COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1867

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY EMMANUEL EZE, M.D., LICENSE NO. 31810, 1311 KENTUCKY AVENUE, ASHLAND, KENTUCKY 41102-4552

AGREED ORDER

Come now the Kentucky Board of Medical Licensure ("the Board"), by and through its Inquiry Panel A, and EMMANUEL EZE, M.D. ("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, Emmanuel Eze, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Psychiatry.
3. On or about November 1, 2017, the Office of Inspector General ("OIG"), Drug Enforcement and Professional Practices Branch was contacted by a pharmacist with concerns related to the prescribing of buprenorphine by the licensee.
4. In response to the complaint, Paula York, an investigator with OIG, reviewed and analyzed the licensee's KASPER records (dated December 5, 2016 to December 5, 2017) and noted the following areas of concern:

    - Out of 2,375 prescriptions for buprenorphine products, 1526 prescriptions (about 65%) were for buprenorphine mono-product and of those prescriptions, approximately 50% were for male patients or for women of non-childbearing age;

- Several patients received prescriptions for stimulants concurrently with buprenorphine;
- Several patients had been receiving doses greater than 16mg; and
- The licensee requested 385 KASPER reports for patients during the time period.

5. Ms. York identified fourteen (14) patient names for further review by the Board.

6. During an interview with the Board's medical investigator, the licensee stated that he prescribed patients Subutex due to complaints of headaches and taste related to Suboxone. He stated that he did not know that Subutex was widely diverted. The licensee further stated that he takes the complaint very seriously. The licensee also provided a written response to the grievance.

7. A Board consultant reviewed fourteen (14) of the licensee's patient charts and found that the licensee departed from or failed to conform to acceptable and prevailing medical practices in regard to diagnoses in four (4) charts, in regard to treatment in all fourteen (14) charts, in regard to record keeping in all fourteen (14) charts, and overall in all fourteen (14) charts. In each chart, the Board consultant found the licensee's care demonstrated gross ignorance, gross incompetence, and gross negligence. The Board consultant's report is attached and incorporated in its entirety.

8. By letter dated May 21, 2018, the licensee responded, through counsel, to the consultant's report. The licensee indicated that he had recently attended the American Psychiatric Association Annual Meeting where he participated in "Buprenorphine in Medication Assisted Therapy for Opioid Use Disorders;" and that he had enrolled in a documentation seminar as well as the Vanderbilt University Prescribing Controlled Substances course.

9. The Board consultant issued a final report on May 26, 2017 in which he stated that his opinions from the original review had not changed.

10. The licensee completed the Center for Personalized Education for Professionals ("CPEP") Medical Record Keeping Seminar on June 1, 2018.
11. The licensee and his counsel appeared before the Panel on June 21, 2018 and addressed the Panel before it deliberated.
12. The licensee agrees to enter into this Agreed Order in lieu of a formal Complaint and an Emergency Order of Restriction being issued against his license.

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 (3) and (4). 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 this pending 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 the parties' mutual desire to fully and finally address this pending 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 EMMANUEL EZE, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this 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 OF RESTRICTION/LIMITATION until further order of the Board:

    a. The licensee SHALL NOT prescribe, dispense, or otherwise professionally utilize controlled substances unless and until approved to do so by the Panel;

    b. The Panel SHALL NOT consider a request by the licensee to resume the prescribing, dispensing or professional utilization of controlled substances unless and until the Board has received an assessment report and educational plan (if recommended) following the licensee's completion of a clinical skills assessment at the Center for Personalized Education for Professionals ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232 Fax: (303) 577-3241;

    c. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the Board's investigative costs in the amount of $1,781.75, within six (6) months from the date of filing of this Agreed Order; and

    d. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

3. The licensee expressly understands and agrees that if the Panel should grant the licensee's request to resume the prescribing, dispensing or professional utilization of controlled substances in the future, it shall do so by an Amended Agreed Order, which shall at least require that:

    a. The licensee maintain a "controlled substances log" for all controlled substances prescribed, dispensed or otherwise utilized and shall provide for two (2) favorable consultant reviews of the log and relevant records by Board agents before the order may be terminated; and

    b. Any other conditions deemed necessary by the Panel or Panel Chair at that time.

4. 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 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; and

5. 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).

SO AGREED on this 9th day of July, 2018.

FOR THE LICENSEE:

EMMANUEL EZE, M.D.

L. CHAD ELDER
COUNSEL FOR THE LICENSEE

FOR THE BOARD:

C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY PANEL A

Sara Farmer

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

April 22, 2018

Re. Emmanuel Eze MD

Dear Mr. Marshall:

I have reviewed the following information:

1. Grievance filed by Paula York
2. Investigative report
3. Kasper report Dr. Eze
4. Medical files on 14 patients
5. Investigation
6. Dr. Eze response

My conclusions are:

1. Yes, the named physician did engage in conduct, which departs from or fails to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky.
2. Yes, the named physician has committed a serious act, or a pattern of acts, during the course of the physician's medical practice, which under the attendant circumstances would be deemed to be gross incompetence, gross ignorance, or malpractice.
3. Yes the physician's practice constitutes a danger to the health, welfare and safety of physician's patients and general public.

