

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 589

FILED OF RECORD
MAR 21 2000
K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY JOSEPH KLINE, M.D.; LICENSE NO. 26089; 375 THOMAS MORE PARKWAY, #209; CRESTVIEW HILLS, KENTUCKY 41017

AMENDED ORDER OF PROBATION

The Kentucky Board of Medical Licensure, acting by and through its Inquiry Panel A, considered this matter at its November 17, 1999 meeting. The Panel reviewed and discussed the licensee's July 20, 1999 petition for reinstatement of his license to practice medicine in the Commonwealth of Kentucky. It also considered the licensee's support for his petition, consisting of his curriculum vitae and the psychiatric evaluation of the licensee that Bernard B. Foster, M.D., performed between April 12 and May 24, 1999.

At its November 17, 1999 meeting, Panel A further considered its September 17, 1999 Order Reinstating License; Order of Probation and a letter, dated October 13, 1999, from the licensee to Panel A, seeking an Amended Order of Probation that would: 1) permit the licensee to conduct psychotherapy during his probationary period, 2) not require the licensee to reenter personal psychotherapy and 3) reduce his probationary period from three to two years. In addition, Panel A considered correspondence, dated September 10, 1999 and October 26, 1999, from Bernard B. Foster, M.D., discussing the tutorial sessions on Ethical Issues in Psychotherapy that he provided for the licensee and the licensee completed. Finally, Panel A considered the October 4-5, 1999 Assessment

Report of the Colorado Personalized Education for Physicians Program, which the licensee attended. The report provides, in pertinent part:

Based upon the high level of motivation Dr. Kline demonstrated during this assessment, as well as his sound clinical judgment and the above average fund of knowledge he already possesses, a structured learning plan is not indicated for him at this time. As mentioned, Dr. Kline has already embarked upon a program of self-study in preparation for his return to practice. He has purchased a home board review course and several current textbooks as well as the Harvard/Massachusetts General Hospital course in General Psychopharmacology on audio-tapes. If he continues with his current course of study, emphasizing the areas outlined above, he should be well able to re-enter practice with competence and confidence.

Having considered all of this information and being sufficiently advised, Inquiry Panel A ORDERS that the licensee's October 13, 1999 requests are GRANTED. Panel A FURTHER ORDERS that the licensee's Kentucky medical license SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THE FOLLOWING AMENDED ORDER OF PROBATION, which shall constitute the full agreement between the parties on this matter:

AMENDED ORDER OF PROBATION

1. Pursuant to the terms and conditions of the "Order Reinstating License; Order of Probation" filed September 16, 1999 and pursuant to KRS 311.607, the license to practice medicine within the Commonwealth of Kentucky held by Joseph Kline, M.D., is PLACED ON PROBATION for a PERIOD OF TWO (2) YEARS, effective to and including September 16, 2001.
2. The licensee may resume the regular practice of psychotherapy during the

probationary period imposed by this Order. However, the licensee shall not maintain a solo practice in psychotherapy, if he resumes the regular practice of psychotherapy during said period.

3. The licensee is not required to re-enter personal psychotherapy during the two-year period that his license to practice medicine is placed on probation.
4. If the licensee should violate any term or condition of this Amended Order of Probation, 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. If the Board should receive information that the licensee has violated any term or condition of this Order, the Panel Chairperson 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, a violation of any term or condition of this 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 Order. At any such emergency hearing, the licensee may establish that the suspension should not continue because, in spite of the licensee's best efforts to comply, it was impossible for the licensee to comply with the term(s) or condition(s) in question.


4. The licensee shall fully comply with the provisions of the Kentucky Medical Practice Act, KRS 311.530 *et seq.*

SO ORDERED on this 21st day of March, 2000.

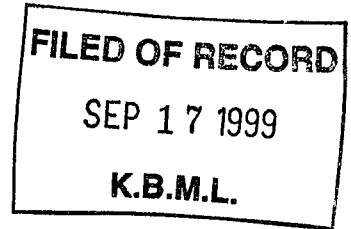

KATHIE E. GRISHAM, ESQ.
CHAIR, INQUIRY PANEL A

Certificate of Service

I certify that the original of this Amended Order of Probation was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, and a copy was mailed to J. Fox DeMoisey, Esq., 1210 Starks Building, 455 S. Fourth Avenue, Louisville, Kentucky 40202; and Joseph Klein, Jr., Ph.D., M.D., 775 Theodore Burnett Court #2, Louisville, Kentucky 40217 on this 21st day of March, 2000.


