

FILED OF RECORD

JUN 28 2024

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2167

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY NOLAN S. SMITH, M.D., LICENSE NO. R6838, 550 SOUTH JACKSON STREET, ACB 1ST FLOOR, LOUISVILLE, KENTUCKY 40202

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (“the Board”) and Nolan S. Smith, M.D. (“the applicant”), and, based upon their mutual desire to grant the applicant a residency 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 times, Nolan S. Smith, M.D., was an applicant for a residency license to practice medicine within the Commonwealth of Kentucky.
2. The applicant’s medical specialty is orthopaedic surgery.
3. On or about April 1, 2024, the applicant submitted an application for a residency license to practice medicine in the Commonwealth of Kentucky.
4. The applicant answered “yes” to Question 11, Category 1 of the application, which asked, “Have you ever been convicted of a felony or misdemeanor by any State, Federal or International court?”
5. On or about April 1, 2021, while the applicant was a medical student, he was arrested and charged with reckless driving, operating a vehicle while intoxicated endangering a person, and operating a vehicle while intoxicated.

6. On or about January 19, 2022, the applicant entered a plea agreement in *State of Indiana v. Nolan Sledge Smith*, 10C03-2104-CM-000434, and pled guilty to reckless driving, a misdemeanor class C.
7. The applicant voluntarily submitted to treatment at Florida Recovery Center and was discharged with a diagnosis of Alcohol Use Disorder, moderate, dependence.
8. On or about May 7, 2024, Tina F. Simpson, M.D., Medical Director of the Kentucky Physicians Health Foundation (“KPHF”), informed the Board that the applicant signed a five-year aftercare and monitoring contract with the KPHF on October 7, 2021 and the components are as follows:

- Documented attendance at no less than 12 recovery meeting per month
- Ongoing relationship with a 12 Step sponsor
- Participation in a healthcare professionals aftercare group
- Individual therapy
- Random, observed drug screens and alcohol determinations
- Professional accountability obtained through interval reports from a contact within his residency training program

Since then, the applicant has remained in complete compliance with KPHF’s directives.

His therapeutic and professional reports have been positive, and all drug screens and alcohol determination results have been appropriate.

9. The applicant explained his affirmative response to the application and his steps toward recovery, stating in pertinent part, as follows:

My treatment and monitoring programs have been beneficial for my overall well-being, both professionally and personally. I am encouraged that these actions will set me up for a successful career in medicine. These actions are representative of my commitment to better myself and take care of the community as well.

10. The Board chose to grant the applicant a resident training license to practice medicine in Kentucky, contingent upon him 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 a residency medical license to the Board, the applicant is subject to regulation by the Board.
2. KRS 311.571 provides that the Board may deny licensure to an applicant without a prior evidentiary hearing upon a finding that he/she has violated any provision of KRS 311.595 or 311.597, or is otherwise unfit to practice.
3. Based upon the Findings of Fact, the applicant violated the provisions of KRS 311.595(4) and (7). 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 residency license to practice medicine 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 medicine in the Commonwealth of Kentucky held by Nolan S. Smith, 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. 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; and
 - e. 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 311.592 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 applicant'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 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 311.595(13) and may provide a legal basis for criminal prosecution for practicing medicine without a license.

SO AGREED on this 27 day of June, 2024.


FOR THE LICENSEE:




NOLAN S. SMITH, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



DALE E. TONEY, M.D.
ACTING PRESIDENT



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