

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2089

OCT 25 2023

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY CLIFFORD FREEMAN, M.D., LICENSE NO. 53171, 2501
KENTUCKY AVE, PADUCAH, KENTUCKY 42003

ORDER OF PROBATION

Pursuant to KRS 311.591(7) and KRS 13B.120, at its October 19, 2023 meeting, the Kentucky Board of Medical Licensure (hereinafter “the Board”), acting by and through its Hearing Panel A, took up this case for final action. The members of Panel A reviewed the Complaint, filed of record February 2, 2023 and the Hearing Officer’s Findings of Fact, Conclusions of Law and Recommended Order, filed of record September 22, 2023. No exceptions having been filed, there were none to review.

Having considered all the information available and being sufficiently advised, Hearing Panel A ACCEPTS AND ADOPTS the hearing officer’s Findings of Fact and Conclusions of Law and ADOPTS those Findings of Fact and Conclusions of Law and INCORPORATES them BY REFERENCE into this Order. (Attachment)

Hearing Panel A FURTHER ACCEPTS AND ADOPTS the hearing officer’s recommended order and in accordance with that recommended order, Hearing Panel A ORDERS:

1. The license to practice medicine in the Commonwealth of Kentucky held by Clifford Freeman, M.D. (“the licensee”), is hereby PLACED ON PROBATION FOR A PERIOD OF FIVE (5) YEARS, with that period of probation to become effective immediately upon the filing of this Order.
2. During the effective period of this Order, the licensee’s Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:


- a. The licensee SHALL maintain a contractual relationship with the Kentucky Physicians Health Foundation and shall fully comply with all requirements of that contractual relationship for the entirety of this period of probation;
 - b. Pursuant to KRS 311.565(1)(v), the licensee SHALL submit payment of a FINE in the amount of \$1,000.00, within one (1) year from entry of this Order;
 - c. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE to the Board the costs of the proceedings in the amount of \$3,407.99, within one (1) year from entry of this Order; and
 - d. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The Panel shall not consider a request to modify or terminate the terms of this Order during the entirety of the period of probation. Any communication by the licensee and/or his agents to the Board attempting to revive this matter or modify or terminate the terms set forth in this Order during the entirety of the period of probation will be returned without being provided or forwarded to any Board member.

SO ORDERED on this 25th day of October, 2023.


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

CERTIFICATE OF SERVICE

I certify that the original of the foregoing Order of Probation was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222 and copies were mailed, first-class postage prepaid, to Keith Hardison, Esq., 2616 Bardstown Road, Louisville, Kentucky 40205; and via certified-mail return receipt requested to the licensee, Clifford Freeman, M.D., License No. 53171, 140 Downing Cove, Paducah, Kentucky 42001, and to the licensee's counsel, Brian R. Good, Esq., Elder & Good PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, Kentucky 40207 on this 25th day of October, 2023.


Nicole A. King
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
502/429-7150

EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order of Probation is received by the licensee or the licensee's attorney, whichever shall occur first.

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 or Assistant 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.

SEP 22 2023

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2089

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IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY CLIFFORD FREEMAN M.D. LICENSE NO. 53171, 2501
KENTUCKY AVE. PADUCAH KY 42003

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

INTRODUCTION

This matter is before the hearing officer for the issuance of Findings of Fact, Conclusions of Law and Recommended Order, following an administrative hearing conducted on August 28, 2023. Hon. Nicole A. King represented the Kentucky Board of Medical Licensure (the "Board") and Hon. Brian Good represented the licensee, Dr. Clifford Freeman, M.D., who was present throughout the hearing.

This matter arises from a *Complaint* issued by the Board on February 2, 2023, alleging that Dr. Freeman violated KRS 311.595(4) and (7) based upon a set of facts and circumstances that were brought to the Board's attention in an anonymous grievance. The factual basis for these allegations was Dr. Freeman's conviction in the McCracken Circuit, upon his plea of guilty, of a Class B misdemeanor offense, specifically, Second Degree Disorderly Conduct and that Dr. Freeman had become a chronic and persistent alcoholic. The factual basis for this second allegation included his behavior and actions in the incident that led to his arrest on July 1-2, 2022, for charges that ultimately led to his conviction and his subsequent diagnosis of Alcohol Abuse Disorder; Severe.

By *Opinion and Order* dated May 11, 2023, the hearing officer granted the Board's Motion for Summary Disposition, in part, finding that there was no genuine issue of fact as to the allegation that Dr. Freeman had entered a guilty plea to a crime, specifically, Second Degree Disorderly Conduct and that summary disposition was appropriate. The hearing officer determined that there were genuine

issues of potentially material facts as to the allegation that Dr. Freeman had become a chronic and persistent alcoholic and therefore summary disposition was not appropriate as to this allegation. The hearing proceeded on August 28, 2023, as to the issue of whether a violation of KRS 311.595 (7) has occurred.

