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COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2094

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY JOSE WENCESLAO V. ALZADON, M.D., LICENSE NO. 39571, 225 MAIN STREET, PAINTSVILLE, KENTUCKY 41240

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the Chair of its Inquiry Panel B, considered Panel Memoranda from Nicole King, Assistant General Counsel, dated February 10, 2023; Indictment, *USA v. Alzadon, et al*, Case No. 5:23-CR-9-DCR-MAS, United States District Court, Eastern District of Kentucky, dated February 2, 2023; Agreed Order of Indefinite Restriction in Previous Board Action, Case No. 1131, dated April 16, 2009; and Order Setting Conditions of Release in *USA v. Alzadon, et al*, Case No. 5:23-CR-9-DCR-1, dated February 6, 2023. Having considered this information and being sufficiently advised, the Chair of the Kentucky Board of Medical Licensure’s Inquiry Panel B, and on behalf of the Panel, enters the following EMERGENCY ORDER OF SUSPENSION, in accordance with KRS 311.592(1) and 13B.125(1):

FINDINGS OF FACT

Pursuant to KRS 13B.125(2) and based upon the information available to him, the Chair of Inquiry Panel B concludes there is probable cause to make the following Findings of Fact, which support this Emergency Order of SUSPENSION:

1. At all relevant times, Jose Wenceslao V. Alzadon, M.D. (“the licensee”), was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is General Surgery.

3. On or about April 16, 2009, the licensee entered into an Agreed Order of Indefinite Restriction, Case No. 1131, restricting his performance of general surgeries, pursuant to which he stipulated to the following facts:

- On September 18, 2006, the Board received correspondence from Highlands Regional Medical Center (HRMC), Prestonsburg, Kentucky, which included its notification to the National Practitioner's Data Bank that, on August 28, 2006, HRMC revoked the licensee's clinical privileges at that facility.
- Jennie O'Bryan, HRMC Medical Staff Coordinator, provided the following information to the Board's investigator:

The licensee was granted temporary privileges in August 2005, with his specialty being general surgery. Shortly after the licensee began practicing at HRMC, there were 6 surgical cases where there was either a written or verbal occurrence report. After a quality review, which determined that there were multiple errors in technique and judgment by the licensee. His privileges were restricted and the Medical Executive Committee requested that he complete additional hands-on training, or a mini-residency, within 90 days to improve his skills. When he did not meet that deadline, he was granted additional time, until August 2006, to complete this re-training. When he failed to do so, his privileges were revoked.

- The licensee did not exercise his right to challenge the hospital action through a due process hearing. However, it was his position that there was not an adequate basis for the hospital action.
- The licensee noted that, of the six cases in question, three of them were transferred to the University of Kentucky Medical Center. According to the licensee, HRMC did not review the UK hospital records after transferring these cases and, if they had, they would have learned that the outcome was not as serious or negative as believed.
- The licensee stated that he did not procrastinate on HRMC's demand for re-training. He applied to the University of Kentucky to participate in a mini-residency program and received their denial letter on December 20, 2005. He then pursued other possibilities, including a Louisiana program, but was unsuccessful in finding an appropriate training program. The licensee also noted that completion of such a training program was not part of his contract or employment agreement with HRMC.
- On November 30, 2007, following the issuance of the Complaint in Case No. 1131, the parties entered into an Interim Agreed Order. The primary condition of that Interim Agreed Order provided:

While the licensee is legally authorized to perform any other medical procedures he is qualified to perform by nature of his education and training, the licensee SHALL NOT perform general surgery unless and until approved to do so by the Panel.

The licensee had been subject to that Interim Agreed Order from November 30, 2007 until entering into the Agreed Order of Indefinite Restriction, date April 16, 2009.

4. To date, the licensee is subject to the Agreed Order of Indefinite Restriction, Case No. 1131, dated April 16, 2009.
5. On or about February 2, 2023, in *U.S.A. v. Alzadon, et al.*, Case Number 5:23-CR-009-DCR-MAS (United States District Court for the Eastern District of Kentucky), the licensee was indicted on the following charges:
 - Conspiracy to Commit Health Care Fraud;
 - Eleven counts of Health Care Fraud; and
 - Conspiracy to Unlawfully Distribute a Controlled Substance.
6. The facts material to the indictments include:
 - The licensee was registered with the DEA to prescribe controlled substances and did prescribe such substances, including Suboxone, through his work at Kentucky Addiction Centers (“KAC”);
 - The licensee billed or caused others to bill for health care services that represented that another medical doctor at KAC (“Doctor-1”) had provided services to Medicaid members, when in fact, Doctor-1 had not provided such services;
 - The licensee concealed the fraudulent billing in the name of Doctor-1 including by creating or directing the creation of false medical records that represented that Doctor-1 had not provided such services;
 - The licensee billed or caused others to bill for medical services to Medicaid, Medicare, and other health care benefit programs that were not provided or were upcoded;
 - The licensee knowingly submitted or caused to be submitted, claims for payment to health care benefit programs for medical services that were not medically necessary and were falsely billed in the name of Doctor-1;

