

OCT 24 2013

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1473

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ATLEY D. ADKINS, M.D., LICENSE NO. 21618, P.O. BOX 2176, PIKEVILLE, KENTUCKY 41502

**ORDER OF REVOCATION**

At its October 17, 2013, meeting, the Kentucky Board of Medical Licensure (hereinafter "the Board"), acting by and through its Hearing Panel A, took up this case for final action. The members of Panel A reviewed the Complaint; the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order; and a memorandum from the Board's Assistant General Counsel, dated September 11, 2013.

Having considered all the information available and being sufficiently advised, Hearing Panel A ACCEPTS the hearing officer's Findings of Fact and Conclusions of Law and ADOPTS those Findings of Fact and Conclusions of Law and INCORPORATES them BY REFERENCE into this Order. (Attachment) Hearing Panel A FURTHER ACCEPTS AND ADOPTS the hearing officer's Recommended Order. In accordance with that Recommended Order, Hearing Panel A ORDERS:

1. The license to practice medicine held by Atley D. Adkins, M.D., is hereby REVOKED and he may not perform any act which constitutes 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 – in the Commonwealth of Kentucky;
2. The licensee SHALL reimburse the costs of these proceedings in the amount of \$1,593.75, within six (6) months from entry of this Order of Revocation;

3. The provisions of KRS 311.607 SHALL apply to any petition for reinstatement filed by the licensee;
4. If the licensee's license to practice medicine is ever reinstated in the future, it is the Panel's intent that the licensee be bound, at a minimum, to the substantive terms and conditions of the Second Amended Agreed Order of Indefinite Restriction, filed of record on December 5, 2012, in KBML Case No. 1097, and any other terms and conditions that the Panel may deem appropriate at the time it considers the petition for reinstatement. Accordingly, Hearing Panel A will not consider any petition for reinstatement filed by the licensee unless and until it the licensee:
  - a. Obtains and presents a current Clinical Skills Assessment, and if recommended an updated Educational Intervention Plan, from the Center for Personalized Education for Physicians (CPEP);
  - b. Proposes a specific practice location;
  - c. Submits proof that he has maintained and complied with his contractual relationship with the Kentucky Physicians Health Foundation; and
  - d. Obtains and presents a written assessment from the Kentucky Physicians Health Foundation stating that the licensee may safely resume the active practice of medicine without undue risk or danger to patients or the public.

SO ORDERED, this 21 day of October, 2013.

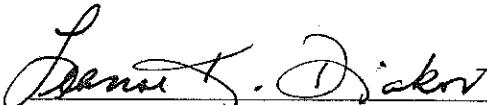


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C. WILLIAM BRISCOE, M.D.  
CHAIR, HEARING PANEL A

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Order of Revocation was delivered to Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to Thomas J. Hellmann, Esq., P.O. Box 676, 415 West Main Street, Frankfort, Kentucky 40602-0676; and copies were mailed via certified-mail return receipt requested to the licensee, Atley D. Adkins, M.D., P.O. Box 2176, Pikeville, Kentucky 41502, and his counsel, Robert F. Wright, P.O. Box 1405, Pikeville, Kentucky 41502 on this 24<sup>th</sup> day of October, 2013.



Leanne K. Diakov  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
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EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order of Revocation is received by the licensee or the licensee's attorney, whichever shall occur first.

The licensee may appeal from this Order, pursuant to KRS 311.593 and 13B.140-.150, by filing a Petition for Judicial Review in Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service. Copies of the petition shall be served by the licensee upon the Board and its General Counsel. The Petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested, along with a copy of this Order.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1473

FILED OF RECORD

AUG 28 2013

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ATLEY D. ADKINS, M.D., LICENSE NO. 21618, P.O. BOX 2176, PIKEVILLE, KENTUCKY 41502

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND RECOMMENDED ORDER**

The Kentucky Board of Medical Licensure brought this action against the license of Atley D. Adkins, M.D., charging him with violating the Board's statutes governing the practice of medicine. The hearing officer conducted the administrative hearing on June 26, 2013. Hon. Leanne Diakov represented the Board, and Hon. Robert F. Wright represented Dr. Adkins.

After considering the evidence admitted at the hearing and arguments of counsel, the hearing officer finds that Adkins is guilty of the charge against him, and the hearing officer recommends the Board take any appropriate action against Adkins' license as a result of his violation of a statute governing the practice of medicine. In support of that recommendation the hearing officer submits the following findings of fact, conclusions of law, and recommended order.

**FINDINGS OF FACT**

1. Atley D. Adkins, M.D., is licensed by the Board to practice medicine in the Commonwealth of Kentucky, and his medical specialty is Internal Medicine.

2. On March 27, 2013, the Board issued the *Complaint* alleging that urine drug screens taken from Adkins in November and December 2012 were positive for EtG, a metabolite of ethyl alcohol. *Complaint*, pages 5-6, numbered paragraph 21. The Board charged that at the time of those positive tests, Adkins was subject to the terms of agreed orders he had previously entered with the Board that required him to completely abstain from the use of alcohol. Based upon those allegations, the Board charged Adkins with violating KRS 311.595(13). *Id.*, page 5, paragraph 20; *Id.*, page 6, paragraph 24.

3. Pursuant to KRS 311.595(13), a physician is subject to discipline by the Board if he "violated an agreed order, letter of agreement, final order, or emergency order issued by the board."

4. In his defense, Adkins asserts that his positive urine drug screens resulted from his consumption of large quantities of Greek yogurt. Adkins asserted that due to the fermentation of the fruit in the yogurt, he had unknowingly consumed yogurt containing alcohol.

5. Adkins has a history of disciplinary proceedings with the Board as a result of his use of drugs and alcohol, and the latest positive test result is not the first occasion on which he has asserted that the presence of alcohol was caused by his consumption of tainted food products.

6. On May 8, 2007, Adkins entered into the *Agreed Order of Indefinite Restriction* with the Board as a result of his arrest on February 24, 2007, for Driving Under the

Influence and his abuse of controlled substances. Exhibit 1, Tab A, *Agreed Order of Indefinite Restriction*.

7. Several months earlier, Pikeville Medical Center had reviewed Adkins hospital privileges and had referred him to the Kentucky Physicians Health Foundation ["the Foundation"] due to concerns that he may be impaired. *Id.*, page 1.

8. As part of its initial evaluation of Adkins' the Foundation ordered a urine drug screen, and it tested positive for oxycodone, oxymorphone, and alcohol. As a result, he was referred to Bradford Health Services for a residential evaluation. *Id.*, page 2-3.

9. Adkins received from the Bradford evaluators an Axis I diagnosis that included opioid dependence and opioid-related cognitive disorder, not otherwise specified, and he entered residential treatment at Bradford Health Services on March 27, 2007. *Id.*

10. As part of the *Agreed Order of Indefinite Restriction* Adkins acknowledged that he had violated several statutes governing the practice of medicine, and he agreed, among other terms, not to practice medicine until the Board received a favorable recommendation from the Foundation and approved his return to the practice of medicine. *Id.*, page 4.

11. On February 11, 2008, Adkins entered into an Aftercare Contract with the Foundation that required him to abstain from mood-altering substances. Exhibit 2.

12. In 2008 Dr. Robert E. Elliott began treating Adkins for Bipolar II Disorder, ADHD, and for opioid and alcohol dependence. Exhibit 1, Tab B, *Amended Agreed Order of Indefinite Restriction*, page 3.

13. In May 2008, Dr. W. Kent Hicks performed a neuropsychological evaluation of Adkins, and Dr. Hicks recommended that Adkins continue to receive treatment under the direction of his psychiatrist and the Foundation. *Id.*

14. In June 2011, Dr. Elliott and the Foundation's medical director supported Adkins' intent to return to the practice of medicine, but the Foundation withdrew its support after the Board learned in January 2012 that on three separate occasions between August and November 2011 Adkins had tested positive for ethyl glucuronide. *Id.*, pages 4-5.