Re. prescribing:

1. No, the physician did not prescribe or dispense medications with the intent or knowledge that the medication would be used or was likely to be used other than medicinally or other than for accepted therapeutic purpose.
2. No, the physician did not prescribe or dispense medication for the licensee's personal use or for the use of his immediate family.
3. Yes, the physician did prescribe or dispense medication in such amounts that the licensee knew or had reason to know that said amount so prescribed or dispensed were excessive under accepted and prevailing medical practice standards
4. Yes, the physician did engage in conduct which departs from or fails to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky.
5. Yes, the physician has committed a serious act or pattern of acts during the course of the physician's medical practice which under the attendant circumstances would be deemed to be gross incompetence, gross ignorance, gross negligence.

My review will address Dr. Eze's practice as it specifically relates to treatment of substance use disorders. I will avoid any critique regarding psychiatric care as this is his specialty not mine. I will note that there is evidence of significant use of psychotropics including stimulants for presumed ADD. I will avoid as well commentary regarding treatment of general medical care as this is not his specialty. I will also mention here identification of issues related to billing and charging as it seems patients were billed for Medicaid services and patients were billed for visits for which there is no record. This is outside the purview of this analysis.

The complaint identifies issues related to prescriptions for buprenorphine, 65% of which were for mono product and a majority of these to nonpregnant women. Also noted was dosing exceeding recommended maximum dosing of 16 mgs, prescriptions for stimulants, and only 365 Kasper reports requested.

Review of Kasper does corroborate these findings. A majority of buprenorphine prescriptions were for the mono product, doses regularly exceeded 16 mgs and reached 24 mgs. There were frequent changes in dosing both increases and decrease. Intervals between RX's were acceptable and patients seemed to be consistent with the same pharmacy for all RX's. Initial dosing however seemed to be for 16 mgs. with no evidence of an induction process. As well these RX's seemed to be written for the first 30 days rather than more frequent appointment intervals. Follow up appointments after initial dosing reverted to monthly whereas it would have been expected these be more frequent to assess patient stability. Although a count was not made and this physician's waiver not identified it appears there were likely many more than 100 patients prescribed at any one time counter to DEA licensing. Noted were many patients splitting RX's suggesting many paying cash. There were repetitive family surnames suggesting treatment of multiple family members. Noted were a significant number of RX's for stimulants as well as gabapentin.

Regarding diagnoses this appeared to be consistent and appropriate. Patients were all had OUD's and then associated comorbid diagnoses. It appears Dr. Eze managed psychiatric diagnoses and only rarely attended to other medical issues.

Records were for the most part inadequate. Handwritten notes were difficult to read and EMR would have been helpful. Dr. Eze did appear to obtain an admission history on all patients but failed to obtain physicals and accompanying laboratory. CS agreements were absent. There was no identified problem list or medication list which would affect the ability to safely manage patients. Kasper reports seemed to be obtained only at the request of insurance companies for prior authorizations. Annual review of treatment plans was missing.

Treatment of patients was also woefully inadequate. After assessment it appears Dr.Eze initiated dosing without a routine induction protocol, started patients at 16 mgs with self administration at home, and then provided follow up 30 days later. Suggestions for split dosing seen admittedly in earlier years was not necessary nor recommended. Dose frequently

exceeded the recommended maximum of 16 mgs and was frequently altered for very poorly identified reasons. Other therapeutic maneuvers were not initiated with patients describing a host of symptoms and problem. Visit frequency was always monthly regardless of patient status. Surely Dr. Eze did not follow a routine of regular frequent visits at initiation of treatment until stability. Even with identified ongoing problems visit frequency nor treatment plans were altered. Patients maintained their status quo with Dr. Eze and higher levels of care were not initiated. It appears most were referred to, and many apparently involved with, outside counseling but this was not documented and difficult to follow.

I did not see much coordination of care or collaboration with outside resources otherwise. Patients did have significant comorbid mental health problems but Dr. Eze was providing psychiatric care. Referrals to PCP, pain management, physical therapy, alternative medicine, etc. rarely occurred or at least were not monitored. Issues such as tobacco use were not regularly addressed.

Patient visits were minimally documented. Unexpected results mostly with positive DS's were not addressed either verbally or with need for higher level of care. Concerns with concurrent use of other drugs such as alcohol and BZD's were not emphasized. With concerns about potential diversion there was little addressed. Many DS's returned positive for naloxone (with the active RX bupe mono) and this not adequately addressed.

Aside from prescribing buprenorphine Dr. Eze also prescribed stimulants and gabapentin with some frequency. Use of stimulants in patients with SUD is generally contraindicated and alternatives for treatment ADD should be accessed. As well use of gabapentin has become generally contraindicated and is to be avoided in this population.

Missed appointments needed to be addressed. Telephone prescribing is not acceptable unless under urgent circumstances.

In summary I see Dr. Eze having a total lack of knowledge concerning the prescribing standards for buprenorphine products. As well I see him not having the insight to manage patients with SUD particularly those who may have more complex issues. I must admit I am also concerned about his billing practices, although again this is something to be ascertained by others. These practices are a danger both to his patients as well as the community but also the practice of addiction medicine as the field strives for quality care.

I appreciate your confidence in my review.

Respectfully
Mark Jorrisch