

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1464

FILED OF RECORD
MAR 22 2013

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY GHAS M. ARAR, M.D., LICENSE NO. 32411, 13806 LAKE
POINT CIRCLE, #101, LOUISVILLE, KENTUCKY 40223

K.B.M.L.

SECOND AMENDED EMERGENCY ORDER OF RESTRICTION

The Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through the Chair of its Inquiry Panel A considered February 24, 2013 news reports by WHAS-11 news and the Louisville Courier-Journal, the Louisville Police Department report regarding the criminal charges, along with information received from certain individuals, and the criminal indictment.

Having considered all of this information and being sufficiently advised, the Chair of Inquiry Panel A ENTERS the following SECOND 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 it, the Chair of Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support this Second Amended Emergency Order of Restriction:

1. At all relevant times, Ghias M. Arar, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Neurology.
3. The Louisville Police Department report indicates that the licensee was arrested on February 22, 2013 at 8:26 p.m. and charged with Sexual Abuse in the First Degree, a Class D Felony.

The report detailed the factual basis for the arrest,

[Patient A] stated that on 2-22-13 at approximately 1100 hours, she went to above subject doctor's office for an appointment. While in room, being seen by listed suspect victim states suspect ripped her bra off, began kissing on her breasts, and masturbating. Victim continuously told the suspect to stop and attempted to push him away. Suspect grabbed victim by back of neck, began rubbing her vaginal area, and ejaculated on her clothes. Victim seen at U of L Hospital for sexual assault exam.

4. The WHAS-11 report reports that DNA evidence was found on the victim's clothes.
5. Patient B initially saw the licensee for treatment of a headache approximately four years ago, and nothing inappropriate occurred during that visit. She noted that she weighed considerably more at that visit.

On January 16, 2013, she saw the licensee at his office, on referral from another provider for evaluation of her headaches. She was initially seen by one of the staff, who determined her heart rate was elevated and then immediately seen by the licensee. The licensee entered the examination room by himself and turned off the light. Initially, he told her she needed a hug and proceeded to do so. He then gave her a shot in her stomach and rubbed the injection sight hard. After telling her that the shot might affect her heart-rate, he gave her 2 tablets to take. He then reached into her shirt and bra, exposing her breast. He moved the stethoscope around the outer edge of her nipple, stopping at 5-6 different spots, feeling her breast in the process and moving the cord across her nipple with each change in location. He kept asking her, "Is that okay?" He moved behind her, for the purpose of checking her heart, but kind of caressed her neck. He tried to give her another tablet, but she objected because she had to drive home. He suggested a number of times that she could lie down in his office. During the examination, he asked her personal questions, such as whether she was married or divorced and whether her husband spent much time out of town. He told her he needed to check her heart again. Again, he reached into her clothing and pulled her breast out, completely exposing it. This time, he was rubbing his hand lightly back and forth across her

breast, like he was trying to stimulate her. After she pulled her clothing back into place, he told her she needed another hug. This time, when he moved toward her, she got the clear impression he was trying to kiss her. When she turned her head, he began nuzzling her neck with his whole body pressed against hers. She put her hand up to his face from hers. At the end of the visit, he offered to help her pay for a medical procedure she had discussed. He commented that her “boobs” were “perfect.”

When she chose not to go to her next appointment, the licensee phoned her to see why she hadn't come to the office. He then told her he'd write off the “no-show” fee because she was his “favorite patient.”

On January 29, 2013, she returned to the office for an EEG. She believed that she could have the procedure done without interacting with the licensee. The staff took her into an examination room and hooked her up for the EEG, while she was sitting in a recliner. After staff left the room, the licensee came in by himself. He gave her a shot for headache. Then, he did the same things he had done the previous visit – hugging her, reaching his hand down inside her sweatshirt and bra and feeling her breast with his hand. He offered repeatedly to help her pay the costs of a medical procedure and commented again upon her breasts.

6. Patient C was not one of the licensee's patients. Rather, she simply drove Patient D to the licensee's office and accompanied Patient D during her January 7, 2013 office visit with the licensee. After they were in the exam room, while helping Patient D describe her medical complaints to the licensee, Patient C mentioned that she experienced back problems. The licensee asked her about those. Then, he sat in a chair and had Patient C stand in front of him, facing away and bending over. He then pulled her pants down below her buttocks and her underwear halfway down her buttocks. He then pressed his fingertips against her back