15. Adkins attributed those positive tests to his consumption of chicken breasts that his roommate had marinated in cooking wine. *Id.*, pages 4-5.

16. The Foundation stated that it would not support Adkins' return to the practice of medicine until he was compliant with the terms of his aftercare contract. *Id.*, page 5.

17. In anticipation of being permitted to resume the practice of medicine after six months of compliance with his aftercare contract, Adkins initiated in March 2012 the non-clinical portion of his CPEP Education Intervention Plan and secured an educational preceptor. *Id.*

18. On August 9, 2012, the Board entered into the *Amended Agreed Order of Indefinite Restriction* with Adkins that permitted him to resume the practice of medicine with certain conditions and restrictions. *Id.*, pages 6-9.

19. One of the conditions required that "the licensee SHALL completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a documented legitimate medical purpose." *Id.*, page 8.

20. That same condition was included in the *Second Amended Agreed Order of Indefinite Restriction* dated December 5, 2012, which had terms identical to those in the *Amended Agreed Order of Indefinite Restriction*, except for a change in the location at which Adkins was permitted to practice medicine. Exhibit 1, Tab C, *Second Amended Agreed Order of Indefinite Restriction*.

21. A urine sample collected from Adkins on November 21, 2012, was positive for ethyl glucuronide at a level of 257 ng/ml. Exhibit 4.

22. A second urine sample collected on December 1, 2012, was positive for ethyl glucuronide at a level of 318 ng/ml. *Id.*

23. A confirmatory blood test taken on December 10, 2012, for phosphatidyl ethanol was negative, and a subsequent blood test taken on February 11, 2013, was also negative for phosphatidyl ethanol. *Id.*

24. Those tests showed that Adkins didn't continue to drink over a period of time. DVD, 10:33 a.m., Exhibit 6, page 1.

25. Dr. Greg Jones, Director of the Foundation, notified Adkins of the positive test results on December 20, 2012, and requested that he provide a response to the Foundation. Exhibit 9.

26. In a letter dated December 27, 2013, to Jones, Adkins asserted that his recent switch from eating frozen yogurt to non-frozen yogurt, which has a substantially higher level of live active yeast cultures, may have caused fermentation that inadvertently exposed him to alcohol. Exhibit 3.

27. In support of that theory, Adkins provided Jones with a printout from an internet site, "eHow," titled "Fermentation Experiments with Yogurt." The site offered an experiment to test the hypothesis that by increasing the temperature of yogurt samples and by adding yeast, "you would expect the yogurt with the highest sugar content to be the yogurt that would yield the highest level of fermentation." Exhibit 3.

28. No other evidence and no expert testimony was offered at the administrative hearing in support of Adkins' theory for his positive urine drug screens, and the fermentation experiment itself, even assuming it has some evidentiary value as a scientific study, is inconsistent with Adkins' claim. He asserted that by simply eating Greek yogurt, he was exposed to alcohol. He never asserted that he had heated his yogurt, added yeast cultures, or did anything else that would mimic the chemical reaction that allegedly could result in fermentation of the yogurt. Hence, the hearing officer finds Adkins explanation for the positive urine drug screens to be unbelievable and unsupported by the evidence.

29. By letter dated January 9, 2013, Jones notified the Board of Adkins' two positive test results, and stated that "Dr. Adkins is not in full compliance with his contract with the Foundation." Jones stated, however, "the lack of positive EtS on either test specimen makes it difficult to confirm that Dr. Adkins did indeed consume an alcoholic beverage." Exhibit 6.

30. Jones acknowledged that the 257 ng/ml is barely above the reporting requirement for alcohol use. The testing cutoff for ethyl glucuronide is 100 ng/ml, and the Foundation has latitude to interpret results between 100-250 ng/ml since a positive test result can be attributable to the use of products such as hand sanitizer or mouthwash. DVD of administrative hearing [hereinafter "DVD"], 10:41 a.m.

31. Jones considers a test result between 250 and 500 as a "strong maybe" of alcohol use, and 500 and above as a positive. DVD, 10:39 a.m.

32. Thus, Jones' assertion in his letter to the Board that there was a "lack of positive EtS on either test specimen" refers to the fact the tests were not over 500 ng/ml.

33. For any test results between 250 and 500, Jones requires the licensee to provide a written explanation and waits to see what the next test results show. DVD, 10:20 and 10:38 a.m.

34. In this case, the escalating trend from 257 to 318 ng/ml is not a large increase but was considered by Jones to be an important factor in support of taking action. DVD, 10:38 a.m.

35. At the administrative hearing, however, Jones stated the most likely explanation for the positive test result was that Adkins consumed alcohol. DVD, 10:49 a.m.

36. The consumption of one beer can cause a test result of 250 ng/ml, and the two positive tests are consistent with Adkins having consumed one drink in the few days prior to the test. DVD, 10:47 a.m.

37. The increase in the ethyl glucuronide level between first positive test on November 21, 2012, to the second on December 1, 2012, supports the conclusion that Adkins had consumed alcohol on more than one occasion.

38. Although food containing alcohol can cause a positive test result, Adkins was aware of that fact due to his earlier positive test that he attributed to marinated chicken, and at that time he was warned to be careful about what he ate. DVD, 10:41 a.m.

39. In addition, the fact that he had two positive tests within a ten day period, without a plausible explanation for the results, supports the conclusion that Adkins consumed alcohol on two occasions rather than the conclusion that he unknowingly ate food containing alcohol on two occasions.

40. Therefore, the preponderance of the evidence supports the conclusion that Adkins consumed alcohol in violation of his agreed orders with the Board.

41. Except for his alcohol use, there was no evidence that Adkins was in

violation of any other provisions of his Aftercare Contract with the Foundation or with his agreed orders with the Board.

42. Adkins has been compliant with all provisions of his contract with the Foundation since his last positive urine drug screen on December 1, 2012. Exhibit 8.

43. As of June 3, 2013, Adkins continued to make progress toward completing his CPEP Education Plan. Exhibit 5.

### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this action pursuant to KRS 311.591 and KRS 311.595.

2. The administrative hearing was conducted pursuant to the provisions of KRS Chapter 13B and KRS 311.591.

3. Under KRS 13B.090(7), the Board had the burden to prove by a preponderance of the evidence the allegations against Adkins.

4. The Board has met its burden to prove that Adkins violated KRS 311.595(13).

5. Pursuant to KRS 311.595(13), a physician is subject to discipline if he "violated any agreed order, letter of agreement, final order, or emergency order issued by the board."

6. The preponderance of the evidence supports the conclusion that Adkins violated KRS 311.595(13). Under the terms of the *Amended Agreed Order of Indefinite Restriction* in effect on November 21 and December 1, 2012, Adkins was required to completely abstain from the consumption of mood-altering substances, including

alcohol, but he had consumed alcohol on at least two occasions on or before those dates. Since Adkins' explanation for the presence of alcohol in the two urine drug screens is not believable, the preponderance of the evidence supports the conclusion that he knowingly and intentionally consumed the alcohol in violation of the agreed order.

#### **RECOMMENDED ORDER**

Based upon the foregoing findings of fact and conclusions of law, the hearing officer recommends that the Kentucky Board of Medical Licensure find that Dr. Atley D. Adkins has violated KRS 311.595(13) and take any appropriate action against his license for that violation.

#### **NOTICE OF EXCEPTION AND APPEAL RIGHTS**

Pursuant to KRS 13B.110(4) a party has the right to file exceptions to this recommended decision:

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

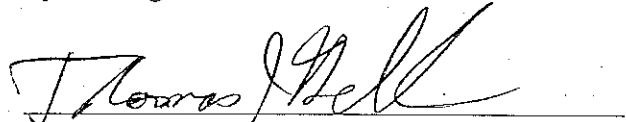
A party also has a right to appeal the Final Order of the agency pursuant to KRS 13B.140(1) which states:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit

Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the circuit court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

SO RECOMMENDED this 26<sup>th</sup> day of August, 2013.



