

FILED OF RECORD

MAY 20 2024

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2033


IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY KENDALL E. HANSEN, M.D., LICENSE NO. 25777, 340 THOMAS MORE PARKWAY, #260, CRESTVIEW HILLS, KENTUCKY 41017

**ORDER DISMISSING COMPLAINT**

At its May 16, 2024 meeting, the Kentucky Board of Medical Licensure (hereafter “the Board”), acting by and through its Hearing Panel B took up this case for final action. The members of Panel B reviewed the Complaint, filed of record December 2, 2021; the Emergency Order of Restriction, filed of record November 23, 2021; the Hearing Officer’s Findings of Fact, Conclusions of Law and Recommended Order, filed of record April 1, 2024; and a memorandum from the Board’s counsel, dated April 8, 2024.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS, INCORPORATES and ADOPTS the hearing officer’s recommended order. In accordance with that recommended order, Hearing Panel B finds that the provisions of the Medical Practice Act have not been violated and hereby **ORDERS** that Case No. 2033 be and is hereby **DISMISSED**, effective on the date of filing of this Order Dismissing Complaint.

So ORDERED, this 20<sup>th</sup> day of May, 2024.

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

**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 Keith Hardison, Esq., Hearing Officer, 2616 Bardstown Road, Louisville, Kentucky 40205 and to licensee's counsel, Kenneth A. Foisy, Taft Stettinius & Hollister, LLP, 50 East RiverCenter Blvd, Suite 850, Covington, Kentucky 41011 on this 20<sup>th</sup> day of May 2024.



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THOMASMORE PARKWAY, #260, CRESTVIEW HILLS, KENTUCKY, 41017

**FINDINGS OF FACT, CONCLUSIONS  
LAW AND RECCOMENDED ORDER**

This action is before the hearing officer on a *Motion for Summary Disposition* (hereinafter the *Motion*) filed by the licensee, Dr. Kendell E. Hansen M.D. The Kentucky Board of Medical Licensure (hereinafter the "Board") filed response agreeing with Dr. Hansens' position that judgment as a matter of law is appropriate. Boards Response to Motion for Summary Disposition.

After reviewing the motion, the responses and the applicable law the hearing officer finds there are no genuine issues in dispute and that judgment as a matter of law is appropriate pursuant to KRS. 13B. 090(2). Therefore, the hearing officer recommends the Board grant the Motion a for Summary Disposition filed by Dr. Hansen and find that Dr. Hansen is **NOT** in violation of the statutory provisions he is alleged to have violated.

In support of this recommendation the hearing officer submits the following Findings of Fact Conclusions of Law and Recommended Order:

**FINDINGS OF FACT**

1. The Board filed a Complaint against the licenses on December 2, 2021, alleging that he was in violation of KRS 311.595 (9) as illustrated by 311. 597(4) as well as KRS 311.395.(12) *Complaint* ¶ 7. This Complaint was based upon the factual allegation that Dr. Hansen had been indicted in the United States District Court for the Eastern District of Kentucky for various offenses related to the unlawful distribution of controlled substances. Complaint ¶ 3-5.

2. On November 23, 2021, The Chair of Inquiry Panel A determined that an emergency existed and restricted Dr, Hansen from prescribing dispensing or utilizing controlled substances in the Commonwealth of Kentucky. Complaint ¶6
3. The licensee filed an answer admitting that he was indicted but denying that he was guilty of the offenses charged. Answer ¶4-5
4. By agreement the matter was held in abeyance pending resolution of the criminal charges.
5. Dr. Hansen has been acquitted of (six) 6 of the counts against him. The remaining two counts were dismissed (Motion p.2)

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to KRS 311.591 and KRS 311.595.
2. This administrative matter was conducted in accordance with KRS 13B and KRS 311.591.
3. Under KRS 13B. 090 (7) the Board has the burden of proving by a preponderance of the evidence the allegations against Dr. Hansen.
4. Pursuant to KRS 13B. 090(2) the Hearing Officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determined that "there are no genuine issues of material facts in dispute."
5. Summary proceeding such as those contemplated by KRS 13B. 090(2) are generally appropriate when construing all evidence in favor of the party against whom the motion is made, there are no disputed issues of fact upon which reasonable minds could differ.

*Bierman v. Klapheke* 967S.W. 2<sup>nd</sup> 16, 18-19 (Ky.1998)

6. Dr . Hansen asserts and the Board agrees that there are no disputed facts upon reasonable minds could differ and therefore judgment in this matter is appropriate as a matter of law. KRS 13B. 090(2)

### **RECOMMENDED ORDER**

Based upon the Findings of Fact and Conclusions of law set forth above the hearing officer recommends the Board find that provisions of the law applicable in this action have **NOT** been violated by the licensee GRANT the Licensee's *Motion for Summary Disposition* and Dismiss the Complaint

### **NOTICE OF APPEAL RIGHTS**

Pursuant to KRS 13B.125 (4) , this final order may be appealed pursuant to and as set forth in KRS 13B.140 which provides that :

- (1) Except as provided in KRS 452.005, 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 by the agency's enabling statutes, within thirty (30) days after the date of 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.
- (2) A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

Pursuant to KRS 23A.010 (4), "Such review (by 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.

*Keith Hardison*

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#### CERTIFICATE OF SERVICE

I hereby certify that the original of this FINDINGS OF FACT CONCLUSIONS OF LAW AND RECOMENDED ORDER was mailed this 29<sup>th</sup> day of March , 2024, 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 first-class mail, postage prepaid, to:

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*Keith Hardison*

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