

MAY 24 2023

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2092

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ARTHUR LOESEVITZ, M.D., LICENSE NO. 38648, 1113 WOODLAND DRIVE, ELIZABETHTOWN, KENTUCKY 42701-2749

ORDER OF REVOCATION


On May 18, 2023, the Kentucky Board of Medical Licensure (hereinafter “the Board”), acting by and through its Hearing Panel B, took up this case for final action. The members of Panel B reviewed the Complaint, filed February 17, 2023; the hearing officer’s Findings of Fact, Conclusions of Law and Recommended Order, filed April 14, 2023; and a May 1, 2023 memorandum from the Board’s counsel.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS the hearing officer’s findings of fact and conclusions of law and ADOPTS those findings and conclusions and INCORPORATES them BY REFERENCE into this Order; Hearing Panel B FURTHER ACCEPTS AND ADOPTS the hearing officer’s recommended order. (Attachment) Having considered all of the sanctions available under KRS 311.595, the legislative intent set forth in KRS 218A.205(3)(f), and the nature of the violations in this case, Hearing Panel B has determined that revocation is the appropriate sanction. Accordingly, Hearing Panel B **ORDERS**:

1. The license to practice medicine held by Arthur Loesevitz, M.D., is hereby REVOKED and he may not perform any act which constitutes the “practice of medicine,” 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 – in the Commonwealth of Kentucky;
2. The provisions of KRS 311.607 SHALL apply to any petition for reinstatement filed by the licensee. The Board shall not consider a petition for reinstatement of license pursuant to KRS 311.607 unless and until:

- a. At least two (2) years have passed from the date of filing of this Order of Revocation;
 - b. The licensee has satisfied all terms and conditions of the judgment, including but not limited to any terms of imprisonment, probation and/or supervised release, entered against him in *USA v. Loesevitz*, Case No. 3:22-CR-62 (U.S. District Court, Western District of Kentucky);
 - c. The licensee has completed a complete a Board-approved clinical skills assessment(s) and/or evaluation(s), at his expense;
 - d. Pursuant to KRS 311.565(1)(v), the licensee has submitted payment of a fine in the amount of \$5,000.00; and
 - e. Pursuant to KRS 311.565(1)(v), the licensee has fully reimbursed the Board the costs of the proceedings in the amount of \$1,500.00; and
3. If the licensee's license to practice medicine in the Commonwealth of Kentucky should ever become reinstated following a petition pursuant to KRS 311.607, that reinstatement SHALL be contingent upon the licensee entering into an agreed order pursuant to which the licensee SHALL be indefinitely and permanently banned from prescribing or dispensing controlled substances, in accordance with the legislative intent set forth in KRS 218A.205, and any other terms deemed appropriate by the Board at that time.


SO ORDERED on this 24th day of May, 2023.



DALE E. TONEY, M.D.
CHAIR, HEARING PANEL B

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Order of Revocation 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; a copy was mailed, certified return-receipt requested, to the licensee, Arthur Loesevitz, M.D., License No. 38648, 611 Foxfire Road, Elizabethtown, Kentucky 42701; and copies were emailed to arthurloesevitz@yahoo.com and hardisonkeith@gmail.com, on this 24th day of May, 2023.



Leanne K. Diakov
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
502/429-7150

EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order of Revocation is received by the licensee or the licensee's attorney, whichever shall occur first.

The licensee may appeal from this Order, pursuant to KRS 311.593 and 13B.140-.150, by filing a Petition for Judicial Review in Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service. Copies of the petition shall be served by the licensee upon the Board and its General Counsel or Assistant General Counsel. The Petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested, along with a copy of this Order.

APR 14 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2092

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY
HELD BY ARTHUR LOESEVITZ M.D. LICENSE NO. 38648, 1113 WOODLAND DRIVE,
ELIZEBETHTOWN KY 42701

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND RECOMMENDED ORDER**

This action is before the hearing officer on the *Motion for Summary Disposition* (hereinafter the *Motion*) filed by the Kentucky Board of Medical Licensure (hereinafter “the Board”) on March 23, 2023. The licensee, Dr. Arthur Loesevitz submitted his *Response to Kentucky Board of Medical Licensure Motion for Summary Disposition* (hereinafter the *Response*) via email on April 12, 2023.

After reviewing the *Motion*, the *Response*, the other pleadings of record and the applicable law, the hearing officer finds there are no genuine issues of material fact in dispute and that judgment as a matter of law is appropriate pursuant to KRS 13B.090(2). Therefore the hearing officer recommends that the Board grant the *Motion for Summary Disposition*, find Dr. Loesevitz in violation of KRS 311.595 (4), KRS 311.595 (9), as illustrated by KRS 311.597(1) and (4), as well as KRS 311.595 (12), and impose and impose any appropriate sanction for those violations.

In light of this recommendation, the administrative hearing scheduled for June 19, 2023, the final prehearing conference scheduled for June 16, 2023, and all deadlines contained the *Order in Anticipation of Administrative Hearing* issued March 23, 2023 pertaining to that hearing are hereby **CANCELLED**.