THOMAS J. HELLMANN  
HEARING OFFICER  
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FRANKFORT, KY 40602-0676  
(502) 227-2271  
[thellmann@hazelcox.com](mailto:thellmann@hazelcox.com)

CERTIFICATE OF SERVICE

I hereby certify that the original of this RECOMMENDED ORDER was mailed this 26<sup>th</sup> day of August, 2013, by first-class mail, postage prepaid, to:

JILL LUN  
KY BOARD OF MEDICAL LICENSURE  
HURSTBOURNE OFFICE PARK STE 1B  
310 WHITTINGTON PKWY  
LOUISVILLE KY 40222

for filing; and a true copy was sent by first-class mail, postage prepaid:

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THOMAS J. HELLMANN

1473FC

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1473

MAR 27 2013

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ATLEY D. ADKINS, M.D., LICENSE NO. 21618, P.O. BOX 2176, PIKEVILLE, KENTUCKY 41502

**EMERGENCY ORDER OF SUSPENSION**

The Kentucky Board of Medical Licensure (“the Board”), acting by and through its Inquiry Panel B, considered this matter at its March 21, 2013, meeting. At that meeting, Inquiry Panel B considered a memorandum from Billy Madden, Medical Investigator, dated February 1, 2013; a Second Amended Agreed Order of Indefinite Restriction, filed of record December 5, 2012; correspondence from Greg L. Jones, M.D., Medical Director of the Kentucky Physicians Health Foundation, dated January 7, 2013; correspondence from Atley D. Adkins, M.D., to Greg L. Jones, M.D., Medical Director of the Kentucky Physicians Health Foundation, dated December 27, 2012; and an article titled “Fermentation Experiments with Yogurt,” [www.ehow.com/info\\_8609919\\_fermentation-experiments-yogurt.html](http://www.ehow.com/info_8609919_fermentation-experiments-yogurt.html).

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

1. At all relevant times, Atley D. Adkins, M.D., ("Dr. Adkins" or "the licensee") was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. On February 24, 2007, the licensee was arrested in Pikeville, Kentucky and charged with Driving Under the Influence. The arrest citation noted that the licensee's car crossed the yellow line and then struck a guard rail twice before being stopped. The licensee failed various field sobriety tests and acknowledged drinking and "snorting" pills earlier. The arresting officer later advised the Board's investigator that the licensee's nostrils were coated with white powder residue at the time of his arrest.
4. Pikeville Medical Center (PMC) conducted an ad hoc review of the licensee's privileges, based upon his unavailability on certain occasions. During the course of that investigation, hospital officials became concerned that the licensee may be impaired. Following the investigation, the Medical Executive Committee directed the licensee to submit to evaluations, including alcohol screening. A referral was made to the Kentucky Physicians Health Foundation ("the Foundation").
5. After the licensee failed to keep certain appointments with the Foundation to obtain an evaluation, further discussions occurred between PMC staff and the licensee. On February 8, 2007, the licensee notified the hospital that he desired to stop his inpatient practice at PMC. Three days later, the hospital received further correspondence from the licensee in which he resigned as Chair of the Primary Care Service and noted that another physician would be admitting his patients to the hospital for an indefinite period.
6. The DUI arrest occurred during the course of the PMC investigation.

7. Owners of a local business reported that the licensee seemed unbalanced and slurred his speech during a visit to their store in mid-December 2006. The licensee smelled of alcohol. The licensee also apparently dropped a prescription bottle containing Oxycodone while in the store.
8. After missing two appointments, the licensee was evaluated by the Foundation on February 16, 2007. Four days later, a drug screen was obtained and tested positive for oxycodone, oxymorphone, and alcohol. The licensee was referred to Bradford Health Services for a residential evaluation. Following that evaluation, Bradford evaluators made the following Axis I diagnoses relating to the licensee:
  - 1 Opioid dependence.
  - 2 Rule out alcohol abuse/dependence.
  - 3 Opioid-related cognitive disorder, not otherwise specified.

Based upon these diagnoses, Bradford recommended that the licensee enter residential treatment to address his substance abuse diagnoses. The licensee entered residential treatment at Bradford Health Services on March 27, 2007.

9. On or about May 8, 2007, Dr. Adkins entered into an Agreed Order of Indefinite Restriction which prohibited him from performing any act which constitutes the practice of medicine until approved to do so by the Panel.
10. In August 2007, Dr. Adkins was discharged from residential treatment at Bradford. He was referred to a Halfway House and directed to continue in intensive outpatient care.
11. In February 2008, Dr. Adkins entered into an Aftercare Contract with the Foundation.
12. In May 2008, one year after his discharge from Bradford, Dr. Adkins underwent a neuropsychological evaluation with W. Kent Hicks, M.D. during which it was noted that he continued to suffer "attention deficit, specifically in skills associated with the dorsal

frontal lobe (working memory in which he retains information while executing a mental task, and selective attention in which he ignores distracting stimuli).” Dr. Hicks recommended that Dr. Adkins continue to receive treatment under the direction of his psychiatrist and the Foundation, believing that if Dr. Adkins’ attention and mood are stabilized, “he maintains the intellectual ability to practice medicine.”

13. Beginning in 2008, Robert E. Elliott, M.D., a psychiatrist, treated Dr. Adkins for Bipolar II Disorder and ADHD, as well as Opioid and Alcohol Dependence. In June 2011, Dr. Elliott reported that Dr. Adkins’ mental status had been stable for the last two years and, from a psychiatric standpoint, he may safely return to the active practice of medicine.

14. In June and August 2011, in anticipation of requesting that he be allowed to resume the practice of medicine, Dr. Adkins submitted to a clinical skills assessment at the Center for Personalized Education for Physicians (“CPEP”). CPEP found Dr. Adkins to have an “acceptable fund of knowledge in internal medicine with important gaps,” to have demonstrated “adequate” clinical judgment and reasoning, that his simulated patient encounter documentation was “adequate with room for improvement” but that he demonstrated “poor physician-patient communication skills” during simulated patient encounters. CPEP recommended that Dr. Adkins participate in a structured, individualized education program to include point-of-care observation and supervision with graduated levels; regular meetings with an educational preceptor to discuss and review cases and topics in internal medicine; participation in CMEs or self-study specific to areas of identified need; and one-on-one coaching. CPEP stated that “Dr. Adkins’ health will need to be optimally controlled and managed for him to safely practice and benefit from any educational endeavors” and recommended that he “continue treatment

through a physicians health program in order to manage any condition that might impact his ability to practice or remediate his deficits.”

15. In June 2011, the Foundation’s then-Medical Director, Burns Brady, M.D., supported Dr. Adkins’ intent to resume the practice of medicine, conditioned upon Dr. Adkins being required to maintain a compliant relationship with the Foundation for a period of not less than five more years.
16. In January 2012, the Board learned that Dr. Atkins had become non-compliant with his Foundation contract by testing positive for ethyl glucuronide on three separate occasions between August and November 2011. Dr. Adkins attributed the positives to having consumed chicken breasts that his roommate marinated in cooking wine before each test. Due to the positive results, the Foundation stated that it could not advocate for Dr. Adkins to resume the practice of medicine until he had demonstrated complete compliance for a minimum of six months.
17. In March 2012, in anticipation of being able to resume practice after six months, Dr. Adkins initiated the non-clinical components of the Educational Intervention Plan developed for him by CPEP and secured an educational preceptor.
18. On July 19, 2012, the Panel allowed Dr. Adkins to resume the practice of medicine pursuant to the terms and conditions set forth in an Amended Agreed Order of Indefinite Restriction.
19. On or about November 26, 2012, the Panel Chair approved Dr. Adkins to practice as a hospitalist at Pikeville Medical Center and up to 20 hours per week in the internal medicine office-based practice of Ravinder Bhagrath, M.D., pursuant to terms and conditions set forth in a Second Amended Agreed Order of Indefinite Restriction.

