FILED OF RECORD

MAR 13 2014

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1520

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY SHAWN D. TRASK, M.D., LICENSE NO. 43235, P.O. BOX 2481, PADUCAH, KENTUCKY 42002-2481

AGREED ORDER

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

STIPULATIONS OF FACT

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

1. At all relevant times, Shawn D. Trask, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Pediatrics.
3. On or about June 14, 2012, the licensee was indicted by the McCracken County, Kentucky Grand Jury. Under Indictment No. 12-CR-00218, the licensee was charged with First Degree Wanton Endangerment, a Class D felony; Retaliating Against a Participant in the Legal Process, a Class D felony; Third-Degree Terroristic Threatening, a Class A misdemeanor; and, Fourth-Degree Assault (Domestic Violence), a Class A misdemeanor.

4. Based upon that Indictment, the licensee's privileges at Lourdes Hospital, Paducah, Kentucky were suspended and were later terminated by letter dated May 23, 2012, pursuant to the hospital's bylaws.

5. The licensee subsequently entered an *Alford* to the misdemeanor count of Assault 4th Degree – Domestic Violence as part of a plea agreement under which the remaining charges were dismissed. The licensee was sentenced to twelve (12) months, with the licensee to complete domestic violence assessment, payment of the victim's medical expenses and no further acts of violence or threat against the victim. Probation was initially denied and the licensee was remanded to the McCracken County Jail to serve his sentence. Judgment was entered on October 22, 2012

6. On November 19, 2012, the Court granted the licensee's motion for shock probation and released him from confinement, following 50 days in jail. The licensee was placed on probation for one year, with terms specified.

7. Following its review of the above facts, the Panel ordered the licensee to complete an Anger Management evaluation on September 17, 2013. The licensee completed the evaluation at the Vanderbilt Comprehensive Assessment Program (VCAP) on October 28-29, 2013. The evaluators concluded,

   Dr. Trask was referred to VCAP for evaluation by the KBML for "anger management evaluation" after he was convicted and incarcerated for a misdemeanor assault charge in 2012, in order to ascertain Dr. Trask's fitness to return to the practice of medicine.

   Our extensive evaluation revealed no psychiatric diagnosis. The team was impressed that Dr. Trask was genuine in his presentation, humble and contrite. He seems to have developed insight into his personal role in the difficulties he has lived through which has rekindled healthy spiritual practice in his daily life. Not only were there no apparent anger issues, but Dr. Trask has apparently used his

situation as a sort of "wake-up" to better himself, by returning to a (lost) set of spiritual principals.

Nothing in our evaluation suggested that Dr. Trask's ability to practice medicine is impaired. If anything, his experience may have made him more sensitive to others and promises to enhance his ability to relate to patients, their families and clinic staff member.

We do have concern about the multi-faceted nature of his relationship with Dr. Grow and establishment of a clinic with a physician/pharmacist whose history is significant and includes loss of medical licensure. We also have concern about the significant financial stressors that Dr. Trask must face.

RECOMMENDATIONS

1. Based upon this evaluation and with a reasonable degree of medical certainty, Dr. Trask is fit to practice medicine.
2. We suggest the Dr. Trask seek an advocacy relationship with the Kentucky Physicians Health Program in order to facilitate his return to a suitable practice setting by providing advice, counsel and advocacy support.

8. Board records indicate that the license of Joseph B. Grow, M.D., is presently active. He has listed his practice as Hospital-based Anesthesiology. Dr. Trask provided the following information to Board Investigator Steve Manley,

He and Dr. Grow opened a cash-only clinic in November 2013 which operates in the afternoons and evenings. Dr. Trask provides pediatric treatment and Dr. Grow engages in General Practice. Business has been slow and he is not sure if the business model will work. He is looking at options in other states.
He identified the other physician referenced in the V-CAP report as Troy M. Nelson, D.O.. They are operating the clinic in Dr. Nelson's building and Dr. Nelson is acting as Office Manager and Nurse. He places the patients in examination rooms and takes their vitals. Drs. Trask and Grow also rely upon Dr. Nelson's judgment regarding prescribing because he is also a pharmacist.

9. Dr. Nelson entered into an Agreed Order of Surrender on October 17, 2013. He had been subject to an Emergency Order of Suspension since November 2012. Under the Agreed Order of Surrender, he may not seek reinstatement until November 29, 2014. If the Panel reinstates his license at that time, he is banned from prescribing or dispensing controlled substances until October 17, 2015.

STIPULATED CONCLUSIONS OF LAW

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

1. The licensee's medical license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates the provisions of KRS 311.595(21). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending investigation 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 investigation without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER:**

1. The license to practice medicine within the Commonwealth of Kentucky held by Shawn D. Trask, M.D., SHALL BE SUBJECT to this Agreed Order for a period of five (5) years from the date of filing of the Agreed Order.
2. During the effective period of this Agreed Order, the licensee's medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
    a. The licensee SHALL NOT 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.

b. 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.

c. If not already subject to such contract, the licensee SHALL enter into a contractual relationship with the Kentucky Physicians Health Foundation (hereafter "the Foundation") and fully comply with all terms and conditions of that contract. The licensee SHALL take all necessary steps, including the execution of any necessary waiver(s) or release(s), to ensure that the Foundation provides quarterly written reports to the Board

regarding the licensee's compliance with that contract and any other information relevant to the Board's oversight of this Agreed Order.

d. The Panel will not consider any request for modification of the terms or conditions of this Agreed Order for a minimum of two (2) years from the date of filing of this Agreed Order.

e. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

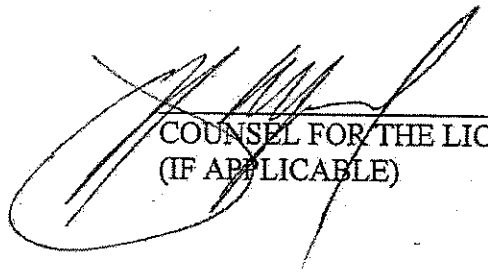
3. The licensee expressly agrees that if he should violate any term or condition of the Agreed Order, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive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

4. The licensee understands and agrees that any violation of the terms of this Agreed Order would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13) and may provide a legal basis for criminal prosecution for practicing medicine without a license.

SO AGREED on this 12TH day of MARCH, 2014.

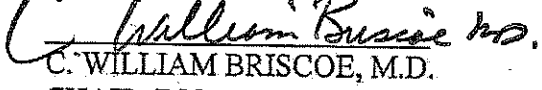
FOR THE LICENSEE:

SHAWN D. TRASK, M.D.



COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



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

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