

JUN 05 2024

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2163

**K.B.M.L.**

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY DEBBIE G. FIBEL, M.D., LICENSE NO. 26673, 2101 NICHOLASVILLE RD. STE 400, LEXINGTON, KENTUCKY 40503

**AGREED ORDER**

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel B, and Debbie G. Fibel, M.D. (hereafter "the licensee"), and, based upon their mutual desire to fully and finally resolve the pending investigation without an evidentiary hearing, 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, Debbie G. Fibel, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is internal medicine.
3. Eric Guerrant, M.D. contacted Board Investigator Kevin Payne by email after seeing a patient in the E.R. on or about October 13, 2023. Dr. Guerrant stated that the patient had a clear history of substance abuse and psychiatric illness. He stated that the licensee managed the patient for "Pain Management." He stated that the patient was a nurse and used to work for the licensee. After a review of the patient's KASPER, Dr. Guerrant noted it was thirteen (13) pages long with a combination of oxycodone, morphine, and amphetamines.

4. The Board's investigator requested that the Cabinet for Health and Family Services, Office of Inspector General ("OIG") review the KASPER records for the licensee from November 1, 2022, through November 1, 2023. After a review of the Prescribers Report for the licensee, the following concerns were observed:

- MD Fibel prescribed 2 prescriptions for her spouse/relative, Glen Fibel, for alprazolam 1mg #30, this may/may not be appropriate
- Roughly 11% of prescriptions were labeled with written, telephone or other as a prescribed method, which constitutes a violation of KRS 218A.182, the EPCS Mandate effective January 1, 2021
- Treating 19% of patients for this time, 11/1/2022 to 11/1/2023, for long-term chronic pain with one or more opioids without certification from ABPM, or any licensed board certification for pain management, which may/may not need to be addressed if MD Fibel wishes to practice long-term pain management and comply with 201 KAR 9:260 sections 4 and 5
- 93 KASPER queries (either manually or through integration combined) for 2,742 prescriptions, in violation of 201 KAR 9:260
- 8 patients on >90MME of one or more opioid medications, which may/may not be appropriate
- All prescribed phentermine, Qsymia, and diethylpropion for the time of 11/1/2022 to 11/1/2023 (a total of 13 patients), in violation of 201 KAR 9:016, Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances
- ~10% of total patients in this time of 11/1/2022 to 11/1/2023 were prescribed a C2 ADHD medication and of these 25 patients, only 3 patients were 30yo or younger, and 6 patients were 60yo or older, with the maximum age being 73yo, which may/may not be of concern
- Many patients on either a combination of opioids/benzodiazepines or opioids/benzodiazepines/muscle relaxer/sedative. (Combining opioids and benzodiazepines or other sedatives increases risk of profound central nervous system and respiratory depression, psychomotor impairment, profound sedation, coma, and death per the FDA)
- Multiple patients >65yo taking benzodiazepines (Benzodiazepines should be avoided or used with extreme caution in the elderly due to the risk for excessive sedation, confusion, falls and fractures and slower metabolism, per the American Geriatric Society and BEERS list)

- Many patients who are related to each other and that live at the same address are prescribed the exact same medications, or medications within the same drug class in high quantities, which may be indicative of diversion
5. Patient charts were obtained for the fifteen (15) patient names listed in the OIG KASPER Report and provided to a Board Consultant for review.
  6. The licensee responded to the OIG report, commenting on the concerns. She concludes,
    - In the end, I now realize that I have not been following the guidelines of a pain management specialist, and plan on switching my practice accordingly. I will also use this investigation as a way of pushing my patients in a stronger manner to eliminate some of the medication they are on.
    - I have a very small practice, 400 patients. Most have been my patients for 20+ years. Obviously, the medications were not monitored as closely in the past, however, if you look at my history over the past 20 years, there have been very few problems with my patients. If there was ever an issue, I was fully aware and referred them to a pain clinic for treatment and evaluation.
    - In closing, know I am open to changes and will follow any guidelines put forth.
  7. On or about March 4, 2024, the Board's Consultant provided a report. She found in part,
    - In short, the physician's records, through neatly presented, show woefully inadequate documentation of the evaluation and treatment of the patients in her care. Problem specific physical exams are virtually absent, other than what I term "EHR normal". When an exam is present, it shows a completely negative Review of Symptoms (e.g. Musculoskeletal: No joint, back pain, or muscle problems) and no exam of the musculoskeletal system for which the pain medications were prescribed. The closest term was "Extremities: without edema". For patients with alleged neuropathy, the exam states "Neuro: grossly intact". No accurate, specific diagnoses of the patients' musculoskeletal and neurological problems requiring the need for these potentially dangerous medications are available, other than remote studies or procedures listed under "Major Events" on the individual chart cover sheets. Also absent is any thoughtful evaluation of the patients' psychiatric problems for which medicines are prescribed, including ADHD, anxiety, and depression.
    - There are a few Controlled Substance Contracts (CSC) in the provided charts, listing "pain" as the indication for the executed contract, but they do not mention the indication for the addictive benzodiazepines prescribed. There are rare Urine Drug Screens (UDS) results presented. Additionally, in one husband and wife duo (AS and RS), THC is noted on the UDS for each, and this violation of the CSC is not addressed on the one documented follow-up visit for the husband; no subsequent visit is present for the wife.