20. On or about December 5, 2012, Dr. Adkins entered into the Second Amended Agreed Order of Indefinite Restriction, in which he agreed, in pertinent part, to do the following:

- To maintain and fully comply with all requirements of a contractual relationship with the Kentucky Physicians Health Foundation;
- To completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a documented legitimate medical purpose; and
- To be subject to periodic, unannounced breathalyzer, blood and urine alcohol and/or drug analysis as desired by the Board, and under the conditions specified by the Board's testing agent, the purpose being to ensure that Dr. Adkins remain drug and/or alcohol-free.

21. On or about January 7, 2013, the Kentucky Physicians Health Foundation ("the Foundation") reported that Dr. Adkins was not in full compliance with his Foundation contract. According to the Foundation, Dr. Adkins' urine drug screen of November 21, 2012 was positive for EtG, a metabolite of ethyl alcohol, at a level of 257 ng/mL. The Foundation noted that although an EtG of 257 ng/mL is not very high, it is troubling given Dr. Adkins' past history of elevated EtG levels. A second urine drug screen of December 1, 2012, was positive for EtG at a level of 318 ng/mL. The Foundation found Dr. Adkins' explanation of the positives to having ingested yogurt to be "thin."

22. In addition, the Second Amended Agreed Order of Indefinite Restriction provided that if Dr. Adkins violated any term or condition of the Second Amended Agreed Order of Indefinite Restriction, his practice would constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125, which would support an Emergency Order of Suspension or Restriction.

## CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel B 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(13).
4. 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.
5. 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.

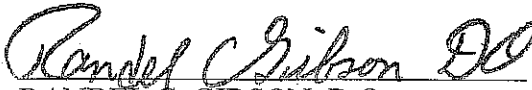
6. The United States Supreme Court has ruled that it is no violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior evidentiary hearing, so long as 1) the immediate action is based upon a probable cause finding that there is a present danger to 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).
7. 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, Inquiry Panel B hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by Atley D. Adkins, M.D., is SUSPENDED and Dr. Adkins is prohibited from performing any act which constitutes 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 the resolution of the Complaint setting forth the allegations discussed in this pleading or until such further Order of the Board.

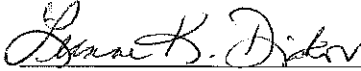
Inquiry Panel B further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 27<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
RANDEL C. GIBSON, D.O.  
CHAIR, INQUIRY PANEL B

**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, Atley D. Adkins, M.D., P.O. Box 2176, Pikeville, Kentucky 41502, on this 27<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
Leanne K. Diakov  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
Tel. (502) 429-7150

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1473

FILED OF RECORD

MAR 27 2013

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ATLEY D. ADKINS, M.D., LICENSE NO. 21618, P.O. BOX 2176, PIKEVILLE, KENTUCKY 41502

COMPLAINT

Comes now the Complainant Randel C. Gibson, D.O., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel B, and on behalf of the Panel which met on March 21, 2013, states for its Complaint against the licensee, Atley D. Adkins, M.D, as follows:

1. At all relevant times, Atley D. Adkins, M.D., ("Dr. Adkins" or "the licensee") was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. On February 24, 2007, the licensee was arrested in Pikeville, Kentucky and charged with Driving Under the Influence. The arrest citation noted that the licensee's car crossed the yellow line and then struck a guard rail twice before being stopped. The licensee failed various field sobriety tests and acknowledged drinking and "snorting" pills earlier. The arresting officer later advised the Board's investigator that the licensee's nostrils were coated with white powder residue at the time of his arrest.
4. Pikeville Medical Center (PMC) conducted an ad hoc review of the licensee's privileges, based upon his unavailability on certain occasions. During the course of that investigation, hospital officials became concerned that the licensee may be impaired. Following the investigation, the Medical Executive Committee directed the licensee to submit to evaluations, including alcohol screening. A referral was made to the Kentucky Physicians Health Foundation ("the Foundation").

5. After the licensee failed to keep certain appointments with the Foundation to obtain an evaluation, further discussions occurred between PMC staff and the licensee. On February 8, 2007, the licensee notified the hospital that he desired to stop his inpatient practice at PMC. Three days later, the hospital received further correspondence from the licensee in which he resigned as Chair of the Primary Care Service and noted that another physician would be admitting his patients to the hospital for an indefinite period.
6. The DUI arrest occurred during the course of the PMC investigation.
7. Owners of a local business reported that the licensee seemed unbalanced and slurred his speech during a visit to their store in mid-December 2006. The licensee smelled of alcohol. The licensee also apparently dropped a prescription bottle containing Oxycodone while in the store.
8. After missing two appointments, the licensee was evaluated by the Foundation on February 16, 2007. Four days later, a drug screen was obtained and tested positive for oxycodone, oxymorphone, and alcohol. The licensee was referred to Bradford Health Services for a residential evaluation. Following that evaluation, Bradford evaluators made the following Axis I diagnoses relating to the licensee:
  - 1 Opioid dependence.
  - 2 Rule out alcohol abuse/dependence.
  - 3 Opioid-related cognitive disorder, not otherwise specified.

Based upon these diagnoses, Bradford recommended that the licensee enter residential treatment to address his substance abuse diagnoses. The licensee entered residential treatment at Bradford Health Services on March 27, 2007.

9. On or about May 8, 2007, Dr. Adkins entered into an Agreed Order of Indefinite Restriction which prohibited him from performing any act which constitutes the practice of medicine until approved to do so by the Panel.
10. In August 2007, Dr. Adkins was discharged from residential treatment at Bradford. He was referred to a Halfway House and directed to continue in intensive outpatient care.
11. In February 2008, Dr. Adkins entered into an Aftercare Contract with the Foundation.
12. In May 2008, one year after his discharge from Bradford, Dr. Adkins underwent a neuropsychological evaluation with W. Kent Hicks, M.D. during which it was noted that he continued to suffer "attention deficit, specifically in skills associated with the dorsal frontal lobe (working memory in which he retains information while executing a mental task, and selective attention in which he ignores distracting stimuli)." Dr. Hicks recommended that Dr. Adkins continue to receive treatment under the direction of his psychiatrist and the Foundation, believing that if Dr. Adkins' attention and mood are stabilized, "he maintains the intellectual ability to practice medicine."
13. Beginning in 2008, Robert E. Elliott, M.D., a psychiatrist, treated Dr. Adkins for Bipolar II Disorder and ADHD, as well as Opioid and Alcohol Dependence. In June 2011, Dr. Elliott reported that Dr. Adkins' mental status had been stable for the last two years and, from a psychiatric standpoint, he may safely return to the active practice of medicine.
14. In June and August 2011, in anticipation of requesting that he be allowed to resume the practice of medicine, Dr. Adkins submitted to a clinical skills assessment at the Center for Personalized Education for Physicians ("CPEP"). CPEP found Dr. Adkins to have an "acceptable fund of knowledge in internal medicine with important gaps," to have demonstrated "adequate" clinical judgment and reasoning, that his simulated patient

encounter documentation was “adequate with room for improvement” but that he demonstrated “poor physician-patient communication skills” during simulated patient encounters. CPEP recommended that Dr. Adkins participate in a structured, individualized education program to include point-of-care observation and supervision with graduated levels; regular meetings with an educational preceptor to discuss and review cases and topics in internal medicine; participation in CMEs or self-study specific to areas of identified need; and one-on-one coaching. CPEP stated that “Dr. Adkins’ health will need to be optimally controlled and managed for him to safely practice and benefit from any educational endeavors” and recommended that he “continue treatment through a physicians health program in order to manage any condition that might impact his ability to practice or remediate his deficits.”

