

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1752

MAR 25 2019

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY CHARLES R. NOPLIS, M.D., LICENSE NO., 44044, 9702 STONESTREET ROAD, SUITE 120, LOUISVILLE, KENTUCKY 40272

ORDER OF PROBATION

At its March 21, 2019, meeting, the Kentucky Board of Medical Licensure (hereinafter “the Board”), acting by and through its Hearing Panel B, took up this case for final action. The members of Hearing Panel B reviewed the Complaint, filed of record September 2, 2016; the Hearing Officer’s Findings of Fact, Conclusions of Law and Recommended Order, filed of record March 30, 2017; the licensee’s Exceptions, filed of record April 12, 2017; the Panel’s Order of Remand, filed of record May 19, 2017; the Hearing Officer’s Order Granting the Board’s Renewed Motion and Submitting the Case to the Board for a Final Order, filed of record January 25, 2019; and a February 11, 2019 memorandum from the Board’s counsel.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS 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 B FURTHER ACCEPTS AND ADOPTS the hearing officer’s recommended order and in accordance with that recommended order, Hearing Panel B ORDERS:

1. The license to practice medicine held by Charles R. Noplis, M.D., is hereby placed on PROBATION for a period of five (5) years.
2. During the effective period of this Order of Probation, the licensee’s medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- a. Within thirty (30) days of the filing of this Order, the licensee shall contact Vanderbilt Medical Center (“Vanderbilt”), 1601 23rd Avenue South, Nashville, Tennessee 37212, Tel. (615) 322-4567, Fax (615) 322-7526, and schedule an assessment through the *Vanderbilt Comprehensive Assessment Program for Professionals*;
 - b. Within six (6) months of the date of filing of this Order, the licensee shall complete the *Vanderbilt Comprehensive Assessment Program for Professionals*;
 - c. The licensee shall travel to Vanderbilt and participate in and complete the *Vanderbilt Comprehensive Assessment Program for Professionals* as scheduled and as directed by Vanderbilt, at the licensee’s expense;
 - d. The licensee shall complete any waiver/release necessary to ensure that the Board shall receive a copy of any and all *Vanderbilt Comprehensive Assessment Program for Professionals* assessment reports for review;
 - e. If Vanderbilt recommends any further evaluation or corrective or therapeutic action, the licensee shall take all necessary steps to immediately comply with and complete such recommendations’ within five (5) years of the filing of this Order, at the licensee’s expense, and he shall complete any waiver/release necessary to ensure that the Board shall receive copies of any and all reports related to those further evaluations or actions;
 - f. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE to the Board the costs of the proceedings in the amount of \$9,659.40 within five (5) years of the date of filing of this Order; and
 - g. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee may request and the Board may consider termination of this final Order of Probation before the expiration of five (5) years, upon submission of proof of the licensee’s successful compliance with all terms and conditions set forth in ¶¶2(a)-(g) above.

SO ORDERED on this 25th day of March, 2019.



SANDRA R. SHUFFETT, M.D.
CHAIR, HEARING PANEL B

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; a copy was mailed to Thomas J. Hellmann, Esq., Hearing Officer, 810 Hickman Hill Road, Frankfort, Kentucky 40601; and copies were mailed via certified mail return-receipt requested to the licensee, Charles R. Noplis, M.D., License No. 44044, 9702 Stonestreet Road, Suite 120, Louisville, Kentucky 40272, and his counsel, J. Fox DeMoisey, 4360 Brownsboro Road, Suite 315, Louisville, Kentucky 40207, on this 26th day of March, 2019.



Leanne K. Diakov
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.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1752

FILED OF RECORD

MAR 30 2017

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY CHARLES R. NOPLIS, M.D., LICENSE NO. 44044, 3430 NEWBURG ROAD, SUITE 212, LOUISVILLE, KENTUCKY 40218

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

The Kentucky Board of Medical Licensure brought this action against the license of Charles R. Noplis, M.D., charging him with violating several statutes governing the practice of medicine. The administrative hearing was held on January 24-25, 2017. Hon. Sara Farmer represented the Board, and Hon. J. Fox DeMoisey represented Dr. Noplis, who also attended the hearing.

After considering the testimony of the witnesses, the exhibits admitted into evidence, and the arguments of counsel, the hearing officer finds Dr. Noplis guilty of the violations of the Board's statutes as alleged in the *Complaint*. As a result of those violations the hearing officer recommends the Board take any appropriate action against Dr. Noplis's license. In support of his recommendation the hearing officer submits the following findings of fact, conclusions of law, and recommended order.