- The licensee knowingly and intentionally used or caused others to use the DEA registration issued to Doctor-1 and were in fact only authorized by the licensee; and
- The licensee knowingly and intentionally possessed or caused other KAC personnel to possess electronic tokens that were required to remain in the possession of KAC medical personnel who were prescribing controlled substances. The licensee then allowed or directed KAC personnel who were not authorized to possess the tokens and were prohibited from approving electronic controlled substance prescriptions to use the tokens to electronically authorize such controlled substance prescriptions.

CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to him, the Chair of Inquiry Panel B finds there is probable cause to support the following Conclusions of Law, which serve as the legal bases for this Emergency Order of Suspension:

1. The licensee's Kentucky medical license is subject to regulation and discipline by this Board.
2. KRS 311.592(1) provides that the Board may issue an emergency order suspending, limiting, or restricting a physician's license at any time an inquiry panel has probable cause to believe that a) the physician has violated the terms of an order placing him on probation; or b) a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
3. There is probable cause to believe that the licensee has violated KRS 311.595(9) [as illustrated by KRS 311.597(4)], (10), (12) and (13).
4. 201 KAR 9:240 §1 provides,
 - (1) An inquiry panel or the panel's chair, acting on behalf of the inquiry panel, may issue an emergency order restricting or suspending a physician's license to practice medicine or osteopathy within the Commonwealth of Kentucky in accordance with KRS 311.592 and 13B.125.
 - (2) [...]

- (3) (a) An inquiry panel's chair may act on behalf of the inquiry panel and issue an emergency order restricting or suspending a physician's license to practice medicine or osteopathy within the Commonwealth of Kentucky if the panel chair determines that a basis for an emergency order as established in subsection (1) of this section exists and the circumstances of the specific case warrant emergency action prior to the next regularly scheduled meeting of the inquiry panel.
5. The Inquiry Panel Chair concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
6. The Board may draw logical and reasonable inferences about a physician's practice by considering certain facts about a physician's practice. If there is proof that a physician has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the physician will similarly violate the Medical Practice Act when presented with a similar set of circumstances. Similarly, the Board concludes that proof of a set of facts about a physician's practice presents representative proof of the nature of that physician's practice in general. Accordingly, probable cause to believe that the physician has committed certain violations in the recent past presents probable cause to believe that the physician will commit similar violations in the near future, during the course of the physician's medical practice.
7. The United States Supreme Court has ruled that it is not a violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior evidentiary hearing, so long as 1) the immediate action is based upon a probable cause finding that there is a present danger to the public safety; and 2) the statute provides for a prompt post-deprivation hearing. *Barry v. Barchi*, 443 U.S. 55, 61 L.Ed.2d 365, 99 S.Ct. 2642 (1979); *FDIC v. Mallen*, 486 U.S. 230, 100 L.Ed.2d 265, 108 S.Ct. 1780 (1988) and *Gilbert v. Homar*, 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

EMERGENCY ORDER OF SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Chair of Inquiry Panel B, hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Jose Wenceslao V. Alzadon, M.D., is SUSPENDED and Dr. Alzadon is prohibited from performing any act which constitutes the “practice of medicine,” 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 - until the resolution of the Complaint setting forth the allegations discussed in this pleading or until such further Order of the Board.

The Chair of Inquiry Panel B further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 10th day of February, 2023.



DALE E. TONEY, M.D.
CHAIR, INQUIRY PANEL B

CERTIFICATE OF SERVICE

I certify that the original of this Emergency Order of Suspension was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and a copy was mailed via certified mail return-receipt requested to the licensee, Jose Wenceslao V. Alzadon, M.D., License No. 39571, 522 Washington Avenue, Paintsville, Kentucky 41240 on this 10th day of February, 2023.



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