

JUN 28 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2112

IN RE: THE LICENSE TO PRACTICE OSTEOPATHY IN THE COMMONWEALTH OF KENTUCKY HELD BY JOSHUA L. BROWN, D.O., LICENSE NO. 05596, 200 BLUEGRASS AVENUE, APARTMENT 85C, NEWPORT, KENTUCKY 41071

**AGREED ORDER**

Come now the Kentucky Board of Medical Licensure (“the Board”) and Joshua L. Brown, D.O. (“the applicant”), and, based upon their mutual desire to grant the applicant a license to practice osteopathy in the Commonwealth of Kentucky, subject to conditions set forth herein, 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 times, Joshua L. Brown, D.O., was an applicant for a license to practice osteopathy within the Commonwealth of Kentucky.
2. The applicant’s osteopathic specialty training was in obstetrics and gynecology.
3. On or about August 8, 2022, the applicant submitted an application for a license to practice osteopathy in the Commonwealth of Kentucky.
4. The applicant answered “yes” to Question 1, Category 1 of the application, which asked, “Have you ever been dismissed from, resigned while under investigation, been placed on a disciplinary probation or reprimanded at a medical school or a postgraduate training program?”
5. The applicant answered “yes” to Question 3, Category 1 of the application, which asked, “Have you ever had any license, certificate, registration or other privilege as a health care

professional denied, revoked, suspended, probated, restricted or limited, or subjected to any other disciplinary action, by a State medical/osteopathic licensing board, or Federal, or International authority?”

6. The applicant answered “yes” to Question 4, Category 1 of the application, which asked, “Have you ever been disciplined by any licensed hospital (including postgraduate training) or the medical staff of any licensed hospital, including removal, suspension, probation, limitation of hospital privileges or any other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice or a violation of a provision(s) of a Medical Practice Act?”
7. On or about April 4, 2016, during his third-year residency, the applicant was disciplined and placed on probation for failing to conduct himself in a professional manner.
8. The applicant explained his affirmative responses to the application, in part, as follows:

During the second year of my residency program, around January 2015, I began using methamphetamine and GHB recreationally. Over the course of only a few weeks, my usage increased to daily and I was unable to stop. This usage continued unabated for approximately one year. During that year, I began having trouble sleeping because of my drug use and started using Ativan to help me sleep. I also began sleeping through my alarm clock by several hours once every couple of weeks. My residency program director and other residents approached me during the course of the year, on several occasions, but I was ashamed of what I was doing and lied about why I was oversleeping. During one of my quarterly reviews, my program director recommended that I see the hospital’s psychiatrist for an evaluation. I did so and was honest during the evaluation regarding my drug usage and my inability to stop using on my own. The psychiatrist recommended that I attend inpatient treatment. I followed through with the recommendation by entering inpatient treatment at Shepherd Hill in April 2016. I remained in treatment and was compliant with all of the treatment recommendations, including extending the treatment beyond 28 days.

[...] While in treatment at Shepherd Hill, I went home on a weekend pass and immediately began surrounding myself with old friends and going to old places where I had previously used. I relapsed, almost immediately, and when I returned to Shepherd Hill they recommended that I be readmitted for inpatient treatment[...]

Not long after, I had been in inpatient treatment long enough that my insurance stopped paying for additional treatment and I began having to pay for inpatient treatment out of pocket. When I ran out of money, I was forced to step down to intensive outpatient treatment. [...] Shortly after stepping down to the intensive outpatient program, I relapsed again.

9. On or about August 12, 2016, the applicant was Summarily Dismissed from the residency training program. His program director and others worked with him for over four months as he participated in treatment for drug use/abuse. However, he failed to be compliant with the treatment program including not attending scheduled appointments and a second relapse of drug use.
10. On or about September 14, 2016, the State Medical Board of Ohio (the "Ohio Board") issued an Order of Summary Suspension of the applicant's training certificate. The Ohio Board determined there was clear evidence of a violation of the Ohio Medical Practice Act and that his continued practice presented a danger of immediate and serious harm to the public.
11. On or around November 17, 2016, the Ohio Board's Assistant Legal Counsel requested that a Hearing Examiner review the evidence as provided and prepare a report of Proposed Findings and Proposed Order. The Hearing Examiner recommended a revocation of the applicant's training certificate.
12. On or about June 14, 2017, the Ohio Board adopted the Proposed Findings and Proposed Order and revoked the applicant's training certificate. It based the decision upon the applicant's impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair the ability to practice.