and buttocks, and ran his hands up and down her legs. Patient C felt awkward during this process because she wasn't a patient. The licensee then had her lay face down on the exam table, pulled the back of her pants up and felt around her back and buttocks. He then had her sit up and told her he was going to examine her heart, even though she had not given him any reason to do so. He reached into her shirt and bra, placing his hand on her sternum, but turning it each way so his palms touched her breasts. He was not using a stethoscope. During this encounter, she mentioned that she didn't have insurance and couldn't afford to see a doctor. He wrote a prescription for her for her back, but told her not to tell anyone he had done so because he could get in trouble for it. He hugged her before she left the office. When Patient C brought Patient D back for a second visit on January 28, 2013, the licensee asked her how the prescription was working. After some discussion, the licensee wrote her a prescription for a back brace. Although it was Patient D's office visit, the licensee again had Patient C stand in front of him and bend over, pulling her pants and underwear down and feeling her back and buttocks and legs.

7. On March 21, 2013, the licensee's counsel provided the Board with a copy of Jefferson Circuit Court Indictment No. 13-CR-0866-3, which charges the licensee with two felony counts of First Degree Sexual Abuse and six misdemeanor counts of Second Degree Sexual Abuse, all involving female patients or females who accompanied patients to the licensee's office for treatment.
8. A fourth female patient has advised the Board that the licensee touched her sexually and inappropriately during two separate office visits, and has provided the Board with details of those violations.

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 Second Amended Emergency Order of Restriction:

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(4), (5) and (9), as illustrated by KRS 311.597(4).
4. Current Opinion 8.14 of the American Medical Association Code of Ethics provides, in part, "Sexual conduct that occurs concurrent with the patient-physician relationship constitutes sexual misconduct."
5. The Panel concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
6. The Board may draw logical and reasonable inferences about a physician's practice by considering certain facts about a physician's practice. If there is proof that a physician has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the physician 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 physician's practice presents representative proof of the nature of that

physician's practice in general. Accordingly, probable cause to believe that the physician has committed certain violations in the recent past presents probable cause to believe that the physician will commit similar violations in the near future, during the course of the physician's medical practice.

7. 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, 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

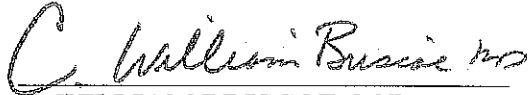
KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

SECOND 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 medicine in the Commonwealth of Kentucky held by Ghias M. Arar, M.D., is RESTRICTED and Dr. Arar is prohibited from entering into a physician-patient relationship, examining, treating or personally interacting with any female patient or female accompanying a patient to the licensee's office, until the resolution of the Complaint setting forth the allegations 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 22nd day of March, 2013.


C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Second 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 sent via facsimile and via certified mail return-receipt requested to L. Chad Elder, Esq., Brian R. Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207 – fax (502)365-2801 and Khalid Kahloon, Esq., Kahloon Pasic, PLLC, 600 West Main Street, Suite 500, Louisville, Kentucky 40202 – fax (502)584-1212 and a copy was mailed via certified mail return-receipt requested to Ghias M. Arar, M.D., License No. 32411, 13806 Lake Point Circle, #100, Louisville, Kentucky 40223 on this 22nd day of March, 2013.


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

COMMONWEALTH OF KENTUCKY
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MAR - 8 2013

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AMENDED EMERGENCY ORDER OF RESTRICTION

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Having considered all of 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 it, the Chair of Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support this Amended Emergency Order of Restriction:

1. At all relevant times, Ghias M. Arar, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Neurology.
3. The Louisville Police Department report indicates that the licensee was arrested on February 22, 2013 at 8:26 p.m. and charged with Sexual Abuse in the First Degree, a Class D Felony.

The report detailed the factual basis for the arrest,

[Patient A] stated that on 2-22-13 at approximately 1100 hours, she went to above subject doctor's office for an appointment. While in room, being seen by listed suspect victim states suspect ripped her bra off, began kissing on her breasts, and masturbating. Victim continuously told the suspect to stop and attempted to push him away. Suspect grabbed victim by back of neck, began rubbing her vaginal area, and ejaculated on her clothes. Victim seen at U of L Hospital for sexual assault exam.

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5. Patient B initially saw the licensee for treatment of a headache approximately four years ago, and nothing inappropriate occurred during that visit. She noted that she weighed considerably more at that visit.

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breast, like he was trying to stimulate her. After she pulled her clothing back into place, he told her she needed another hug. This time, when he moved toward her, she got the clear impression he was trying to kiss her. When she turned her head, he began nuzzling her neck with his whole body pressed against hers. She put her hand up to his face from hers. At the end of the visit, he offered to help her pay for a medical procedure she had discussed. He commented that her “boobs” were “perfect.”

