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JUN - 1 2021

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1997

IN RE: THE APPLICATION TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY FILED BY BARRY A. MOORE, M.D., LICENSE NO. 54125, 336 OLD POINT ROAD, HAMPSTEAD, NORTH CAROLINA 28443

AGREED ORDER OF SURRENDER

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel B, and Barry A. Moore, M.D., ("the applicant"), 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 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, Barry A. Moore, 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 June 2020, the Board considered the licensee's application to practice medicine in the Commonwealth of Kentucky. The Board granted him a license subject to an Agreed Order in case number 1965, which was filed of record on July 9, 2020. The Agreed Order contained the following facts:
 - a. The applicant is also licensed to practice medicine in the state of North Carolina by the Board of Medical Examiners of the State of North Carolina ("North Carolina Board").

- b. On or about March 18, 2019, the applicant submitted an application for a license to practice medicine in the Commonwealth of Kentucky.
- c. The applicant answered "Yes" to Question No. 4, Category I, which asked, "Have you ever had any license, certificate, registration or other privilege as a health care professional denied, revoked, suspended, probated, restricted or limited, or subjected to any other disciplinary action, by a State medical/osteopathic licensing board, or Federal or International authority?"
- d. On or about March 9, 1989, the North Carolina Board issued a Notice of Charges and Allegations alleging that the applicant engaged in unprofessional conduct and/or immoral conduct of a sexual nature with five (5) female patients.
- e. Following a hearing on August 17, 1989, the North Carolina Board issued its Findings of Fact, Conclusions of Law and Order on August 28, 1989. The North Carolina Board found that the applicant engaged in personal, intimate relationships of a sexual nature with four (4) of the five (5) patients. Charges related to the fifth patient were dismissed.
- f. As a result, the North Carolina Board revoked the applicant's license to practice medicine in North Carolina on August 28, 1989.
- g. The applicant appealed the North Carolina Board's Order to the General Court of Justice, Superior Court Division in Wake County, North Carolina. On or about June 27, 1990, the Court upheld the Board's Order.
- h. From approximately September 1991 to September 1992, the North Carolina Board granted the applicant a temporary permit to practice

medicine only at Cherry Hospital and the applicant was restricted to male patients.

- i. From approximately September 1992 to September 1994, the North Carolina Board granted the applicant a temporary permit to practice medicine only at Cherry Hospital.
- j. On or about September 22, 1994, the applicant entered into a Consent Order with the North Carolina Board which granted him a license to practice medicine until September 30, 1996 with the condition that he "shall have a chaperone present whenever he examines or treats a female patient." The permit was extended three times, up until March 1997.
- k. On or about March 19, 1997, the North Carolina Board reinstated the applicant's full license. However, the Consent Order dated September 22, 1994, requiring the use of a chaperone when examining or treating female patients, remains in effect.
- l. On or about August 12, 1991, the Missouri Board of Registration for the Healing Arts revoked the applicant's license to practice medicine in Missouri based upon the North Carolina action.
- m. On or about December 7, 1990, the applicant's membership in the American Psychiatric Association was revoked based upon its finding that the applicant engaged in unethical conduct for consistent abusive behavior, irresponsibility, incompetence, and lack of concern for patients in North Carolina.

4. The Agreed Order required the licensee to employ the use of a Board-approved chaperone when treating female patients.
5. On or about February 16, 2021, the licensee submitted an Application for Renewal of Kentucky Medical/Osteopathic License for Year 2021.
6. The licensee answered "yes" to Question #1, which asked

Since you last registered, have you had any license, certificate, registration, or other privilege to practice as a health care professional denied, revoked, suspended, probated, restricted, reprimanded, limited, or subjected to any other disciplinary action, by a state medical/osteopathic licensing board, or Federal, or International authority with the exception of the Kentucky Medical Board?

7. The licensee answered "yes" to Question #3, which asked:

Since you last registered, have you been or are you currently under investigation by any State medical/osteopathic licensing board, Federal, or International licensure authority or any drug licensure/enforcement authority with the exception of the Kentucky Medical Board?

8. On or about February 8, 2021, the licensee entered into a Consent Order with the North Carolina Medical Board. The Consent Order states that the licensee violated North Carolina statutes in the following manner:

- a. Follow a complaint, the Board submitted patient records of six (6) patients to an independent reviewing expert. The reviewer opined that the care of four out of the six patients was below the acceptable and prevailing medical standards, citing medical record documentation, lack of action on urine drug screen abnormalities and prescribing.
- b. The licensee admitted to the Board that he authorized controlled substance prescriptions for the patients of a longstanding colleague, following discussion of and review of the patients with that colleague, although the

licensee had not personally examined the patient. The license acknowledged that he was aware that his colleague had lost his Drug Enforcement Agency privileges through a 2017 Consent Order with the Board.

