patients, it is typically not often needed for hunger control if the appropriate work-up, investigation, and treatment is occurring to control the metabolic and biochemical blockades of weight loss. Obesity medications can be used for longer than 3 months, but the providers should be documenting why they are using it over 3 months if the patient is not losing and why they are not changing the medication plan if continued weight loss is not occurring. Better documentation and investigation into the causes of the patient's obesity and an individualized patient plan will also help to "avoid providing more controlled substance than necessary by prescribing only the amount needed to treat the medical complaint." For example, if calorie intake is coming from stress eating or true binge eating, increasing the dosage of phentermine will likely not help and would result in prescribing more controlled substance than actually needed. Most patient will gain good hunger control below a dosage of

phentermine 37.5mg bid if the cause of the hunger is biochemical which the phentermine helps. Hunger above 1.5 tabs should prompt an investigation into other causes.

9. Before the Board consultant completed the review, the licensee ceased practicing at Horizon Weight Loss clinics because "after driving more than 800 miles per week and spending three nights away from home" he wanted to practice closer to home.
10. On or about November 1, 2019, the licensee began practicing geriatric medicine at Landmark of Louisville Rehabilitation and Skilled Nursing Center, in affiliation with Osawaru J. Omoruyi, M.D.
11. On January 16, 2020, the Board's Inquiry Panel B reviewed this information and the licensee chose to enter into an Agreed Order, in lieu of the issuance of a Complaint and Emergency Order of Restriction.
12. On or about February 10, 2020, the parties entered into an Amended Agreed Order based upon the licensee and Dr. Omoruyi's request for approval of additional practice locations.
13. Pursuant to the Agreed Order and Amended Agreed Order, the licensee was required to promptly schedule and submit to an individualized clinical competency assessment in the specialty of geriatrics at either LifeGuard or Center for Personalized Education for Professionals ("CPEP").
14. By July 1, 2020, the licensee had become noncompliant with the agreed orders because he had neither scheduled nor submitted to a clinical competency assessment. The licensee agreed to enter into this Agreed Order of Retirement in lieu of revocation of his medical license.

STIPULATED CONCLUSIONS OF LAW

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

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(9), as illustrated by KRS 311.597(4), and KRS 311.595(12) and (13). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Retirement.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve the investigation without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Retirement.

AGREED ORDER OF RETIREMENT

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon the licensee's request to retire in lieu of revocation for noncompliance, the parties hereby ENTER INTO the following **AGREED ORDER OF RETIREMENT**:

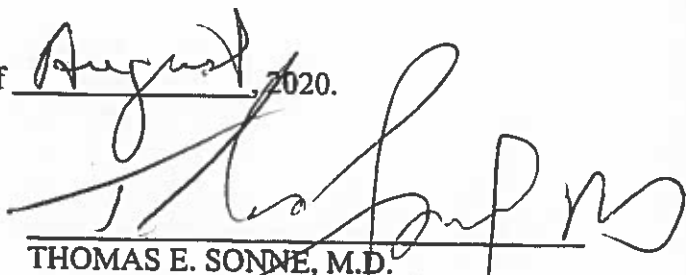
1. In accordance with the licensee's stated intent and in lieu of revocation, the license to practice medicine within the Commonwealth of Kentucky held by Thomas E. Sonne, M.D., is **RETIRED**, effective immediately upon the date of filing of this Agreed Order of Retirement and continuing for an indefinite period;
2. Beginning immediately and continuing throughout the indefinite period of this Agreed Order of Retirement, the licensee SHALL NOT perform any act, within the Commonwealth of Kentucky, which constitutes the "practice of medicine or osteopathy" as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction or any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
3. The licensee SHALL NOT petition the Board to reinstate his license to practice medicine in the Commonwealth of Kentucky, pursuant to KRS 311.607, prior to

the expiration of two (2) years from entry of this Agreed Order of Retirement. The licensee understands that the decision whether to reinstate his license to again practice medicine in the Commonwealth of Kentucky lies within the sole discretion of the Panel;