Y. Denise Payne Wade
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-8046

COMMONWEALTH OF KENTUCKY
STATE BOARD OF MEDICAL LICENSURE
CASE NO. 589



IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY JOSEPH KLINE, M.D., LICENSE NO. 26089, 375 THOMAS MORE PARKWAY, #209, CRESTVIEW HILLS, KENTUCKY 41017

ORDER REINSTATING LICENSE;
ORDER OF PROBATION

At its August 19, 1999 meeting, the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, considered a Petition for Re-instatement of Kentucky Medical License, filed by Joseph Kline, M.D.. In addition to the Petition, Panel A reviewed the Agreed Order of Surrender, filed August 19, 1996; an August 4, 1999 memorandum by the Board's General Counsel; the licensee's curriculum vitae; and, a June 16, 1999 letter from Bernard B. Foster, M.D..

Having considered all of this information and being sufficiently advised, Inquiry Panel A hereby ORDERS that the licensee's petition for reinstatement of his Kentucky medical license is GRANTED, on the express condition that the licensee's Kentucky medical license SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THE FOLLOWING ORDER OF PROBATION:

ORDER OF PROBATION

1. Pursuant to the terms and conditions of the Agreed Order of Surrender filed August 19, 1996 and pursuant to KRS 311.607, the license to practice medicine in the Commonwealth of Kentucky held by Joseph Kline, M.D., is PLACED ON PROBATION for a PERIOD OF THREE (3) YEARS, commencing on the date that this Order is filed of record.

2. During that period of probation, the licensee's Kentucky medical license shall be subject to the following terms and conditions:
 - a. the licensee shall not perform any act which would constitute 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" – until approved to do so by Inquiry Panel A in an Amended Order of Probation;
 - b. the licensee shall arrange for and successfully complete a clinical skills assessment and a learning plan, if deemed appropriate, by the Colorado Personalized Education for Physicians (CPEP) program, at his own expense. The licensee shall successfully complete this assessment in sufficient time for CPEP to prepare an assessment report and learning plan, if deemed appropriate, and to deliver those reports to the Board on or before October 25, 1999;
 - c. the licensee shall personally appear before the Panel at its November 17, 1999 meeting, at which time the Panel shall determine 1) whether to issue an Amended Order of Probation to permit the licensee to resume the active practice of medicine and, if so, 2) what terms and conditions should be included in that Amended Order of Probation. At a minimum, any Amended Order of Probation issued by the Panel shall include requirements that 1) the licensee successfully comply with and complete the learning plan designed by CPEP; 2) the licensee arrange for regular reports to the Board from CPEP documenting the status of his compliance with and completion of the learning plan; 3) the licensee successfully

complete appropriate Continuing Medical Education on boundary violations and management of erotic transference; 4) the licensee shall not maintain a solo practice; 5) the licensee shall not practice psychotherapy; and, 6) a provision, such as that contained in this Order, for immediate suspension of his license upon a probable cause finding of a violation of the terms and conditions of probation.

The Panel will also determine whether the Amended Order of Probation will include a requirement that the licensee re-enter personal psychotherapy.

- d. If the licensee should violate any term or condition of this Order of Probation, 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. If the Board should receive information that the licensee has violated any term or condition of this 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, a violation of any term or condition of this 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 Order. At any such emergency hearing, the licensee may establish that the suspension should not continue because, in spite of the

licensee's best efforts to comply, it was impossible for the licensee to comply with the term(s) or condition(s) in question.

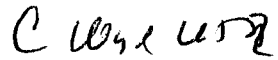
- e. The licensee shall fully comply with the provisions of the Kentucky Medical Practice Act, KRS 311.530 *et seq.*

SO ORDERED this 16th day of September, 1999.


KATHIE E. GRISHAM, ESQ.
CHAIR, INQUIRY PANEL A

Certificate of Service

I certify that the original of this Order Reinstating License; Order of Probation was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, and a copy was mailed to J. Fox DeMoisey, Esq., 1210 Starks Building, 455 S. Fourth Avenue, Louisville, Kentucky 40202 on this 17th day of September, 1999.


C. Lloyd Vest II
General Counsel
Kentucky Board of Medical Licensure
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COMMONWEALTH OF KENTUCKY
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IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY JOSEPH KLINE, JR., M.D., LICENSE NO. 26089, 375 THOMAS MORE PARKWAY, #209, CRESTVIEW HILLS, KENTUCKY 41017.

AGREED ORDER OF SURRENDER

Comes now the Kentucky Board of Medical Licensure (hereinafter "the Board") and Joseph Kline, Jr., M.D., by counsel and enter into the following Agreed Order of Surrender:

STIPULATIONS OF FACT

The parties enter into and agree to the following Stipulations of Fact, which serve as the factual basis for this Agreed Order of Surrender:

1. At all relevant times, Joseph Kline, Jr., M.D. was licensed to practice medicine in the Commonwealth of Kentucky.
2. Dr. Kline's primary area of medical practice is Psychiatry.
3. Dr. Kline had a contractual relationship with MCC Behavioral Care, 9477 Kenwood Road, Suite 210, Blue Ash, OH 45242. Under that contractual relationship, MCC Behavioral Care referred patients to Dr. Kline for treatment.
4. One of the patients referred by MCC Behavioral Care to Dr. Kline for treatment was Patient "A," a female patient.
5. On June 3, 1996, Dr. Kline talked with Debra Leno, Executive Director, MCC Behavioral Care. Dr. Kline advised Ms. Leno that he had kissed Patient "A" several times during a therapy session

with Patient "A" on May 31, 1996.