9. The Consent Order imposed the following substantive sanction:
 - a. The license to practice medicine is suspended for one (1) year, stayed on the following terms and conditions:
 - i. The licensee shall surrender his DEA buprenorphine prescribing waiver within thirty (30) days of the execution of this Consent Order;
 - ii. The licensee shall pay an administrative fine of \$5,000 within six months of the date of the Consent Order.

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 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(17). 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 this pending investigation without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Surrender.

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 this pending investigation without an evidentiary hearing and in lieu of revocation, the parties hereby ENTER INTO the following **AGREED ORDER OF SURRENDER**:

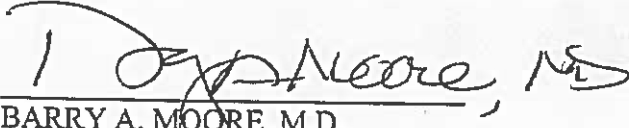
1. The licensee hereby SURRENDERS his Kentucky medical license, in lieu of revocation, with that surrender to become effective immediately upon the filing of this Agreed Order of Surrender, and continuing until further order of the Panel.
2. Immediately upon the filing of this Agreed Order of Surrender, 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 – in the Commonwealth of Kentucky, until approved to do so by the Panel.
3. The licensee SHALL NOT petition and the Panel SHALL NOT consider a petition for reinstatement of his license unless a minimum period of two (2) years from the date of filing of this Agreed Order of Surrender has passed;
4. The licensee understands and agrees that, if he should petition for reinstatement of his license, the burden shall be upon him to satisfy the Panel that he is presently of good moral character and qualified both physically and mentally to resume the practice of medicine without undue risk or danger to his patients or the public.
5. The licensee understands and agrees that the decision whether or not to permit him to resume the practice of medicine within the Commonwealth of Kentucky lies in the sole discretion of the Panel.
6. If the Board should receive information that, after the date of filing of this Agreed Order of Surrender, the licensee has performed an act which would constitute the "practice of medicine or osteopathy" within the Commonwealth of Kentucky, it shall refer the licensee to the Attorney General or appropriate Commonwealth Attorney for prosecution of such acts of practicing medicine without a license.
7. The licensee expressly agrees that if he should violate any term or condition of the 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 agrees 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 of Surrender.

8. 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 1 day of June, 2021.

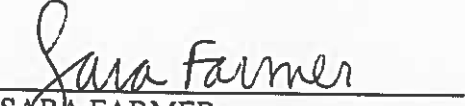
FOR THE LICENSEE:


BARRY A. MOORE, M.D.


MICHAEL MURCHISON
COUNSEL FOR THE APPLICANT

FOR THE BOARD:


WILLIAM C. THORNBURY, JR., M.D.
CHAIR, INQUIRY PANEL B


SARA FARMER
Assistant General Counsel
Kentucky Board of Medical Licensure
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K.B.M.L

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1965

IN RE: THE APPLICATION TO PRACTICE MEDICINE IN THE COMMONWEALTH
OF KENTUCKY FILED BY BARRY A. MOORE, M.D., LICENSE NO.
54125, 3114 4 E JUDGES ROAD, WILMINGTON, NORTH CAROLINA
28405

AGREED ORDER

Come now the Kentucky Board of Medical Licensure ("the Board") and Barry A. Moore, M.D., ("the applicant"), and, based upon their mutual desire to grant the applicant a license to practice medicine in the Commonwealth of Kentucky, 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, Barry A. Moore, M.D. was an applicant for a medical license within the Commonwealth of Kentucky.
2. The applicant's medical specialty is Psychiatry.
3. The applicant is also licensed to practice medicine in the state of North Carolina by the Board of Medical Examiners of the State of North Carolina ("North Carolina Board").
4. On or about March 18, 2019, the applicant submitted an application for a license to practice medicine in the Commonwealth of Kentucky.
5. The applicant answered "Yes" to Question No. 4, Category I, which asked, "Have you ever had any license, certificate, registration or other privilege as a health care professional denied, revoked, suspended, probated, restricted or limited, or

subjected to any other disciplinary action, by a State medical/osteopathic licensing board, or Federal or International authority?"

