

FEB 21 2023

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2097

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY VIJIL K. RAHULAN, M.D., LICENSE NO. 46287, 2885 SANFORD AVENUE, SW 18083, GRANDVILLE, MICHIGAN 49418

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the Chair of its Inquiry Panel B, considered a memorandum from Michael Rodman, Executive Director, dated February 8, 2023; Disciplinary Alert Report sent via e-mail correspondence from the Federation of State Medical Board, dated January 3, 2023; Findings of Fact, Conclusions of Law and Order of Revocation in Default, entered in Case Nos. 2021-003272, 2021-003468, and 2021-005140, dated December 22, 2022.

Having considered this information and being sufficiently advised, the Chair of Inquiry Panel B 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, Vijil K. Rahulan, M.D. (“the licensee”), was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is Internal Medicine.
3. The licensee is also licensed in other states, including Missouri, Kansas, Virginia, and North Carolina.

4. In or around 2016, the licensee was placed on five (5) years' probation in Board

Case No. 1749, based in part upon the following facts:

- a. On or about October 1, 2015, the Michigan Board of Medicine issued an administrative complaint against the licensee which alleged the following:

While residing in the State of Texas and practicing for an Internet-based health care provider (M.D. Aligne), the licensee authorized internet prescriptions for patients who were located in the State of Michigan. The patients were treated predominantly with non-scheduled medications (including Fioricet and Tramadol) for complaints including migraine headaches, back pain and fibromyalgia.

A Board consultant review of the licensee's practices in regard to those patients found that the licensee demonstrated negligence by failing to obtain and maintain records within the applicable standards of practice as the records did not contain documentation that:

- The licensee had obtained a history of present illness;
- The licensee had performed a physical examination;
- The licensee had obtained prior medical records;
- The licensee had ordered and received results of laboratory or x-ray testing;
- The licensee had issued a diagnosis and treatment plan;
- The licensee had followed up to see how medication therapy was working and adjusted treatment plans accordingly.

- b. On or about January 13, 2016, the licensee submitted an Application for Renewal of Kentucky Medical/Osteopathic License and answered "No" to Question No. 8 which asked: "Since you last registered, are any legal proceedings regarding licensure presently pending against you by any State, Federal or International licensure authority or any drug licensure/enforcement authority with the exception of the Kentucky Medical Board?"
- c. On or about March 16, 2016, the licensee resolved the complaint with the Michigan Board of Medicine by entering into a Consent Order, pursuant to which the licensee was reprimanded and fined \$8,000.00 for his violations of section 16221(a) of the Michigan Public Health Code.
- d. The licensee did not report the action upon his Michigan license to this Board until May 8, 2016, more than ten (10) days after the sanction imposed in Michigan.

5. On or about December 22, 2022, the Missouri State Board of Registration for the Healing Arts (“the Missouri Board”) revoked the licensee’s license to practice medicine in the State of Missouri pursuant to *Findings of Fact, Conclusions of Law and Order of Revocation in Default*, based in part on the following facts:
- a. [The licensee] had a history of non-compliance with the statutes and regulations governing his practice.
 - b. On or about January 17, 2018, the Wisconsin Medical Examining Board reprimanded [the licensee] based on the action taken by the Michigan Board and for his failure to report the disciplinary actions taken by eight states- Maryland, California, Kentucky, North Carolina, Pennsylvania, Maine, Tennessee and Missouri.
 - c. On April 15, 2021, the Board of Healing Arts of the State of Kansas (“Kansas Board”) suspended [the licensee’s] license until he complies with statutory requirements of Kansas Health Care Stabilization Fund (“Kansas Order”).
 - d. The Kansas Order was based on [the licensee’s] failure to pay the annual surcharge to the Kansas Health Care Stabilization Fund as required by the Kansas Healing Arts Act 40-3404 during the 2017-2018 and 2019-2020 periods, and [the licensee’s] false certification that such surcharges had been paid.
 - e. On May 17, 2021, the Kansas Order became a final order.
 - f. The Kansas Order constitutes final disciplinary action taken against [the licensee] by any other state licensing authority.
 - g. On June 15, 2021, the Virginia Department of Health Professions {hereinafter “Virginia Board”) entered an Order of Mandatory Suspension (hereinafter “Virginia Order”), in which [the licensee’s] license to practice medicine in Virginia was suspended.
 - h. The Virginia Order was based on the disciplinary action taken by the Kansas Board.
 - i. The Virginia Order constitutes final disciplinary action taken against [the licensee] by another state licensing authority.
 - j. On or about October 29, 2021, [the licensee] voluntarily entered a Consent Order (hereinafter “North Carolina Order”) with the North Carolina Medical Board (hereinafter “North Carolina Board”) wherein [the licensee’s] license to practice medicine in North Carolina was reprimanded.