FINDINGS OF FACT

1. On September 2, 2016, the Board issued the *Complaint* against Dr. Charles R. Noplis charging him with several violations of KRS 311.595.

2. The Board alleged that on August 2, 2015, Dr. Noplis was involved in a physical altercation with a female patron of a bar in Louisville, Kentucky. *Complaint*, pages 1-2.

3. As a result of that incident, the Board alleged that on June 3, 2016, Dr. Noplis pled guilty to one count of Assault in the Fourth Degree and was ordered to pay restitution to the victim, to be assessed for substance abuse, and to complete any recommended treatment as a result of that altercation. *Id.*, page 2.

4. Based upon Dr. Noplis's conduct related to that bar incident, the Board alleged that Dr. Noplis engaged in dishonorable, unethical, or unprofessional conduct in violation of KRS 311.595(9), as illustrated by KRS 311.597(4). *Id.*, page 4.

5. The Board also alleged in the *Complaint* that Dr. Noplis made a false statement "in connection with an application for a license or permit" in violation of KRS 311.595(1) by failing to report the criminal charges in his application to renew his medical license in February 2016. *Id.*, pages 2 and 4.

6. The Board asserted that criminal charges were pending against Dr. Noplis at the time he submitted an application for renewal of his medical license on February 25, 2016, but the Board alleges he falsely answered "No" in response to the question whether he was "the subject of any criminal investigation or are any criminal charges pending against you." *Id.*, page 2; Exhibit 1.

7. The Board also alleged that Dr. Noplis violated KRS 311.595(9), as illustrated by KRS 311.597(4), as a result of a separate altercation at his medical office on May 16, 2016, with the person designated in the *Complaint* as Patient A. *Id.*, pages 3-4.

8. The Board asserted that Dr. Noplis and Patient A got into an argument concerning the patient's medication, and after Patient A pushed Dr. Noplis with a forearm, he responded by punching the patient with enough force to give him a black eye. *Id.*, page 3.

9. Dr. Noplis became licensed to practice medicine in Kentucky in 2011, and his medical specialties are psychiatry and addiction medicine. DVD of Administrative Hearing on January 24, 2017 [hereinafter DVD I], 9:15 a.m.

10. Dr. Noplis is a partner with six to seven other physicians at Louisville Behavioral Health Systems, PLLC, and he performs mainly individual psychiatric evaluations at that facility. DVD I, 9:14-9:15 a.m.

11. Dr. Noplis also works at Renew Recovery, which is an out-patient facility where he performs medication assisted therapy for opioid addicted patients. *Id.*

12. On the evening of August 2, 2015, Dr. Noplis was with his date, Shannon, were at Gerstle's bar in Louisville, Kentucky, and he allegedly drank two or three cocktails. DVD of Administrative Hearing on January 25, 2017 [hereinafter DVD II], 11:15 a.m. and 11:23 a.m.

13. At some point late in the evening Dr. Noplis became separated from Shannon, and when he was ready to leave the bar, he approached the women's restroom in an effort to locate her. DVD II, 11:15 a.m.

14. Dr. Noplis became involved in an altercation with Marsha Johnson, who was another patron at Gerstle's that evening and who was in the restroom at the time Dr. Noplis was searching for Shannon. *Id.*

15. Ms. Johnson and Dr. Noplis were the only witnesses who testified at the administrative hearing about the incident, and their testimony diverged on several points that are relevant to Dr. Noplis's alleged misconduct and to his defense to the Board's charges.

16. After considering and reviewing the two witnesses' testimony, the hearing officer found Ms. Johnson's statements to be more credible as to the actions of Dr. Noplis toward her and to his conduct that evening when considered in light of the undisputed facts in the case.

17. Foremost among the undisputed facts is Dr. Noplis's guilty plea on June 3, 2016, to the criminal charge of Assault in the Fourth Degree, a misdemeanor, of Ms. Johnson on the night of August 2, 2015. Exhibit 2.

18. Dr. Noplis entered his guilty plea pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), by which he did not admit to the specific acts that served as a basis for the criminal charge but acknowledged that there was sufficient evidence in support of the charge that a jury could find beyond a reasonable doubt that he was guilty of the offense of Assault in the Fourth Degree. DVD I, 9:20-9:21 a.m.; Exhibit 2.

