

FILED OF RECORD

AUG 28 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2115

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY JORGE L. RODRIGUEZ, M.D., LICENSE NO. 23096,
3502 DIXIE HIGHWAY, LOUISVILLE, KENTUCKY 40216

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, and Jorge L. Rodriguez, 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, Jorge L. Rodriguez, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is general medicine.
3. On or about May 15, 2019, the Board received a grievance stating as follows:

It is my duty as an officer of the courts to report Dr. Rodriguez ("Rodriguez") and North Dixie Medical Center ("North Dixie") for violation of Kentucky law. A client informed me that Rodriguez, through North Dixie, is operating a pain management facility exclusively for acute injuries. Rodriguez is not a board certified pain management doctor and North Dixie is not a licensed pain management facility, violating KRS 218A.175 and 201 KAR 9:250. Rodriguez has solely owned North Dixie since 2017, therefore, it is not eligible for the "grandfather" provision of KRS 218A.175. Rodriguez has registered his NPI #1124537204 as a Pain Clinic. North Dixie treats no other medical condition, only acute injuries.

Rodriguez advertises North Dixie as an acute injury pain clinic. He uses word of mouth and a sales staff member to obtain referrals from area Chiropractor offices. Rodriguez, or his agent, informs Chiropractors that North Dixie prescribes patients higher doses of opiates, and other controlled substances, at higher quantities for a greater length of time, in violation of 201 KAR 9:260. This type of word of mouth advertising is a method of deception to avoid overt methods of advertising that can be easily discovered. North Dixie has become the preferred office for drug seeking patients. Since his medical practice only sees acute injury patients for pain management, I am certain Rodriguez's KASPER history since 2017 will show his non-compliance with Kentucky law. The majority of Rodriguez's patients, within a 30 day period, are prescribed controlled substances, he advertises that he provides pain management services and the exclusive component of his practice is pain management. Per KRS 311.592, Rodriguez's reckless and illegal practice is a threat to patient safety and an accidental overdose is likely.

4. On or about June 13, 2022, the Cabinet for Health and Family Services' Office of the Inspector General ("OIG") analyzed the licensee's prescribing data for the period of March 1, 2021 to March 1, 2022 and noted the following for the period reviewed:

- The licensee requested 680 KASPER patient reports and this number appears to be in line with a patient count of 474 receiving controlled substance prescriptions;
- The licensee issued 1,022 controlled substance prescriptions during the period reviewed. Of these, 25.15% were Hydrocodone-based products; 73.18% were Oxycodone-based products; and 0.29% were Gabapentin-based products;
- The licensee's average daily morphine equivalent dose (MED) was 18.5, compared to a state average of 35 MED; and
- The licensee prescribed 20,412 opioid units, compared to a state average of 16,723 units.

OIG selected fifteen (15) patient names based on opioid usage for further Board review to determine appropriate medical care.

5. In a letter, dated March 30, 2023, the licensee stated, in part, as follows:

...

After retiring I took some time off but in 12/2016 I was approached by several chiropractors, due to my expertise in trauma and critical care

medicine. They proposed to me that I to open a medical practice that focused on the medical needs of patients injured in an automobile accident, a slip and fall, or a work related injury. The medical practice would be combined with the patient's chiropractic intervention. ...

... [I]n 9/2017 I open The North Dixie Medical Center focused on the management of acute injuries, musculoskeletal injuries, after trauma from an automobile accident, a slip and fall, or a work related injury. The management of the musculoskeletal injury would entail the 4 prong attack. I am the sole physician provider with 3 assistants (front desk, medical records and billing). All patients evaluated at NDMC are referred by chiropractors and are at the time undergoing active chiropractic intervention. NDMC takes no walk in and does no advertising.

... Since 2020 Dr. Rodriguez evaluates all patients thru telemedicine both at the facility, NDMC, and at 4 other Chiropractor's offices using the same format as the NDMC. ...

... As of October 2019 I no longer prescribe Gabapentine as did in the past. Over time I came to realize that a musculoskeletal injury is not improved by a medication utilized for medical nerve injury or induced by a medical illness. The medication does not improve the patient's symptoms or outcome.

The prescribing methodology has also changed as of October 2019 we no longer prescribe all the anti-inflammatories agents on the initial visit and did the targeted opioid weekly. Due to the E-prescribing system we can provide the anti-inflammatories, muscle relaxants, and targeted opioid on the initial visit and weekly during the treatment course.

NDMC has changed the amount and method of ingestion of the targeted opioid it prescribes.

