

AUG 15 2024

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2147

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY PETER B. HARDIN, M.D., LICENSE NO. 42374, 125 GREENBRIAR DRIVE, CAMPBELLSVILLE, KENTUCKY 42718

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter “the Board”), acting by and through its Hearing Panel A, and Peter B. Hardin, M.D. (hereafter “the licensee”), and, based upon their mutual desire to resolve this pending case, 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, Peter B. Hardin, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is Radiation Oncology.
3. On or about October 1, 2008, the licensee applied for a full medical license in the Commonwealth of Kentucky. At that time, he informed the Board that he was admitted to a residential treatment program in March 2008 for treatment of alcohol use. The Board approved his request for a full medical license contingent upon him entering into a Letter of Agreement.
4. On or about December 22, 2008, the licensee entered into a five-year Letter of Agreement agreeing to abstain from alcohol, be subjected to random drug testing, and be an active participant in the activities of the Kentucky Physicians Health

Foundation (“the Foundation”). He successfully completed the terms of the Agreement.

5. On or about November 30, 2023, the licensee was arrested and charged with operating a motor vehicle under the influence of alcohol in Adair County. Pursuant to the Citation, an officer was dispatched to a reckless driver due to a caller complaint advising the vehicle was running off the road into the grass median and back onto the road. The caller advised that the licensee ran off the road into the grass. When the officer arrived, he observed a male subject sitting in the driver's seat with the motor running. The licensee advised that he was having blood sugar problems, so the officer called EMS. EMS arrived and informed the officer that the licensee's blood sugar was good and that was not the issue. The officer administered a PBT for the presence of alcohol, which produced a read of .312. The officer asked the licensee to step out of the vehicle. He refused several sobriety tests, citing knee problems. The officer moved on to the eye test, but the licensee was unable to follow directions.
6. On or about November 30, 2023, the Columbia Police Department collected a blood sample from the licensee. Laboratory testing showed a 0.336g/100mL alcohol content in the blood.
7. On or about January 5, 2024, the licensee was arrested and charged with operating a vehicle under the influence of alcohol in Metcalfe County. The Kentucky Uniform Police Traffic Collision Report states substantially as follows:

Unit #1 was traveling westbound on KY HWY 80 near intersection with Jack Sparks Road. Unit #1 stated that he struck a deer approximately .5 miles east of current location. Unit #1 stated that he continued westbound on KY HWY 80

until the vehicle lost all fluids. Unit #1 operator was awaiting on AAA to tow the vehicle.

Upon arriving to the scene the operator of Unit #1 was sitting in the operator seat of the vehicle on the westbound shoulder of KY HWY 80. The operator of Unit #1 had a strong odor of alcoholic beverage. I immediately suspected him of being under the influence. I instructed Unit #1 operator to exit the vehicle. While exiting the vehicle the operator of Unit #1 was using the vehicle for balance. Unit #1 operator was very unsteady on his feet and using the vehicle for balance. I conducted SFST [Standardized Field Sobriety Test], horizontal gaze nystagmus. Unit #1 operator displayed lack of smooth pursuit in both eyes. The operator of Unit #1 also had distinct and sustained nystagmus at maximum deviation in both the left and right eyes. Unit #1 operator could not complete the walk and turn or the one leg stand. Unit #1 operator stated that he had both knees replaced in the past three months. The operator of Unit #1 was placed under arrest for driving under the influence and later administered a breath test. The breath tests results were .221 [...].

It appeared that unit #1 had struck something other than a deer. I traveled east on KY HWY 80 for approximately a mile and did not see any visible signs of a collision. I did see fluids from Unit #1 vehicle approximately .5 miles from Unit #1 current location.

