

FILED OF RECORD

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COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2123

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ERIC C. BROWN, M.D., LICENSE NO. 23138, 2853 PROVIDENCE ROAD, PROVIDENCE, KENTUCKY 42450

DEFAULT AND FINAL ORDER

On February 15, 2024, the Kentucky Board of Medical Licensure (“the Board”), acting by and through its Inquiry Panel A, took up this case to consider the licensee’s failure to submit to an examination ordered pursuant to KRS 311.599. At that meeting, Inquiry Panel A considered a memorandum from Stephen Manley, Medical Investigator, dated September 8, 2023; an email chain between Shawn Bright, CEO, Crittenden Community Hospital and Michael S. Rodman, Executive Director, dated March 10 – 13, 2023; correspondence from Shawn Bright, CEO, Crittenden Community Hospital to the licensee, dated February 24, 2023; court documents regarding Case Number 21-T-199 Webster District Court; court documents regarding Case Number 23-M-00048 Crittenden District Court; the licensee’s response, undated; and the Investigative Physician Profile/Background. The licensee was given notice of the February 15 meeting and an opportunity to be heard; he did not appear.

Having considered all of the relevant information available to it and being sufficiently advised, the Panel makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At all relevant times, Eric C. Brown, 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 or about March 13, 2023, the Board received a grievance by email from Shawn Bright, CEO of the Crittenden Community Hospital in Marion, advised the Board of two incidents that occurred in one work shift concerning the licensee. The first pertained to a patient and a confrontation with her husband in the ER. The second involved the assault of a staff member in the ER. Mr. Bright also included a copy of the separation letter the hospital provided to the licensee.
4. On or about October 23, 2023, the Board issued an Order to Submit to Evaluation pursuant to KRS 311.599, to determine whether he has been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or other condition that adversely affects cognitive, motor or perceptive skills or may otherwise be dangerous to patients or to the public. Terms and conditions of said examination were set forth in the Order to Submit to Evaluation.
5. On or about November 9, 2023, the licensee met with the Kentucky Physicians' Health Foundation ("the Foundation") pursuant to the Order. However, the licensee declined to submit to a comprehensive assessment, deemed necessary by the Foundation.
6. The licensee presented to the Foundation that he declines to schedule or complete the ordered impairment assessment and plans to retire.
7. The licensee failed to comply with the terms and conditions set forth in the Order to Submit to Evaluation and failed to demonstrate that his failure to do so was due to circumstances beyond his control.

8. The licensee's failure to submit to the evaluation as ordered pursuant to KRS 311.599 constitutes an admission that he has developed such a physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public.

CONCLUSIONS OF LAW

1. KRS 311.599 provides, in part,
 - (1) When a hearing or inquiry panel has probable cause to believe a physician is suffering from a physical or mental condition that might impede his ability to practice competently, the panel may order the physician to undergo a physical or mental examination by persons designated by the panel.
 - (2) Failure of a physician to submit to such an examination when directed, unless the failure was due to circumstances beyond his control, shall constitute an admission that the concerned physician has developed such a physical or mental disability, or other conditions, that continued practice is dangerous to patients or to the public; said failure shall constitute a default and a final order may be entered without the taking of testimony or presentation of evidence.

...
2. When the Panel issued the Order to Submit to Evaluation in October 2023, it made the requisite findings under KRS 311.599 that there was probable cause to believe that the licensee is suffering from a physical or mental condition that might impede his ability to practice competently.
3. The licensee received notice of the Order to Submit to Evaluation and was aware of the terms and conditions for the scheduling and completion of those evaluations and assessment.
4. The licensee's failure to schedule the comprehensive assessment pursuant to the Order to Submit to Evaluation was not due to circumstances beyond the licensee's control.

5. Pursuant to KRS 311.599, by failing to successfully complete the impairment assessment as directed, the licensee has developed such a physical or mental disability, or other condition that continued practice is dangerous to patients or to the public.
6. Pursuant to KRS 311.599, the licensee's failure to successfully complete an impairment assessment as directed by the Board constitutes a default and this final order may be entered without additional testimony or without presentation of additional evidence.

ORDER OF INDEFINITE RESTRICTION

Based upon the Findings of Fact and Conclusions of Law, Inquiry Panel A hereby

ORDERS:

1. The license to practice medicine in the Commonwealth of Kentucky held by Eric C. Brown, M.D., is hereby RESTRICTED FOR AN INDEFINITE PERIOD OF TIME to begin immediately upon the date of filing of this Order and continuing until further Order of the Panel;
2. During the effective period of restriction, the licensee SHALL NOT engage in 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 – unless and until approved to do so by the Panel; and
3. The licensee SHALL be afforded the opportunity at reasonable intervals to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients and the burden of persuasion on that issue rests solely upon the licensee. The Panel shall not consider any request by the licensee to resume the active practice of medicine unless he has successfully completed an the evaluation as directed by the Foundation and SHALL submit to any and all examinations/evaluations at his expense (including a 96-hour inpatient evaluation at a Foundation-approved facility) deemed necessary by the Foundation in order for it to complete its assessment, and the Board has received a copy of the written report from the Foundation-approved facility. The decision whether to grant a request to resume the active practice of medicine lies solely within the Board's discretion.

SO ORDERED this 21st day of February, 2024.



WAQAR A. SALEEM, M.D.
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Order of Indefinite Restriction 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 Eric C. Brown, M.D., License No. 23138, 2853 Providence Road, Providence, Kentucky 42450., on this 21st day of February, 2024.



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EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, this order shall be effective immediately. 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.