After considering the testimony of the witnesses, the exhibits admitted into evidence and the arguments of counsel, the hearing officer finds that Dr. Freeman is guilty of the allegations of misconduct against him and recommends the Board take appropriate action against Dr. Freeman's license for these violations. In support of this recommendation the hearing officer submits the following findings of fact, conclusions of law and recommended order:

FINDINGS OF FACT

1. At all times relevant to this matter Dr. Freeman was licensed to practice medicine in the Commonwealth of Kentucky. His medical specialty is Emergency Medicine. *Complaint* ¶¶ 1-2; *Answer* ¶ 1; DVD 9:13 am - 9:14 am¹
2. As of early July 2022 he was employed in the Emergency Department at Baptist Health Hospital in Paducah, Kentucky, where he lived with his wife and children. Exhibit 4
3. Following an event that occurred on July 1, 2023 and continued into the early morning hours of July 2, 2023, Dr. Freeman contacted the offices of the Kentucky Physician's Health Foundation ("KPHF") and was evaluated there by Dr. Tina S. Simpson M.D. on July 14, 2022. Following a thorough personal and family history and standard testing, it was determined that he had an "unhealthy relationship with alcohol" and needed residential treatment at a facility that specialized in the treatment and evaluation of healthcare professionals. Dr. Freeman does not dispute or disagree with the findings of this evaluation. *Complaint* ¶ 6; *Answer* ¶ 1; DVD 1:02 pm - 1:05 pm and 9:15 am - 9:16 am

¹ In this document "DVD" is the video recording of the administrative hearing and the time reference is that shown on the recording.

4. In addition, Dr. Freeman and Dr. Simpson agreed that, based upon this evaluation, he should not engage in the clinical practice of medicine until he receives the prescribed treatment. Dr. Simpson indicated that once this diagnosis is made, further episodes of problem drinking were possible and she can't be sure that the physician is safe to practice medicine again until treated. *Complaint ¶ 6; Answer ¶ 1*; DVD 1:09 pm - 1:10 pm

5. His issues with alcohol abuse were present for some time before the evaluation and had been gradually increasing before the events of July 1 - 2, 2022, which prompted him to seek help. They were noticeably increasing following a point in time when Dr. Freeman was called upon to treat the victims of the tornado in Mayfield. DVD 1:08 pm - 1:10 pm

6. He was admitted to the Florida Recovery Center ("FRC") on July 20, 2022, and diagnosed with Alcohol Use Disorder, Severe. Dr. Freeman does not dispute this diagnosis *Complaint ¶ 7; Answer ¶ 1*; DVD 10:04 am - 10:10 am

7. Dr. Freeman completed treatment at FRC on October 13, 2022. He has "embraced" and been following an aftercare plan and contract with KPHF. He is doing quite well and is in compliance with the requirements of that contract. DVD 1:05 pm - 1:06 pm

8. After receiving residential treatment Dr. Freeman was able to return to work in April 2023 at CHI Saint Joseph Health System, Lexington Clinic, in Lexington Kentucky. Exhibit 4; DVD 9:13am - 9:14am

9. The events that led to his realization that he had an alcohol abuse problem occurred on the night of July 1, 2022, into the early morning hours of July 2, 2022. Dr. Freeman was drinking heavily to the point that he was demonstrating signs of being manifestly under the influence of alcohol. He was at home with his wife and three children. The children had gone to bed when the incident occurred. Exhibits 7 and 8; DVD 9:16 am - 9:18 am, 9:26 am - 9:29 am, 9:34 am - 9:35 am, 10:32 am - 10:33 am, 10:41 am - 10:42 am, 10:44 am - 10:45am and 11:36 am - 11:37 am

10. He was sitting on his couch exchanging text message with the women with whom he was having an extramarital affair. His wife Shaylon came up behind him and saw what he was doing. She grabbed his phone from him and held it behind her and ran into another room. He followed her attempting to retrieve it and in the process unintentionally scratched her neck. They “tussled” over the phone and a verbal argument ensued in which Dr. Freeman said “mean and hateful” things to her including that he was going to divorce her. DVD 9:18 am – 9: 19 am, 9:27 am - 9:28 am, 9:30 am - 9:31am, 9:34 – 9:35 am, 9:59 am – 10:00 am, 10:32 am - 10:35 am and 11:05 am - 11:06 am

11. This argument led Shaylon to flee to the back yard with the phone. Dr. Freeman followed her. Dr. Freeman’s attempts to get the phone back from her led them both to end up on the rough terrain of the back yard. Shaylon incurred scratches on her knees by crawling around looking for the lost cell phone. DVD 10:33 am - 10:34 am and 10:42 am- 10:43 am