15. In June 2011, the Foundation’s then-Medical Director, Burns Brady, M.D., supported Dr. Adkins’ intent to resume the practice of medicine, conditioned upon Dr. Adkins being required to maintain a compliant relationship with the Foundation for a period of not less than five more years.
16. In January 2012, the Board learned that Dr. Atkins had become non-compliant with his Foundation contract by testing positive for ethyl glucuronide on three separate occasions between August and November 2011. Dr. Adkins attributed the positives to having consumed chicken breasts that his roommate marinated in cooking wine before each test. Due to the positive results, the Foundation stated that it could not advocate for Dr. Adkins to resume the practice of medicine until he had demonstrated complete compliance for a minimum of six months.

17. In March 2012, in anticipation of being able to resume practice after six months, Dr. Adkins initiated the non-clinical components of the Educational Intervention Plan developed for him by CPEP and secured an educational preceptor.
18. On July 19, 2012, the Panel allowed Dr. Adkins to resume the practice of medicine pursuant to the terms and conditions set forth in an Amended Agreed Order of Indefinite Restriction.
19. On or about November 26, 2012, the Panel Chair approved Dr. Adkins to practice as a hospitalist at Pikeville Medical Center and up to 20 hours per week in the internal medicine office-based practice of Ravinder Bhagrath, M.D., pursuant to terms and conditions set forth in a Second Amended Agreed Order of Indefinite Restriction.
20. On or about December 5, 2012, Dr. Adkins entered into the Second Amended Agreed Order of Indefinite Restriction, in which he agreed, in pertinent part, to do the following:
  - To maintain and fully comply with all requirements of a contractual relationship with the Kentucky Physicians Health Foundation;
  - To completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a documented legitimate medical purpose; and
  - To be subject to periodic, unannounced breathalyzer, blood and urine alcohol and/or drug analysis as desired by the Board, and under the conditions specified by the Board's testing agent, the purpose being to ensure that Dr. Adkins remain drug and/or alcohol-free.
21. On or about January 7, 2013, the Kentucky Physicians Health Foundation ("the Foundation") reported that Dr. Adkins was not in full compliance with his Foundation contract. According to the Foundation, Dr. Adkins' urine drug screen of November 21, 2012 was positive for EtG, a metabolite of ethyl alcohol, at a level of 257 ng/mL. The Foundation noted that although an EtG of 257 ng/mL is not very high, it is troubling given Dr. Adkins' past history of elevated EtG levels. A second urine drug screen of

December 1, 2012, was positive for EtG at a level of 318 ng/mL. The Foundation found Dr. Adkins' explanation of the positives to having ingested yogurt to be "thin."

22. In addition, the Second Amended Agreed Order of Indefinite Restriction provided that if Dr. Adkins violated any term or condition of the Second Amended Agreed Order of Indefinite Restriction, his practice would constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125, which would support an Emergency Order of Suspension or Restriction.
23. On March 21, 2013, Panel B determined that Dr. Adkins' practice constitutes an immediate danger to the public health, safety, or welfare of patients or the public. As a result, the Dr. Adkins was suspended from the practice of medicine in the Commonwealth of Kentucky.
24. By his conduct, the licensee has violated KRS 311.595(13). Accordingly, legal grounds exist for disciplinary action against his Kentucky medical license.
25. The licensee is directed to respond to the allegations delineated in the Complaint within thirty (30) days of service thereof and is further given notice that:
  - (a) His failure to respond may be taken as an admission of the charges;
  - (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.
26. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for **June 4, 2013**, at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS Chapter 13B. This hearing shall

proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.

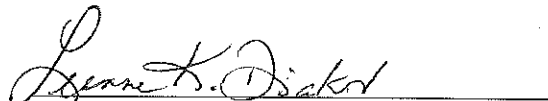
WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine held by ATLEY D. ADKINS, M.D.

This 27<sup>th</sup> day of March, 2013.

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

**CERTIFICATE OF SERVICE**

I certify that the original of this Complaint was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, a copy was mailed to Thomas J. Hellmann, Esq., P.O. Box 676, 415 West Main Street, Frankfort, Kentucky 40602-0676 and a copy was mailed via certified mail return-receipt requested to the licensee, Atley D. Adkins, M.D., P.O. Box 2176, Pikeville, Kentucky 41502, on this 27<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
Leanne K. Diakov  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
Tel. (502) 429-7150

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1097

DEC 05 2012

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ATLEY D. ADKINS, M.D., LICENSE NO. 21618, P.O. BOX 2176, PIKEVILLE, KENTUCKY 41502

**SECOND AMENDED AGREED ORDER OF INDEFINITE RESTRICTION**

Come now the Kentucky Board of Medical Licensure (“the Board”), acting by and through its Inquiry Panel B, and Atley D. Adkins, M.D. (“the licensee”), and, based upon the licensee’s request to amend the Agreed Order of Indefinite Restriction so that he may resume the practice of medicine, hereby ENTER INTO the following **SECOND AMENDED AGREED ORDER OF INDEFINITE RESTRICTION**:

**STIPULATIONS OF FACT**

The parties stipulate the following facts, which serve as the factual bases for this Second Amended Agreed Order of Indefinite Restriction:

1. At all relevant times, Atley D. Adkins, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is Internal Medicine.
3. On February 24, 2007, the licensee was arrested in Pikeville, Kentucky and charged with Driving Under the Influence. The arrest citation noted that the licensee’s car crossed the yellow line and then struck a guard rail twice before being stopped. The licensee failed various field sobriety tests and acknowledged drinking and “snorting” pills earlier. The arresting officer later advised the Board’s investigator that the licensee’s nostrils were coated with white powder residue at the time of his arrest.

4. Pikeville Medical Center (PMC) conducted an ad hoc review of the licensee's privileges, based upon his unavailability on certain occasions. During the course of that investigation, hospital officials became concerned that the licensee may be impaired. Following the investigation, the Medical Executive Committee directed the licensee to submit to evaluations, including alcohol screening. A referral was made to the Kentucky Physicians Health Foundation ("the Foundation").
5. After the licensee failed to keep certain appointments with the Foundation to obtain an evaluation, further discussions occurred between PMC staff and the licensee. On February 8, 2007, the licensee notified the hospital that he desired to stop his inpatient practice at PMC. Three days later, the hospital received further correspondence from the licensee in which he resigned as Chair of the Primary Care Service and noted that another physician would be admitting his patients to the hospital for an indefinite period.
6. The DUI arrest occurred during the course of the PMC investigation.
7. Owners of a local business reported that the licensee seemed unbalanced and slurred his speech during a visit to their store in mid-December 2006. The licensee smelled of alcohol. The licensee also apparently dropped a prescription bottle containing Oxycodone while in the store.
8. After missing two appointments, the licensee was evaluated by the Foundation on February 16, 2007. Four days later, a drug screen was obtained and tested positive for oxycodone, oxymorphone, and alcohol. The licensee was referred to Bradford Health Services for a residential evaluation. Following that evaluation, Bradford evaluators made the following Axis I diagnoses relating to the licensee:
  - 1 Opioid dependence.
  - 2 Rule out alcohol abuse/dependence.

3 Opioid-related cognitive disorder, not otherwise specified.

Based upon these diagnoses, Bradford recommended that the licensee enter residential treatment to address his substance abuse diagnoses. The licensee entered residential treatment at Bradford Health Services on March 27, 2007.

