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COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1949

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MARY JEAN LANG, M.D., LICENSE NO. 44482, 777 NORTH LAUREL ROAD, LONDON, KENTUCKY 40741

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (“the Board”), acting by and through its Inquiry Panel A, and Mary Jean Lang, M.D. (“the licensee”), and, based upon their mutual desire to resolve this matter 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, Mary Jean Lang, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is psychiatry.
3. In or around August 2014, the Office of Inspector General (OIG) opened an investigation after receiving information from the Drug Enforcement Administration (DEA) that the licensee was inappropriately prescribing to patients; an anonymous report that her behavior was becoming increasingly erratic and she appeared paranoid; and a veterinarian reported that he/she called the police in response to the licensee appearing impaired. OIG reviewed a 70-page KASPER report (for the period August 1, 2013 through August 16, 2014) of the licensee’s prescribing and noted the following concerns:

- Patient ages;
- Prescribing of addictive drug combinations;
- Patient use of multiple pharmacies;
- Duplicative therapy;
- Prescribing to an employee;
- Failure to run/timely run KASPER reports on patients

OIG identified six patient charts illustrative of these concerns and recommended further review by the Board.

OIG also reviewed a KASPER on the licensee as a patient and noted that she received overlapping amphetamine prescriptions in excessive doses from an APRN in Booneville, Kentucky, and a psychiatrist in Knoxville, Tennessee, and filled those prescriptions at multiple pharmacies.

4. The licensee denies that she failed to run timely KASPER reports on patients.
5. On or about September 26, 2014, the licensee met with Kentucky Physicians Health Foundation (KPHF) upon referral from the Board due to her “receiving prescriptions for Adderall from multiple providers and filling them at multiple pharmacies within a fairly broad geographic area.” The KPHF medical director stated in part

While I did find it concerning that she had received prescriptions for a controlled substance from more than one provider and that she had filled these prescriptions in different locations, I did not find any evidence that she met the criteria for substance use disorder.

I believe her situation is primarily the result of a lack of attention to detail and failure to follow prudent practices regarding her use of controlled substances. I did not detect any intentional effort on her part to obtain excessive amounts of Amphetamines.

6. In or around December 2014, a Board consultant completed a review of the identified patient charts and found the licensee’s care to be “generally good to excellent with only rare, inconsequential failures, mostly with HBI mandated KASPER and urine drug screen documentation on the non-narcotic side of her psychiatric practice.” However,

In the sixth and last case, [the licensee] erred in initiating clinical care and following up with continued care for one of her employees who was, and continued to be her employee, a therapist. It was an emergent situation. The patient suddenly became rather non-functional with very severe panic disorder, which has the highest suicide attempt rate of all psychiatry disorder, even higher than that of clinical depression. Dr. Lang rendered excellent care, well documented. Unfortunately, it is just not the standard of care for a psychiatrist to treat an employee especially with benzodiazepines, albeit tiny doses.

7. On or about April 28, 2015, the Panel ordered the licensee to submit to an impairment evaluation with the Kentucky Physicians Health Foundation (KPHF) and a 96-hour inpatient evaluation, if so recommended by KPHF.
8. On or about May 11, 2015, the licensee submitted to a KPHF evaluation.
9. KPHF recommended that the licensee complete a 96-hour evaluation at the Florida Recovery Center (FRC) within four weeks.
10. The licensee did not submit to a 96-hour evaluation at FRC as directed.
11. On or about June 18, 2015, the licensee came before the Panel for non-compliance. The Panel directed that the licensee submit to the 96-hour evaluation at FRC within four weeks or that a default order be issued against her license to practice.
12. On or about July 6-9, 2015, the licensee submitted to an evaluation at FRC. FRC found evidence of several Axis I diagnoses, including of unspecified sedative use disorder, and stated in part

... The most obvious and salient concern is her overt impairment which has been observed in multiple settings. ... In each situation, Dr. Lang's presentation was consistent with intoxication from a sedating substance such as Klonopin or Klonopin plus Neurontin plus Flexeril. In addition, there have been significant concerns raised about her receiving psychostimulants from multiple providers ... It is our opinion that she should be taken off her psychostimulants, as well as her sedatives and other medications with sedating properties, be observed in a clinical

setting and then retested neuropsychologically at some time during treatment ...

Because of the aforementioned reasons, it is my opinion that Dr. Lang cannot practice with reasonable skill and safety at this time ...

