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K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2132

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY EHAB HAJ ALI, M.D., LICENSE NO. 45265,
9233 FEATHERBELL BOULEVARD, PROSPECT, KENTUCKY 40059

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter “the Board”), acting by and through its Inquiry Panel A, and Ehab Haj Ali, M.D. (hereafter “the licensee”), and, based upon their mutual desire to resolve the pending investigation, the parties 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, Ehab Haj Ali, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is Pulmonary Disease.
3. The Board received a report filed by the Office of the Inspector General (“OIG”) advising that the licensee and other providers at Louisville Lung Care were not compliant with the provisions in KRS 218A.202 and 201 KAR 9:260 pertaining to KASPER registration and usage.
4. 201 KAR 9:260 was promulgated following the “Special Session” of the Kentucky General Assembly in April of 2012. Under this regulation, before procuring, dispensing or prescribing controlled substances to patients in Kentucky, a physician must have the following: (1) an active Kentucky Medical License; (2) a DEA

registration number specific for Kentucky; (3) an active KASPER account; and (4) must query KASPER under certain circumstances.

5. The licensee has had an active Kentucky medical license and active DEA since at least approximately June 2012. However, at the time of the OIG report, the licensee had an inactive account with KASPER. Since the licensee was inactive with the KASPER system, he had no listed delegates and made no KASPER queries during the period reviewed.
6. As part of the OIG investigation, Amy Whitley, Pharm.D., R.Ph., reviewed numerous providers at Louisville Lung Care, including the licensee, and explained her investigation efforts, in part,

On 4/24/23, I called Terri Prater (Office Manager) regarding the violations of KRS 218A.202 for 2 of the prescribers and violations of 201 KAR 9:260 for the 3 physicians [...] and explained to her the violations and the exact statutes and regulations that were not being followed. I also, informed her of the seriousness of the violations for these prescribers and asked if I should come and meet with them. She stated that she would be the one taking care of the situation, for all the providers anyway, and that she would get right on it. Yet, as of 5/30/23 the matter has still not been resolved in any way. No Kasper queries have been completed for any of the providers and 2 of the providers are still not signed up with the KASPER program, again violations of KRS 218A.202 and 201 KAR 9:260 [...].

Since education has been given to the office manager over 30 days has elapsed to correct these violations, and no violations have been corrected. This report will be forwarded to the appropriate personnel at [...] the Kentucky Board of Medical licensure for violations of KRS 218A.202 and 201 KAR 9:260 [...].

7. On or about August 17, 2023, Ms. Prater informed the Board's Investigator, John Lewis, that,

Per our conversation yesterday, Wednesday August 16, 2023, please find documentation on [...] Ehab Haj Ali, MD. [...] Regarding Dr. Haj Ali, his KASPER account was inactivated at some point. He did apply for a new account on August 15, 2023, per instruction from the Help Desk at KASPER. Included in our documentation is a copy of his application with

email verification. When Dr Haj Ali's account is active, a reverse KASPER report will be run for verification there are no unauthorized prescriptions, and individual reports for those listed. He will also make me his Prescriber Delegate.

Our practice is in the process of writing a policy that will be strictly adhered to regarding when a Reverse KASPER report will be run (monthly), and any chronic patients receiving a controlled substance will have a report run every three months, per KASPER's requirements. Also, before prescribing a controlled substance on a patient, a report will be run on that patient.

8. On or about August 19, 2023, Ms. Whitley confirmed that the licensee was approved with KASPER on August 16, 2023, and had not written any controlled substances as of that date.
9. The licensee agreed to enter into this Agreed Order in lieu of the issuance of a Complaint.

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. Pursuant to 201 KAR 9:230 Section 2,

If a licensee prescribes, dispenses, or administers a controlled substance within the Commonwealth of Kentucky during any period when the licensee is not registered with the cabinet to use the KASPER system, each instance of prescribing or dispensing or administering shall:

- (1) Constitute a separate violation of:
 - (a) KRS 311.595(12) and (9), as illustrated by KRS 311.597(1)(b);
or
 - (b) 311.850(1); and
- (2) Serve as the basis for disciplinary sanctions pursuant to KRS 311.595 or 311.850.

3. 201 KAR 9:260 requires, under certain circumstances, that a licensee obtain and review a KASPER report for each patient to whom he/she prescribes, dispenses, or administers a controlled substance within the Commonwealth of Kentucky, for the twelve (12) month period immediately preceding the request and failure to do so shall constitute a violation of KRS 311.595(9) and (12) and may result in the imposition of sanctions.
4. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates the provisions of KRS 311.595(9) and (12). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.
5. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending matter 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 their mutual desire to resolve the pending investigation, the parties hereby ENTER INTO the following AGREED ORDER:

1. The license to practice medicine in the Commonwealth of Kentucky held by EHAB HAJ ALI, 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 medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
 - a. Beginning immediately, the licensee SHALL maintain a "controlled substances log" for all controlled substances prescribed, dispensed or

otherwise utilized. The controlled substances log SHALL include date, patient name, patient complaint, medication prescribed, when it was last prescribed and how much on the last visit; and the date of the KASPER query associated with the prescription. Note: All log sheets shall be consecutively numbered, legible i.e. printed or typed, and must reflect “call-in” and refill information. Prescriptions shall be maintained in the following manner: 1) patient; 2) chart; and 3) log;

- i. The licensee SHALL permit the Board’s agents to inspect, copy and/or obtain the controlled substance log and other relevant records, upon request, for review by the Board’s agents and/or consultants;
 - b. 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;
 - c. Within four (4) years of the filing of this Agreed Order, the licensee SHALL submit payment of a FINE in the amount of \$10,000.00, pursuant to KRS 311.565(1)(v); and
 - d. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee expressly agrees that if he 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 he has

violated any term or condition of this 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 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 6th day of Nov., 2023.

FOR THE LICENSEE:


EHAB HAJ ALI, M.D.


COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:


WAQAR A. SALEEM, M.D.
CHAIR, INQUIRY PANEL A



NICOLE A. KING

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