

JAN 23 2024

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2103

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY KERI JANE McFARLANE, M.D., LICENSE NO. 51945, 10616 EAGLES VIEW DRIVE, KNOXVILLE, TENNESSEE 37922

**ORDER OF REVOCATION**

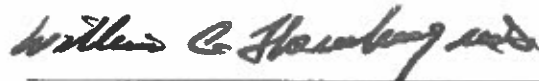
On January 18, 2024, the Kentucky Board of Medical Licensure (hereinafter “the Board”), acting by and through its Hearing Panel B, took up this case for final action. The members of Panel B reviewed the Amended Complaint, filed August 21, 2023; the hearing officer’s Findings of Fact, Conclusions of Law and Recommended Order Upon Default, filed November 8, 2023; and a January 2, 2024 memorandum from the Board’s counsel. No exceptions were filed.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS the hearing officer’s findings of fact and conclusions of law and ADOPTS those findings and conclusions and INCORPORATES them BY REFERENCE into this Order; Hearing Panel B FURTHER ACCEPTS AND ADOPTS the hearing officer’s recommended order. (Attachment) Having considered all of the sanctions available under KRS 311.595, the legislative intent set forth in KRS 218A.205(3)(f), and the nature of the violations in this case, Hearing Panel B has determined that revocation is the appropriate sanction. Accordingly, Hearing Panel B **ORDERS**:

1. The license to practice medicine held by Keri Jane McFarlane, M.D., is hereby REVOKED and she may not perform 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 – in the Commonwealth of Kentucky;
2. The provisions of KRS 311.607 SHALL apply to any petition for reinstatement filed by the licensee. The Board shall not consider a petition for reinstatement of license pursuant to KRS 311.607 unless and until:

- a. At least two (2) years have passed from the date of filing of this Order of Revocation;
  - b. The licensee has satisfied all terms and conditions of the judgment, including but not limited to any terms of imprisonment, probation and/or supervised release, entered against her in *USA v. Taylor, et al.*, Case No. 2:21-CR-13-REW (U.S. District Court, Eastern District of Kentucky);
  - c. The licensee has completed a Board-approved clinical skills assessment(s) and/or evaluation(s), at her expense; and
  - d. Pursuant to KRS 311.565(1)(v), the licensee has fully reimbursed the Board the costs of the proceedings in the amount of \$531.25; and
3. If the licensee's license to practice medicine in the Commonwealth of Kentucky should ever become reinstated following a petition pursuant to KRS 311.607, that reinstatement SHALL be contingent upon the licensee entering into an agreed order pursuant to which the licensee SHALL be indefinitely and permanently banned from prescribing or dispensing controlled substances, in accordance with the legislative intent set forth in KRS 218A.205, and any other terms deemed appropriate by the Board at that time.

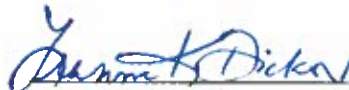
SO ORDERED on this 22<sup>nd</sup> day of January, 2024.



WILLIAM C. THORNBURY, JR., M.D.  
ACTING CHAIR, HEARING PANEL B

### CERTIFICATE OF SERVICE

I certify that the original of the foregoing Order of Revocation was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to Keith Hardison, Esq., Hearing Officer, 2616 Bardstown Road, Louisville, Kentucky 40205; and a copy was mailed, certified return-receipt requested, to the licensee, Keri Jane McFarlane, M.D., License No. 51945, 10616 Eagles View Drive, Knoxville, Tennessee 37922, on this 22<sup>nd</sup> day of January, 2024.



Leanne K. Diakov  
General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
502/429-7150

### **EFFECTIVE DATE AND APPEAL RIGHTS**

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order of Revocation is received by the licensee.

The licensee may appeal from this Order, pursuant to KRS 311.593 and 13B.140-.150, by filing a Petition for Judicial Review in Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service. Copies of the petition shall be served by the licensee upon the Board and its General Counsel or Assistant General Counsel. 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, along with a copy of this Order.

NOV - 8 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2103

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY KERI JANE MCFARLANE M.D. LICENSE NO. 51945 ,  
10616 EAGLES VIEW DRIVE, KNOXVILLE, TENNESSEE 37922

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND RECOMMENDED ORDER UPON DEFAULT**

This action is before the hearing officer on the *Motion for Default Ruling* (hereinafter the “Motion”) filed by the Kentucky Board of Medical Licensure (hereinafter “the Board”) on October 18, 2023. Dr. Keri Jane McFarlane, the licensee, has not filed a response opposing the motion. After reviewing the motion, the record and the applicable law, the hearing officer finds that, by operation of law, the material facts in this matter are taken as admitted. Therefore, the hearing officer recommends the Board grant the *Motion for Default Ruling*. find Dr. McFarlane in violation of KRS 311.595(1), (4), (9), as illustrated by KRS 311.597(4) and KRS 311.595 (12) and take any other appropriate action against Dr. McFarlane’s license for these violations.