13. In August 2015, the licensee entered into an Interim Agreed Order (Treatment), pursuant to which she was restricted from the practice of medicine.
14. The licensee did not enter into a residential treatment program or partial hospitalization level of care (with housing component) at an institution with expertise in treating healthcare professionals.
15. In or around April 2018, the licensee submitted to a “fitness for duty” evaluation at UC San Diego which concluded that she likely does not suffer a substance use disorder and that she is fit to practice” from a health standpoint.” UC San Diego did not evaluate Dr. Lang’s competence to practice and advised that a competency evaluation would be prudent given her extended absence from practice.
16. On or about August 16, 2018, the Panel deferred a decision on whether to allow the licensee to resume the practice of medicine until she completed a Board-approved competency assessment.
17. In or around August 2019, the licensee completed UC San Diego’s Physician Assessment and Clinical Education Program (PACE), an individualized physician competency assessment. PACE found that there were no significant deficits requiring a formal re-education curriculum or that would prohibit the licensee from practicing medicine safely, but made several recommendations for her return to practice including the following:
 - The licensee should practice in a structured environment (with inherent supervision), such as a VA system or penal setting;

- The licensee should have a practice monitor for a minimum of six months;
- The licensee's medication use should be monitored by a physician with experience in addiction and she should have routine prescription monitoring compliance and avoid controlled substances other than those used to treat ADHD; and
- The licensee should submit to neuropsychological testing in one year.

18. The Panel allowed the licensee to resume the practice of medicine contingent upon her entering into terms and conditions set forth in this Agreed Order.

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 medical license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee engaged in conduct which violates the provisions of KRS 311.595(8). 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 pending matter without an evidentiary hearing and allow the licensee to resume the practice of medicine by entering into 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 pending matter without an evidentiary hearing and allow the licensee to resume the practice of medicine, the parties hereby ENTER INTO the following **AGREED ORDER**:

1. The license to practice medicine in the Commonwealth of Kentucky held by Mary Jean Lang, 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 she 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.
 - i. The licensee SHALL only request approval to practice in a structured system environment, including but not limited to facilities such as a Veterans Administration facility or a penal setting;
 - ii. The licensee SHALL submit the name and curriculum vitae of a licensed physician who practices on site at the proposed location and who shall agree to serve as the licensee's practice monitor for at least six months, on terms to be provided by the Board, at the time of submitting a request for practice location approval;
 - iii. 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.
- b. Within twenty (20) days of entry of this Agreed Order, the licensee SHALL enter into and thereafter maintain a contractual relationship with the Kentucky Physicians Health Foundation, at her expense, for the purpose of coordinating with the licensee's treating physician(s) and monitoring the licensee's medications and the licensee SHALL fully comply with all requirements of that contractual relationship;
 - i. The licensee SHALL avoid the use of controlled substances, except those determined by her treating physician(s) to be necessary to treat her ADHD;

- ii. The licensee SHALL execute any and all necessary waivers to effectuate coordination and communication between her treating physician(s) and the Kentucky Physicians Health Foundation;
 - iii. The licensee SHALL ensure that any medical treatment and prescribing is reported directly to the Kentucky Physicians Health Foundation by her treating physician(s). The licensee must inform her treating physician(s) of this responsibility and ensure timely compliance. The licensee's failure to inform the treating physician(s) of this responsibility shall be considered a violation of this Agreed Order;
 - iv. The licensee SHALL be subject to periodic, unannounced breathalyzer, blood and urine alcohol and/or drug analysis as desired by the Kentucky Physicians Health Foundation, and under the conditions specified by the Kentucky Physicians Health Foundation, at her expense;
- c. Between August 1 and August 31, 2020, the licensee SHALL submit to a neuropsychological evaluation, at her expense, with the following Board-approved examiner: W. Kent Hicks, Ed.D., 7400 LaGrange Road, Suite 312, Louisville, Kentucky 40222 , Tel. (502) 394-9990;
- i. On or before June 30, 2020, the licensee SHALL schedule the neuropsychological evaluation with the above-identified examiner;
 - ii. On or before June 30, 2020, the licensee SHALL contact Jill Lun, Legal Secretary, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky, Tel. (502) 429-7942, and inform her of the scheduled dates and time of the neuropsychological evaluation;
 - iii. The licensee SHALL submit to the neuropsychological evaluation with the above-identified examiner on the scheduled date and at the scheduled time;
 - iv. The licensee SHALL take all steps necessary, including executing any waiver and/or consent forms required, to ensure that the above-identified examiner will provide a copy of the neuropsychological evaluation results promptly upon completion to the Board's Legal Department;
- d. Pursuant to KRS 311.565(1)(v), the licensee SHALL reimburse the Board's costs of \$1,025.00, according to the following schedule: \$90.00 due on or before August 1, 2020, and then at least \$85.00 each month thereafter, with payment due on the first day of each month, commencing September 1, 2020, and continuing until such time as the costs are reimbursed in full; and
- e. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

3. The licensee expressly understands and agrees that if she should violate any term or condition of this 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 she 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 expressly 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.

SO AGREED on this 20th day of July, 2020.

FOR THE LICENSEE:



MARY JEAN LANG, M.D.



JAMES SMITH, ESQ.
COUNSEL FOR THE LICENSEE

FOR THE BOARD:



KENNETH J. PAYNE, M.D.
CHAIR, INQUIRY PANEL A



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