

FILED OF RECORD

MAR 26 2024

K.B.M.L

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2150

IN RE: THE APPLICATION TO PRACTICE MEDICINE IN THE COMMONWEALTH  
OF KENTUCKY FILED BY JAMES BAILES, JR., M.D., LICENSE NO. 59195  
324 WOODLOMOND WAY, HUNTINGTON, WEST VIRGINIA 25705

**AGREED ORDER**

Come now the Kentucky Board of Medical Licensure ("the Board") and James Bailes, Jr., M.D. ("the applicant"), and, based upon their mutual desire to grant the applicant a license to practice medicine 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 relevant times, James Bailes, Jr., M.D. was an applicant for a medical license within the Commonwealth of Kentucky.
2. The applicant's medical specialty is Pediatrics.
3. On or about November 3, 2023, the applicant submitted an application for a license to practice medicine in the Commonwealth of Kentucky.
4. 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?"

5. On or about May 26, 2022, the West Virginia Board of Medicine (“West Virginia Board”) and the applicant entered into a Consent Order relating to his prescribing of controlled substances to three non-pediatric family members without maintaining medical records to justify the course of treatment. The pertinent findings of fact are as follows:

On May 16, 2021, the Complaint Committee of the Board authorized Initiated Complaint No. 21-45-W against Dr. Bailes based upon his self-report to the Board that, in September 2019, October 2020 and January 2021, he issued three prescriptions for controlled substance medications to Individual A, his immediate family member.

The Committee's investigation of Complaint No. 21-45-W confirmed Dr. Bailes' self-report and identified two additional controlled substance prescriptions he prescribed to Individual A in 2017.

Committee's investigation also determined that Dr. Bailes also prescribed controlled substances to two additional family members, Individuals B and C.

Dr. Bailes prescribed a Schedule II controlled substance to Individual B on four occasions: once in 2017; twice in 2018; and once in 2019.

Between July 2018 and October 2020, Dr. Bailes issued Individual C fifteen prescriptions for Schedule II controlled substances.

Individuals A, B and C were all over the age of 18, and not pediatric patients, when Dr. Bailes prescribed controlled substances medications to them.

Dr. Bailes met with the Complaint Committee on March 13, 2022, for a full and frank discussion of his conduct and his controlled substance prescribing to family members.

Dr. Bailes acknowledges that he failed to maintain a medical record for Individuals A, B and C. Further, Dr. Bailes failed to convey relevant information to the family members' primary care physician(s) regarding his treatment of Individuals A, B and C.

Dr. Bailes acknowledges deficits in his judgment and decision-making in prescribing controlled substance medications to three family members and in failing to maintain medical records to justify the course of treatment.

6. Pursuant to the Consent Order, the West Virginia Board publicly reprimanded the applicant and prohibited him from prescribing controlled substances to himself or immediate family members.
7. On or about December 6, 2022, the applicant entered into a Consent Agreement with the State Medical Board of Ohio ("Ohio Board") due to the action taken by the West Virginia Board. The Ohio Board reprimanded the applicant, fined him \$5,000.00, and required him to complete additional CMEs on prescribing controlled substances. The Ohio Board released the applicant from probation effective January 10, 2024.
8. The applicant was given notice of the Board meeting on March 21, 2024. The Board voted to grant the applicant's application, contingent upon the applicant 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. The American Medical Association's Code of Medical Ethics, Opinion 1.2.1

*Treating Self or Family*, states in part,

In general, physicians should not treat themselves or members of their own families. However, it may be acceptable to do so in limited circumstances: (a) In emergency settings or isolated settings where there is no other qualified physician available. In such situations, physicians should not hesitate to treat themselves or family members until another physician becomes available. (b) For short-term, minor problems.

2. By submitting his application for medical license to the Board, the applicant's medical license is subject to regulation and discipline by the Board.

3. KRS 311.571 provides that the Board may deny licensure to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice.
4. Based upon the Stipulations of Fact, the applicant has engaged in conduct which violates the provisions of KRS 311.595 (17). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.
5. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending matter 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, as an express condition of the Board approving Dr. James Bailes, Jr.'s Application for License to Practice Medicine in the Commonwealth of Kentucky, the parties hereby ENTER INTO the following **AGREED ORDER**:

1. The license to practice medicine in the Commonwealth of Kentucky held by JAMES BAILES, JR., M.D., 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 medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
  - a. Beginning immediately, the applicant SHALL maintain a "controlled substances log" for all controlled substances prescribed, dispensed or otherwise utilized for Kentucky patients. The controlled substances log SHALL include date, patient name, patient complaint, medication prescribed, when it was last prescribed and how much on the last visit. Note: All log sheets shall be consecutively numbered, legible i.e. printed

or typed, and must reflect "call-in" and refill information. Prescriptions shall be maintained in the following manner: 1) patient; 2) chart; and 3) log;

- i. The applicant SHALL permit the Board's agents to inspect, copy and/or obtain the controlled substance log and other relevant records, upon request, for review by the Board's agents and/or consultants;
  - ii. The applicant SHALL reimburse the Board fully for the costs of any consultant review performed pursuant to this Agreed Order. Once the Board receives the invoice from the consultant(s) for any review, it will provide the applicant with a redacted copy of that invoice, omitting the consultant's identifying information. The applicant SHALL pay the costs noted on the invoice within thirty (30) days of the date on the Board's written notice. The applicant's failure to fully reimburse the Board within that time frame SHALL constitute a violation of this Agreed Order;
- b. The applicant SHALL NOT prescribe, dispense, administer, or otherwise professionally utilize controlled substances to any persons who are himself or immediate family members. For purposes of this Agreed Order, the term "immediate family members" includes the applicant's:
- Parents, including stepparents;
  - Spouse and parents thereof;
  - Siblings and spouses thereof;
  - Children by blood, adoption, or marriage and spouses thereof;
  - Grandparents; and
  - Grandchildren by blood, adoption, or marriage;
- c. The applicant shall only prescribe controlled substances for a legitimate medical reason to patients (who are not his immediate family members) that are under his professional and medical care during the course of Dr. Bailes' normal and customary pediatric medical practice;
- d. Within twenty (20) days of the date of filing of this Order, the applicant SHALL read Current Opinion 1.2.1 of the American Medical Association's Code of Medical Ethics, in its entirety, and SHALL FULLY COMPLY with its provisions; and
- e. The applicant SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

SO AGREED on this 25 day of March, 2024.

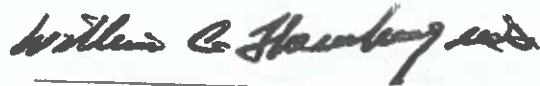
FOR THE APPLICANT:



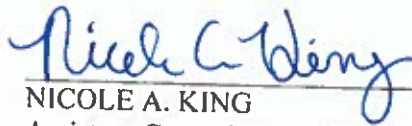
JAMES BAILES, JR., M.D.

COUNSEL FOR THE APPLICANT  
(IF APPLICABLE)

FOR THE BOARD:



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



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