9. On or about May 8, 2007, Dr. Adkins entered into an Agreed Order of Indefinite Restriction which prohibited him from performing any act which constitutes the practice of medicine until approved to do so by the Panel.
10. In August 2007, Dr. Adkins was discharged from residential treatment at Bradford. He was referred to a Halfway House and directed to continue in intensive outpatient care.
11. In February 2008, Dr. Adkins entered into an Aftercare Contract with the Foundation.
12. In May 2008, one year after his discharge from Bradford, Dr. Adkins underwent a neuropsychological evaluation with W. Kent Hicks, M.D. during which it was noted that he continued to suffer "attention deficit, specifically in skills associated with the dorsal frontal lobe (working memory in which he retains information while executing a mental task, and selective attention in which he ignores distracting stimuli)." Dr. Hicks recommended that Dr. Adkins continue to receive treatment under the direction of his psychiatrist and the Foundation, believing that if Dr. Adkins' attention and mood are stabilized, "he maintains the intellectual ability to practice medicine."
13. Beginning in 2008, Robert E. Elliott, M.D., a psychiatrist, treated Dr. Adkins for Bipolar II Disorder and ADHD, as well as Opioid and Alcohol Dependence. In June 2011, Dr. Elliott reported that Dr. Adkins' mental status had been stable for the last two years and, from a psychiatric standpoint, he may safely return to the active practice of medicine.

14. In June and August 2011, in anticipation of requesting that he be allowed to resume the practice of medicine, Dr. Adkins submitted to a clinical skills assessment at the Center for Personalized Education for Physicians (“CPEP”). CPEP found Dr. Adkins to have an “acceptable fund of knowledge in internal medicine with important gaps,” to have demonstrated “adequate” clinical judgment and reasoning, that his simulated patient encounter documentation was “adequate with room for improvement” but that he demonstrated “poor physician-patient communication skills” during simulated patient encounters. CPEP recommended that Dr. Adkins participate in a structured, individualized education program to include point-of-care observation and supervision with graduated levels; regular meetings with an educational preceptor to discuss and review cases and topics in internal medicine; participation in CMEs or self-study specific to areas of identified need; and one-on-one coaching. CPEP stated that “Dr. Adkins’ health will need to be optimally controlled and managed for him to safely practice and benefit from any educational endeavors” and recommended that he “continue treatment through a physicians health program in order to manage any condition that might impact his ability to practice or remediate his deficits.”
15. In June 2011, the Foundation’s then-Medical Director, Burns Brady, M.D., supported Dr. Adkins’ intent to resume the practice of medicine, conditioned upon Dr. Adkins being required to maintain a compliant relationship with the Foundation for a period of not less than five more years.
16. In January 2012, the Board learned that Dr. Atkins had become non-compliant with his Foundation contract by testing positive for ethyl glucuronide on three separate occasions between August and November 2011. Dr. Adkins attributed the positives to having

consumed chicken breasts that his roommate marinated in cooking wine before each test. Due to the positive results, the Foundation stated that it could not advocate for Dr. Adkins to resume the practice of medicine until he had demonstrated complete compliance for a minimum of six months.

17. In March 2012, in anticipation of being able to resume practice after six months, Dr. Adkins initiated the non-clinical components of the Educational Intervention Plan developed for him by CPEP and secured an educational preceptor.
18. On July 19, 2012, after considering the above information, the Panel chose to allow Dr. Adkins to resume the practice of medicine pursuant to the terms and conditions set forth in an Amended Agreed Order of Indefinite Restriction.
19. On or about November 26, 2012, the Panel Chair approved Dr. Adkins to practice medicine at locations set forth in the following Second Amended Agreed Order of Indefinite Restriction.

#### STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Second Amended Agreed Order of Indefinite Restriction:

1. The licensee's Kentucky 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(6), (7), (8) and (21). Accordingly, there are legal grounds for the parties to enter into this Second Amended Agreed Order of Indefinite Restriction.

3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending matter without an evidentiary hearing by entering into an informal resolution such as this Second Amended Agreed Order of Indefinite Restriction.

**SECOND AMENDED AGREED ORDER OF INDEFINITE RESTRICTION**

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon the licensee's request to amend the Agreed Order of Indefinite Restriction so that he may resume the practice of medicine, the parties hereby ENTER INTO the following **SECOND AMENDED AGREED ORDER OF INDEFINITE RESTRICTION:**

1. The license to practice medicine in the Commonwealth of Kentucky held by Atley D. Adkins, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Order;
2. During the effective period of this Order, the licensee's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS OF RESTRICTION/LIMITATION for an indefinite term, or until further order of the Board:
  - a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate

supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

- i. The licensee is hereby APPROVED to practice as a hospitalist at Pikeville Medical Center, 911 Bypass Road, Pikeville, Kentucky. In addition, the licensee may practice up to four hours per day (no more than 20 hours per week) in the internal medicine office-based practice of Ravinder S. Bhagrath, M.D., located at 255 Church Street, Suite 203, Pikeville, Kentucky 41501;
  - ii. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;
- b. The licensee SHALL SUCCESSFULLY COMPLETE all requirements of the CPEP Educational Intervention Plan, which was initiated March 1, 2012, at his expense and as directed by CPEP;
  - c. If deemed necessary and appropriate by CPEP, the licensee SHALL SUCCESSFULLY COMPLETE the Post-Education Assessment, at his expense and as directed by CPEP;

- d. The licensee SHALL TAKE ALL NECESSARY STEPS, including the execution of waivers and/or releases, to ensure that CPEP provides timely written reports to the Board outlining his compliance with the Educational Intervention Plan;
- e. The licensee SHALL maintain a contractual relationship with the Kentucky Physicians Health Foundation and shall fully comply with all requirements of that contractual relationship;
- f. The licensee SHALL completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a documented legitimate medical purpose. The licensee must ensure that any such medical treatment and prescribing is reported directly to the Board in writing by his treating physician within ten (10) days after the date of treatment. The licensee must inform the treating physician of this responsibility and ensure timely compliance. The licensee's failure to inform the treating physician of this responsibility shall be considered a violation of this Second Amended Agreed Order of Indefinite Restriction;
- g. The licensee SHALL be subject to periodic, unannounced breathalyzer, blood and urine alcohol and/or drug analysis as desired by the Board, and under the conditions specified by the Board's testing agent, the purpose being to ensure that the licensee remain drug and/or alcohol-free. The cost of such breathalyzer, blood and urine alcohol and/or drug analyses and reports will be paid by the licensee, and the licensee will pay those costs under the terms fixed by the Board's agent for testing. The licensee's failure to fully reimburse the Board's agent within that

time frame SHALL constitute a violation of this Second Amended Agreed Order of Indefinite Restriction; and

- h. 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 this Second Amended Agreed Order of Indefinite Restriction, 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 Second Amended Agreed Order of Indefinite Restriction, 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 Second Amended Agreed Order of Indefinite Restriction 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 Second Amended Agreed Order of Indefinite Restriction.
4. The licensee understands and agrees that any violation of the terms of this Second Amended Agreed Order of Indefinite Restriction would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.

SO AGREED on this 5<sup>th</sup> day of December, 2012.

FOR THE LICENSEE:

Atley D Adkins M.D.  
ATLEY D. ADKINS, M.D.

\_\_\_\_\_  
COUNSEL FOR THE LICENSEE  
(IF APPLICABLE)

FOR THE BOARD:

Randel Gibson D.O.  
RANDEL C. GIBSON, D.O.  
CHAIR, INQUIRY PANEL B

Leanne K. Diakov  
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COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1097

FILED OF RECORD

AUG 09 2012

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ATLEY D. ADKINS, M.D., LICENSE NO. 21618, P.O. BOX 2176, PIKEVILLE, KENTUCKY 41502

**AMENDED AGREED ORDER OF INDEFINITE RESTRICTION**

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel B, and Atley D. Adkins, M.D. ("the licensee"), and, based upon the licensee's request to amend the Agreed Order of Indefinite Restriction so that he may resume the practice of medicine, hereby ENTER INTO the following **AMENDED AGREED ORDER OF INDEFINITE RESTRICTION**:

**STIPULATIONS OF FACT**

The parties stipulate the following facts, which serve as the factual bases for this Amended Agreed Order of Indefinite Restriction:

1. At all relevant times, Atley D. Adkins, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. On February 24, 2007, the licensee was arrested in Pikeville, Kentucky and charged with Driving Under the Influence. The arrest citation noted that the licensee's car crossed the yellow line and then struck a guard rail twice before being stopped. The licensee failed various field sobriety tests and acknowledged drinking and "snorting" pills earlier. The arresting officer later advised the Board's investigator that the licensee's nostrils were coated with white powder residue at the time of his arrest.