8. On or about January 11, 2024, Taylor Regional Hospital summarily suspended the licensee pending the completion of an investigation by the Medical Executive Committee.
9. On or about January 12, 2024, the Board received correspondence from Rick Morris, Medical Physicist at Taylor Regional Radiation Oncology. Mr. Morris stated substantially as follows:

On January 3, 2024, I was working remote. Early in the day, I asked Dr. Hardin whether a patient who was scheduled to start treatment the next day would require a PET/CT fusion. Due to the patient starting treatment the next day, I would consider this an urgent inquiry. When Dr. Hardin failed to respond after several hours, I called Dr Hardin. This was a typical question for me to ask Dr. Hardin in the scope of our professional relationship. Dr. Hardin responded that the PET/CT fusion was needed for treatment planning. I explained to Dr. Hardin that the PET data would need to be transferred to certain computer software for use by the physics/ dosimetry team. Dr. Hardin attempted to move the PET data while on the phone with me, but he became agitated and stated the process was not working. When it became clear my oral instructions on how to move the PET data to the necessary software were not helping, I offered to Face Time Dr.

Hardin to walk him through what to do. Upon initiating the video call, I noticed Dr. Hardin was clicking the incorrect tab even though he was adamant he was correct. This encounter was strange, as Dr. Hardin has transferred the fusion data in the exact same matter many times in the past without confusion or the need for step-by-step instruction.

On January 4, 2024, I was working on-site. When I arrived at work, radiation therapist, Marie, told me she suspected Dr. Hardin was drunk at work the previous day. This explained his delayed reaction to my inquiry and his difficulty transferring the file the day before. When I arrived, I spoke with Dr. Hardin regarding the PET/CT fusion plan we worked on the day before, and he replied he had not seen it and did not have time to look at it because he was about to see another patient. Knowing, Dr. Hardin is a diabetic, I initially thought his erratic behavior this morning may be due to his glucose levels being at an unsafe level. Soon after, I heard someone ask Dr. Hardin about his blood sugar and Dr. Hardin replied it had recently been tested and it was okay. However, Dr. Hardin did not seem okay as his speech was slurred and he visibly had difficulty walking and trouble navigating the computer software he regularly used. While I was onsite, Dr. Hardin saw one new patient, three follow up patients, oversaw one patient starting radiation, and oversaw one breast CT simulation procedure. While I was working back by the treatment machine, Marie pulled Dr. Hardin aside and I overheard her tell Dr. Hardin that everyone knew he was drunk, which Dr. Hardin denied.

Later in the afternoon, Marie asked me if I noticed anything wrong with Dr. Hardin. She told me she thought he was drunk. As the day went on, Dr. Hardin's physical/ cognitive abilities appeared to continue to decline. I left the facility at approximately 1:30pm. Before I left, I went to Dr. Hardin's office to see if he needed anything else from Medical Physics that day. When I entered his office, he was slouched over in his chair with his eyes closed. When I spoke, he raised his head slightly, but he never replied to me or opened his eyes. As I was leaving, Tammy at the front desk stopped me and told me Dr. Hardin was drunk. While suspected of being drunk, Dr. Hardin finally approved the new patient's PET/ CT fusion plan and started her treatment.

After I left, Marie called me and told me that after I left Dr. Hardin seemed alert for a later breast simulation that afternoon and that he placed the field wires on the patient, but did not speak to the patient. Marie confided in me that she had found four water bottles full of alcohol in Dr. Hardin's office since he was arrested for a DUI. Dr. Hardin was arrested for a DUI between November 25, 2023 and December 7, 2023. I personally smelled one of these bottles that Marie brought to my attention and observed the smell of vodka.

10. On or about January 15, 2024, the licensee requested a hearing regarding his suspended privileges pursuant to the Taylor Regional Hospital Medical Staff Bylaws.

11. On or about January 19, 2024, the Hearing Committee issued a Report and Recommendation to the Medical Executive Committee. It stated substantially as follows:

[...] Dr. Sean Desimone presented information to the Hearing Committee which he gathered during the investigation and on which the Chief Executive Officer and he relied in making the determination to summarily suspend Dr. Hardin's clinical privileges. The information relied upon and presented to the Hearing Committee included the following:

- Witness summaries of interviews of six team members which described multiple occasions wherein Dr. Hardin was impaired while at his office.
- Two Uniform Citations, one from Adair County and one from Metcalfe County relating to recent charges of Dr. Hardin for Driving Under the Influence.
- Photograph of target which was placed by Dr. Hardin on the door of the physicist.
- A video from security camera from the parking lot of the treatment center which depicted Dr. Hardin going to his vehicle at approximately 2:00 pm to take a drink of something.