6. After this conversation, Ms. Leno advised Dr. Kline that MCC Behavioral Care was terminating their contractual relationship with him effective immediately June 3, 1996. Ms. Leno also informed Dr. Kline that MCC would report the incident with Patient "A" to the American Psychiatric Association.

However, in order for Dr. Kline to transition patients clinically appropriately, the MCC contract terms continued to apply to MCC patients who were being transitioned from Dr. Kline's care to other MCC providers during June 1996, and existing MCC referrals terminated treatment with Dr. Kline on June 30, 1996.

7. After this communication, Dr. Kline had his attorney contact the Board to arrange for the voluntary surrender of his Kentucky medical license.

STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which together with the Stipulations of Fact form the basis for this Agreed Order of Surrender:

1. The medical license held by Dr. Kline is subject to review and discipline by the Board.
2. Dr. Kline's conduct with Patient "A" during his professional treatment of her constitutes a failure to conform to principle 8.14 of the American Medical Association Code of Ethics.
3. As such, Dr. Kline engaged in "dishonorable, unethical or

unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof," as defined by KRS 311.595(9) and 311.597(4).

4. Based upon Dr. Kline's violation of KRS 311.595(9) and 311.597(4), the Board has the legal authority to impose any disciplinary sanction authorized by KRS 311.565 and 311.595, against Dr. Kline's Kentucky medical license.

AGREED ORDER OF SURRENDER

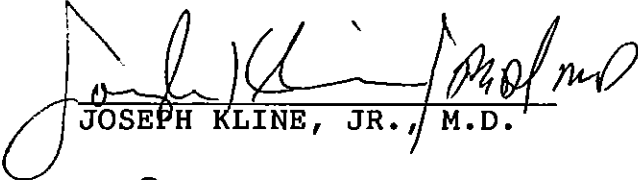
Based upon the Stipulations of Fact and the Stipulated Conclusions of Law, and based upon the parties desire to finally resolve this matter without the necessity of formal disciplinary proceedings, the parties hereby ENTER INTO the following AGREED ORDER OF SURRENDER:


1. Joseph Kline, Jr., M.D., hereby agrees to surrender his Kentucky medical license for an indefinite period;
2. Any request by Dr. Kline for reinstatement of his Kentucky medical license will be governed by the provisions of KRS 311.607.
3. In light of the provisions of KRS 311.593(1), the parties agree that this Agreed Order of Surrender shall become effective

on August 31, 1996.

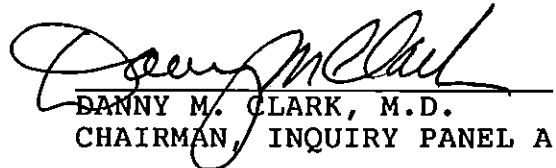
SO AGREED this 14th day of August, 1996.

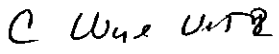
FOR DR. KLINE:


JOSEPH KLINE, JR., M.D.


R. KIM VOCKE, ESQ.
COUNSEL FOR DR. KLINE

FOR THE BOARD:


DANNY M. CLARK, M.D.
CHAIRMAN, INQUIRY PANEL A


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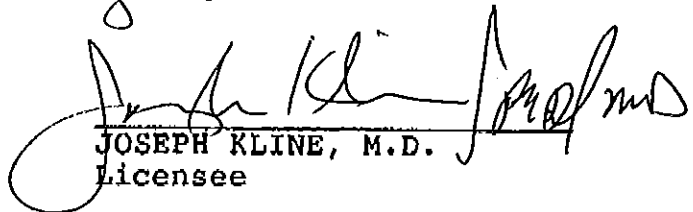
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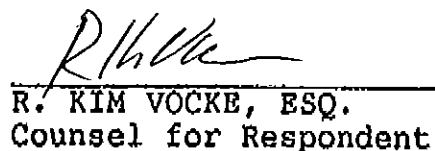
WAIVER OF RIGHTS

I, JOSEPH KLINE, M.D., am presently the Respondent in Kentucky Board of Medical Licensure Case No. 589. 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.

Furthermore, if the Hearing Panel accepts the proposed Agreed Order of Probation 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 of Probation, 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 3rd day of August, 1996.


JOSEPH KLINE, M.D.
Licensee


R. KIM VOCKE, ESQ.
Counsel for Respondent