4. Pikeville Medical Center (PMC) conducted an ad hoc review of the licensee's privileges, based upon his unavailability on certain occasions. During the course of that investigation, hospital officials became concerned that the licensee may be impaired. Following the investigation, the Medical Executive Committee directed the licensee to submit to evaluations, including alcohol screening. A referral was made to the Kentucky Physicians Health Foundation ("the Foundation").
5. After the licensee failed to keep certain appointments with the Foundation to obtain an evaluation, further discussions occurred between PMC staff and the licensee. On February 8, 2007, the licensee notified the hospital that he desired to stop his inpatient practice at PMC. Three days later, the hospital received further correspondence from the licensee in which he resigned as Chair of the Primary Care Service and noted that another physician would be admitting his patients to the hospital for an indefinite period.
6. The DUI arrest occurred during the course of the PMC investigation.
7. Owners of a local business reported that the licensee seemed unbalanced and slurred his speech during a visit to their store in mid-December 2006. The licensee smelled of alcohol. The licensee also apparently dropped a prescription bottle containing Oxycodone while in the store.
8. After missing two appointments, the licensee was evaluated by the Foundation on February 16, 2007. Four days later, a drug screen was obtained and tested positive for oxycodone, oxymorphone, and alcohol. The licensee was referred to Bradford Health Services for a residential evaluation. Following that evaluation, Bradford evaluators made the following Axis I diagnoses relating to the licensee:
  - 1 Opioid dependence.
  - 2 Rule out alcohol abuse/dependence.

3 Opioid-related cognitive disorder, not otherwise specified.

Based upon these diagnoses, Bradford recommended that the licensee enter residential treatment to address his substance abuse diagnoses. The licensee entered residential treatment at Bradford Health Services on March 27, 2007.

9. On or about May 8, 2007, Dr. Adkins entered into an Agreed Order of Indefinite Restriction which prohibited him from performing any act which constitutes the practice of medicine until approved to do so by the Panel.
10. In August 2007, Dr. Adkins was discharged from residential treatment at Bradford. He was referred to a Halfway House and directed to continue in intensive outpatient care.
11. In February 2008, Dr. Adkins entered into an Aftercare Contract with the Foundation.
12. In May 2008, one year after his discharge from Bradford, Dr. Adkins underwent a neuropsychological evaluation with W. Kent Hicks, M.D. during which it was noted that he continued to suffer "attention deficit, specifically in skills associated with the dorsal frontal lobe (working memory in which he retains information while executing a mental task, and selective attention in which he ignores distracting stimuli)." Dr. Hicks recommended that Dr. Adkins continue to receive treatment under the direction of his psychiatrist and the Foundation, believing that if Dr. Adkins' attention and mood are stabilized, "he maintains the intellectual ability to practice medicine."
13. Beginning in 2008, Robert E. Elliott, M.D., a psychiatrist, treated Dr. Adkins for Bipolar II Disorder and ADHD, as well as Opioid and Alcohol Dependence. In June 2011, Dr. Elliott reported that Dr. Adkins' mental status had been stable for the last two years and, from a psychiatric standpoint, he may safely return to the active practice of medicine.

14. In June and August 2011, in anticipation of requesting that he be allowed to resume the practice of medicine, Dr. Adkins submitted to a clinical skills assessment at the Center for Personalized Education for Physicians ("CPEP"). CPEP found Dr. Adkins to have an "acceptable fund of knowledge in internal medicine with important gaps," to have demonstrated "adequate" clinical judgment and reasoning, that his simulated patient encounter documentation was "adequate with room for improvement" but that he demonstrated "poor physician-patient communication skills" during simulated patient encounters. CPEP recommended that Dr. Adkins participate in a structured, individualized education program to include point-of-care observation and supervision with graduated levels; regular meetings with an educational preceptor to discuss and review cases and topics in internal medicine; participation in CMEs or self-study specific to areas of identified need; and one-on-one coaching. CPEP stated that "Dr. Adkins' health will need to be optimally controlled and managed for him to safely practice and benefit from any educational endeavors" and recommended that he "continue treatment through a physicians health program in order to manage any condition that might impact his ability to practice or remediate his deficits."

15. In June 2011, the Foundation's then-Medical Director, Burns Brady, M.D., supported Dr. Adkins' intent to resume the practice of medicine, conditioned upon Dr. Adkins being required to maintain a compliant relationship with the Foundation for a period of not less than five more years.

16. In January 2012, the Board learned that Dr. Atkins had become non-compliant with his Foundation contract by testing positive for ethyl glucuronide on three separate occasions between August and November 2011. Dr. Adkins attributed the positives to having

consumed chicken breasts that his roommate marinated in cooking wine before each test. Due to the positive results, the Foundation stated that it could not advocate for Dr. Adkins to resume the practice of medicine until he had demonstrated complete compliance for a minimum of six months.

17. In March 2012, in anticipation of being able to resume practice after six months, Dr. Adkins initiated the non-clinical components of the Educational Intervention Plan developed for him by CPEP and secured an educational preceptor.
18. On July 19, 2012, after considering the above information, the Panel chose to allow Dr. Adkins to resume the practice of medicine pursuant to the terms and conditions set forth in this Amended Agreed Order of Indefinite Restriction.

#### STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Amended Agreed Order of Indefinite Restriction:

1. The licensee's Kentucky 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(6), (7), (8) and (21). Accordingly, there are legal grounds for the parties to enter into this Amended Agreed Order of Indefinite Restriction.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending matter without an evidentiary hearing by entering into an informal resolution such as this Amended Agreed Order of Indefinite Restriction.

**AMENDED AGREED ORDER OF INDEFINITE RESTRICTION**

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon the licensee's request to amend the Agreed Order of Indefinite Restriction so that he may resume the practice of medicine, the parties hereby ENTER INTO the following **AMENDED AGREED ORDER OF INDEFINITE RESTRICTION:**

1. The license to practice medicine in the Commonwealth of Kentucky held by Atley D. Adkins, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Order;
2. During the effective period of this Order, the licensee's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS OF RESTRICTION/LIMITATION for an indefinite term, or until further order of the Board:
  - a. The licensee SHALL NOT perform any act which would constitute the "practice of medicine," as that term is defined in 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 – unless and until the Panel or its Chair has approved, in writing, the practice location at which he will practice medicine. The decision whether to approve a particular practice location lies in the sole discretion of the Panel or its Chair. In determining whether to approve a particular practice location, the Panel or its Chair will particularly consider whether there will be appropriate supervision of the licensee, and may also consider the nature of the practice, including the licensee's proposed duties and hours to be worked. In approving

such practice location, the Panel or its Chair may include specific conditions/restrictions to ensure patient safety;

i. The licensee is hereby APPROVED to practice as a hospitalist at the following locations:

- Saint Joseph-Martin Hospital, 11203 Main Street, Martin, Kentucky; and
- Pikeville Medical Center, 911 Bypass Road, Pikeville, Kentucky

ii. The licensee shall not change practice locations without first obtaining written approval by the Panel or its Chair for such change. The parties agree that the Panel or its Chair may require additional conditions and/or restrictions as a condition of it granting approval for a new practice location;

b. The licensee SHALL SUCCESSFULLY COMPLETE all requirements of the CPEP Educational Intervention Plan, which was initiated March 1, 2012, at his expense and as directed by CPEP;

c. If deemed necessary and appropriate by CPEP, the licensee SHALL SUCCESSFULLY COMPLETE the Post-Education Assessment, at his expense and as directed by CPEP;

d. The licensee SHALL TAKE ALL NECESSARY STEPS, including the execution of waivers and/or releases, to ensure that CPEP provides timely written reports to the Board outlining his compliance with the Educational Intervention;

e. The licensee SHALL maintain a contractual relationship with the Kentucky Physicians Health Foundation and shall fully comply with all requirements of that contractual relationship;

