

FILED OF RECORD

APR 12 2024

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. PA-54

IN RE: THE LICENSE TO PRACTICE AS A PHYSICIAN ASSISTANT IN THE COMMONWEALTH OF KENTUCKY HELD BY SCOTT WILKES, P.A.-C, LICENSE NO. PA3388 166 SAINT WILLIAM DRIVE, LEXINGTON, KENTUCKY 40502

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (“the Board”) and Scott Wilkes, P.A.-C (“the applicant”), and, based upon their mutual desire to grant the applicant a license to practice as a Physician Assistant 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, Scott Wilkes, P.A.-C, was an applicant for a license to practice as a Physician Assistant within the Commonwealth of Kentucky.
2. On or about August 9, 2023, the applicant submitted an application for a license to practice as a Physician Assistant in the Commonwealth of Kentucky.
3. The applicant answered “yes” to Question 3, Category 1 of the application, which asked, “Have you been convicted of a felony or misdemeanor by any State or Federal court? Are any criminal charges presently pending against you in those courts?”
4. The applicant explained, in part,

With regard to question 3 on category 1 of the application, the events occurred 17-18 years ago, and neither my lawyer or I have the exact dates. My record has been expunged and/or sealed. During the first two years of college, I attended Eastern Kentucky University in a period of my life characterized by immaturity and lack of

direction; I made poor choices. When leaving off-campus parties, I was arrested for alcohol intoxication and possession of marijuana.

[...]

Before I transferred to the University of Kentucky in 2006, I was living off campus [...] and my roommate began selling marijuana to classmates. I did not separate myself from this illegal behavior and we were caught. This resulted in a trafficking charge and serious consequences. With the help of an attorney and numerous letters from my Scoutmaster (I earned my Eagle scout award) and my pastor written on my behalf, my charges were diverted. As a result, I was placed on supervised probation, required community service, and randomly drug tested for five years.

5. The applicant answered “yes” to Question 9, Category I 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?”

6. The applicant explained, in part,

[T]he circumstances took place in 2020. Prior to my acceptance into PA school at the University of Kentucky, I worked as a Certified Nursing Assistant at Baptist Health. [...] I was working third shift as a patient care technician and I was asked to take a drug test at the hospital. This test showed THC from previous use - I was never under the influence of any drug while working. When my supervisor met with me, she told me I was terminated; however, I was also told that I was a good employee and was eligible for rehiring at Baptist.

7. After the applicant had already submitted his application, he informed the Board of another criminal action which occurred in or around January 2021. He stated,

The charge of alcohol intoxication came after I had been to a bar in Lexington with my PA classmates and overindulged. When I left the bar, I had no intention of driving, so I called a friend to take me home and went to my car to wait because it was snowing and nothing was open. An officer pulled up behind my parked car and found me waiting in the driver's seat with the car keys in the back seat. I was cited for alcohol intoxication.

8. On or about September 7, 2023, the Board sent the applicant a letter informing him that he must contact the Kentucky Physician's Health Foundation ("the Foundation" or "KPHF") for an evaluation after reviewing his application for licensure as a Physician Assistant.
9. On or about September 20, 2023, Dr. Tina Simpson, Medical Director of the Foundation, met with the applicant and took a detailed history of the events that led to his referral, as well as a thorough personal and familial health history. Immediately following the interview, the applicant submitted to the Foundation's standard drug and alcohol testing, the results of which were positive for high levels of alcohol metabolites and did not corroborate the information he shared at that interview. Based on these findings, the Foundation determined a more thorough evaluation was needed to rule out the possibility of a substance use disorder that could impact the applicant's ability to safely practice.
10. Rather than submit to the evaluation process, the applicant decided to go directly to treatment. On or about October 22, 2023, the applicant was admitted to Pavillon and successfully discharged on December 19, 2023. Pavillon diagnosed the applicant with Alcohol use disorder, Moderate and Cannabis use disorder, Moderate. Pavillon found no cognitive impairments and recommended he be released to practice as described below:
 - a. Attends and complies with his outpatient continuing care referral and the therapeutic process.
 - b. Demonstrates compliance with daily 12-step meeting attendance, within the first 90 days following residential treatment at Pavillon, as a part of his scheduled support group compliance.
 - c. After attending 90 meetings in 90 days, Scott will continue to attend AA/NA meetings as required to remain compliant with his Kentucky Physicians Health Foundation (KPHF) monitoring agreement.
 - d. Join a home group and obtain a sponsor within one month of discharging from Pavilion.
 - e. Demonstrate compliance and cooperation with all monitoring agreement requirements of KPHF.

- f. Comply with regular toxicology screenings or additional verification of his recovery as outlined in his monitoring agreement.
- g. Maintain contact with KPHF, via telephone or face-to-face contact as established by his monitoring agreement.

11. On or about December 20, 2023, the applicant signed a five-year contract with the Foundation, and the components are as follows:

- Documented attendance at no less than 12 recovery meetings per month;
- Ongoing relationship with an AA sponsor;
- Participation in a healthcare professionals aftercare group;
- Individual therapy;
- Medication management with a Foundation-approved provider; and
- Random, observed drug screens and alcohol determinations.

The Foundation will also obtain professional accountability reports from a contact at his primary worksite.

12. The applicant was given notice of the Board meeting on March 21, 2024, and the applicant did not appear. The Board chose to grant the applicant a license to practice as a Physician Assistant in Kentucky, contingent upon his 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 Physician Assistant license to the Board, the applicant is subject to regulation by the Board.
2. KRS 311.850 provides that the Board may deny licensure to an applicant upon a finding that the applicant has violated any provision of KRS 311.850.

3. Based upon the Stipulations of Fact, the applicant violated the provisions of KRS 311.850(e) and (f). 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 as a Physician Assistant 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 as a Physician Assistant in the Commonwealth of Kentucky held by Scott Wilkes, P.A.-C 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 Agreed Order.
2. During the effective period of this Agreed Order, the applicant's physician assistant 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;
 - e. The applicant SHALL return to Pavillon for relapse prevention, currently scheduled for September 16-20, 2024; and
 - f. 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 311.852 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 311.852 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 311.850(1)(o), and may provide a legal basis for criminal prosecution for practicing as a Physician Assistant without a license.

SO AGREED on this 10 day of April, 2024.

FOR THE LICENSEE:

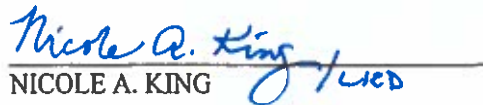

SCOTT WILKPS, P.A.-C

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



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


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