

MAY 31 2023

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COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2079

IN RE: THE LICENSE TO PRACTICE OSTEOPATHY IN THE COMMONWEALTH
OF KENTUCKY HELD BY JASON STAMPER, D.O., LICENSE NO. 02798,
35 FLORA STREET, PIKEVILLE, KENTUCKY 41501

AMENDED EMERGENCY ORDER OF RESTRICTION

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the Chair of its Inquiry Panel A, considered a memorandum from Board counsel, dated December 16, 2022; e-mail correspondence the Drug Enforcement Administration, dated December 15, 2022; Uniform Citation, Control No. K895389, dated December 15, 2022; and an Appalachian News-Express article, “Pike doctor charged with drug trafficking, possession,” dated December 15, 2022. On or about May 30, 2023, the Board considered an Indictment returned against the licensee in *USA v. Stamper*, Case No. 7:23-CR-0009 (U.S. District Court, E.D. Ky.). Having considered this information and being sufficiently advised, the Chair of Inquiry Panel A enters the following AMENDED EMERGENCY ORDER OF RESTRICTION, 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 A concludes there is probable cause to make the following Findings of Fact, which support this Emergency Order of Restriction:

1. At all relevant times, Jason Stamper, D.O. (“the licensee”), was licensed by the Board to practice osteopathy in the Commonwealth of Kentucky.
2. The licensee’s osteopathic specialty is psychiatry.
3. On or about December 15, 2022, a search warrant was executed on the licensee’s residence during which the following were recovered:

- a baggie containing a white substance consistent with methamphetamine
 - bags of the Attention Deficit/Hyperactivity Disorder drug Vyvanse
 - scales, pipes, a container and baggies in the same area containing residue.
4. On or about December 15, 2022, the licensee was arrested and booked into the Pike County Detention Center under charges of first-offense trafficking in a controlled substance, first-degree possession of a controlled substance and possession of drug paraphernalia.
 5. On or about May 25, 2023, a federal grand jury returned an indictment against the licensee charging him with four (4) counts of having knowingly and intentionally distributed and dispensed, outside the scope of professional practice and note for a legitimate medical purpose, amphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. § 841(a)(1).

CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to him, the Chair of Inquiry Panel A finds there is probable cause to support the following Conclusions of Law, which serve as the legal bases for this Amended Emergency Order of Restriction:

1. The licensee's Kentucky osteopathic 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(9), as illustrated by KRS 311.597(4), and KRS 311.595(12).
4. 201 KAR 9:240 §1 provides,
 - (1) An inquiry panel or the panel's chair, acting on behalf of the inquiry panel, may issue an emergency order restricting or suspending a physician's license to practice medicine or osteopathy within the Commonwealth of Kentucky in accordance with KRS 311.592 and 13B.125.
 - (2) ...
 - (3) (a) An inquiry panel's chair may act on behalf of the inquiry panel and issue an emergency order restricting or suspending a physician's license to practice medicine or osteopathy within the Commonwealth of Kentucky if the panel chair determines that a basis for an emergency order as established in subsection (1) of this section exists and the circumstances of the specific case warrant emergency action prior to the next regularly scheduled meeting of the inquiry panel.
5. 201 KAR 9:240 §3 provides
 - (1) If a licensee is indicted in any state for a crime classified as a felony in that state and the conduct charged relates to a controlled substance, that licensee's practice shall be considered an immediate danger to the public health, safety or welfare, pursuant to KRS 311.592 and 13B.125.
 - (2) If the Board receives verifiable information that a licensee has been indicted in any state for a crime classified as a felony in the state of indictment and the conduct charged relates to a controlled substance, the inquiry panel or panel chair, acting on behalf of the inquiry panel, shall immediately issue an emergency order suspending or restricting that licensee's Kentucky license....
6. The Inquiry Panel Chair 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.
7. 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 osteopathic practice.

8. 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.

AMENDED EMERGENCY ORDER OF RESTRICTION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Chair of Inquiry Panel A hereby ORDERS that the license to practice osteopathy in the Commonwealth of Kentucky held by Jason N. Stamper, D.O., is RESTRICTED and Dr. Stamper is prohibited from prescribing, dispensing, or otherwise professionally utilizing controlled substances until the Board's hearing panel has finally resolved the Amended

Complaint after receipt of the court documents resolving the criminal charges discussed in this pleading or until such further Order of the Board.

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


SO ORDERED this 31st day of May, 2023.



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

CERTIFICATE OF SERVICE

I certify that the original of this Amended Emergency Order of Restriction was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested and sent via email to the licensee, Jason N. Stamper, D.O., License No. 02798, 35 Flora Street, Pikeville, Kentucky 41501, jnstamperdo@gmail.com, and to licensee's counsel, L. Chad Elder, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207, celder@eldergood.com on this 31st day of May, 2023.



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