



FILED OF RECORD

JAN 18 2023

**Kentucky Physicians Health Foundation**

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

Tina F. Simpson, MD, FACOG  
Medical Director

(502) 425-7761  
Fax (502) 425-6871

Greg L. Jones, MD, FASAM  
Director Emeritus

October 1, 2022

**Board of Directors**

Will W. Ward, Jr., MD, FACP, FASAM  
Chairman

Sean McGuire, MD  
Vice-Chairman

Ernest W. Marshall, MD, FACOG  
Treasurer

Charles Bernstein, MD

Ms. Karyn Hascal, BA, CADC

Mr. Michael O'Connell

Kenneth J. Payne, MD

Mr. Michael Rodman

Jerry Nein, MD

RE: Kentucky Physicians Health Foundation Worksite Approval

Dear Dr. Nein:

This letter is in response to your request for approval to work at Crossroads Treatment Center in Independence, KY.

The Foundation has reviewed the job description and has spoken with Dr. Trey Causey, Chief Medical Office for Crossroads. Based on the information I have at this time, I find this worksite to be an acceptable opportunity for employment and approve your request to begin working, effective

If you have any additional questions or concerns, please feel free to contact me.

Sincerely,

Tina F. Simpson, MD  
Medical Director  
Kentucky Physicians Health Foundation

TFS:emb

APR - 7 2020

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1958

K.B.M.L

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY JERRY W. NEIN, M.D., LICENSE NO. 26925, 515  
CHURCH STREET, #3107, NASHVILLE, TENNESSEE 37219

**AGREED ORDER**

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

**STIPULATIONS OF FACT**

The parties stipulate the following facts, which provide the factual bases for this Agreed Order:

1. At all relevant times, Jerry W. Nein, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Emergency Medicine.
3. On October 28, 1992, the Board's Inquiry Panel B issued an Order of Temporary Suspension and Complaint in KBML Case No. 482 against the licensee's Kentucky medical license, based upon information that the licensee had professionally obtained controlled substances for his personal use, knowing or having reason to know that abuse was occurring or may result from such use.
4. On February 22, 1994, the parties informally resolved the Complaint in KBML Case No. 482 by entering into an Agreed Order of Probation, for a period of 5 years.

5. On June 17, 1996, the Panel amended the Agreed Order of Probation to permit the licensee to perform anesthetic procedures on a part-time basis in a program approved and monitored by the Foundation and to permit him to use the hospital DEA number to prescribe or dispense controlled substances. The Agreed Order of Probation terminated, by its own terms, on January 27, 1999.
6. On January 13, 2003, the Board received notification from Muhlenberg Community Hospital that the licensee "has had to meet with Dr. Burns Brady of the Impaired Physicians program."
7. Burns M. Brady, M.D., Medical Director, Kentucky Physicians Health Foundation (hereafter "the Foundation") related that the licensee had maintained a contractual relationship with the Foundation until 1999, when he voluntarily withdrew from the program. Dr. Brady related that the licensee had re-entered his relationship with the Foundation on December 30, 2002 and has been in compliance with his contractual requirements since that time.
8. The licensee entered into residential treatment at Hazelden Foundation on September 16, 2002. He was successfully discharged on October 14, 2002 with the following diagnoses: Alcohol abuse; Benzodiazapine dependence with physiological dependence; Opiate dependence with physiological dependence; and Nicotine dependence with physiological dependence.
9. The licensee entered into an aftercare contract with the Foundation on December 30, 2002.
10. The licensee entered into an Agreed Order of Indefinite Restriction in Case No. 908, filed of record on September 13, 2003.

