

FEB 22 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

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the Chair of its Inquiry Panel B, considered: notes prepared by Kevin Payne, Medical Investigator, undated; Correspondence from Richard Morris, dated January 8, 2024; Report of suspension of clinical privileges at Taylor Regional Hospital, processed January 12, 2024; Uniform Citation, arrest date of November 30, 2023; Correspondence from KSP Crime Lab, dated February 6, 2024; Citation and crash report, arrest date of January 5, 2024; Taylor Regional Hospital letter to Dr. Hardin, dated January 18, 2024; Witness statements concerning Dr. Peter Hardin, undated; Report and Recommendation of Hearing Committee to Medical Executive Committee, dated January 19, 2024; Photo of target placed on grievant’s door, undated; Final Report of drug screen, dated February 8, 2024; Taylor Regional Hospital letter to Dr. Hardin, dated February 15, 2024; and Dr. Hardin’s response to grievance and report, dated February 16, 2024.

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, Peter B. Hardin, M.D. (the "licensee"), 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, be an active participant in the activities of the Kentucky Physicians Health 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 was setting in the driver seat with the motor running. The licensee advised he was having problems with his

blood sugar, so the officer called EMS. EMS arrived and informed the officer that the licensee's blood sugar was good and that wasn't 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 and 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. The results of laboratory testing showed a 0.336g/100mL alcohol content of 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, 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 travel 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 a .5 miles from Unit #1 current location.

8. On or about January 11, 2024, Taylor Regional Hospital summarily suspended the licensee pending 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.

CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to it, 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) the physician has violated the terms of an order placing him on probation; or b) a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
3. There is probable cause to believe that the licensee has violated KRS 311.595(7), (8) and (21).
4. The Chair of Inquiry Panel B concludes there is probable cause to believe this licensee's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
5. 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 medical practice.

6. 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.

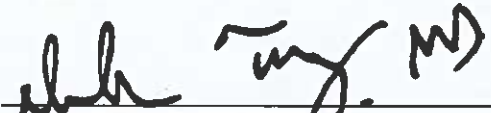
EMERGENCY ORDER OF SUSPENSION

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 PETER B. HARDIN, M.D., is SUSPENDED and Dr. Hardin is prohibited from performing any act which constitutes the "practice of medicine

or osteopathy,” as that term is defined by KRS 311.550(11) – 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 such further Order of the Board.

The Chair of Inquiry Panel B further declares that this is an EMERGENCY ORDER, effective immediately upon receipt by the licensee.


SO ORDERED this 22nd day of February, 2024.



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, Peter B. Hardin, M.D., License No. 42374, 125 Greenbriar Drive, Campbellsville, Kentucky 42718 on this 22nd day of February, 2024.



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