Thereafter, Dr. Hardin spoke on his own behalf. He explained that he underwent two knee surgeries, one in August, 2023 and one in November 2023. In order to address the pain associated with the recovery, he had the option of taking narcotics or consuming alcohol in combination with over the counter medications. Dr. Hardin explained that he considered the latter to be less addictive. Dr. Hardin acknowledged that he had a problem with alcohol in that he was using it for the wrong reasons and he was drinking to excess. Dr. Hardin explained that his fatigue and drowsiness which was reported by many team members was a result of his failure to be able to sleep rather than impairment from alcohol. Dr. Hardin explained that he was diabetic and some of his symptoms may have been a result of his blood sugar. Dr. Hardin explained the target as being non-threatening to the physicist and merely a demonstration of what a poor shooter he was.

Dr. Hardin agreed that the written statements of team members provided to the Hearing Committee were accurate and he understood why they were concerned

about his behavior. Dr. Hardin also agreed that the decision to summarily suspend his privileges was proper.

Dr. Hardin was asked questions about prior abuse issues which he acknowledged. He explained that he was equipped to address alcohol addiction based upon the tools he had learned from prior treatment.

Dr. Hardin was asked whether he wanted to provide any additional information to the Hearing Committee and he declined although he offered to answer any additional questions. He acknowledged that he felt like the initial investigation had been conducted in a fair manner. He also acknowledged that the hearing before the Hearing Committee was fair and he had been afforded appropriate due process. Thereafter the hearing was concluded.

The Hearing Committee finds that Dr. Hardin has abused alcohol and in so doing has endangered the public at large by driving while impaired and endangered patients by providing services while impaired. Further, the Hearing Committee finds that Dr. Hardin has consumed alcohol during business hours and has attempted to intimidate the physicist who had knowledge of his impairment while seeing patients at his office. Based upon the totality of this conduct, the Hearing Committee recommends to the Medical Executive Committee that it affirm the summary suspension of Dr. Hardin's clinical privileges at Taylor Regional Hospital.

12. On or about February 15, 2024, Taylor Regional Hospital informed the licensee that the Medical Executive Committee affirmed the recommendation, summarily suspending his privileges.
13. On or about February 22, 2024, in accordance with KRS 311.592, the Chair of the Board's Inquiry Panel B authorized the issuance of an Emergency Order of Suspension based upon the above facts.
14. On or about March 4, 2024, counsel for the licensee notified the Board that the licensee pled guilty to a charge of DUI in Adair County District Court (Case No. 23-T-02444) on February 28, 2024, and pled guilty to a charge of DUI in Metcalfe County District Court (Case No. 24-T-00017) on February 28, 2024. He also informed the Board that the licensee had met with the Foundation and was complying with its determination that he obtain a 96-hour evaluation.

15. On or about March 14, 2024, the Board ratified the Emergency Order of Suspension and issued a Complaint based upon the above facts.
16. On or about March 30, 2024, the licensee enrolled in a 12-week residential treatment program at Bradford Health Services (“Bradford”). He made good progress while in treatment and was discharged on or about June 17, 2024. His Axis I diagnosis included alcohol use disorder, severe. Bradford provided numerous recommendations, including engaging in individual therapy; attending 90 recovery meetings in 90 days followed by a minimum of 3 meetings per week thereafter; following up with his primary care physician within six months post-discharge; continuing wearing his CPAP machine, taking his recommended dose of Trazodone and to see an addictionologist; and complying with all requirements of the Foundation monitoring agreement. Bradford advocated for his return to medical practice two weeks post-discharge, on July 1, 2024. It also recommended that the number of hours he work not exceed forty hours.
17. On or about June 25, 2024, the licensee entered into an aftercare and monitoring contract with the Foundation. The components are as follows:
 - a. Documented attendance at no less than 12 recovery meetings per month;
 - b. Ongoing relationship with a 12-Step sponsor;
 - c. Individual therapy;
 - d. Medication management with a Foundation-approved provider, if indicated;
 - e. Random, observed drug screens and alcohol determinations; and
 - f. Once he has been approved to return to clinical practice, we will also obtain interval reports from a contact at his primary worksite confirming his appropriate professional behavior within the workplace setting.

