

AUG - 7 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2114

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY TROY L. POTTHOFF, M.D., LICENSE NO. 53056,
1551 ALA WAI BOULEVARD, UNIT 1803, HONOLULU, HAWAII 96815

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter “the Board”), acting by and through its Inquiry Panel B, and Troy L. Potthoff, M.D. (hereafter “the licensee”), and, based upon their mutual desire to 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, Troy L. Potthoff, M.D. (“the licensee”), was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is Family Medicine.
3. The licensee is also licensed by the Washington Medical Commission (“Washington Board”).
4. On or about May 25, 2023, the Washington Board found that the licensee violated Washington statutes based upon “free” genetic testing being offered to several patients via telemedicine where the licensee was the referring provider, although he had never examined the patients, and the patients’ insurance carriers were billed thousands of dollars and the patients never received results of the testing.
5. The licensee and the Washington Board stipulated to terms including, in pertinent part,

- a. The licensee must successfully complete a minimum of eight (8) hours of a comprehensive continuing medical education (CME) course, pre-approved by the Commission or its designee, regarding telehealth best practices.
 - b. The licensee must submit a paper. The paper must be a minimum of one thousand (1,000) words, typewritten in the licensee's original words and sentence structure, contain a bibliography, refer to any relevant CME completed, including ethical considerations of telehealth, and state how the licensee intends to apply what he learned in his practice.
 - c. The licensee must pay two thousand dollars (\$2,000) to the Commission as partial reimbursement of some of the costs of investigating and processing this matter.
6. The Board received notice of the Washington Board action via a report from the Federation of State Medical Boards. The licensee did not report the disciplinary action taken by the Washington Board within ten days of the May 25, 2023 Stipulation for Informal Disposition as required by 201 KAR 9:081(9)(2)(a)(2). Further, the licensee did not provide this Board a copy of the order issued by the Washington Board within ten days of the May 25, 2023 Stipulation for Informal Disposition.
7. The licensee agreed to enter into this Agreed Order, in lieu of the issuance of a Complaint.

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 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(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. During the effective period of this Agreed Order, the licensee's medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
 - a. Pursuant to KRS 311.565(1)(v), the licensee SHALL submit payment of a FINE in the amount of \$1,000.00, within three (3) months of the filing of this Agreed Order;
 - b. The licensee SHALL provide the Board documentation that he completed the comprehensive continuing medical education ("CME") course required in Washington's Stipulation to Informal Disposition and provide the Board a copy of the paper that he is required to submit related to the CME, within three (3) months of the completion thereof; and
 - c. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
2. Upon verification of full payment of the fine in the amount of \$1,000.00 and receipt of the CME documentation and related paper, the Board agrees to terminate this Agreed Order.
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 6th day of August, 2023.

FOR THE LICENSEE:



TROY L. POTTHOFF, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



WILLIAM C. THORNBURY, JR., M.D.
ACTING CHAIR, INQUIRY PANEL B



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