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and buttocks, and ran his hands up and down her legs. Patient C felt awkward during this process because she wasn't a patient. The licensee then had her lay face down on the exam table, pulled the back of her pants up and felt around her back and buttocks. He then had her sit up and told her he was going to examine her heart, even though she had not given him any reason to do so. He reached into her shirt and bra, placing his hand on her sternum, but turning it each way so his palms touched her breasts. He was not using a stethoscope. During this encounter, she mentioned that she didn't have insurance and couldn't afford to see a doctor. He wrote a prescription for her for her back, but told her not to tell anyone he had done so because he could get in trouble for it. He hugged her before she left the office. When Patient C brought Patient D back for a second visit on January 28, 2013, the licensee asked her how the prescription was working. After some discussion, the licensee wrote her a prescription for a back brace. Although it was Patient D's office visit, the licensee again had Patient C stand in front of him and bend over, pulling her pants and underwear down and feeling her back and buttocks and legs.

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 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(4), (5) and (9), as illustrated by KRS 311.597(4).
4. Current Opinion 8.14 of the American Medical Association Code of Ethics provides, in part, "Sexual conduct that occurs concurrent with the patient-physician relationship constitutes sexual misconduct."
5. The Panel concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
6. The Board may draw logical and reasonable inferences about a physician's practice by considering certain facts about a physician's practice. If there is proof that a physician has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the physician 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 physician's practice presents representative proof of the nature of that physician's practice in general. Accordingly, probable cause to believe that the physician has committed certain violations in the recent past presents probable cause to believe that the physician will commit similar violations in the near future, during the course of the physician's medical practice.
7. 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, 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

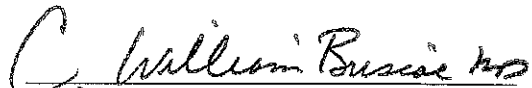
KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

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 medicine in the Commonwealth of Kentucky held by Ghias M. Arar, M.D., is RESTRICTED and Dr. Arar is prohibited from entering into a physician-patient relationship, examining, treating or personally interacting with any female patient or female accompanying a patient to the licensee's office, until the resolution of the Complaint setting forth the allegations 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 8th day of March, 2013.


C. WILLIAM BRISCOE, 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 sent via facsimile and via certified mail return-receipt requested to L. Chad Elder, Esq., Brian R. Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207 – fax (502)365-2801 and Khalid Kahloon, Esq., Kahloon Pasic, PLLC, 600 West Main Street, Suite 500, Louisville, Kentucky 40202 – fax (502)584-1212 and a copy was mailed via certified mail return-receipt requested to Ghias M. Arar, M.D., License No. 32411, 13806 Lake Point Circle, #100, Louisville, Kentucky 40223 on this 8th day of March, 2013.



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BOARD OF MEDICAL LICENSURE
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FEB 26 2013

K.B.M.L.

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Having considered all of this information and being sufficiently advised, the Chair of Inquiry Panel A ENTERS the following 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 it, the Chair of Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support its Emergency Order of Restriction:

1. At all relevant times, Ghias M. Arar, M.D. (“the licensee”), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee’s medical specialty is Neurology.
3. The Louisville Police Department report indicates that the licensee was arrested on February 22, 2013 at 8:26 p.m. and charged with Sexual Abuse in the First Degree, a Class D Felony.

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4. The WHAS-11 report reports that DNA evidence was found on the victim's clothes.

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 Restriction:

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.
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5. The Panel concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.

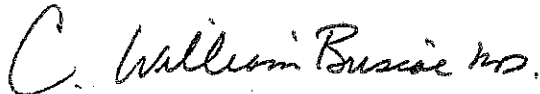
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7. The United States Supreme Court has ruled that it is no violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior evidentiary hearing, so long as 1) the immediate action is based upon a probable 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, 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 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 medicine in the Commonwealth of Kentucky held by Ghias M. Arar, M.D., is RESTRICTED and Dr. Arar is prohibited from entering into a physician-patient relationship, examining, treating or personally interacting with any female patient until the resolution of the Complaint setting forth the allegations 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 26th day of February, 2013.



C. WILLIAM BRISCOE, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this 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 sent via facsimile and via certified mail return-receipt requested to L. Chad Elder, Esq., Brian R. Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207 – fax (502)365-2801 and Khalid Kahloon, Esq., Kahloon Pasic, PLLC, 600 West Main Street, Suite 500, Louisville, Kentucky 40202 – fax (502)584-1212 and a copy was mailed via certified mail return-receipt requested to Ghias M. Arar, M.D., License No. 32411, 13806 Lake Point Circle, #100, Louisville, Kentucky 40223 on this 26th day of February, 2013.



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