11. On February 19, 2009, the Panel considered a request from the licensee to terminate the Agreed Order of Indefinite Restriction. An Order terminating the Agreed Order of Indefinite Restriction was filed on March 12, 2009.
12. The licensee continued his contractual relationship with the Foundation until November 30, 2010.
13. On or about July 20, 2019, the licensee contacted the Foundation to report that he had relapsed and had admitted himself to Our Lady of Peace for detoxification.
14. Greg L. Jones, M.D., Medical Director of the Foundation, referred the licensee to Florida Recovery Center ("FRC") for residential treatment.
15. The licensee entered into an Interim Agreed Order (Treatment) on August 30, 2019.
16. The licensee entered residential treatment at FRC on August 18, 2019 and was successfully discharged on November 14, 2019.
17. Upon discharge, the licensee was diagnosed with alcohol, opiate, and sedative use disorders, all severe. FRC recommended that the licensee not engage in the clinical practice of medicine for 60-90 days and that upon return to practice, he be under the auspices of a practice monitor.
18. On November 19, 2019, the licensee entered into an aftercare contract with the Foundation.
19. In a written statement dated January 31, 2020, the licensee acknowledged that he wrote prescriptions for controlled substances to his uncle and would ask to "borrow some" to last him until his next prescription was available.

20. At its meeting on March 19, 2020, the Panel permitted the licensee to resume the active practice of medicine, pursuant to the terms and conditions contained in this Agreed Order.

#### STIPULATED CONCLUSIONS OF LAW

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

1. The licensee's 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 KRS 311.595(6), (7), and (9), as illustrated by KRS 311.597(1)(b) and (c). Accordingly, there are legal bases for the entry of this Agreed Order.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve a pending grievance without an evidentiary hearing by entering into an informal resolution such as this Agreed Order.

#### AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve this pending matter without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER:**

1. The license to practice medicine in the Commonwealth of Kentucky held by JERRY W. NEIN, 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 Agreed 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 or osteopathy," 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 he has an approved practice monitor, who is engaged in the same or similar practice specialty as the licensee;
  - i. The practice monitor SHALL be someone approved by the Kentucky Physicians Health Foundation ("KPHF"). The parties agree that KPHF may require additional conditions and/or restrictions as a condition of it granting approval for a practice monitor. The KPHF may disapprove of any proposed practice monitor or withdraw approval of a previously-approved practice monitor. If the KPHF does not approve or withdraws approval of a particular practice monitor, the licensee SHALL cease practice until a practice monitor is approved;
  - ii. The approved practice monitor need not practice with the licensee 100% of the time that the licensee practices at any given location, but SHALL practice at the same location and during the same hours as the licensee for a percentage of time as deemed appropriate by the KPHF;
  - iii. The licensee SHALL ensure that the approved practice monitor submits quarterly written reports to the KPHF regarding the licensee's practice, including the number of hours worked and the licensee's ability to balance stressors in practice;
- b. When engaged in the practice of medicine in the Commonwealth of Kentucky, the licensee SHALL maintain a "controlled substances log" for all controlled substances prescribed, dispensed or otherwise utilized. The controlled substances log SHALL include date, patient name, patient complaint, medication prescribed, when it was last prescribed and how much on the last visit. Note: All log sheets SHALL be consecutively numbered, legible i.e. printed or typed, and must reflect "call-in" and refill information. Prescriptions SHALL be maintained in the following manner: 1) patient; 2) chart; and 3) log;

- i. The licensee SHALL permit the Board's agents to inspect, copy and/or obtain the controlled substance log and other relevant records, upon request, for review by the Board's agents and/or consultants;
  - ii. The licensee SHALL reimburse the Board fully for the costs of each consultant review performed pursuant to this Agreed Order. Once the Board receives the invoice from the consultant(s) for each review, it will provide the licensee with a redacted copy of that invoice, omitting the consultant's identifying information. The licensee SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The licensee's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Agreed Order;
  - iii. The licensee understands and agrees that at least two (2) favorable consultant reviews must be performed, on terms determined by the Panel or its staff, before the Panel will consider a request to terminate this Agreed Order. The licensee understands and agrees that no consultant reviews will be conducted unless and until the licensee has prescribed controlled substances to establish sufficient records for meaningful review;
- c. The licensee SHALL maintain his contractual relationship with the Kentucky Physicians Health Foundation and SHALL fully comply with all requirements of that contractual relationship;
- d. 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 SHALL ensure that any such medical treatment and prescribing is reported directly to the Board in writing by my treating physician within ten (10) days after the date of treatment. The licensee SHALL 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 Agreed Order;
- e. 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 SHALL be paid by the licensee, and the licensee SHALL 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 Agreed Order; and

