

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 612
ADMINISTRATIVE ACTION NO. 97-KBML-0201

FILED OF RECORD
OCT 16 1998
K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY DAVID P. EASLEY, M.D., LICENSE NO. 22832, 976 BRECKINRIDGE LANE, #117, LOUISVILLE, KENTUCKY 40207

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Hearing Panel B, and David P. Easley, M.D., and in order to fully resolve this Complaint without further disciplinary proceedings, hereby enter into the following AGREED ORDER:

STIPULATIONS OF FACT

The parties enter into the following Stipulations of Fact, which serve as the factual basis for this Agreed Order:

1. At all relevant times, David P. Easley, M.D., was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Psychiatry; the licensee is also board-certified in pain management. The licensee is also certified by the American Society of Addiction Medicine.
3. The licensee entered into physician-patient relationships with [REDACTED] and [REDACTED] [REDACTED] during the course of his practice in the Commonwealth.
4. The Board initiated a review of the licensee's medical treatment of these two patients based upon a grievance filed by the Louisville-Jefferson County Metro Narcotics Unit. In a letter dated August 8, 1994, the licensee advised the Metro Narcotics Unit

withheld information regarding the licensee's treatment of him. The licensee noted that, although [REDACTED] had told the licensee that he only wanted one physician to manage his medication, the licensee did not believe that was the truth. The licensee also indicated that he would not have prescribed certain medications to [REDACTED] if he had known that another physician had prescribed medications to [REDACTED] the day before. Based upon documents presented to the licensee by [REDACTED] later that day, the licensee changed his opinion about the matters he had discussed with the detectives. According to the licensee, he was subsequently ordered by a judge to act as [REDACTED] sole source of medication.

5. A Board consultant specializing in Psychiatry reviewed the licensee's medical treatment of [REDACTED] and [REDACTED]. This consultant noted that the licensee's medical records for [REDACTED] did not contain a history, a review of systems, past medical history, and either a physical examination or mental status examination or both. In the consultant's opinion, the absence of such information would constitute a breach of standard medical practice. This consultant further opined that it was against the standard of general psychiatric medical practice to prescribe the types of medications prescribed to [REDACTED] given his history of drug and alcohol abuse, without detailed explanations for such practices documented in the patient's chart.

This consultant noted that the licensee's medical records for [REDACTED] did not contain an initial evaluation, history and examination, diagnosis or plan of treatment. The consultant opined that the failure to do such things was a deviation from the standard of medical practice. This consultant also opined that it was a deviation from standard medical practice to prescribe such large amounts of narcotics to [REDACTED]

for such a long period of time, particularly in the face of suspicions raised by drug authorities. This consultant finally noted that it did not appear from the records that the licensee was treating [REDACTED] underlying medical condition.

6. A Board consultant specializing in pain management also reviewed the licensee's medical treatment of [REDACTED] and [REDACTED]. This consultant opined that the licensee's documents and records did not meet acceptable levels for documentation of pain management. This consultant noted that, in both cases, there was no initial pain-related history and physical examination documenting the patients' injuries and/or pain-specific problems. The consultant further noted that, on each visit reviewed, there was no evidence of an objective physical examination and assessment of the patients' pain through common measurements such as a visual analog scale for pain to determine the effectiveness of pain therapy. This consultant opined that it was a clear deviation from acceptable medical standards for the licensee to continue to write controlled substance prescriptions for [REDACTED] after learning that [REDACTED] was getting narcotics and other controlled substances from more than one physician. This consultant also found no evidence that the licensee provided the degree of control and objectivity needed to manage successfully these difficult pain patients.
7. If there were an evidentiary hearing, the licensee would establish that he is board-certified in pain management and received a considerable amount of training in that field. The licensee would also present evidence that these two patients were unique and presented unique problems. The licensee would introduce evidence that, in a normal pain management practice, a practitioner can be expected to effectively manage up to five (5) difficult patients such as these, along with the remainder of the

patient load. Based upon all of this information, the licensee believed that his management of these two patients fell within the standards of acceptable and prevailing medical practice in the area of pain management.

8. The licensee would also present evidence that, after he fully recognized the Board's position regarding his treatment of these two patients, he took steps to transfer the care of these patients to other practitioners. Although he experienced some difficulty in arranging these transfers of treatment, the licensee has terminated his physician-patient relationship with these two patients. The licensee does not intend to resume a physician-patient relationship with either of these two patients during the remainder of his medical practice. The licensee would also present evidence that, although he had given [REDACTED] high doses of medication, other physicians who have treated [REDACTED] have given him similarly high doses of medication.

STIPULATED CONCLUSIONS OF LAW

The parties enter into the following Stipulated Conclusions of Law, which serve as the legal basis for this Agreed Order:

1. The license to practice medicine in the Commonwealth of Kentucky held by the licensee is subject to regulation and discipline by the Board.
2. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the Board and the licensee may fully resolve a Complaint through informal resolution.
3. Despite the conflicting evidence, there would be sufficient evidence presented at an evidentiary hearing to enable the Hearing Panel to find by a preponderance of the evidence that, under the attendant circumstances, the amounts of medications prescribed by the licensee to [REDACTED] and [REDACTED] were excessive and the prescription

of these medications by the licensee deviated from the standard of acceptable and prevailing medical practice within the Commonwealth of Kentucky.

4. The Board has the legal authority to impose sanctions upon the licensee's Kentucky medical license, pursuant to KRS 311.595(9), as defined in KRS 311.597(1) and (4).

AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and based upon their mutual desire to fully resolve this Complaint without further administrative proceedings, the parties enter into the following AGREED ORDER:

1. The terms of this Agreed Order are effective upon entry and will continue for a period of three (3) years from that date. During the effective period of this Agreed Order, the licensee agrees to comply with the following conditions:
 - a. The licensee shall not resume, enter into, or continue a physician-patient relationship with either [REDACTED] or [REDACTED]. The licensee shall not prescribe, dispense, administer or otherwise utilize medications to or for either of these patients.
 - b. The licensee shall provide verification that he successfully completed the April 1997 University of Kentucky mini-residency on "The Prescribing and Use of Controlled Substances."
 - c. The licensee treats patients in nursing homes and personal care homes. The Board will rely upon the records of those facilities for any review of the licensee's prescribing of controlled substances to patients in those facilities. However, if the licensee should prescribe, dispense, or otherwise utilize controlled substances for persons outside the context of his nursing/personal care

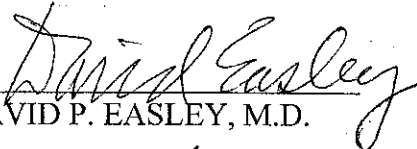
home employment, the licensee shall maintain a log of all controlled substances prescribed, dispensed, administered or otherwise professionally utilized by him during the term of this Agreed Order. A Controlled Substances (Prescription Drug) Log must include date, patient name, patient complaint, medication prescribed, when it was last prescribed and how much on the last visit. Note: All log sheets will be consecutively numbered, legible i.e. printed or typed, and must reflect "call-in" and refill information. Prescriptions should be maintained in the following manner: 1) patient; 2) chart; and 3) log.

- d. The licensee shall permit agents of the Board to inspect and/or copy that log and corresponding patient charts, upon request. If deemed appropriate by the Board's agents, the licensee agrees that such information may be submitted to a Board consultant(s) for review.
- e. The parties acknowledge that, if the parties were to enter into an Agreed Order of Probation rather than an Agreed Order, the Board would have legal authority to immediately suspend or restrict the licensee's Kentucky medical license upon a probable cause determination that he had violated any term of the agreement, pursuant to KRS 311.592. While the Board believes that such authority is essential to resolving this matter, the licensee does not want to enter into an Agreed Order of Probation for practical reasons. In order to accommodate the interests of each party in this regard, the licensee agrees as an express condition of and consideration for this Agreed Order that, if at anytime during the effective period of this Agreed Order there is probable cause to believe he has violated condition 1(a) of this Agreed Order, the Panel will be legally entitled to enter a

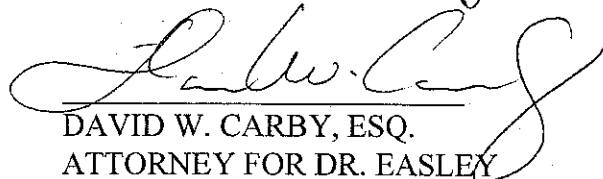
finding that the probable cause finding of such violation establishes that probable cause exists that the licensee's medical practice constitutes a danger to his patients and/or the general public. As another express condition of and further consideration for this agreed Order, the licensee agrees that the Board's Panel B may immediately suspend or restrict his medical license upon a finding of probable cause that he has violated condition 1(a) of this Agreed Order. The parties further agree that such probable cause determination may be made by the Panel Chairman acting on behalf of the Panel, after an ex parte presentation by the Board's General Counsel.

SO AGREED this 15th day of October, 1998.

FOR DR. EASLEY:

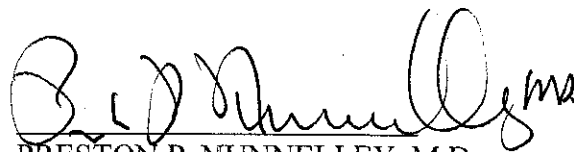


DAVID P. EASLEY, M.D.

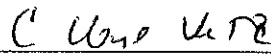


DAVID W. CARBY, ESQ.
ATTORNEY FOR DR. EASLEY

FOR THE BOARD:



PRESTON P. NUNNELLEY, M.D.
CHAIRMAN, HEARING PANEL B



C. LLOYD VEST II
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-8046

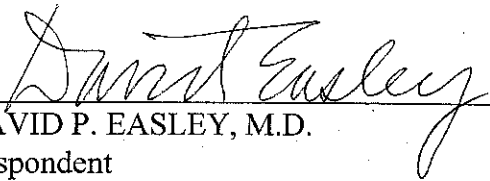
ENTERED: 10/16/98

WAIVER OF RIGHTS


I, DAVID P. EASLEY, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 612. I understand that, under 201 KAR 9:082, I must waive certain rights if I wish to resolve this matter by informal dispensation. Accordingly, I WAIVE my right to raise any constitutional, statutory or common law objection(s) I may have to the Hearing Panel rejecting the proposed informal dispensation or to the curtailment of such a settlement by the Board's General Counsel.

Furthermore, if the Hearing Panel accepts the proposed Agreed Order as submitted, I WAIVE my right to demand an evidentiary hearing or to raise additional constitutional or statutory objections in this matter. However, if the Hearing Panel should reject the proposed Agreed Order, I understand that further proceedings will be conducted in accordance with KRS 311.530 et seq., and I will have the right to raise any objections normally available in such proceedings.

Executed this ____ day of September, 1998.



DAVID P. EASLEY, M.D.
Respondent



DAVID CARBY, ESQ.
Attorney for Respondent David P. Easley, M.D.