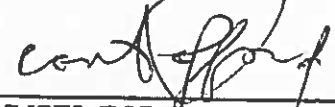
- a. Prior to petitioning for reinstatement of a license to again practice medicine, the licensee SHALL complete, at his expense, a Board-approved clinical skills assessment program at *either* LifeGuard, 777 East Park Drive, Harrisburg, Pennsylvania, 17111, Tel. (717) 909-2590 *or* Center for Personalized Education for Professionals ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver Colorado 80246, Tel. (303) 577-3232, in the specialty of geriatric medicine (and obtain an education plan, if recommended), and he SHALL satisfy to the Panel that he is of good moral character and both physically and mentally competent to resume the practice of medicine without undue risk or danger to patients or the public;
 - b. Prior to petitioning for of a license to again practice medicine, the licensee SHALL REIMBURSE the Board's investigative costs in the amount of \$4,900.00 in full;
4. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order of Retirement, 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 Retirement, 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 Retirement 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 Retirement; and
 5. The licensee understands and agrees that any violation of the terms of this Agreed Order of Retirement would provide a legal basis for additional disciplinary action, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.

SO AGREED on this 1st day of August, 2020.

FOR THE LICENSEE:

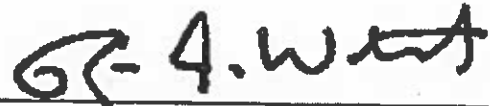


THOMAS E. SONNE, M.D.

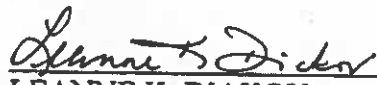


COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



RICHARD WHITEHOUSE, ESQ.
CHAIR, INQUIRY PANEL B



LEANNE K. DIAKOV
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FEB 10 2020

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AMENDED AGREED ORDER

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STIPULATIONS OF FACT

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

1. At all relevant times, Thomas E. Sonne, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
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Dr. Sonne may not have realized in the state of Kentucky all of the required state laws and national standards of care for practicing

bariatric medicine that now must be followed in order to be compliant with state regulations. Of course, it is the responsibility of the physician to make sure that he is following appropriate law. Unfortunately, this lack of knowledge has led him to be in violation of a multitude of Kentucky State regulations of 201 KAR 9:016 and 201 KAR 9:260 and not practicing standards of care in this field.

... Not properly exploring the patient's history, symptoms, lab work, and vital signs could lead to potential medication complications or delay in treatment. A delay in diagnosis/treatment and adverse result could lead to harm in the patient....

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[W]ork-up and detailed charting for the bariatric patients are incomplete or missing components. Detailed obesity related assessments are not present. Plans for medications as well as nutritional, psychological, and behavioral modifications are not individualized. There seems to be a "same plan for all" which is typically the initiation of phentermine 37.5mg titrated up to 1 tab qd. Usually the next visit it is increased to 1.5 tabs daily and the next visit to 2 tabs daily. There is no reasoning as to why that choice was made, no investigation into the causes of obesity or following of the co-morbidities. For example, if patient notes a history of hypertension, the physician does not address this, does not document about educating patient about checking for changes in blood pressure on medication, and does not explain his choice of phentermine over phendimetrazine which has much less risk of changes in blood pressure. If the patient tests positive on the eating disorder screening test, there is no discussion about it and no appropriate medication options or referrals discussed.

Although a dosage of phentermine 37.5mg 1 po bid can be used safely for some rare patients, it is typically not often needed for hunger control if the appropriate work-up, investigation, and treatment is occurring to control the metabolic and biochemical blockades of weight loss. Obesity medications can be used for longer than 3 months, but the providers should be documenting why they are using it over 3 months if the patient is not losing and why they are not changing the medication plan if continued weight loss is not occurring. Better documentation and investigation into the causes of the patient's obesity and an individualized patient plan will also help to "avoid providing more controlled substance than necessary by prescribing only the amount needed to treat the medical complaint." For example, if calorie intake is coming from stress eating or true binge eating, increasing the dosage of phentermine will likely not help and would result in prescribing more controlled substance than actually needed. Most patient will gain good hunger control below a dosage of

phentermine 37.5mg bid if the cause of the hunger is biochemical which the phentermine helps. Hunger above 1.5 tabs should prompt an investigation into other causes.

9. Before the Board consultant completed the review, the licensee ceased practicing at Horizon Weight Loss clinics because “after driving more than 800 miles per week and spending three nights away from home” he wanted to practice closer to home.
10. On or about November 1, 2019, the licensee began practicing geriatric medicine at Landmark of Louisville Rehabilitation and Skilled Nursing Center, in affiliation with Osawaru J. Omoruyi, M.D.
11. On January 16, 2020, the Board’s Inquiry Panel B reviewed this information and the licensee chose to enter into this Agreed Order, in lieu of the issuance of a Complaint and Emergency Order of Restriction.
12. On or about February 10, 2020, the parties entered into this Amended Agreed Order based upon the licensee and Dr. Omoruyi’s request for approval of additional practice locations.