- f. 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, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive information that he has violated any term or condition of this Agreed Order, the Panel Chair is authorized by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of any term or condition of this Agreed Order would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order.
4. The licensee understands and agrees that any violation of the terms of this Agreed Order would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13).

SO AGREED on this 31 day of March, 2020.

FOR THE LICENSEE:


  
JERRY W. NEIN, M.D.



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

FOR THE BOARD:

  
\_\_\_\_\_  
RICHARD WHITEHOUSE, ESQ.  
CHAIR, INQUIRY PANEL B

  
\_\_\_\_\_  
SARA FARMER  
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. IAO(T)-76

FILED OF RECORD

AUG 30 2019

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY JERRY W. NEIN, M.D., LICENSE NO. 26925, 440  
HOPKINSVILLE STREET, GREENVILLE, KENTUCKY 42345

**INTERIM AGREED ORDER (TREATMENT)**


Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel B, and Jerry W. Nein, M.D. (hereafter "the licensee"), and, based upon their mutual desire to ensure that the public is fully protected while the Board is completing its investigation, hereby ENTER INTO the following INTERIM AGREED ORDER:

1. The licensee shall not engage in 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" – from the date of filing of this Interim Agreed Order until approved to do so by the Inquiry Panel.
2. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. If there is information satisfactory to the Panel or its Chair that the licensee has failed to comply with any condition of this Interim Agreed Order, the Panel or its Chair may immediately terminate this Interim Agreed Order and issue a Complaint and if appropriate, an Emergency Order.
4. While this Interim Agreed Order does not constitute final action on this matter, federal regulations require that it be reported to the National Practitioner's Data Bank. Furthermore, it is subject to release upon request pursuant to the Open Records Act.

5. The licensee understands and agrees that any violation of the terms and conditions of this Interim Agreed Order would constitute a separate violation and may result in disciplinary action against his Kentucky medical license, including revocation, pursuant to KRS 311.595(13).


SO AGREED on this 30<sup>th</sup> day of August, 2019.

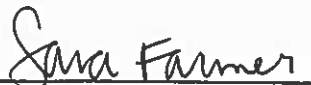
FOR THE LICENSEE:

  
\_\_\_\_\_  
JERRY W. NEIN, M.D.

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

FOR THE BOARD:

  
\_\_\_\_\_  
SANDRA R. SHUFFETT, M.D.  
CHAIR, INQUIRY PANEL B

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

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 908

FILED OF RECORD  
MAR 12 2009

K.B.M.L.

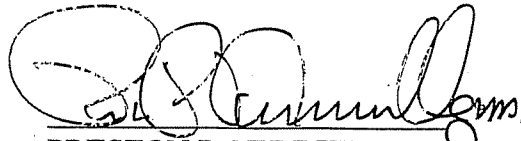
IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY JERRY W. NEIN, M.D., LICENSE NO. 26925, 400  
HOPKINSVILLE STREET, GREENVILLE, KENTUCKY 42345

**ORDER TERMINATING AGREED ORDER  
OF INDEFINITE RESTRICTION**

At its February 19, 2009 meeting, the Kentucky Board of Medical Licensure, acting by and through its Inquiry Panel A considered a request by the licensee to terminate the terms and conditions imposed upon his Kentucky medical license by Agreed Order of Indefinite Restriction entered on September 18, 2003.