In support of this recommendation the hearing officer submits the following Findings of Fact, Conclusions of Law and Recommended Order:

FINDINGS OF FACT

1. At all times relevant to this matter Dr. Loesevitz was licensed to practice medicine in the Commonwealth of Kentucky. His specialty is pediatrics. *Complaint* ¶¶ 1 and 2; *Answer* ¶¶ 1 and 2; DVD of emergency administrative hearing February 27, 2023 (hereinafter “DVD”) 9:33 am – 9:35 am

2. On or about July 15, 2022, in the United States District Court, Western District of Kentucky, Louisville Division, Dr. Loesevitz was indicted on felony charges related to controlled substances. Specifically he was charged with “knowingly and intentionally dispensing and distributing a mixture and substance containing a detectable amount of Hydrocodone outside the scope of medical practice and not for a legitimate medical purpose to E.S., in violation of Title 21, United States Code, Section 841(a)(1) and 841 (b) (1) (C)”. *Complaint* ¶ 3; *Answer* ¶ 3; DVD 9:48 am – 10:16 am

3. On or about September 9, 2022, Dr. Loesevitz entered a plea agreement pursuant to which he entered a voluntary plea of guilty to the charge referenced above and agreed to the following as the factual basis for his plea:

On or about August 29, 2017, in the Western District of Kentucky, Hardin County Kentucky, and elsewhere, the defendant, did knowingly and intentionally distribute and dispense and cause to be distributed and dispensed, Hydrocodone, a Schedule II controlled substance, outside the scope of medical practice and not for a legitimate medical purpose to patient E.S.

Complaint ¶4; *Answer* ¶4; DVD 9:48 am – 10:16 am

4. On or about January 26, 2023, judgment was entered against the licensee. He was sentenced to two (2) years of probation, with eight (8) months home incarceration that included location monitoring. Other sanctions, including a fine, were imposed. *Complaint* ¶5; *Answer* ¶5; DVD 9:48 am – 10:16 am

5. On February 3, 2023, the Board issued an Emergency Order of Suspension against Dr. Loesevitz’s license to practice medicine in the Commonwealth of Kentucky. Dr. Loesevitz requested an emergency administrative Hearing which was held on February 27, 2023. The Emergency Order of Suspension was **AFFIRMED** by the Hearing Officer on March 3, 2023. See *Findings of Fact* , *Conclusions of Law and Final Order* entered March 3, 2023.

6. During that hearing Dr. Loesevitz admitted to the existence of the conviction and to the basic facts that resulted in his indictment and conviction. DVD 9:48 am – 10:16 am

7. Also during the emergency administrative hearing Dr. Loesevitz admitted that his misconduct occurred over an extended period of time in which he acted outside the scope of his medical practice by providing controlled substances for pain control, migraines, ADHD and weight loss to the patient named in the indictment as well as her husband, her mother, her adult children, nurses and others. DVD 9:41 am - 10:14 am

8. Dr. Loesevitz admitted that the nature and extent of his prescribing practices as captured in the KASPER system was “awful”. DVD 9:45 am - 10:49 am

9. Dr. Loesevitz admitted that he took back filled prescriptions of unused controlled substance prescriptions and gave them to patient E.S. DVD 10:09 am - 10:10 am

10. The Complaint at issue in this matter was issued on February 17, 2013. *Complaint* generally.

11. Dr. Loesevitz filed his *Answer* to the *Complaint* on March 17, 2023, in which he acknowledge the conviction at issue in this matter. See *Response to Kentucky Board of Medical Licensure for complaint regarding Case #2092*.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this action pursuant to KRS 311.591 and KRS 311.595.

2. This administrative proceeding was conducted in accordance with the provisions of KRS Chapter 13B and KRS 311.591.

3. Under KRS 13B.090 (7) the Board has the burden to prove, by a preponderance of the

evidence, the allegations against Dr. Loesevitz.

4. Pursuant to KRS 13B. 090 (2), “the hearing officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determines there are no genuine issues of material fact in dispute”.

5. Summary proceeding, such as those contemplated by KRS 13B. 090 (2) are generally appropriate when, construing all evidence in favor of the party against whom the motion is made, there are no disputed issues of fact upon which reasonable minds could differ. *Bierman v. Klapheke*, 967 S.W. 2d. 16, 18 – 19 (Ky.1998) and *Steelvest, Inc. v. Scansteel Services Center, Inc.*, 807 S.W. 2d 476 (1991)

6. In this action the hearing officer concludes, based upon the pleadings and the record, that there are no genuine issues of material fact upon which reasonable minds could differ and that judgment is appropriate as a matter of law under the provisions of KRS 13B.090 (2).

7. It is undisputed that Dr. Loesevitz plead guilty to a felony charge related to controlled substances, specifically that he was “knowingly and intentionally dispensing and distributing a mixture and substance containing a detectable amount of Hydrocodone outside the scope of medical practice and not for a legitimate medical purpose to E.S., in violation of Title 21, United States Code, Section 841(a)(1) and 841 (b) (1) (C)”.

