

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

May 11, 2011

Case number: 11-CRF-049

Walter Thomas Bowers II, M.D.
765 Windings Lane
Cincinnati, OH 45220

Dear Doctor Bowers:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about January 20, 2011, the Kentucky Board of Medical Licensure [Kentucky Board] issued an Agreed Order which temporarily limits your license to practice medicine in the Commonwealth of Kentucky. Specifically, the Agreed Order provides, *inter alia*, that you shall refrain from engaging in the practice of obstetrics and from performing any obstetric procedure in the Commonwealth of Kentucky for a period of five years. A copy of the Agreed Order is attached hereto and incorporated herein.

The Agreed Order, as alleged in paragraph (1) above, constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,” as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

Mailed 5-12-11

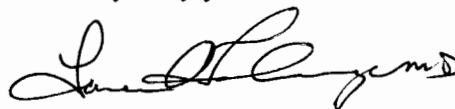
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", with a stylized flourish at the end.

Lance A. Talmage, M.D.
Secretary

LAT/AMM/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3938 3023 5128
RETURN RECEIPT REQUESTED

JAN 20 2011

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1309

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY WALTER T. BOWERS, M.D., LICENSE NO. 32910, 3131 HARVEY AVENUE, #204, CINCINNATI, OHIO 45229

AGREED ORDER

Comes now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Hearing Panel B, and Walter T. Bowers, M.D. ("the licensee"), and, based upon their mutual desire to fully and finally resolve the pending Complaint, 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, Walter T. Bowers, M.D., was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is obstetrics/gynecology.
3. On January 17, 2007, a malpractice action was filed against the licensee, alleging that the patient's fetus died as the result of the licensee permitting a patient to continue to take the anti-hypertensive drug, Benicar HC, during her pregnancy. The date of the occurrence was July 18, 2006. The licensee settled the claim against him on May 5, 2008 for \$250,000.
4. In his letter of explanation to the Board, the licensee stated, in part,

The patient has had pregnancies on two separate occasions which were managed and delivered without difficulty. She is a chronic hypertensive and has been managed by her internist. The patient was seen initially for this pregnancy on January 2, 2006. At that time she was being managed by her internist for control of hypertension with

atenolol and Benicar HCT. There were no untoward events during the antepartum period....The outcome of this pregnancy was fetal demise secondary to malformation incompatible with life....It was alleged that the fetal demise was secondary to the patient being maintained on the anti-hypertensive agent, Benicar HCT. The patient was managed for hypertension during this pregnancy by her internist, who continued the Benicar HCT. On July 20, 2006 with discussion with her internist, I changed the medication at 30 weeks gestation to Aldomet for continued hypertension management. During the period of gestation, hypertensive medication in question was never prescribed or renewed by me or my representatives. The hypertension management was solely the responsibility of the internal medicine practitioner. ...

5. On review, a Board member recommended that the case be reviewed by a Board consultant.
6. In a report dated August 30, 2009, the Board consultant concluded that the licensee's treatment of this patient was "below minimum standards," and constituted gross negligence. The consultant further concluded,

...I assume that Dr. Bowers knew she was taking Benicar, and it was his responsibility to decide if it's use was appropriate. The Obstetrician has to identify all medications a pregnant patient is taking, and decide if its use is appropriate.

The package insert says Benicar should be discontinued as soon as pregnancy is detected; that it does cause renal problems. *Drugs in Pregnancy and Lactation*, authored by Briggs, Freeman, and Yaffe, says the use of the drug in the second and third trimesters may cause teratogenicity and severe fetal and neonatal toxicity. It is a drug labeled as a risk factor of D in the third trimester. This means there is positive evidence of human fetal risk, but the benefits from use in pregnant women may be acceptable despite the risk [e.g. if the drug is needed in a life threatening situation or for a serious disease for which safer drugs cannot be used or are ineffective.]

At delivery, the infant had multiple abnormalities, including renal tubular dysgenesis. I do not know if the drug was the direct cause of the infant's abnormalities; I suspect you could find experts to testify to both sides of this issue.