In addition to the licensee's request, the Panel has considered a memorandum prepared by the Board's General Counsel dated January 14, 2009; correspondence dated July 11, 2008 prepared by James T. Jennings, M.D., Medical Director, Kentucky Physicians Health Foundation; the Agreed Order of Indefinite Restriction filed of record September 18, 2003; a Supervision/Compliance Inspection Report dated December 9, 2008 prepared by George H. Stewart, Medical Investigator; and an Expert Review Worksheet prepared by a Board consultant dated November 2, 2008. Having considered all of these materials and being sufficiently convinced that the licensee will continue to abide by the terms and conditions previously fixed, without a formal order, the Panel hereby ORDERS that the terms and conditions imposed upon the licensee's Kentucky medical license by the Agreed Order of Indefinite Restriction filed of record September 18, 2003 are hereby TERMINATED.

SO ORDERED this 12<sup>th</sup> day of March, 2009.



PRESTON P. NUNNELLEY, M.D.  
ACTING CHAIR, INQUIRY PANEL A

Certificate of Service

I hereby certify that the original of this Order Terminating Agreed Order of Indefinite Restriction was delivered to C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, and copies were mailed to Jerry W. Nein, M.D., 1398 U.S. Highway 62 West, Greenville, Kentucky 42345 and Brian R. Good, Esq., One Riverfront Plaza, Suite 1950, 401 West Main Street, Louisville, Kentucky 40202 on this 12<sup>th</sup> day of March, 2009.



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

SEP 18 2003

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 908

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY JERRY W. NEIN, M.D., LICENSE NO. 26925, 400  
BURKLEY DRIVE, GREENVILLE, KENTUCKY 42345

**AGREED ORDER OF INDEFINITE RESTRICTION**

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, and Jerry W. Nein, M.D., 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 provide the factual bases for this Agreed Order of Indefinite Restriction:

1. At all relevant times, Jerry W. Nein, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky;
2. On October 28, 1992, the Board's Inquiry Panel B issued an Order of Temporary Suspension and Complaint No. 482 against the licensee's Kentucky medical license, based upon information that the licensee had professionally obtained controlled substances for his personal use, knowing or having reason to know that abuse was occurring or may result from such use.
3. On February 22, 1994, the parties informally resolved Complaint No. 482 by entering into an Agreed Order of Probation, for a period of 5 years, with the following terms and conditions:

- a. the licensee must maintain a contractual relationship with the Foundation and cause the Foundation to provide periodic progress reports to the Board;
- b. the licensee cannot perform any anesthetic procedures on patients, or utilize any narcotic injections;
- c. the licensee must submit to random biological testing, at his expense;
- d. the licensee must surrender his DEA permit; the licensee may utilize a hospital DEA number with appropriate counter-signature within 24 hours;
- e. the licensee may only practice in hospital emergency rooms under the supervision of Willard Keith, M.D..

On June 17, 1996, the Panel amended the Agreed Order of Probation to permit the licensee to perform anesthetic procedures on a part-time basis in a program approved and monitored by the Foundation and to permit him to use the hospital DEA number to prescribe or dispense controlled substances. The Agreed Order of Probation terminated, by its own terms, on January 27, 1999.

- 4. On January 13, 2003, the Board received notification from Muhlenberg Community Hospital that the licensee "has had to meet with Dr. Burns Brady of the Impaired Physicians program."
- 5. Burns M. Brady, M.D., Medical Director, Kentucky Physicians Health Foundation (hereafter "the Foundation") related that the licensee had maintained a contractual relationship with the Foundation until 1999, when he voluntarily withdrew from the program. Dr. Brady related that the licensee had re-entered his relationship with the Foundation on December 30, 2002 and has been in compliance with his contractual requirements since that time.
- 6. In a January 10, 2003 letter, Charles F. Franke, III, M.D., concluded, in part,
 

...In September 2001 he began to relapse. He used Fentanyl that he diverted from work. Over the course of the next twelve months, in spite of his efforts to stop, he developed tolerance and his use increased. Finally, in September 2002, Dr. Nein went to Hazelton for a twenty-eight day stay. He has been sober since then.

