

IN THE MATTER
OF
KERI BENTLEY, M.D.
(aka KERI MCFARLANE)

COMMISSIONER'S
ORDER AND
NOTICE OF
HEARING

TO: Keri Bentley, M.D. (aka Keri McFarlane)

Richard Gaines, Esq.
625 Market Street, Suite 900
Knoxville, TN 37902

The undersigned, Megan E. Baldwin, Acting Executive Deputy Commissioner of Health, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, to wit, the Commonwealth of Kentucky Board of Medical Licensure, has made a finding substantially equivalent to a finding that the practice of medicine by Keri J. McFarlane, M.D. (aka Keri Bentley, M.D.) (the Respondent) in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the Emergency Order of Suspension dated March 24, 2023, (henceforth: "predicate action"), attached hereto as Appendix "A" and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York.

Any practice of medicine in the State of New York in violation of this (Commissioner's) Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

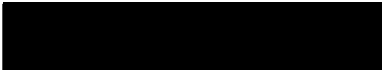
This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the predicate action. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Summary Hearing to be provided to the Respondent after the final conclusion of the proceeding in the predicate action. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

**Respondent shall notify the Director of the
Office of Professional Medical Conduct, New
York State Department of Health, Riverview
Center, 150 Broadway, Suite 355, Albany,
New York 12204-2719 via Certified Mail,
Return Receipt Requested, of the final
conclusion of the proceeding in the predicate
action, immediately upon such conclusion.**

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW

YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED
TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN
THIS MATTER.

DATED: Albany, New York
May 24, 2023


Megan E. Baldwin
Acting Executive Deputy
Commissioner of Health
New York State Health Department

Inquiries should be directed to:

Paul Tsui, Esq.
Associate Counsel
N.Y.S. Department of Health
Division of Legal Affairs
Bureau of Professional Medical Conduct
Corning Tower, Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

APPENDIX A

FILED OF RECORD

MAR 24 2023

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2103

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY KERI JANE McFARLANE, M.D., LICENSE NO.
51945, [REDACTED]

EMERGENCY ORDER OF SUSPENSION

The Kentucky Board of Medical Licensure (“the Board”), acting by and through the Chair of its Inquiry Panel A, considered an Indictment, filed March 4, 2021, in the United States District Court, Eastern District of Kentucky, Southern Division. The Panel Chair reviewed a memorandum from Board counsel, dated March 23, 2023; the Indictment, *USA v. Taylor, et al.*, Case No. 6:21-CR-13-REW, filed March 4, 2021; the licensee’s Application for Renewal of Kentucky Medical License, submitted February 15, 2022; and the licensee’s Application for Renewal of Kentucky Medical License, submitted February 22, 2023. Having considered this information and being sufficiently advised, the Chair of Inquiry Panel A 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 A concludes there is probable cause to make the following Findings of Fact, which support this Emergency Order of Suspension:

1. At all relevant times, Keri McFarlane, M.D. (“the licensee”), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee’s medical specialty is family medicine.
3. On or about March 4, 2021, the licensee became indicted on felony charges related to controlled substances in *USA v. Taylor, et al.*, Case No. 6:21-CR-13-REW (United

States District Court, Eastern District of Kentucky, Southern Division). The indictment charges, in part, that the licensee and others conspired to knowingly and intentionally distribute and dispense controlled substances pursuant to prescriptions that were not issued for a legitimate medical purpose and not in the usual course of her professional practice. The indictment is attached and incorporated by reference herewith in its entirety.

4. On or about February 15, 2022, the licensee submitted an Application for Renewal of Kentucky Medical/Osteopathic License, upon which she answered "No" to Question No. 12, which asked, "Since you last registered, to your knowledge, have you become the subject of any criminal investigation or are any criminal charges pending against you?"
5. On or about February 22, 2023, the licensee submitted an Application for Renewal of Kentucky Medical/Osteopathic License, upon which she answered "No" to Question No. 12, which asked, "Since you last registered, to your knowledge, have you become the subject of any criminal investigation or are any criminal charges pending against you?"
6. According to her 2022 and 2023 renewal applications, the licensee has an active DEA registration, but is not registered with KASPER.

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 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(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 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 medical 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.

EMERGENCY ORDER OF SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Chair of Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Keri Jane McFarlane, M.D., is SUSPENDED and Dr. McFarlane is prohibited from performing any act which constitutes the "practice of medicine or osteopathy," 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 - until the Board's hearing panel has finally resolved the Complaint, after receipt of the court documents resolving the criminal charges in the indictment 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 upon receipt by the licensee.

SO ORDERED this 24th day of March, 2023.


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

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, Keri Jane McFarlane, M.D., License No. 51945, [REDACTED] and via e-mail to [REDACTED]

on this 24th day of March, 2023.

[REDACTED]

Leanne K. Diakov
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7943