STIPULATED CONCLUSIONS OF LAW

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

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(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 Amended Agreed Order.

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

AMENDED AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon the licensee's request to practice geriatric medicine at multiple locations, the parties hereby ENTER INTO the following **AMENDED AGREED ORDER**:

1. The license to practice medicine in the Commonwealth of Kentucky held by Thomas E. Sonne, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Amended Agreed Order;
2. During the effective period of this Amended Agreed Order, the licensee's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
 - a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine or osteopathy," as that term is defined in KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety. Once approved, the licensee

shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

- i. The licensee is hereby approved to practice geriatric medicine at the following locations in affiliation with Osawaru J. Omoruyi, M.D.:
 - **Landmark of Louisville Rehabilitation and Skilled Nursing Center**, 1155 Eastern Parkway, Louisville, Kentucky 40217;
 - **Louisville East**, 4200 Browns Lane, Louisville, Kentucky 40220;
 - **Presbyterian/Roseanna Hughes**, 2116 Buechel Bank Road, Louisville, Kentucky 40218;
 - **Essex**, 9600 Lamborne Blvd., Louisville, Kentucky 40272;
 - **Landmark of Iroquois Park**, 900 Gagel Avenue, Louisville, Kentucky 40216;
 - **Wesley Manor, Aldersgate and Hoskinson House**, 5012 East Manslick Road, Louisville, Kentucky 40219; and
 - **Jeffersontown Rehabilitation**, 3500 Good Samaritan Way, Louisville, Kentucky 40299
- b. The licensee SHALL NOT prescribe, dispense, or otherwise professionally utilize amphetamines or amphetamine-like controlled substances, unless and until approved to do so by the Panel;
- c. Within twenty (20) days of the filing of this Amended Agreed Order, the licensee SHALL contact *either* LifeGuard, 777 East Park Drive, Harrisburg, Pennsylvania, 17111, Tel. (717) 909-2590 *or* Center for Personalized Education for Professionals (“CPEP”), 720 South Colorado Boulevard, Suite 1100-N, Denver Colorado 80246, Tel. (303) 577-3232, to schedule an individualized clinical competency assessment, in the specialty of geriatric medicine, for the earliest dates available;
 - i. Both parties may provide relevant information to LifeGuard/CPEP for consideration as part of the assessment. In order to permit the Board to provide such relevant information, the licensee SHALL immediately notify the Board’s Legal Department of the assessment dates once the assessment is scheduled;
 - ii. The licensee SHALL travel to LifeGuard/CPEP and complete the assessment as scheduled, at his expense;
 - iii. The licensee expressly understands and agrees that LifeGuard/CPEP will issue an assessment report, in accordance with its internal policies;

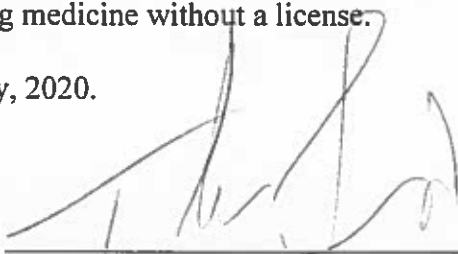
- iv. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that Lifeguard/CPEP will provide a copy of the assessment report to the Board's Legal Department promptly after its completion;
 - v. If the assessment report includes a recommendation that he engage in a "structured retraining program" or complete a residency or residency-like program, then the licensee SHALL NOT perform any act which would constitute the "practice of medicine or osteopathy," as that term is defined in KRS 311.550(10), unless and until approved to do so by the Panel;
 - vi. If the assessment report includes a recommendation for an educational or remediation plan, the licensee SHALL immediately take all necessary steps to have such plan developed and implemented by LifeGuard/CPEP and the licensee SHALL:
 1. Engage in and comply with all directives and instructions of LifeGuard/CPEP during the duration of the educational or remediation plan ("the plan");
 2. Immediately cease the "practice of medicine," as that term is defined in KRS 311.550(10), if the plan should become suspended for any reason;
 3. Take all necessary steps, including the execution of waivers and/or releases, to ensure that LifeGuard/CPEP provide timely written reports to the Board outlining his progression and compliance with the plan;
 4. Successfully complete all requirements of the plan, at his expense and as directed by LifeGuard/CPEP;
 5. Successfully complete any post-remediation assessments, at his expense and as directed by LifeGuard/CPEP, if deemed necessary by LifeGuard/CPEP;
 - d. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the Board's investigative costs in the amount of \$4,900.00, within two (2) years from the date of filing of this Amended Agreed Order; and
 - e. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee expressly agrees that if he should violate any term or condition of the Amended Agreed Order, 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 Amended Agreed Order, 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 Amended Agreed Order would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Amended Agreed Order.