- k. The North Carolina Order was based on the disciplinary action taken by the Kansas Board.
 - l. The North Carolina Order constitutes final disciplinary action taken against [the licensee] by another state licensing authority.
 - m. On April 22, 2022, [the licensee] met with the [Missouri] Board via WebEx to discuss a complaint alleging [the licensee] used telehealth to prescribe multiple Missouri residents with expensive topical creams and foot baths without conducting sufficient physical examination.
 - n. During the meeting, [the licensee] revealed more information indicating he continued the pattern of non-compliance with state regulations governing his practice. Specifically,
 - He did not maintain any records on the patients he prescribed medication through telehealth, in violation of section 334.097.1, RSMo;
 - He did not obtain a reliable medical history or perform a physical examination of the patients prior to prescribing them medication or treatment, in violation of section 334.108, RSMo;
 - He claimed the patients were examined by a nurse practitioner who was collaborating with him but he never practiced with the nurse practitioner at a location where he was continuously present for at least one (1) month, violating section 334.104.9, RSMo;
 - He relocated out of state without timely updating his address with the Board, in violation of section 334.100.2(4)(q) and rule 20 CSR 2150-2.045;
 - He purposefully refused to cooperate with the Board investigation by repeatedly ignoring the Board's correspondence and requests for information (despite confirming they were sent to the correct address), which constitutes violation of section 334.100.2(4)(m).
 - o. ... [the licensee] has submitted no response and has stated no defense to the allegations stated in the Complaint pending before the [Missouri] Board.
....
 - p. The Board finds the discipline imposed is necessary to protect the public.
6. The licensee did not report the action against his license in Missouri to this Board within ten (10) days as required by 201 KAR 9:081(9)(2)(a)(2). Further, the licensee did not provide this Board a copy of the order issued by the Missouri Board within ten (10) days.

7. The licensee did not respond to this Board's inquiries about the Missouri action and his failure to report.

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 physician's practice constitutes a danger to the health, welfare and safety of patients or the general public.
3. There is probable cause to believe that the licensee has violated KRS 311.595(12) and (17).
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 licensee's practice constitutes a danger to the health, welfare and safety of patients or the general public.

6. The Board may draw logical and reasonable inferences about a licensee's practice by considering certain facts about a licensee's practice. If there is proof that a licensee has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the licensee 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 licensee's practice presents representative proof of the nature of that licensee's practice in general. Accordingly, probable cause to believe that the licensee has committed certain violations in the recent past presents probable cause to believe that the licensee will commit similar violations in the near future, during the course of the licensee's osteopathic practice.
7. The United States Supreme Court has ruled that it is no 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, 520 U.S. 924 (1997), 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

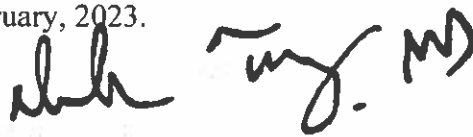
KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

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 Vijil K. Rahulan, M.D., is SUSPENDED and Dr. Rahulan is prohibited from performing any act which constitutes the “practice of medicine or osteopathy,” 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 immediately upon service to the licensee.

SO ORDERED this 21st 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, Vijil K. Rahulan, M.D., License No. 46287, 2885 Sanford Avenue, SW 18083, Grandville, Michigan 49418, on this 21st day of February, 2023.



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