13. On or about July 18, 2018, the applicant entered a detoxification program at New Day Recovery. Upon completion, he sought inpatient treatment at Meridian Healthcare from July 25 through August 16, 2018.
14. On or about August 16, 2018, the applicant transferred to the Center for Addiction Treatment in Cincinnati and successfully completed the program. He was diagnosed with Opioid use disorder, Severe; Amphetamine-type substance use disorder, Severe; Generalized anxiety disorder; Unspecified depressive disorder, and Post-traumatic stress disorder.
15. On or around September 2018, the applicant entered into transitional living at Gateway House in Cincinnati. He completed the required twelve (12) weeks of their MAT Clinic's outpatient group therapy as well as twelve (12) weeks of aftercare through the Center for Addiction Treatment.
16. On or about November 15, 2019, the applicant entered into a five (5)-year contract with the Ohio Physician's Health Program ("OPHP") which includes:
  - Random, observed urine drug screens collected under chain of custody;
  - Documented attendance at 12-step mutual support groups;
  - Regular contact with the OPHP case manager, including field visits;
  - Personal completion of quarterly information forms documenting participation in recovery activities and other health related indicators;
  - Quarterly reports completed by his monitor; and
  - Other therapeutic activities as appropriate.
17. On or about December 22, 2020, the applicant submitted an application for license in Ohio.
18. On or about August 19, 2021, the Ohio Board conducted a hearing to determine whether to deny Dr. Brown's application to practice medicine or to take other disciplinary action

considering that he suffers from impairment, the Board previously revoked his training certificate, and he had not engaged in the active practice of medicine since August 2016.

19. On or about November 10, 2021, the Ohio Board granted Dr. Brown's application for a license, provided he takes and passes an approved test of current clinical competency; his license is suspended for an indefinite time; and during the time of suspension, he will comply with terms including sobriety, toxicology screens, and personal appearances. Conditions for reinstatement included compliance with interim conditions and demonstration of ability to resume practice. Once restored, his license will be on probation for at least three years.
20. On or about July 13, 2022, the Ohio Board approved Dr. Brown's application for reinstatement of his license to practice osteopathic medicine and surgery. His license was returned to active status, subject to probationary terms and conditions as stated in the November 10, 2021 Order.
21. On or about September 28, 2022, the Kentucky Physicians Health Foundation ("KPHF") received a letter from OPHP stating the applicant is in compliance with all aspects of his agreement.
22. On or about October 20, 2022, the applicant met with the KPHF Medical Director Tina Simpson, M.D. Dr. Simpson advised the applicant that if he is licensed in Kentucky, he will be required to sign a piggyback contract with KPHF, allowing it to receive compliance reports from OPHP. With these conditions in place, Dr. Simpson does not believe the applicant poses any undue risk to his patients or the public.
23. On June 15, 2023, the applicant was heard by the Board. The applicant does not have any concrete plan to practice in Kentucky but currently practices for an employer in Cincinnati

which maintains some practice locations in Kentucky. He also informed the Board that he has worked for approximately six (6) months in addiction medicine but has no formal training.

24. The Board chose to grant the applicant a license to practice osteopathy in Kentucky, contingent upon him entering into 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. By submitting an application for an osteopathic license to the Board, the applicant is subject to regulation by the Board.
2. KRS 311.571 provides that the Board may deny licensure to an applicant without a prior evidentiary hearing upon a finding that he/she has violated any provision of KRS 311.595 or 311.597, or is otherwise unfit to practice.
3. Based upon the Findings of Fact, the applicant violated the provisions of KRS 311.595(6), (7), (8) and (17). Accordingly, there are legal grounds for the Board to deny licensure, or in the alternative, to enter into this Agreed Order.

#### AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to grant the applicant a license to practice osteopathy in the Commonwealth of Kentucky, subject to conditions set forth herein, the parties hereby ENTER INTO the following **AGREED ORDER**:

1. The license to practice osteopathy in the Commonwealth of Kentucky held by Joshua L. Brown, D.O., is hereby PLACED ON PROBATION for a period of five years, with that period of probation to become effective immediately upon the filing of this Agreed Order.

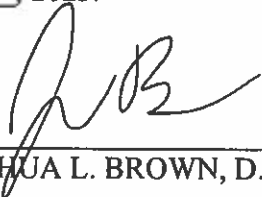
2. During the effective period of this Agreed Order, the applicant's osteopathic license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
- a. Before or simultaneous to the filing of this Agreed Order, the applicant SHALL enter into a contractual relationship with the Kentucky Physicians Health Foundation;
  - b. The applicant SHALL maintain his contractual relationship with the Kentucky Physicians Health Foundation and shall fully comply with all requirements of that contractual relationship until the expiration of this Agreed Order;
  - c. The applicant 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 applicant SHALL ensure that any such medical treatment and prescribing is reported directly to the Board in writing by the treating/prescribing physician within ten (10) days after the date of treatment. The applicant SHALL inform the treating/prescribing physician of this responsibility and ensure timely compliance. The applicant's failure to inform the treating/prescribing physician of this responsibility shall be considered a violation of this Agreed Order;
  - d. The applicant 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 applicant 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 applicant, and the applicant SHALL pay those costs under the terms fixed by the Board's agent for testing. The applicant's failure to fully reimburse the Board's agent within that time frame SHALL constitute a violation of this Agreed Order; and
  - e. The applicant SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The applicant expressly agrees that if he should violate any term or condition of this Agreed Order, the applicant'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 applicant'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 applicant violated a term or condition of this Agreed Order.

4. The applicant 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 28<sup>th</sup> day of June, 2023.


FOR THE LICENSEE:

  
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JOSHUA L. BROWN, D.O.

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COUNSEL FOR THE LICENSEE  
(IF APPLICABLE)

FOR THE BOARD:

  
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WILLIAM C. THORNBURY, JR., M.D.  
PRESIDENT

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