- f. The licensee SHALL completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly licensed practitioner for a documented legitimate medical purpose. The licensee must ensure that any such medical treatment and prescribing is reported directly to the Board in writing by his treating physician within ten (10) days after the date of treatment. The licensee must inform the treating physician of this responsibility and ensure timely compliance. The licensee's failure to inform the treating physician of this responsibility shall be considered a violation of this Amended Agreed Order of Indefinite Restriction;
  - g. The licensee SHALL be subject to periodic, unannounced breathalyzer, blood and urine alcohol and/or drug analysis as desired by the Board, and under the conditions specified by the Board's testing agent, the purpose being to ensure that the licensee remain drug and/or alcohol-free. The cost of such breathalyzer, blood and urine alcohol and/or drug analyses and reports will be paid by the licensee, and the licensee will pay those costs under the terms fixed by the Board's agent for testing. The licensee's failure to fully reimburse the Board's agent within that time frame SHALL constitute a violation of this Amended Agreed Order of Indefinite Restriction; and
  - h. 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 this Amended Agreed Order of Indefinite Restriction, 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 Amended Agreed Order of Indefinite Restriction, 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 Amended Agreed Order of Indefinite Restriction 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 Amended Agreed Order of Indefinite Restriction.

4. The licensee understands and agrees that any violation of the terms of this Amended Agreed Order of Indefinite Restriction would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.

SO AGREED on this 9<sup>th</sup> day of August, 2012.

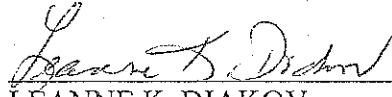
FOR THE LICENSEE:

Atley D Adkins M.D.  
ATLEY D ADKINS, M.D.

\_\_\_\_\_  
COUNSEL FOR THE LICENSEE  
(IF APPLICABLE)

FOR THE BOARD:

  
\_\_\_\_\_  
RANDEL C. GIBSON, D.O.  
CHAIR, INQUIRY PANEL B

  
\_\_\_\_\_  
LEANNE K. DIAKOV  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-7150

MAY 08 2007

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1097

**K.B.M.L.**

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ATLEY D. ADKINS, M.D., LICENSE NO. 21618, 126 TRIVETTE DRIVE, #102, PIKEVILLE, KENTUCKY 41501

**AGREED ORDER OF INDEFINITE RESTRICTION**

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel B, and Atley D. Adkins, M.D. ("the licensee"), and, based upon their mutual desire to fully and finally resolve a pending grievance without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER OF INDEFINITE RESTRICTION:**

**STIPULATIONS OF FACT**

The parties stipulate the following facts, which serve as the factual bases for this Agreed Order of Indefinite Restriction:

1. At all relevant times, Atley D. Adkins, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. On February 24, 2007, the licensee was arrested in Pikeville, Kentucky and charged with Driving Under the Influence. The arrest citation noted that the licensee's car crossed the yellow line and then struck a guard rail twice before begin stopped. The licensee failed various field sobriety tests and acknowledged drinking and "snorting" pills earlier. The arresting officer later advised the Board's investigator that the licensee's nostrils were coated with white powder residue at the time of his arrest.

4. Pikeville Medical Center (PMC) conducted an ad hoc review of the licensee's privileges, based upon his unavailability on certain occasions. During the course of that investigation, hospital officials became concerned that the licensee may be impaired. Following the investigation, the Medical Executive Committee directed the licensee to submit to evaluations, including alcohol screening. A referral was made to the Kentucky Physicians Health Foundation ("the Foundation").
5. After the licensee failed to keep certain appointments with the Foundation to obtain an evaluation, further discussions occurred between PMC staff and the licensee. On February 8, 2007, the licensee notified the hospital that he desired to stop his inpatient practice at PMC. Three days later, the hospital received further correspondence from the licensee in which he resigned as Chair of the Primary Care Service and noted that another physician would be admitting his patients to the hospital for an indefinite period.
6. The DUI arrest occurred during the course of the PMC investigation.
7. Owners of a local business reported that the licensee seemed unbalanced and slurred his speech during a visit to their store in mid-December 2006. The licensee smelled of alcohol. The licensee also apparently dropped a prescription bottle containing Oxycodone while in the store.
8. After missing two appointments, the licensee was evaluated by the Foundation on February 16, 2007. Four days later, a drug screen was obtained and tested positive for oxycodone, oxymorphone, and alcohol. The licensee was referred to Bradford Health Services for a residential evaluation. Following that evaluation, Bradford evaluators made the following Axis I diagnoses relating to the licensee:

- 1 Opioid dependence.
- 2 Rule out alcohol abuse/dependence.
- 3 Opioid-related cognitive disorder, not otherwise specified.

Based upon these diagnoses, Bradford recommended that the licensee enter residential treatment to address his substance abuse diagnoses. The licensee entered residential treatment at Bradford Health Services on March 27, 2007.

#### STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Agreed Order of Indefinite Restriction:

1. The licensee's Kentucky 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(6), (7), (8) and (21). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Indefinite Restriction.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending grievance without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Indefinite Restriction.

#### AGREED ORDER OF INDEFINITE RESTRICTION

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 grievance without an evidentiary hearing, the parties hereby ENTER INTO the following

**AGREED ORDER OF INDEFINITE RESTRICTION:**

1. The license to practice medicine in the Commonwealth of Kentucky held by Atley D. Adkins, M.D., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, with that restriction/limitation to become effective immediately upon the filing of this Agreed Order of Indefinite Restriction;
2. During the effective period of this Agreed Order of Indefinite Restriction, the licensee's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS OF RESTRICTION/LIMITATION for an indefinite term, or until further order of the Board:
  - 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 the Panel or its Chair.
  - b. The Panel will not consider a petition to resume the active practice of medicine unless it is accompanied by a favorable recommendation by the Medical Director, Kentucky Physicians Health Foundation (the Foundation), which shall include:
    1. a copy of his contract with the Foundation, if applicable;
    2. a copy of the discharge summary from a residential treatment facility and any reports of other evaluations performed;
    3. if not included in that discharge summary, a statement of all aftercare requirements for the licensee, and;
    4. an assessment that the licensee may safely resume the active practice of medicine without undue risk or danger to patients or the public;
  - c. If the licensee should petition the Panel for reinstatement of his medical license, the burden shall be upon him to satisfy the Panel that he is presently

of good moral character and qualified both physically and mentally to resume the practice of medicine without undue risk or danger to his patients or the public. If the Panel should permit the licensee to resume the active practice of medicine, it will do so by appropriate order, which shall include all terms and conditions deemed appropriate by the Panel following their review of the information available.

- d. 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 this Agreed Order of Indefinite Restriction, 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 of Indefinite Restriction, 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 of Indefinite Restriction 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 of Indefinite Restriction.

4. The licensee understands and agrees that any violation of the terms of this Agreed Order of Indefinite Restriction would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.

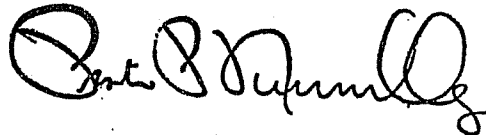
SO AGREED on this 30<sup>th</sup> day of April, 2007.

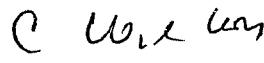
FOR THE LICENSEE:

  
ATLEY D. ADKINS, M.D.

\_\_\_\_\_  
COUNSEL FOR THE LICENSEE  
(IF APPLICABLE)

FOR THE BOARD:

  
PRESTON P. NUNNELLEY, M.D.  
CHAIR, INQUIRY PANEL B

  
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