Dr. Nein reports that he has had significant problems with his mood over the years. The first time was during his internship. He says his current depression began about 2 ½ years ago and was a contributing factor to his relapse. Dr. Nein says his mood is predominantly depressed.

....

**Impression:**

1. Major Depression, recurrent.
2. Opiate Dependence, in remission. History of benzodiazapines dependence.

**Recommendations:**

1. Abstinence from alcohol and all drugs of abuse, documented by random drug screen monitoring.
  2. Attendance at AA/NA and use of a sponsor.
  3. Individual therapy at this time. A physician's therapy group can be added in the future.
  4. Dr. Nein needs to be on medication for depression. Also at this time ReVia, to help secure his sobriety is clinically indicated.
  5. Dr. Nein needs to enter into a contractual relationship with Kentucky Physicians Health Foundation for the exact implementation and monitoring of the above recommendations.
7. The Discharge Summary from Hazelden treatment facility included the following information,

**Condition at Discharge:** One of the big areas of concern regarding Jerry is that although his family is intact and his job will probably be intact, Jerry is carrying this treatment program as a large secret in his life. He will go to Alcoholics Anonymous he states in a town near his town, but he is having difficulty accepting an aftercare counselor.

**Continuing Care Recommendations:** He is to set up a one-on-one meeting with somebody he feels he can trust and that he begin aftercare counseling. He has been given a conditional discharge from treatment because his aftercare is not in place and it is this therapist's view that he strongly needs to continue to work with a therapist to maintain good self-esteem and work on his perfectionism, which interferes with him feeling good about himself. Jerry is to let us know what his discharge plans ended up being, so that we can discuss his treatment program with the therapist he will begin working with.

**Final Chemical Dependency Diagnosis:**

- 1) Alcohol abuse
- 2) Benzodiazapine dependence with physiological dependence
- 3) Opiate dependence with physiological dependence
- 4) Nicotine dependence with physiological dependence

....



Jerry was discharged on October 14, 2002, with staff approval. I feel that he will be capable of returning to the practice of medicine with reasonable skill and safety assuming he follows the contract of whatever diversionary program is available.

In summary, I believe that Dr. Nein is more than capable of returning to practice and that his chemical dependency is in remission. ...

#### 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 KRS 311.595(6), (8), (10) and (9), as illustrated by KRS 311.597(1)(a)-(d). Accordingly, there are legal bases for the entry of 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 a pending grievance without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Indefinite Restriction.
4. The fact that the licensee relapsed following completion of a residential treatment program creates a probability that the licensee will relapse in the foreseeable future. The licensee's illegal diversion of controlled substances for his personal use, along with the probability of relapse, create an immediate and unreasonable danger to the public health, welfare and safety. Such conduct also calls into question the licensee's judgment regarding the appropriate use of controlled substances, independently rendering his legal ability to professionally utilize

controlled substances an immediate danger to the public health, welfare and safety.

### **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 the 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 Jerry W. Nein, M.D., is hereby **RESTRICTED FOR AN INDEFINITE PERIOD OF TIME**;
2. During the effective period of this Agreed Order of Indefinite Restriction, the licensee's Kentucky medical license is **RESTRICTED/LIMITED** by the following terms and conditions:
  - a. The licensee is **PROHIBITED** from engaging in the practice of anesthesia and/or performing any procedure which would be considered an anesthetic procedure, until approved to do so by the Panel. The licensee may not request modification or termination of this term/condition for a minimum period of two (2) years from the date of filing of this Agreed Order of Indefinite Restriction;
  - b. If the licensee currently has a Drug Enforcement Administration (DEA) permit to utilize controlled substances, the licensee **SHALL SURRENDER** such permit within seven (7) days of the filing of this

Agreed Order of Indefinite Restriction. The licensee SHALL NOT re-apply for a DEA permit unless and until approved to do so by the Panel;