4. The licensee understands and agrees that any violation of the terms of this Amended Agreed Order 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 10th day of February, 2020.

FOR THE LICENSEE:




THOMAS E. SONNE, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



RICHARD WHITEHOUSE, ESQ.
CHAIR, INQUIRY PANEL B



LEANNE K. DIAKOV
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4613 SOUTH SKYLINE DRIVE, FLOYDS KNOB, INDIANA 47119

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter “the Board”), acting by and through its Inquiry Panel B, and Thomas E. Sonne, M.D., (hereafter “the licensee”), and, based upon their mutual desire to fully and finally resolve this pending investigation without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER**:

STIPULATIONS OF FACT

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

1. At all relevant times, Thomas E. Sonne, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. Prior to 2018, the licensee identified his medical specialty as Otolaryngology on his renewal applications. On his 2018 and 2019 renewal applications, the licensee identified his medical specialty as occupational medicine.
3. Between 1982 and 2014, the licensee practiced a combination of family medicine and ENT medicine.
4. Between September 2018 and October 13, 2019, the licensee practiced at Horizon Weight Loss clinics in Ashland, Morehead and Louisville, Kentucky.
5. On or about January 25, 2019, on his 2019 Application for Renewal of Medical License, the licensee denied that he worked in a bariatric clinic.

6. On or about April 8, 2019, a grievant alleged that the licensee violated regulations related to the prescribing of amphetamine-like anorectic controlled substances, including but not limited to failing to obtain medical histories and appropriate laboratory tests, failing to perform appropriate physical examinations, and failing to formulate individualized treatment plans.
7. On or about June 20, 2019, the Office of Inspector General (“OIG”) conducted a review of the licensee’s KASPER information, for the period dated June 9, 2018 through June 9, 2019, and found the following:
 - According to the eKASPER “Account Maintenance”, the licensee’s “Area of Work/Specialty” was designated as “Medial Examiner;”
 - 6,033 KASPER reports were requested under the licensee’s master account for the period reviewed;
 - The licensee’s three (3) active DEA numbers were listed with the addresses of Horizon Weight Loss clinics in Ashland, Morehead and Louisville;
 - During the period reviewed, the licensee prescribed to approximately 4,358 unique patients from fourteen (14) different states. There were approximately 9,642 unique prescription numbers;
 - All patients, except for three (3), received one (1) or more prescriptions for phentermine 37.5 mg, which were primarily dispensed from the licensee’s office locations;
 - During the period reviewed, approximately 6,647 unique phentermine prescriptions were dispensed from the licensee’s Ashland practice location, 2,278 from his Morehead practice location and 713 from his Louisville practice location;
 - The three (3) patients who did not receive phentermine had refills and were filled at different pharmacies in Owensboro, Kentucky;
 - During the period reviewed, there were approximately 1,531 unique phentermine prescriptions in a quantity of sixty (60) for a 30-day supply, 3,717 unique phentermine prescriptions in a quantity of forty-five (45) for a 30-day supply and some patients may have received larger quantities of ninety (90) or one-hundred-and-twenty (120) for a 30-day supply;
 - On six separate dates, the licensee prescribed to more than ninety (90) unique patients per day; and
 - Some patients from the same household received the same or similar prescriptions on the same dates.

OIG identified several patient names illustrative of the noted concerns for further review.

8. A Board consultant reviewed the identified patient charts and opined that the licensee departed from or failed to conform to acceptable and prevailing medical practices and violated the Board's regulation regarding prescribing and dispensing controlled substances, including amphetamine and amphetamine-like substances.