18. By her letter of July 2, 2024, Dr. Simpson explained that the licensee has entered into a contract with the Foundation. With the above-noted parameters in place, the Foundation does not believe he poses any undue risk to his patients or the public.
19. The licensee now agrees to enter into this Agreed Order to resolve this pending case.

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 Kentucky medical license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates the provisions of KRS 311.595(7), (8) and (21). 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 pending case 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 the pending case, the parties hereby ENTER INTO the following **AGREED ORDER**:

1. The license to practice medicine held by Peter B. Hardin, M.D., is hereby PLACED ON PROBATION FOR A PERIOD OF FIVE (5) YEARS, with that period of probation to become effective immediately upon the filing of this Agreed Order.

2. During the effective period of this Agreed Order, the licensee's medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
- a. The licensee SHALL enter into and maintain a contractual relationship with the Kentucky Physicians Health Foundation and shall fully comply with all requirements of that contractual relationship;
 - i. The licensee SHALL completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a documented legitimate medical purpose. The licensee SHALL ensure that any such medical treatment and prescribing is reported directly to the Board in writing by his treating physician within ten (10) days after the date of treatment. The licensee SHALL inform the treating physician of this responsibility and ensure timely compliance. The licensee's failure to inform the treating physician of this responsibility SHALL be considered a violation of this Agreed Order;
 - ii. The licensee SHALL be subject to periodic, unannounced breathalyzer, blood and urine alcohol and/or drug analysis as desired by the Board, and under the conditions specified by the Board's testing agent, the purpose being to ensure that the licensee remain drug and/or alcohol-free. The cost of such breathalyzer, blood and urine alcohol and/or drug analyses and reports SHALL be paid by the licensee, and the licensee SHALL pay those costs under the terms fixed by the Board's agent for testing. The licensee's failure to fully reimburse the Board's agent within that time frame SHALL constitute a violation of this Agreed Order;
 - b. The licensee SHALL NOT work in excess of forty (40) hours per week;
 - c. The licensee SHALL comply with all June 2024 Bradford Health Services Recommendations regarding testing, monitoring, therapy, medical care and support meetings; and
 - d. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. 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.

4. 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 16 day of July, 2024.

FOR THE LICENSEE:



PETER B. HARDIN, M.D.



BRIAN R. GOOD
COUNSEL FOR THE LICENSEE

FOR THE BOARD:



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



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WAIVER OF RIGHTS

I, Peter B. Hardin, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 2147. I understand that, under 201 KAR 9:082, I must waive certain rights if I wish to resolve this matter by informal dispensation. Accordingly, I WAIVE my right to raise any constitutional, statutory or common law objection(s) I may have to the Hearing Panel rejecting the proposed informal dispensation or to the curtailment of such a settlement by the Board's General Counsel or Assistant General Counsel.

Furthermore, if the Hearing Panel accepts the proposed Agreed Order as submitted, I WAIVE my right to demand an evidentiary hearing or to raise additional constitutional or statutory objections in this matter. However, if the Hearing Panel should reject the proposed Agreed Order, I understand that further proceedings will be conducted in accordance with KRS 311.530 *et seq*, and I will have the right to raise any objections normally available in such proceedings.

Executed this 16 day of July, 2024.



PETER B. HARDIN, M.D.
Respondent



COUNSEL FOR THE RESPONDENT