6. On or about March 9, 1989, the North Carolina Board issued a Notice of Charges and Allegations alleging that the applicant engaged in unprofessional conduct and/or immoral conduct of a sexual nature with five (5) female patients.
7. Following a hearing on August 17, 1989, the North Carolina Board issued its Findings of Fact, Conclusions of Law and Order on August 28, 1989. The North Carolina Board found that the applicant engaged in personal, intimate relationships of a sexual nature with four (4) of the five (5) patients. Charges related to the fifth patient were dismissed.
8. As a result, the North Carolina Board revoked the applicant's license to practice medicine in North Carolina on August 28, 1989.
9. The applicant appealed the North Carolina Board's Order to the General Court of Justice, Superior Court Division in Wake County, North Carolina. On or about June 27, 1990, the Court upheld the Board's Order.
10. From approximately September 1991 to September 1992, the North Carolina Board granted the applicant a temporary permit to practice medicine only at Cherry Hospital and the applicant was restricted to male patients.
11. From approximately September 1992 to September 1994, the North Carolina Board granted the applicant a temporary permit to practice medicine only at Cherry Hospital.
12. On or about September 22, 1994, the applicant entered into a Consent Order with the North Carolina Board which granted him a license to practice medicine until

September 30, 1996 with the condition that he "shall have a chaperone present whenever he examines or treats a female patient." The permit was extended three times, up until March 1997.

13. On or about March 19, 1997, the North Carolina Board reinstated the applicant's full license. However, the Consent Order dated September 22, 1994, requiring the use of a chaperone when examining or treating female patients, remains in effect.
14. On or about August 12, 1991, the Missouri Board of Registration for the Healing Arts revoked the applicant's license to practice medicine in Missouri based upon the North Carolina action.
15. On or about December 7, 1990, the applicant's membership in the American Psychiatric Association was revoked based upon its finding that the applicant engaged in unethical conduct for consistent abusive behavior, irresponsibility, incompetence, and lack of concern for patients in North Carolina.

STIPULATED CONCLUSIONS OF LAW

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

1. By submitting an Application for Medical/Osteopathic License to the Board, the applicant's license is subject to regulation and discipline by the Board.
2. KRS 311.571 provides that the Board may deny licensure to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice.
3. Based upon the Stipulations of Fact, the applicant engaged in conduct which violates the provisions of KRS 311.595(5), (17) and (20) and the applicant has had sanctions

imposed against his license to practice medicine in another state. Accordingly, there are legal grounds for the parties to enter into this Agreed Order.

4. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending matter 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 as an express condition of the Board approving the applicant's Application for Medical/Osteopathic License in the Commonwealth of Kentucky, the parties hereby enter into the following **AGREED ORDER**:

1. The license to practice medicine in the Commonwealth of Kentucky held by BARRY A. MOORE, 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 applicant's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS until further order of the Board:
 - a. Beginning immediately, the applicant SHALL NOT consult, evaluate, diagnose or otherwise provide treatment for any female patients, unless he is accompanied at all times by an individual who has previously agreed to serve as a chaperone, under the terms specified in the standard letter provided by the Board for this purpose. If the approved chaperone must leave the examination room for any period of time, the applicant SHALL stop his examination and/or treatment of the female patient until the approved chaperone may again be present;
 - i. Any chaperone utilized by the applicant must be approved, in advance, by the Board or its staff and must agree in writing to 1) remain present and within direct eyesight and within clear

hearing distance of the applicant and the patient throughout the entire period the applicant is with a female patient; 2) accurately record the chaperone's presence, or absence, for the entire duration of such patient interaction in the patient's chart, or the patient record maintained by that clinical setting; 3) immediately notify the designated contact person at the Board's offices to report any violation of the chaperone requirement by the applicant. The applicant may submit and the Board or its agents may approve more than one chaperone to fulfill this requirement. The applicant shall be solely responsible for payment of the costs of such chaperone(s).

ii. The applicant shall maintain a separate log documenting each patient seen with a chaperone and the name, title and location of the chaperone utilized. Upon request, the applicant shall permit the Board's agents to review this log and shall take all necessary steps to arrange for the Board's agents to review the patient(s)' chart(s) and to interview the chaperone(s); and

b. The applicant SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

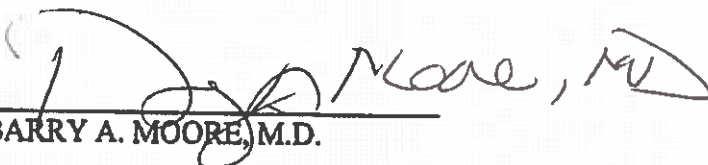
3. The applicant expressly agrees that if he should violate any term or condition of this Agreed Order, the applicant's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive 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 applicant'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 applicant violated a term or condition of this Agreed Order.

4. The applicant 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 15 day of June, 2020.


FOR THE APPLICANT:


BARRY A. MOORE, M.D.

COUNSEL FOR THE APPLICANT
(IF APPLICABLE)

FOR THE BOARD:


SANDRA R. SHUFFETT, M.D.
PRESIDENT


SARA FARMER
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
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