The consultant stated in part

Dr. Sonne did not follow standard of care ... there is no carefully prescribed diet, behavior modification and other appropriate supportive and collateral therapies on initial visit. There is not an adequate patient record ... There is no justification of use of scheduled IV substances beyond three months. The newest medical history forms do not inquire about past anorectic or other controlled substances used other than phentermine. Eating and exercise habits are not asked on new forms. There is no weight gain or loss history. There is an incomplete history of prior weight reduction efforts. There are no questions on prior treatment compliance. There is no laboratory evaluation of any of the seven required levels. There are not individualized treatment plans documented.

...

I saw no evidence of him working up co-morbidities of obesity, properly exploring and investigating the disease of obesity causes or contributors, or individualizing the nutritional/lifestyle/behavioral/or medication plan based on the individual. There certainly may be individualized discussion with the patient in these areas, but without documenting anything to prove this, I cannot show it. Competence is knowledge put into action.

Since the charting that was done had no written assessment of the patient, or any evaluation for obesity related co-morbidities, or evidence that the physician had any knowledge of, or took any action on that bariatric knowledge in regards to evaluating and monitoring co-morbidities, and forming individualized plans for the best safety and well-being of the patient ... There is the unfortunate, yet legally true saying they teach in medical school: "if it is not documented, it didn't happen."

Dr. Sonne may not have realized in the state of Kentucky all of the required state laws and national standards of care for practicing

bariatric medicine that now must be followed in order to be compliant with state regulations. Of course, it is the responsibility of the physician to make sure that he is following appropriate law. Unfortunately, this lack of knowledge has led him to be in violation of a multitude of Kentucky State regulations of 201 KAR 9:016 and 201 KAR 9:260 and not practicing standards of care in this field.

... Not properly exploring the patient's history, symptoms, lab work, and vital signs could lead to potential medication complications or delay in treatment. A delay in diagnosis/treatment and adverse result could lead to harm in the patient....

...

[W]ork-up and detailed charting for the bariatric patients are incomplete or missing components. Detailed obesity related assessments are not present. Plans for medications as well as nutritional, psychological, and behavioral modifications are not individualized. There seems to be a "same plan for all" which is typically the initiation of phentermine 37.5mg titrated up to 1 tab qd. Usually the next visit it is increased to 1.5 tabs daily and the next visit to 2 tabs daily. There is no reasoning as to why that choice was made, no investigation into the causes of obesity or following of the co-morbidities. For example, if patient notes a history of hypertension, the physician does not address this, does not document about educating patient about checking for changes in blood pressure on medication, and does not explain his choice of phentermine over phendimetrazine which has much less risk of changes in blood pressure. If the patient tests positive on the eating disorder screening test, there is no discussion about it and no appropriate medication options or referrals discussed.

Although a dosage of phentermine 37.5mg 1 po bid can be used safely for some rare patients, it is typically not often needed for hunger control if the appropriate work-up, investigation, and treatment is occurring to control the metabolic and biochemical blockades of weight loss. Obesity medications can be used for longer than 3 months, but the providers should be documenting why they are using it over 3 months if the patient is not losing and why they are not changing the medication plan if continued weight loss is not occurring. Better documentation and investigation into the causes of the patient's obesity and an individualized patient plan will also help to "avoid providing more controlled substance than necessary by prescribing only the amount needed to treat the medical complaint." For example, if calorie intake is coming from stress eating or true binge eating, increasing the dosage of phentermine will likely not help and would result in prescribing more controlled substance than actually needed. Most patient will gain good hunger control below a dosage of

phentermine 37.5mg bid if the cause of the hunger is biochemical which the phentermine helps. Hunger above 1.5 tabs should prompt an investigation into other causes.

9. Before the Board consultant completed the review, the licensee ceased practicing at Horizon Weight Loss clinics because “after driving more than 800 miles per week and spending three nights away from home” he wanted to practice closer to home.
10. On or about November 1, 2019, the licensee began practicing geriatric medicine at Landmark of Louisville Rehabilitation and Skilled Nursing Center, in affiliation with Osawaru J. Omoruyi, M.D.
11. On January 16, 2020, the Board’s Inquiry Panel B reviewed this information and the licensee chose to enter into this Agreed Order, in lieu of the issuance of a Complaint and Emergency Order of Restriction.

STIPULATED CONCLUSIONS OF LAW

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

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(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.