8. The hearing officer therefore concludes that the preponderance of the evidence supports the conclusion that Dr. Loesevitz has violated KRS 311.595 (4). This statute authorizes disciplinary action up to and including revocation, when a licensee has:

Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky of a crime as defined in KRS 335.010, if in accordance with KRS Chapter 335B. ¹

9. KRS 311.595 also authorizes the Board to take disciplinary action against a medical

¹ KRS 335.010 defines “conviction of a crime” as being convicted of a felony or misdemeanor.

license based upon certain conduct by a licensee. Disciplinary action (including revocation) may be taken if a licensee:

Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof.

KRS 311.595 (9)

10. To provide clarity to this statute, KRS 311.597 provides certain illustrations. One such illustration explains that such conduct includes "...any departure from or failure to conform to standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky..." KRS 311.597 (4)

11. Based upon the undisputed factual predicate for Dr. Loesevitz's guilty plea, specifically his unlawful "dispensing of a Schedule II controlled substance, outside the scope of medical practice and not for a legitimate medical purpose", the hearing officer concludes that the preponderance of the evidence supports the conclusion that he has departed from and/or failed to conform to standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky and has thereby violated KRS 311.595 (9).

12. KRS 311.587 (1) further provides that dishonorable, unethical, or unprofessional conduct may exist when a licensee prescribes or dispenses a medication "with the intent or knowledge that a medication will be used or is likely to be used other than medicinally or for an accepted medical purpose".

13. Based upon the undisputed factual predicate for Dr. Loesevitz's guilty plea, the hearing officer concludes that the preponderance of the evidence supports the conclusion that he has dispensed a medication (hydrocodone) with the intent or knowledge that the medication will be used or is likely to be used other than medicinally or for an accepted medical purpose. He has by this conduct, thereby also violated the provisions of KRS 311.595 (9).

14. And finally, disciplinary action up to and including revocation may also be taken against a licensee who has:

Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act including but not limited to ... any other valid regulation of the board.

KRS 311.595 (12)

15. 201 KAR 9:260 contains the Board's regulations regarding the utilization of controlled substances and prohibits prescribing controlled substances not for legitimate purposes in the usual course of medical practice and beyond the bounds of medical practice.

16. Based upon the undisputed facts the hearing officer further concludes that the preponderance of the evidence supports the conclusion that Dr. Loesevitz has engaged in conduct that violates a valid regulation of the Board, specifically 201 KAR 9:260, and he is therefore in violation of KRS 311.595 (12).

17. The explanations, justifications and pleas to be allowed to continue with the practice of medicine, as contained in Dr. Loesevitz's, *Response* and other pleadings of record, are not germane to the issue before this hearing officer; the existence of a preponderance evidence to believe that violations of certain and specific statutes have occurred. These arguments and pleas are contained throughout the record of this proceeding and may or may not be germane to the imposition of sanctions by the Board at the appropriate stage of future proceedings.

RECOMMENDED ORDER

Based upon the foregoing findings of fact and conclusions of law, the hearing officer recommends the Board find Dr. Arthur Loesevitz guilty of violating KRS 311.595 (4), KRS 311.595 (9), as illustrated by KRS 311.597 (1) and (4) and KRS 311. 595 (12) and impose any appropriate sanction for these violations.

NOTICE OF RIGHT TO FILE EXCEPTIONS AND TO APPEAL

Pursuant to KRS 13B.110 (4), a party has the right to file exceptions to this recommended decision.

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party. Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal the circuit court will consider only the issues a party raised in written exceptions.

A party also has the right to appeal the Final Order of the agency pursuant to KRS 13B.140 (1 - 2) which states:

- (1) Except as provided in KRS 452.005, all final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the date of the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

- (2) A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

Pursuant to KRS 23A.010 (4), "Such review (by Circuit Court) shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

SO ORDERED this 14th day of April 2023.



KEITH HARDISON
HEARING OFFICER
2616 BARDSTOWN RD.
LOUISVILLE KY 40205
(502) 432-2332
hardisonkeith@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that the original of this **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECCOMENDED ORDER** was hand delivered this 14th day of April 2023 to:

MS. JILL LUN
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

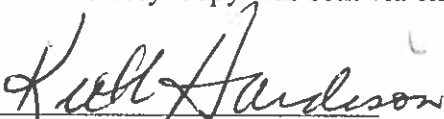
for filing; and a true copy was hand delivered that same date, to:

HON. LEANNE K. DIAKOV
GENERAL COUNSEL
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

and a true copy was sent by first-class mail, postage prepaid that same date, to:

DR. ARTHUR LEOSEVITZ M.D.
1113 WOODLAND AVE.
ELIZABETHTOWN KY 42701

and a courtesy copy was sent via email to: arthurloesevitz@yahoo.com


KEITH HARDISON