In light of this recommendation, the administrative hearing scheduled for January 23 and 24, 2024, is hereby **CANCELLED**.

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

**FINDINGS OF FACT**

*Procedural Facts*

1. On April 21, 2023, the Board issued a Complaint against Dr. McFarlane’s license to practice medicine in the Commonwealth of Kentucky alleging violations of KRS 311.595(1), (9), as illustrated by KRS 311.597(4) and KRS 311.595 (12) *Complaint generally*

2. This Complaint was served on April 26, 2023, by Certified Mail and directed Dr. McFarlane to respond to the allegations contained in the Complaint within 30 days The

Complaint put her on notice that her failure to do so may be taken as an admission of the charges. *Complaint ¶ 9; Motion ¶ 3, Attachment 2*

4. On August 21, 2023, the Board issued an Amended Complaint against Dr. McFarlane's license to practice medicine in the Commonwealth of Kentucky alleging violations of KRS 311.595(1), (4), (9), as illustrated by KRS 311.597(4) and KRS 311.595 (12). *Amended Complaint generally*

5. This Amended Complaint was served on August 23, 2023, by certified mail and directed Dr. McFarlane to respond to the allegations contained in the Amended Complaint within 30 days. The Amended Complaint put her on notice that her failure to do so may be taken as an admission of the charges. *Amended Complaint ¶ 10; Motion ¶8 Attachment 4*

6. Dr. Mc Farlane has failed to respond to the allegations made in the Complaint as well as the Amended Complaint. See *Administrative Record generally; Motion ¶9*

#### Substantive Facts

7. The findings that follow are based upon the allegations contained in the Complaint and the Amended Complaint.

8. At all times relevant to this matter, Dr. McFarlane was licensed to practice medicine in the Commonwealth of Kentucky. Her specialty is family medicine. *Complaint ¶¶ 1-2 and Amended Complaint ¶¶ 1-2*

9. On or about March 4, 2021, Dr. McFarlane, along with several others, were indicted on felony charges in the United States District Court, Eastern District of Kentucky, Southern Division. The indictment charged, in part, that Dr. McFarlane and others conspired to knowingly and intentionally distribute and dispense controlled substances pursuant to prescriptions that were not issued for a legitimate medical purpose and not in the usual course of her professional practice. *Complaint ¶ 3 and Amended Complaint ¶ 3*

10. On or about February 15, 2022, Dr. McFarlane submitted an Application for Renewal of Kentucky Medical/Osteopathic License. She answered “No” to question # 12 which asked, “Since you last registered, to your knowledge, have you become the subject of any criminal investigation or are any criminal charges pending against you” Her answer was obviously false. *Complaint ¶ 4 and Amended Complaint ¶ 4*

11. On or about February 22, 2023, Dr. McFarlane submitted an Application for Renewal of Kentucky Medical/Osteopathic License. She answered “No” to question # 12 which asked, “Since you last registered, to your knowledge, have you become the subject of any criminal investigation or are any criminal charges pending against you” Her answer was obviously false. *Complaint ¶ 5 and Amended Complaint ¶ 5*

12. According to her 2022 and 2023 renewal applications Dr. McFarlane holds an active DEA Registration, but is not registered with the KASPER system. *Complaint ¶ 6 and Amended Complaint ¶ 6*

13. On or about August 11, 2023, following a jury trial, Dr. McFarlane was found guilty of felony offenses involving the following:

- Knowingly and voluntarily conspiring with others to commit the crime of knowingly and intentionally dispensing Schedule III and IV controlled substance outside the usual course of professional practice and not for a legitimate medical purpose.
- Knowingly and voluntarily conspiring with others to commit the crime of knowingly and willfully making false statements or using materially false documents in connection with the delivery of health care services involving a health care benefit program.
- Knowingly and voluntarily conspiring with others to commit the crimes of wire fraud and health care fraud.
- Knowingly and intentionally conducting a financial transaction involving property that represented the proceeds of the conspiracy to knowingly and intentionally dispensing Schedule III and IV controlled substance outside the usual course of professional practice and not for a legitimate medical purpose.

- Knowingly engaged in and attempted to engage in a monetary transaction of criminally derived property of a value greater than \$10,000.
- Knowingly and voluntarily conspiring to accomplish a common and unlawful plan to violate 18 U.S.C. §1956.
- Knowingly and voluntarily conspiring to accomplish a common and unlawful plan to violate 18 U.S.C. §1957.