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

AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve the investigation without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER**:

1. The license to practice medicine in the Commonwealth of Kentucky held by Thomas E. Sonne, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Agreed Order;
2. During the effective period of this Agreed Order, the licensee's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
 - a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine or osteopathy," as that term is defined in KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety. Once approved, the licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

- i. The licensee is hereby approved to practice medicine at **Landmark of Louisville Rehabilitation and Skilled Nursing Center, 1155 Eastern Parkway, Louisville, Kentucky 40217;**
- b. The licensee SHALL NOT prescribe, dispense, or otherwise professionally utilize amphetamines or amphetamine-like controlled substances, unless and until approved to do so by the Panel;
- c. Within twenty (20) days of the filing of this Agreed Order, the licensee SHALL contact *either* LifeGuard, 777 East Park Drive, Harrisburg, Pennsylvania, 17111, Tel. (717) 909-2590 *or* Center for Personalized Education for Professionals (“CPEP”), 720 South Colorado Boulevard, Suite 1100-N, Denver Colorado 80246, Tel. (303) 577-3232, to schedule an individualized clinical competency assessment, in the specialty of geriatric medicine, for the earliest dates available;
 - i. Both parties may provide relevant information to LifeGuard/CPEP for consideration as part of the assessment. In order to permit the Board to provide such relevant information, the licensee SHALL immediately notify the Board’s Legal Department of the assessment dates once the assessment is scheduled;
 - ii. The licensee SHALL travel to LifeGuard/CPEP and complete the assessment as scheduled, at his expense;
 - iii. The licensee expressly understands and agrees that LifeGuard/CPEP will issue an assessment report, in accordance with its internal policies;
 - iv. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that Lifeguard/CPEP will provide a copy of the assessment report to the Board’s Legal Department promptly after its completion;
 - v. If the assessment report includes a recommendation that he engage in a “structured retraining program” or complete a residency or residency-like program, then the licensee SHALL NOT perform any act which would constitute the “practice of medicine or osteopathy,” as that term is defined in KRS 311.550(10), unless and until approved to do so by the Panel;
 - vi. If the assessment report includes a recommendation for an educational or remediation plan, the licensee SHALL immediately take all necessary steps to have such plan developed and implemented by LifeGuard/CPEP and the licensee SHALL:

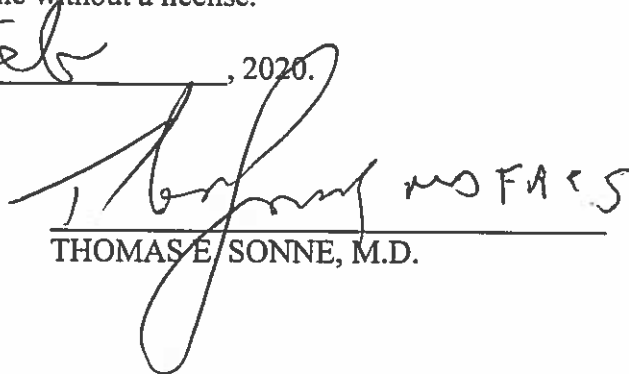
1. Engage in and comply with all directives and instructions of LifeGuard/CPEP during the duration of the educational or remediation plan (“the plan”);
 2. Immediately cease the “practice of medicine,” as that term is defined in KRS 311.550(10), *if* the plan should become suspended for any reason;
 3. Take all necessary steps, including the execution of waivers and/or releases, to ensure that LifeGuard/CPEP provide timely written reports to the Board outlining his progression and compliance with the plan;
 4. Successfully complete all requirements of the plan, at his expense and as directed by LifeGuard/CPEP;
 5. Successfully complete any post-remediation assessments, at his expense and as directed by LifeGuard/CPEP, if deemed necessary by LifeGuard/CPEP;
- d. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the Board’s investigative costs in the amount of \$4,900.00, within two (2) years from the date of filing of this Agreed Order; and
- e. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee expressly agrees that if he should violate any term or condition of the Agreed Order, 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, 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 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.

4. The licensee understands and agrees that any violation of the terms of this Agreed Order 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 5th day of Feb, 2020.

FOR THE LICENSEE:

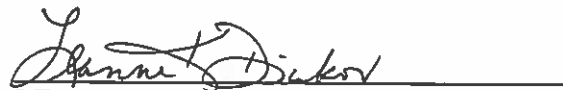

THOMAS E. SONNE, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



RICHARD WHITEHOUSE, ESQ.
CHAIR, INQUIRY PANEL B



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