Initially we gave 12 pills for 3 days (one q 6 hour for 3 days) that lacked connection to the chiropractic and medical intervention being provided. It caused the patient to continue to be in pain thru our the treatment course and caused patient confusion. Now we prescribe 14 opioid tablets to be taken after chiropractic session and before bed time, targeted over 7 days.

NDMC changed how the 10 mg cyclobenzaprine is taken. Now we prescribe to ingest one tablet between 5 and 7 pm. Not during the day due to the consequence of sleepiness and not after 7 pm for it will cause a hang over the next day. The muscle relaxant with the targeted opioid at bedtime induces restful sleep. Key for the musculoskeletal injury to heal is not only anti-inflammatory agents, chiropractic intervention, pain relief, but restful sleep.

NDMC has changed the anti-inflammatory it prescribes. It no longer utilizes Ibuprofen. It now prescribes Diclofenac Sodium 50 mg three times per day. It is much more potent anti-inflammatory and much more effective.

...

The funding for NDMC is acquired by daily generation a 1500 form attached to the patient's care note of the day along with the patients injuries diagnostic codes. It is Fax or E-mail to the patient's insurance company (PIP) or Attorney (Lien).

...

... NDMC is not a pain management practice or clinic. ...

6. On or about April 30, 2023, a Board consultant reviewed the fifteen (15) patient charts identified by OIG and stated, in part, as follows:

While the majority of the patients' charts fall within standard of practice, there was one chart that was found to be borderline. Dr. Rodriguez's care, based on my review of all submitted information, is within the minimum standard of care as set by law and by protocol for the use of controlled substances though some improvement needs to be made regarding individual treatment plans and adjustment in opioid prescription strength and/or quantity with symptom improvement. There is some concern for continued prescribing of controlled medication in the presence of negative urine drug screening while the patient is receiving prescriptions of opioid. No documentation to address the negative drug screenings noted in records. ...

7. In a letter, dated June 1, 2023, the licensee acknowledged that his practice, NDMC, does not accept private health insurance as one of the allowable forms of payment.
8. On August 17, 2023, the licensee appeared before and was heard by the Inquiry Panel. The licensee stated that he begins his patients on NSAIDs the first week of treatment and then adds opioids the second week; he stated that he only treats patients up to 8 weeks and then refers them to their primary care physician or a specialist for ongoing treatment; and he does not know what percentage of patients he initiates on opioids go on to be chronic users of controlled substances. In discussion with Panel members, the licensee acknowledged that current medical standards do not support the use of opioids for acute injury and pain and he stated

that he is becoming increasingly aware that such medications are unnecessary when NSAIDs are coupled with chiropractic care or physical therapy. The licensee also acknowledged that he has been operating an unregistered pain management facility and stated that he is taking steps to register his facility.

9. The licensee enters into this Agreed Order in lieu of the issuance of a Complaint and Emergency Order of Restriction against his license to practice medicine in the Commonwealth of Kentucky.

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 fully and finally resolve this pending matter without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER:**

1. The license to practice medicine held by Jorge L. Rodriguez, M.D., is hereby **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 Kentucky medical license **SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS** until further order of the Board:
 - a. The licensee **SHALL NOT** prescribe, dispense, or otherwise professionally utilize controlled substances unless and until approved to do so by the Panel; and
 - b. The licensee **SHALL NOT** violate any provision of KRS 311.595 and/or 311.597.
3. The Panel shall not consider a request by the licensee to resume the professional utilization of controlled substances unless and until the following conditions have been satisfied:
 - a. The licensee has registered his practice, North Dixie Medical Center, as pain management facility and accepts private health insurance as one of the allowable forms of payment, in accordance with KRS 218A.175 and the Board's regulation, 201 KAR 9:250;
 - b. The licensee has successfully completed the "Prescribing Controlled Drugs" course at The Center for Professional Health at Vanderbilt University Medical Center, Nashville, TN, Tel. (615) 936-0678, at his expense;
 - c. The licensee has submitted full payment of a FINE in the amount of \$3,000.00; and
 - d. The licensee has REIMBURSED in full the costs of the Board's investigation in the amount of \$2,275.00.
4. The licensee expressly agrees that if he 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 he 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, including revocation, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.

SO AGREED on this 28th day of August, 2023.

FOR THE LICENSEE:


JORGE L. RODRIGUEZ, M.D.


COURTNEY GRAHAM, ESQ.
COUNSEL FOR THE LICENSEE

FOR THE BOARD:


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



LEANNE K. DIAKOV
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150