- c. The licensee is prohibited from prescribing, dispensing, or otherwise utilizing controlled substances in the Commonwealth of Kentucky, subject to the exception outlined in Condition 2d, *infra*, unless and until approved to do so by the Panel;
- d. The licensee may ONLY professionally utilize controlled substances under the following conditions: I. The licensee shall not prescribe, dispense, or otherwise professionally utilize controlled substances outside of a hospital setting; II. In the hospital setting, the licensee may only utilize the hospital's DEA permit to order controlled substances to persons admitted to the hospital, for the specific condition(s) being treated by the licensee in the hospital; III. The licensee shall not dispense or personally handle any controlled substances ordered for hospital patients; and, IV. The licensee shall only prescribe the minimum amount of controlled substances, for a maximum period of forty-eight (48) hours following discharge, for patients being discharged from the emergency department, if and only if the licensee determines such medication is medically necessary and appropriate to treat the patient until the earliest opportunity for the patient to obtain treatment from their primary/referring physician;
- e. The licensee SHALL maintain an independent record of all hospital patients for whom he orders or prescribes controlled substances under the terms of Condition 2d, *supra*, and SHALL permit inspection of that record,

along with all relevant patient information, by the Board's agents,  
including consultants, upon request;

- f. The Panel has approved The Muhlenburg Community Hospital as the practice location at which the licensee may practice medicine, subject to the terms and conditions of this Agreed Order of Indefinite Restriction. Within ten (10) days of the filing of this Agreed Order of Indefinite Restriction, the licensee must provide a copy of this Agreed Order of Indefinite Restriction to the hospital administrator and to his immediate supervisor at Muhlenburg Community Hospital;
- g. The Panel must approve any change in practice location for the licensee prior to the licensee practicing medicine at that location(s). The licensee shall be required to provide a copy of this Agreed Order of Indefinite Restriction to the administrator and his immediate supervisor at any approved practice location;
- h. The licensee shall maintain his contractual relationship with the Kentucky Physicians Health Foundation (the Foundation) and shall fully comply with all requirements of that contractual relationship. The licensee SHALL take Naltrexone, as directed, until he is notified in writing by the Foundation's Medical Director that he is no longer required to take such substance;
- i. 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. Any

such medical treatment and prescribing shall be reported directly to the Board in writing by the 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. Failure to inform the treating physician of this responsibility shall be considered a violation of this Agreed Order of Indefinite Restriction;


- j. Licensee shall be subject to periodic, unannounced breathalyzer, blood and urine alcohol and/or drug analysis as desired by the Board, the purpose being to ensure that the Licensee remains drug and/or alcohol-free. The cost of such breathalyzer, blood and urine alcohol and/or drug analyses and reports will be borne by Licensee, which costs shall be paid within thirty (30) days after the date of the invoice therefor. Failure to make timely payment of such costs, to provide a specimen upon request, or to remain alcohol and/or drug-free shall be considered a violation of this Agreement.
- k. The licensee shall not violate any provision of KRS 311.595 and/or 311.597.
- l. The licensee expressly agrees that, if the licensee 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

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, the parties agree and stipulate that 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 Agreed Order of Indefinite Restriction;

- m. The licensee understands and agrees that any violation of the provisions of this Agreed Order of Indefinite Restriction may serve as the basis for additional disciplinary action against his Kentucky medical license, pursuant to KRS 311.595(13), including revocation of his medical license.

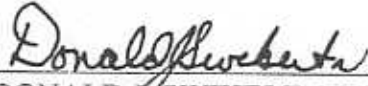
SO AGREED on this 14 day of September, 2003.

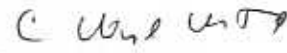
FOR THE LICENSEE:

  
JERRY W. WEIN, M.D.

COUNSEL FOR THE LICENSEE  
(IF APPLICABLE)

FOR THE BOARD:

  
DONALD SWIKERT, M.D.  
CHAIR, INQUIRY PANEL A

  
C. LLOYD VEST II  
General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-8046

ENTERED: 9/18/03