

FILED OF RECORD

JUL 24 2020

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1967

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY SUNIL CHHIBBER, M.D., LICENSE NO. 38329, 5807 HARRODS GLEN DRIVE, PROSPECT, KENTUCKY 40059

**AGREED ORDER**

Come now the Kentucky Board of Medical Licensure ("the Board"), by and through its Inquiry Panel B, and SUNIL CHHIBBER, 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, Sunil Chhibber, M.D. ("the licensee") was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Child and Adolescent Psychiatry.
3. On or about April 23, 2019, Carrie Gentry, PharmD. Investigator with the Office of Inspector General, Division of Audits and Investigations ("OIG"), conducted a quarterly review of prescribers focusing on self-prescribing. Ms. Gentry reviewed the licensee's KASPER records from January 1, 2018 to April 15, 2019 and observed what appeared to be one (1) prescription of testosterone prescribed by the licensee to himself resulting in a total of four (4) refills.

4. Ms. Gentry's review of the licensee's KASPER records during the same time period did reveal instances of the licensee prescribing controlled substances to four (4) family members.
5. Ms. Gentry's review also revealed that while the licensee is registered for a KASPER account, he did not request any KASPER patient reports during the period reviewed although he prescribed 790 fills of a controlled substance for approximately 380 patients.
6. Ms. Gentry identified eleven (11) patient charts for further review by the Board.
7. In a written response dated June 7, 2019, the licensee stated that he is a hospital-based psychiatrist treating patients on an inpatient and outpatient basis and that a substantial part of his practice is treating patients with substance abuse problems.
8. The licensee stated that he did not specifically recall issuing the prescription of testosterone for himself, but that he may have if his prescribing physician was unavailable or if he was too busy or otherwise unavailable to make a timely appointment with his physician.
9. The licensee acknowledged occasionally issuing prescriptions for his wife and three (3) children even though they have their own primary care physician.
10. Regarding his lack of querying KASPER, the licensee stated that he did not KASPER patients who came to the hospital with substance abuse problems because he knew what he was dealing with and wanted to get them off controlled substances, and that a baseline drug screen upon admission identified medications in their system.
11. On or about March 13, 2020, a Board consultant reviewed the licensee's patient charts and found that the licensee departed from or failed to conform to acceptable and prevailing medical practices in the two (2) charts where it indicated he issued prescriptions of controlled substances to family members. In four (4) charts that demonstrated care by the

licensee, the consultant found no departures from acceptable and prevailing medical practices. Six (6) charts lacked a reference of care by the licensee. The consultant noted that there were not any KASPERs in any of the charts.

12. In a written response to the Board consultant's report, the licensee stated that he is no longer self-prescribing or prescribing for family members and that it will not happen again unless in the midst of a true emergency and consistent with the Board's regulations and guidelines.
13. The licensee chose to enter into this Agreed Order in lieu of the issuance of a Complaint and Emergency Order of Restriction 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(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 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 SUNIL CHHIBBER, M.D., is hereby PLACED ON PROBATION FOR A PERIOD OF FIVE (5) YEARS, with that period of probation to become 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. Within twenty (20) days of the filing of this Agreed Order, the licensee SHALL make all necessary arrangements to enroll in the *ProBE* Program offered through the Center for Personalized Education for Professionals (CPEP), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232, at the earliest time;
    - i. The licensee SHALL complete and "unconditionally pass" the *ProBE* Program at the time and date(s) scheduled, at his expense and as directed by CPEP's staff;
    - ii. The licensee SHALL provide the Board's staff with written verification that he has completed and "unconditionally passed" CPEP's *ProBE* Program, promptly after completing the program;
    - iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations, reports or essays from the *ProBE* Program to the Board's Legal Department promptly after their completion; and
  - b. Within six (6) months of the filing of this Agreed Order, the licensee SHALL successfully complete one of the following courses at his expense:
    - i. "Prescribing Controlled Drugs" course at The Center for Professional Health at Vanderbilt University Health Center, Nashville, Tennessee, Tel. (615) 936-0678 or the University of Florida, Gainesville, Florida, Tel. (352) 265-5549; or



- ii. "RX-21, PBI Prescribing Course: Opioids, Pain Management and Addiction" offered at multiple locations through Professional Boundaries, Inc., Tel. (904) 860-6204;
  - c. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the Board's investigative costs in the amount of \$3,981.25, 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 understands and agrees that the Panel SHALL NOT consider a request to modify or terminate this Agreed Order unless and until the licensee has submitted proof of successfully completing the terms in Paragraphs 2(a)-(c) above.
4. The licensee expressly agrees that if he should violate any term or condition of the Agreed Order, the licensee's practice SHALL 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 21<sup>st</sup> day of JULY, 2020.

Sunil Chhibber, M.D.  
SUNIL CHHIBBER, M.D.

Chad O. Propst  
CHAD O. PROPST  
COUNSEL FOR THE LICENSEE

FOR THE BOARD:

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COMMONWEALTH OF KENTUCKY )  
 ) SS  
COUNTY OF JEFFERSON )

Subscribed, sworn to, and acknowledged before me by Sunil Chhibber, M.D., who subscribed his name to the above and foregoing Agreed Order and acknowledged and delivered it to be and constitute his voluntary act and deed.

IN WITNESS WHEREOF, witness my signature on July 21, 2020.

My Commission expires April 4, 2021, 2020.

Amy J. Silmet