It is clearly below the standard of care for an Obstetrician to allow a pregnant patient to continue Benicar, even though it was prescribed by another Physician, without a documented discussion of the risks and benefits. If the drug was to be continued, a consultation with a Perinatologist would have been in order. To ignore the warnings in the package insert without serious discussion with the patient, and an absolute need for the drug, is a failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky.

This borders on gross ignorance, and is malpractice. Dr. Bowers may benefit from further training in the medical treatment of hypertension in pregnancy, and better evaluation of the history obtained from his patients.

7. Following this initial review, the Board obtained an additional five patient records for review by its consultant. The consultant concluded, in part,
- ...His care for all five patients is within minimum standards in the Commonwealth of Kentucky. His record keeping is poor with very few notes in the charts, and nothing to indicate his plan of care for complicated patients. There is apparently no effort made to obtain information about prior complicated pregnancies or medical illnesses.
8. Following its review of these consultant reports, the Panel initially asked the licensee to complete a clinical skills assessment, to assist the Panel in determining appropriate action. The licensee declined, citing his plans to discontinue his practice of obstetrics in December 2010 and the "prohibitive" costs of the assessment. After further review, the Panel asked the licensee, at a minimum, to successfully complete an approved Documentation Seminar and Post-program. The licensee has determined to do what the Panel has asked, in order to resolve this matter amicably, even though he plans to fully retire from the practice of medicine in approximately 2 years.

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 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(9), as illustrated by KRS 311.597(3) and (4). 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 Complaint without an evidentiary hearing 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 this pending Complaint without an evidentiary hearing, the parties hereby ENTER INTO the following

AGREED ORDER:

1. The license to practice medicine within the Commonwealth of Kentucky held by Walter T. Bowers, M.D., SHALL BE SUBJECT to this Agreed Order for a period of five (5) years from the date of filing of the 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 NOT engage in the practice of Obstetrics and SHALL NOT perform any obstetric procedure;
 - b. Within twenty (20) days of the filing of this Agreed Order, the licensee SHALL make all necessary arrangements to enroll in the Documentation Seminar at the Center for Personalized Education for Physicians (CPEP), 7351 Lowry Boulevard, Suite 100, Denver, Colorado 80230 – 303/577-3232, at the earliest time available. The licensee shall complete the Documentation Seminar at the time and date(s) scheduled, at his expense;

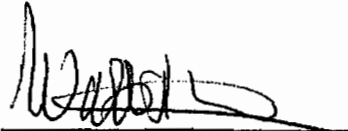
- c. The licensee SHALL provide the Board's staff with written verification that he has successfully completed CPEP's Documentation Seminar, and has enrolled in the 6-month Personalized Implementation Program (PIP);
- d. The licensee SHALL successfully complete PIP and SHALL provide the Board's staff with written verification that he has successfully completed the 6-month CPEP Personalized Implementation Program promptly after completing that program.
- e. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations from the Documentation Course and Personalized Implementation Program to the Board's Legal Department promptly after its completion;
- e. The licensee SHALL permit the Board's agents to inspect, copy and/or obtain relevant records, upon request, for review by the Board's agents and/or consultants;
- f. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Agreed Order;

- g. The licensee understands and agrees that at least one consultant review must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Agreed Order.
 - h. The licensee SHALL pay the costs of the investigation in the amount of \$300.00 within six (6) months from entry of this Agreed Order;
 - i. 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 the 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).


SO AGREED on this 20th day of January, 2011.


FOR THE LICENSEE:


WALTER T. BOWERS, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:


RANDEL C. GIBSON, D.O.
CHAIR, HEARING PANEL B

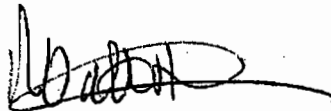

C. LLOYD VEST II
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150

WAIVER OF RIGHTS

I, Walter T. Bowers, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 1309. 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 26th day of January, 2011.



WALTER T. BOWERS, M.D.
Respondent

COUNSEL FOR THE RESPONDENT
(IF APPLICABLE)