

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2117

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ROSENBERG A. REYES, M.D., LICENSE NO. 35249, 320 WEST WOODLAWN AVENUE, LOUISVILLE, KENTUCKY 40214-1924

COMPLAINT

Comes now the Complainant, Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on August 17, 2023, states for its Complaint against the licensee, Rosenberg A. Reyes, M.D., as follows:

1. At all relevant times, Rosenberg A. Reyes, M.D. ("the licensee"), was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is family medicine.
3. On or about November 8, 2019, a Social Service Clinician with the Kentucky Department of Corrections, Division of Addiction Services contacted the Board and expressed concern because the licensee was prescribing her client Hydrocodone 10mg, 120 qty; Amphetamine 5mg, 90qty; Gabapentin 600mg, 90 qty; Xanax 1mg, 90 qty; Ambien 10mg, 30 qty every 30 days for the last 5 years. This is despite the fact that her client was not testing positive for those substances. The clinician concluded that the licensee must not be doing patient follow ups. The clinician also added that her client is getting the prescriptions filled at the same pharmacy every month.
4. The Board's investigator obtained medical records by reviewing KASPER and selecting seventeen charts most closely resembling the unknown patient referenced in the grievance.

5. A Board consultant reviewed the charts. The consultant noted that the licensee uses controlled substance agreements, a pain and screening checklist, and urine drug screenings (“UDS”) for his patients but the UDSs are not done consistently and there is poor follow-up. Many visits are done by nurse practitioners. There are copies of the refill prescriptions on the chart, however only a rare KASPER report was included in the records. While the licensee utilizes a Controlled Substance Evaluation Form, it is not consistently used to monitor patients. Ultimately, the standard of care is below par, and his system for ensuring compliance and safety is used inconsistently. Examples of these issues include,

- **Patient T.J.:** The licensee regularly prescribed the patient Hydrocodone or Percocet and Xanax between at least 2010 through 2021. The patient regularly tested positive for substances not prescribed and negative for substances the licensee did prescribe.
- **Patient D.B.:** The licensee regularly prescribed the patient Norco, Xanax and stimulants between at least 2013 through 2020. During this time, only one KASPER was in the chart. The patient regularly tested positive for marijuana, and in 2014, the licensee warned the patient about the positive test and noted “sketchy behavior.” The patient’s next UDS was negative for marijuana but then returned to positive results for marijuana or THC with no further warnings or discontinuation of services. The patient regularly had low creatine values with no repeat UDSs. The licensee did not address the abnormal UDSs, and the controlled substance evaluation forms stated no recreational drugs, despite the abnormal UDSs.
- **Patient F.W.:** The licensee regularly prescribed the patient various controlled substances, including Percocet, soma, gabapentin and Xanax, between at least 2014 through 2018. In 2014, the patient tested positive for unprescribed drugs and was given a “1st warning,” with no further warnings noted. The patient regularly tested negative for prescribed medications. A 2017 H&P on hospital admission in the patient’s chart noted past IV drug and cocaine use.
- **Patient J.B.:** The licensee regularly prescribed the patient various controlled substances, including Adderall, Norco, and Xanax, between at least 2009 through 2020. In 2013, the licensee had a sticky note in the chart about an arrest for controlled substances and stated, “no pain meds [Patient J.B.]” but continued prescribing medications to the patient despite positive

drug screens. There was no UDS after August 2018, but visits continued until the end of 2020.

- **Patient D.E.:** The licensee regularly prescribed the patient various controlled substances, including Adderall, Norco, Ambien and Xanax, between at least 2016 through 2021. The patient tested positive for some but not all of the prescribed medications.
- **Patient K.C.:** The licensee regularly prescribed the patient various controlled substances, including Adderall, Ambien, and Xanax, between at least 2013 through 2021. Another provider prescribed the patient Oxycodone. Only one KASPER was in the chart.
- **Patient E.G.:** The licensee regularly prescribed the patient Oxymorphone, Percocet, and Ritalin. The first chart was not provided, and there was no UDS in the second chart.
- **Patient R.J.:** The licensee regularly prescribed the patient Ambien, Norco, and Xanax, between at least 2014 through 2021. There was no UDS after 2017.
- **Patient E.E.** The licensee regularly prescribed Adderall, hydrocodone, and Ambien, between at least 2012 through 2022. The patient regularly tested positive for THC. There are no recent UDSs.
- **Patient M.E.:** The licensee regularly prescribed the patient a buprenorphine patch, Norco, and Xanax. The first chart was not provided, and there was no controlled substance agreement or UDS in the second chart.
- **Patient L.A.:** The licensee prescribed several fills of Xanax in 2020, and there was no UDS in the chart.
- **Patient L.A.:** The licensee regularly prescribed the patient various controlled substances, including Adderall, Flexeril, and Xanax, between at least 2014 through 2021. The patient regularly tested positive for substances not prescribed and negative for substances the licensee did prescribe. There are no UDSs after 2017.
- **Patient F.A.:** The licensee regularly prescribed the patient various controlled substances, including Vyvanse and Percocet, between at least 2014 through 2021. The patient regularly tested positive for substances not prescribed and negative for substances the licensee did prescribe.
- **Patient A.J.:** The licensee regularly prescribed the patient various controlled substances, including Vyvanse, Ambien, Xanax and Vicodin, between at least 2012 through 2017. The patient regularly tested positive for substances not prescribed and negative for substances the licensee did prescribe. There is a note from 2014 that the patient was warned “not to

have [marijuana] in [the patient's] system or [the patient] will be sent out.”
The patient continued to test positive for marijuana.

6. By his conduct, the licensee has violated KRS 311.595(9), as illustrated by KRS 311.597(4). Accordingly, legal grounds exist for disciplinary action against his license to practice medicine in the Commonwealth of Kentucky.
7. The licensee is directed to respond to the allegations delineated in the Complaint within thirty (30) days of service thereof and is further given notice that:
 - (a) His failure to respond may be taken as an admission of the charges;
and
 - (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.

8. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for **March 5, 6 & 7, 2024**, at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS Chapter 13B. This hearing shall proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.

WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine in the Commonwealth of Kentucky held by Rosenberg A. Reyes, M.D.

This 6th day of September, 2023.



WAQAR A. SALEEM, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Complaint 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 via certified mail return-receipt requested to the licensee, Rosenberg A. Reyes, M.D., License No. 35249, 320 West Woodlawn Avenue, Louisville, Kentucky 40214-1924 on this 6th day of September, 2023.



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