

FILED OF RECORD

MAY 4 2022

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2054

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY VIRGIL W. McMILLION, D.O., LICENSE NO. C0283, 232 SANTORINI AVENUE, MORGANTOWN, WEST VIRGINIA 26508

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter “the Board”), acting by and through its Inquiry Panel A, and VIRGIL W. McMILLION, D.O., (hereafter “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, Virgil W. McMillion, D.O. (“the licensee”), was licensed by the Board to practice osteopathy within the Commonwealth of Kentucky.
2. The licensee’s osteopathic specialty is Family Medicine.
3. The licensee was also licensed by the West Virginia Board of Osteopathic Medicine (“the West Virginia Board”).
4. The licensee obtained expedited licensure in the Commonwealth of Kentucky on or about June 14, 2021 through the Interstate Medical Licensure Compact (“the Compact.”)

5. On or about February 5, 2022, the licensee entered into a Consent Order with the West Virginia Board, in which the licensee was found to have violated West Virginia statutes in the following manner:
- a. To be eligible for a Letter of Qualification (“LOQ”) for expedited licensure through the Compact, an applicant cannot be under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.
 - b. On February 26, 2020, the Board issued the licensee an initial LOQ finding that he was eligible for expedited licensure through the Compact.
 - c. On December 22, 2020, the Weston Police Department of Weston, West Virginia served a search warrant on the licensee in relation to a criminal investigation.
 - d. On March 5, 2021, the licensee submitted an application to renew his LOQ and answered “No” to the following question: “Are you under investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction?”
 - e. The Board issued the licensee’s renewed LOQ on June 4, 2021.
 - f. The Board first learned of the criminal investigation following the licensee’s indictment on July 12, 2021.
 - g. Prior to the July 12, 2021 indictment, the licensee’s only contact with law enforcement was when the search warrant was served on December 22, 2020.

- h. Although the licensee did not have any contact with law enforcement before or after service of the subpoena on December 22, 2020, he expresses contrition and concedes that he should have disclosed this encounter on his LOQ renewal application. The licensee denies that this omission was a willful attempt to defraud the Board or the IMLCC.
 - i. Furthermore, while the licensee denies personal knowledge that the law enforcement investigation was ongoing when he submitted his March 5, 2021 LOQ renewal application, the licensee admits that the July 12, 2021 indictment sufficiently implies that the investigation was active at that time and, therefore, he was ineligible for the LOQ issued by the Board.
6. The Consent Order contains the following Terms of Order:
- a. The Letter of Qualification issued to Virgil Waid McMillion, D.O., by the West Virginia Board of Osteopathic Medicine on June 4, 2021 is hereby **NULL and VOID**, due to Dr. McMillion's ineligibility as set forth herein.
 - b. The West Virginia Board of Osteopathic Medicine **REPRIMANDS** and **FINES** Virgil Waid McMillion, D.O., \$1,000.00 for violating the Board's rules. Dr. McMillion shall pay the fine within 60 days of entry of this Consent Order.
7. On or about February 17, 2022, the Wyoming Board of Medicine issued an Order of Temporary Suspension Pending a Contested Case Hearing, which suspended the license to practice medicine held by the licensee in Wyoming.
8. On or about February 28, 2022, the Maryland State Board of Physicians issued an Order for Suspension of License to Practice Medicine, which suspended the

- license to practice medicine held by the licensee in Maryland, for ninety (90) days.
9. On or about March 15, 2022, the Idaho State Board of Medicine issued an Order of Immediate Suspension of License, which suspended the license to practice medicine held by the licensee in Idaho until May 19, 2022.
 10. On or about March 16, 2022, the Board Chair of the Board of Osteopathic Examination, Division of Health Licensure and Regulation, Tennessee Department of Health notified the licensee that based upon his indictment for an offense that involves a sexual offense, his authority to prescribe Schedule II controlled substances is automatically suspended until he is acquitted by a verdict of the jury, the prosecution is dismissed, or a nolle prosequi is entered by the prosecuting authority.
 11. On or about July 12, 2021, the licensee was indicted on one count of Sexual Assault in the Second Degree, a felony, in the Circuit Court of Lewis County, West Virginia in *State of West Virginia vs. Virgil Waid McMillion*, Case No. 21-F-48.
 12. The Indictment alleges that on or about the 1st day of August 2019, the licensee committed the offense of “Sexual Assault in the Second Degree” by unlawfully and feloniously engaging in sexual intercourse or sexual intrusion with S.M, without her consent, and the lack of consent results from forcible compulsion, against the peace and dignity of the State.
 13. According to the Findings of Fact contained in the Wyoming Board of Medicine’s Order of Temporary Suspension Pending a Contested Case Hearing, it is alleged

that on or about August 1, 2019, the licensee committed the criminal offense of Sexual Assault in the Second Degree against a healthcare worker at Stonewall Jackson Memorial Hospital in the Emergency Department located in Lewis County, West Virginia.

14. The Board received notice of the actions by the Boards of West Virginia, Wyoming, Maryland, Idaho, and Tennessee via report from the Federation of State Medical Boards. The licensee did not report the disciplinary actions nor provide this Board a copy of the orders issued by the Boards of West Virginia, Wyoming, Maryland, Idaho, or Tennessee within ten days of each Board's Order.
15. On April 21, 2022, the Board's Inquiry Panel A reviewed the investigation. The Panel and the licensee agree to enter into this Agreed Order, in lieu of the issuance of a Complaint and Emergency Order of Suspension.

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 osteopathic 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(1), (12), and (17). 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

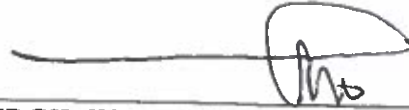
Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve this pending investigation without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER:**

1. The license to practice osteopathy in the Commonwealth of Kentucky held by VIRGIL W. McMILLION, D.O., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Agreed Order;
2. During the effective period of this Agreed Order, the licensee's Kentucky osteopathic license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS until further order of the Board:
 - a. The licensee SHALL NOT perform any act within the Commonwealth of Kentucky which would constitute the "practice of medicine or osteopathy," 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," unless and until approved to do so by the Panel;
 - b. The Panel SHALL NOT consider a request by the licensee to resume the practice of medicine unless and until the Board has received documentation showing the full and final resolution in the case of *State of West Virginia vs. Virgil Waid McMillion*, Case No. 21-F-48 and the licensee has successfully completed the terms of any sentence, if imposed.
 - c. If two (2) or more years have passed since the licensee last practiced medicine, the licensee SHALL complete a clinical skills assessment at either Center for Personalized Education for Professionals ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232 Fax: (303) 577-3241 or LifeGuard, 400 Winding Creek Boulevard, Mechanicsburg, Pennsylvania, 17050, Tel. (717) 909-2590 and submit an assessment report to the Panel for consideration with his request to resume practice;

- d. The licensee understands and agrees that if the Panel should grant his request to resume the practice of osteopathy within the Commonwealth of Kentucky, it may do so pursuant to an Amended Agreed Order which may contain any conditions deemed necessary by the Panel at that time; and
 - 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 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 26 day of April, 2022.

FOR THE LICENSEE:




VIRGIL W. McMILLION, D.O.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



WAQAR A. SALEEM M.D.
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