- There are multiple concerns regarding the physician's prescribing habits, including a very clear pattern of the treatment of chronic pain without required Pain Management training. Dr. Fibel treats with high doses of opiates, often in combination with benzodiazepines, again, with no documented physical exams. Of the 15 charts supplied, all of which should have contained KASPER documentation, only 5/15 contained it. MME (morphine milligram equivalents) noted in these reports, allegedly reviewed by the physician, in ascending order, are 45,60,75,90, and 105. Per the CDC, dosages at or above 50 MME increase the risk of overdose by at least two-fold. AF, the patient indicated in the Grievance had an MME of 90 in the physician's own supplied chart, with no physical exam, no UDS, and no psychiatric evaluation [...].
  - Higher risk muscle relaxers, such as SOMA, as well as sedatives are often part of the treatment cocktail, increasing the odds of overdose. Of the 15 patients, 13 are on opioids, only 5 of which have been prescribed Narcan, one of the 5 at the suggestion of their Pharmacist (per the Triage Notes supplied). The remaining 2 patients are on Tramadol, for whom Narcan would be less effective. The index patient, AF, with MME of 90, was not prescribed Narcan.
  - Despite the physician's statement to the contrary, there is only ONE patient in addition to AF, the index patient, (J.C. [...]) in which a decrease in the use of SOMA and opiates was documented at the office visit, briefly, on 8/2/23. At that visit, the patient was changed from temazepam back to zolpidem. She was regularly prescribed alprazolam, bupropion, and escitalopram, presumably for mental health diagnoses, but there is no documentation, as discussed above, or ongoing treatment documented in the brief records provided. Unfortunately, the wean was not discussed at her subsequent visit of 9/12/23, and upon reviewing the KASPER, there were no changes in prescribing/fill habits for hydrocodone/APAP, carisoprodol, or alprazolam from at least 6/12/23-10/21/23. In fact, JC filled simultaneous prescriptions for zolpidem and temazepam on 3 occasions from 8/23-10/23. Like AF, any meaningful attempt at change was not documented.
  - In her letter enclosed with the medical records, dated 1/23/24, Dr. Fibel discusses her continued prescribing of narcotics in the past was in part because they were "readily available, cheap and effective in the past." She blames the insurance companies for their role in previously not approving other medications for relief of pain. Though Celecoxib 200 mg has been "readily available, cheap and effective" for some time now (a 90 day supply at Walmart using GoodRx is \$26.47), the physician demonstrates virtually no attempt to make any substantive changes in her habits.
- [...]
- The physician states that her population is less than 400 patients, and extensive face-to-face time is often documented, yet the above issues, despite the time spent, jeopardize the lives of the patients I have reviewed who are entrusted to Dr. Fibel's care.

- [...] It should be noted on the OIG's review of the physician's KASPER report from 11/1/2022 until 11/1/2023, fully 253 individuals of the physicians panel of her declared less than 400 patients received controlled substances, many with long term use of opioids, benzodiazepines, amphetamines, scheduled muscle relaxers and combinations thereof. This comprises at least 63% of her patient population. Please see the OIG's report for the other ominous findings.
8. On or about March 19, 2024, the licensee provided a Response to the Consultant Review stating she is "in agreement with the findings." She provided more explanation for treatment decisions and concluded that "I am now mandating controlled substance contracts with random urine drug screens and going forward, I will abide by all rules and regulations as set forward by the board."
  9. The Board Consultant reviewed the licensee's response and concluded "that she needs to be educated and then monitored extensively for changes in her prescribing habits at the very minimum."
  10. The licensee agreed to enter into this Agreed Order, in lieu of the issuance of a Complaint and Emergency Order of Restriction.