12. The argument lasted approximately 30 minutes, with the “tussle” over the phone lasting about 5 minutes. DVD 9:54 am – 9:55 am

13. Shaylon fled back into the house and locked the door. Dr. Freeman followed her. He had to remove a panel from the door to regain entry into the house. This all occurred while the Freeman children were asleep upstairs. One of them woke up and asked to go to the bathroom during this incident. DVD 9:26 am – 9:27 am, 9:31 am - 9:32 am and 10:34 am -10:35am

14. Shaylon fled down the street to the home of her aunt and uncle and called 911. Two deputies from the McCracken County Sheriff’s Office arrived first followed by Officer Cupp from the Police Department. DVD 9:55 am – 9:57 am

15. Officer Cupp conducted the investigation and based upon his interviews with Dr. Freeman and Shaylon Freeman, along his observations from the scene, arrested Dr. Freeman. He charged Dr. Freeman with Strangulation in the First Degree and Assault Fourth Degree (Domestic Violence) Minor

Injury and lodged him in the Marshall County Jail.² Exhibit 7 and 8; DVD 11:29 am - 11:34 am and 11:39 am – 11:41 am

16. Dr. Freeman denies that he physically assaulted his wife or caused any injury or harm to her, other than the scratch on her neck that did not require medical treatment. DVD 9:59 am – 10:00 am

17. Dr. Freeman posted \$1500 cash bond and was released from custody. As conditions of his release he was directed to, among other things, have “no contact with alleged victim or complaining witness” and have “no contact with location of alleged offense”. As a result, following his release from jail, Dr. Freeman stayed with his sister until he entered residential treatment. This order stayed in effect approximately 2 months until the charges were dismissed on August 30, 2022. He only saw his son once during this time when he took him to lunch. Exhibit 2; DVD 9:50 am -9:53 am

18. Following this incident Dr. Freeman met with his employer and together they decided that it would be advisable for him to take a leave of absence. As a result Dr. Freeman supported himself by working with a fire department and as a janitor He returned to emergency department work with the Lexington Clinic in April of 2023 after he had dealt with his legal matters and gone through residential treatment. DVD 9:13 am – 9:16 am and 10:18 am - 10:19 am

19. The matter came on before the McCracken District Court for a preliminary hearing on August 30, 2022, and Ms. Freeman testified. She recanted and retracted certain specific portions of her statement to Officer Cupp on the night in question and continues to deny that her husband physically assaulted her or caused her any injury.³ As a result the McCracken District Court dismissed the charges against Dr. Freeman. Exhibit 5; 10:36 am - 10:37am

² Ms. Freeman admits that during the investigation she told Officer Cupp substantially what appears in his report (Exhibit 7). Dr. Freeman denied physically assaulting his wife but otherwise purported to remember very little about the incident DVD 10:43 am – 10:44 am and 11:38am – 11:40 am

³ Ms. Freeman testified that she too was intoxicated that night, was “intimidated” by the law enforcement officer and assuming that she and her husband were headed for a divorce, she wanted to gain whatever advantage she could in any future custody proceedings. Arresting Officer Cupp disputes the claim that she was intoxicated or intimidated. Resolution of these disputed facts is not however necessary to the ultimate outcome of this proceeding. Exhibits 5 and 6; DVD 10:36 am -10:37am, 10:57 am – 11:00 am and 11:37 am – 11:38 am

20. Officer Cupp, who had not been present the probable cause hearing, approached the local Commonwealth Attorney who took the case before the McCracken County Grand Jury which returned and indictment for Second Degree Strangulation (Class D Felony) and Fourth Degree Assault (Class A Misdemeanor). DVD 11:41 am – 11:43 am and 11:55 am – 11:56 am

21. Dr. Freeman subsequently pled guilty to an amended charge of Second Degree Disorderly Conduct. The Strangulation charge was dismissed. He was sentenced to one (1) day in jail, fined \$250 and ordered to comply with “the conditions set forth by the Kentucky Physicians Health Foundation. Exhibit 1; DVD 11:56 am – 11:57 am; See *Opinion and Order* dated 5/13/23

22. This incident was picked up and reported in the local media which included identification of his employing hospital. Dr. Freeman and his wife both received communication from members of the local community concerning this incident. DVD 9:35 am - 9:40 am, 10:44 am - 10:46 am, 11:07 am - 11:08 am and 11:11 am – 11:12 am.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this action pursuant to KRS 311.591 and KRS 311.595.
2. The administrative hearing was conducted in accordance with KRS Chapter 13B and KRS 311.591.
3. Under KRS 13B.090 (7), the Board had the burden to prove the allegations against Dr. Freeman by a preponderance of the evidence.
4. Pursuant to KRS 311.595 (4), a physician is subject to discipline if he is convicted (including by the entry of a plea of guilty) of a “...crime as defined in KRS 335B.010, if in accordance with KRS Chapter 335B.”