*Amended Complaint ¶ 8*

### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this action pursuant to KRS 311.591 and KRS 311.595.
2. This proceeding is governed by and was conducted in accordance with KRS Chapter 311, KRS Chapter 13B and related regulations promulgated under KRS Chapter 311.
3. KRS 311.591(4) provides:

The inquiry panel shall cause a complaint to be served on the charged physician by personal delivery or by certified mail to the physician's last address of which the Board has record. The physician shall submit a response within thirty (30) days after service. Failure to submit a timely response or willful avoidance of service may be taken by the Board as an admission of the charges.

4. Under KRS 13B.090 (7) the Board has the burden to prove by a preponderance of the evidence the allegations against the licensee.

5. Dr. McFarlane, the licensee, having failed to file a timely response to the Complaint issued by the Board Inquiry Panel A in this matter on April 21, 2023, and served on her by certified mail on, April 26, 2023, the allegations contained in that Complaint are deemed to be admitted. KRS 311.591(4)

6. Dr. McFarlane, the licensee, having failed to file a timely response to the Amended Complaint issued by the Board Inquiry Panel A in this matter on August 21, 2023, and served on

her by certified mail on, August 23, 2023, the allegations contained in that Amended Complaint are deemed to be admitted. KRS 311.591(4)

7. Based upon the above findings of fact, the preponderance of the evidence supports the conclusion that Dr. McFarlane has knowingly made, or presented or caused to be made or presented, a false statement in connection with an application for the renewal of her license to practice medicine. This thereby establishes a violation of KRS 311.595 (1)

8. Based upon the above findings of fact, the preponderance of the evidence supports the conclusion that Dr. McFarlane has been convicted of a crime as defined in KRS 335B. 010. This thereby establishes a violation of KRS 311.595 (4)

9. Based upon the above findings of fact, the preponderance of the evidence supports the conclusion that Dr. Mc Farlane has engaged in dishonorable unethical or unprofessional conduct likely to brings the medical profession into disrepute and cause harm to the public, specifically by her failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky as they relate to the prescribing of controlled substances. This thereby establishes a violation of KRS 311.595 (9) as illustrated by KRS 311.597 (4).

10. Based upon the above findings of fact, the preponderance of the evidence supports the conclusion that Dr. McFarlane has also violated KRS 311.595 (12) by her conduct in failing to register under the KASPER system and by conspiring with others to distribute controlled substances in a manner that violates the provisions of 201 KAR 9:260, which contains the Board's regulations regarding the utilization of controlled substances.

11. Upon finding that a licensee has violated the provisions of KRS 311.595 the Board has the power to:

...place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore issued by the Board



## RECOMMENDED ORDER

Based upon the foregoing findings of fact and conclusions of law, the hearing officer recommends the Board find Dr. Keri Jane McFarlane guilty of violating KRS 311.595(1), (4), (9), as illustrated by KRS 311.597(4) and KRS 311.595 (12) and impose any appropriate sanction for these violations.

### NOTICE OF RIGHT TO FILE EXCEPTIONS AND TO APPEAL

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. Transmittal of a recommended order may be sent by regular mail to the last known address of the party. Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal the circuit court will consider only the issues a party raised in written exceptions.

A party also has the right to appeal the Final Order of the agency pursuant to KRS 13B.140 (1 - 2) which states:

- (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 in 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.

So ORDERED this 8<sup>th</sup> day of November 2023.

*Keith Hardison*

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KEITH HARDISON  
HEARING OFFICER  
2616 BARDSTOWN RD.  
LOUISVILLE KY 40205  
(502) 432-2332  
hardisonkeith@gmail.com

**CERTIFICATE OF SERVICE**

I hereby certify that the original of this **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER** was hand delivered this 8th day of November 2023, 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 hand delivered to:

LEANNE K. DIAKOV  
GENERAL COUNSEL  
KY BOARD OF MEDICAL LICENSURE  
HURSTBOURNE OFFICE PARK STE 1B  
310 WHITTINGTON PKWY  
LOUISVILLE KY 40222

A true copy was mailed this 8<sup>th</sup> day of November , first class mail, postage prepaid to:

KERI JANE MCFARLANE M.D.  
10616 EAGLES VIEW DRIVE  
KNOXVILLE, TENNESSEE 37922

A copy was also sent via email this 8<sup>th</sup> day of November to [kerimcf@gmail.com](mailto:kerimcf@gmail.com)

*Keith Hardison*

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KEITH HARDISON