#### 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 medical license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee engaged in conduct which violates the provisions of KRS 311.595(9), as illustrated by KRS 311.597(4), and KRS 311.595(12). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this 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 matter without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER**:

1. The license to practice medicine within the Commonwealth of Kentucky held by Debbie G. Fibel, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, 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. The licensee SHALL ONLY prescribe, dispense, administer or otherwise professionally utilize controlled substances to persons when medically necessary, for a 72-hour period. The licensee SHALL NOT prescribe, dispense, or otherwise professionally utilize controlled substances in any other context;
  - b. The licensee SHALL NOT prescribe, dispense or otherwise provide controlled substances to herself, an immediate family member or a sexual or romantic partner;
    - i. "Immediate family member" means husband or wife; natural or adoptive parent; child or sibling; stepparent, stepchild, stepbrother or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law; grandparent or grandchild; spouse of a grandparent or grandchild; or any person residing in the same residence as the licensee;
  - c. 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. 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;
    - ii. The licensee SHALL reimburse the Board fully for the costs of any consultant review performed pursuant to this Agreed Order. Once the

Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Agreed Order;

- d. Within twenty (20) days of entry of this agreed order, the licensee SHALL contact *either* the Center for Personalized Education for Professionals ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver Colorado 80246, Tel. (303) 577-3232 *or* LifeGuard, 400 Winding Creek Blvd., Mechanicsburg, Pennsylvania 17050, Tel. (717) 909-2590 or (800) 228-7823, to schedule a clinical skills assessment for the earliest dates available to both CPEP/LifeGuard and the licensee but no more than ninety (90) days from entry of agreed order:
    - i. Both parties may provide relevant information to CPEP/LifeGuard for consideration as part of the clinical skills assessment. In order to permit the Board to provide such relevant information, the licensee SHALL immediately notify the Board's Legal Department of the assessment dates once the assessment is scheduled;
    - ii. The licensee SHALL travel to CPEP/LifeGuard and complete the assessment as scheduled, at his expense;
    - iii. Both parties SHALL be provided a copy of the Assessment Report for their review. The licensee SHALL complete any necessary waiver/release so that the Board may receive a copy of the Assessment Report for review. CPEP/LifeGuard will issue its Assessment Report, in accordance with its internal policies;
    - iv. If the Assessment Report recommends development of a remedial education plan, the licensee SHALL take all necessary steps to arrange for CPEP/LifeGuard to immediately develop such a plan, at the licensee's expense, so that the proposed education plan may be presented to the Board for review along with the Assessment Report;
  - e. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the Board's costs of \$4,200.00 within six (6) months from entry of this Agreed Order; and
  - f. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee understands and agrees that the Board SHALL NOT consider a request by the licensee to modify this agreed order to allow the licensee to resume unrestricted prescribing, dispensing, administering or the professional utilization of controlled

substances beyond 72-hours unless and until the licensee has completed the CPEP/LifeGuard clinical skills assessment detailed in ¶2d above and the Board has received the assessment report and educational or remediation plan (if recommended); and

- a. The licensee understands and agrees that if the Board should allow the licensee to resume unrestricted prescribing, dispensing, administering or the professional utilization of controlled substances beyond 72-hours in the future, it shall do so contingent upon entry of an amended agreed order, which shall provide for the licensee to maintain a "controlled substances log" for all controlled substances prescribed, dispensed or otherwise utilized and shall provide for periodic review of the log and relevant records by Board agents upon request, along with any other conditions deemed necessary by the Panel at that time.
4. The licensee expressly agrees that if she 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 the licensee 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 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.



5. The licensee understands and agrees that any violation of the terms of this Agreed Order would provide a legal basis for additional disciplinary action, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.


SO AGREED on this 5<sup>th</sup> day of ~~May~~<sup>June</sup>, 2024.


FOR THE LICENSEE:

  
DEBBIE G. FIBEL, M.D.

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BRIAN R. GOOD  
COUNSEL FOR THE LICENSEE

FOR THE BOARD:

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

  
NICOLE A. KING  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-7150