5. In an *Opinion and Order* dated May 13, 2023, the hearing officer determined, based upon the record before him, that there was no genuine issue of material fact and summary disposition was appropriate as to the allegation that Dr. Freeman has violated KRS 311.595 (4).

6. KRS 311.595 (7) also authorizes disciplinary action against a licensee who has “becomes a chronic or persistent alcoholic”. KRS 311.550(25) defines a “chronic or persistent alcoholic” as:

... an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in interference with the individual’s social or economic functions in the community or the loss of power of self-control regarding the use of alcoholic beverages.

7. Based upon the findings above, the hearing officer concludes that the Board has proven, by a preponderance of the evidence, that Dr. Freeman suffers from a “medical diagnosable disease characterized by chronic, habitual consumption of alcoholic beverages.

8. Additionally, Dr. Freeman admits that he suffers from such disease. *Complaint* ¶ 6; *Answer* ¶ 1 DVD 9:06 am – 9:07 am

9. Based upon the findings of fact above, which are again not disputed in any significant fashion, the hearing officer concludes that the Board has proven, by a preponderance of the evidence, that Dr. Freeman’s consumption of alcoholic beverages interfered with his economic functions in the community in that his disease caused him to be unable to practice medicine, which resulted in his being unemployed and/or underemployed for approximately 10 month while he sought treatment and dealt with the legal issues surrounding his behavior on the night of July 1, 2022.

10. Based upon the undisputed findings of fact as set forth above, the hearing officer concludes that the Board has proven, by a preponderance of the evidence that Dr. Freeman’s consumption of alcoholic beverages resulted in interference with his social functions in the community in that his family life was disrupted while the charges were pending. His behavior also resulted in negative press

coverage for him, his family and his employer.

11. Based upon the findings of fact above, which are not significantly disputed, the hearing officer concludes that the Board has proven, by a preponderance of the evidence, that Dr. Freeman's consumption of alcoholic beverages resulted in behavior indicating the loss of the "power of self-control". Dr. Freeman admits that the events of July 1 - 2, 2023, as they relate to his words and actions toward his wife, were the result of his overconsumption of alcohol.

12. Dr. Freeman acknowledges that he meets the statutory definition of a "chronic and persistent alcoholic" as set forth in KRS 311.550(25). DVD 9:06 am – 9:07 am

13., Accordingly and for the above stated reasons the hearing officer concludes that the Board has proven, by a preponderance of the evidence, that Dr. Freeman is subject to discipline for violation of KRS 311.595 (7).

14. Pursuant to KRS 311.595 this discipline may include placing a licensee on probation for a period not to exceed five (5) years, suspending the physician's the license for a period of not to exceed five (5) years, limiting or restricting a physician's license for an indefinite period or revoking the physician's license.

RECOMMENDED ORDER

Based upon the foregoing findings of fact and conclusions of law, the hearing officer recommends the Board find Dr. Freeman guilty of violating KRS 311. 595 (4) and KRS 311.595(7), and impose any appropriate sanction for these violations.

NOTICE OF RIGHT TO FILE EXCEPTIONS AND TO APPEAL

Pursuant to KRS 13B.110 (4), a party has the right to file exceptions to this recommended decision.

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party. Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal the circuit court will consider only the issues a party raised in written exceptions.

A party also has the right to appeal the Final Order of the agency pursuant to KRS 13B.140 (1 - 2) which states:

- (1) Except as provided in KRS 452.005, all final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the date of the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. 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. The petition shall be accompanied by a copy of the final order.
- (2) A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

Pursuant to KRS 23A.010 (4), "Such review (by Circuit Court) shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

So RECOMMENDED this 22nd day of September 2023

Keith Hardison

KEITH HARDISON
HEARING OFFICER
2616 BARDSTOWN RD.
LOUISVILLE KY 40205
(502) 432-2332
hardisonkcith@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that the original of this **FINDINGS OF FACT CONCLUSIONS OF LAW AND RECCOMENDED ORDER** was hand delivered for filing this 22nd day of September 2023, to:

MS. JILL LUN
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222

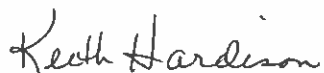
for filing; a true copy was hand delivered this same date to:

HON. NICOLE A. KING
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and a true copy was mailed first class mail, postage prepaid this same date to

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A courtesy copy was also sent this same date via email to bgood@eldergood.com



KEITH HARDISON
HEARING OFFICER