

FILED OF RECORD

AUG 17 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2055


IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY LOEY J. KOUSA, M.D., LICENSE NO. 29671, P.O.  
BOX 1271, 538 MAIN STREET, PAINTSVILLE, KENTUCKY 41240

**ORDER DISMISSING COMPLAINT**

At its August 17, 2023, meeting, the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Hearing Panel A took up this case for final action. The members of Panel A reviewed the Complaint, filed of record May 20, 2022; the Emergency Order of Restriction, filed of record May 5, 2022; the Hearing Officer's Recommended Order Dismissing Complaint and Withdrawing Emergency Order of Restriction, filed of record July 26, 2023; and a memorandum from the Board's counsel, dated July 27, 2023.

Having considered all the information available and being sufficiently advised, Hearing Panel A ACCEPTS, INCORPORATES and ADOPTS the hearing officer's recommended order. In accordance with that recommended order, Hearing Panel A finds that the provisions of the Medical Practice Act have not been violated and hereby **ORDERS** that Case No. 2055 be and is hereby **DISMISSED**, effective on the date of filing of this Order Dismissing Complaint.

So ORDERED, this 17<sup>th</sup> day of August, 2023.

  
\_\_\_\_\_  
WAQAR A. SALEEM, M.D.  
CHAIR, HEARING PANEL A

**CERTIFICATE OF SERVICE**

I certify that the original of this Order Dismissing Complaint was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via first-class postage prepaid to Thomas J. Hellmann, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601; and to counsel for the licensee, Lisa English Hinkle, Esq., Luke Morgan, Esq., and Jonas Bastien, Esq., McBrayer, PLLC, 201 East Main Street, Suite 900, Lexington, Kentucky 40507 on this 17<sup>th</sup> of August, 2023



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JUL 26 2023

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IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY LOEY J. KOUSA, M.D., LICENSE NO. 29671, P.O. BOX 1271, 538 MAIN STREET, PAINTSVILLE, KENTUCKY 41240

**RECOMMENDED ORDER DISMISSING COMPLAINT  
AND WITHDRAWING EMERGENCY ORDER OF RESTRICTION**

On May 20, 2022, the Board issued the *Complaint* against Loey J. Kousa, M.D., charging him with violating KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(12). The factual allegations against Dr. Kousa relate to his indictment in federal court in the Eastern District of Kentucky on five felony counts related to improperly prescribing controlled substances and four counts related to healthcare fraud.

*Complaint*, pages 1-2. On May 5, 2022, the Board had issued the *Emergency Order of Restriction* against Dr. Kousa's license to practice medicine in Kentucky. *Complaint*, page 2. By agreement of the parties the case was held in abeyance pending resolution of the federal charges. *Order Holding Case in Abeyance*, dated August 16, 2022.

The case is before the hearing officer on Dr. Kousa's *Motion to Dismiss or in the Alternative Motion for Summary Judgment*. In support of the motion Dr. Kousa states he has been found not guilty of the federal charges, and attached to the motion as Exhibit 1 is the *Judgment of Acquittal* issued by court on July 19, 2023, finding him not guilty on all nine counts of the Indictment.

In response to the motion the Board states that "in the absence of evidence of a violation of KRS 311.595, the Board agrees that judgment is appropriate as a matter of law under KRS 13B.090(2)."

Therefore, the hearing officer recommends the Board issue a Final Order dismissing the *Complaint* against Dr. Koussa and, in accordance with 201 KAR 9:240, Section 3(3), withdrawing the *Emergency Order of Restriction* issued against his license on May 5, 2022.

### **NOTICE OF EXCEPTION AND APPEAL RIGHTS**

Pursuant to KRS 13B.110(4) a party has the right to file exceptions to this recommended decision:

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

A party also has a right to appeal the Final Order of the agency pursuant to KRS 13B.140(1) which states:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the circuit court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

SO RECOMMENDED this 26<sup>th</sup> day of July, 2023.



THOMAS J. HELLMANN  
HEARING OFFICER  
810 HICKMAN HILL RD  
FRANKFORT KY 40601  
(502) 330-7338  
thellmann@mac.com

**CERTIFICATE OF SERVICE**

26<sup>th</sup> I hereby certify that the original of this RECOMMENDED ORDER was sent this day of July, 2023, by first-class mail, postage prepaid, to:

JILL LUN  
KY BOARD OF MEDICAL LICENSURE  
HURSTBOURNE OFFICE PARK STE 1B  
310 WHITTINGTON PKWY  
LOUISVILLE KY 40222

for filing; and a true copy was sent by email and first-class mail, postage prepaid, to:

NICOLE A KING  
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