19. The preponderance of the evidence admitted at the administrative hearing also supports a finding that Dr. Noplis engaged in the misconduct that served as the basis for the criminal charge and for the Board's assertion that his conduct was in violation of KRS 311.595(9), as illustrated by KRS 311.597(4).

20. Ms. Johnson had never met Dr. Noplis before their encounter at Gerstle's. DVD II, 10:06 a.m.

21. At approximately 8:30 p.m. on the evening of August 1, 2015, Ms. Johnson arrived at Gerstle's to listen to a friend play music, and she consumed three drinks during the course of the evening. DVD II, 9:56 a.m. and 10:41 a.m.

22. Sometime between 12:30 and 1 a.m. on August 2, 2015, Ms. Johnson went to the women's restroom. DVD II, 10:07 a.m.

23. The restroom was fairly small with only two or three stalls. DVD II, 10:09 a.m.

24. As she exited from one of the restroom stalls, she saw Dr. Noplis standing less than a foot away from her. DVD II, 10:10 a.m.

25. Ms. Johnson said to him, "What in the hell are you doing in here? You need to get out." DVD II, 10:12 a.m.

26. Dr. Noplis was facing Ms. Johnson at the time and did not verbally respond to her, but instead, he punched her on the right side of the head. DVD II, 10:12-10:13 a.m.

27. Dr. Noplis then backed away from Ms. Johnson toward the restroom door, and she slammed the restroom door shut to keep him out. DVD II, 9:57 and 10:13 a.m.

28. Ms. Johnson thought Dr. Noplis was very drunk, and he smelled strongly of alcohol. DVD II, 10:32-10:33 a.m., 10:43 a.m.

29. In contrast to Ms. Johnson's testimony, Dr. Noplis asserted he never entered the women's restroom, but instead, he only opened the restroom door slightly with his hand and yelled Shannon's name. DVD II, 11:15 a.m.

30. Dr. Noplis asserted at that point, he saw Ms. Johnson coming out of a stall, and upon seeing him, she told him he needed to leave and slammed the door on his hand. DVD II, 11:15 a.m.

31. Dr. Noplis asserted the door hit his hand with such force that he feared it was broken, but yet, he admitted that in spite of his alleged pain, he opened the door again and yelled at Ms. Johnson, "What are you doing, you fat ugly bitch?" DVD II, 11:15 a.m.

32. Dr. Noplis asserted that in response Ms. Johnson went "ballistic" and told him she would have him thrown out of the bar, to which Dr. Noplis admitted he responded, "For what, calling you a fat, ugly bitch?" DVD II, 11:16 a.m.

33. Ms. Johnson denied that she slammed the restroom door on Dr. Noplis's hand, that he said anything to make her angry, or that he used coarse or inappropriate language in addressing her, but she acknowledges that upon exiting the restroom, she approached the doorman standing a few feet away and asked him to remove Dr. Noplis from the bar for having hit her. DVD II, 10:14 a.m., and 10:25-10:27 a.m.

34. At that point, Dr. Noplis was standing off to one side of the doorman. DVD II, 10:14 a.m.

35. At the administrative hearing Dr. Noplis asserted that the doorman told Ms. Johnson that he had witnessed the confrontation and that Dr. Noplis never struck her, but Ms. Johnson denied that the doorman made any such comment. DVD II, 10:27 a.m. and 11:16 a.m.

36. Dr. Noplis acknowledged, however, that another Gerstle's employee forced him to leave the bar and escorted him out. DVD II, 11:16 a.m.

37. Thus, the assertion that the doorman watched the encounter and could have verified that Dr. Noplis did not strike Ms. Johnson's is not believable in light of Dr. Noplis's admission that he was forcibly removed from the bar.

38. If Dr. Noplis had used inappropriate language with Ms. Johnson but did not actually strike her, she certainly could have been upset enough by his words to seek his removal from the bar.

39. Dr. Noplis, however, does not deny that Ms. Johnson immediately informed the security person that Dr. Noplis had struck her rather than cursed at her. DVD II, 11:16 a.m.

40. When considering all of the evidence related to the incident, the hearing officer finds that the preponderance of the evidence supports the conclusion that Dr. Noplis entered the women's restroom, and while there, struck Ms. Johnson.

41. Ms. Johnson's subsequent conduct is also consistent with and supports the conclusion that Dr. Noplis attacked her and did not simply make inappropriate comments.

42. At some point after reporting the incident to the doorman, Ms. Johnson left the bar with Amanda in order to call the police to report Dr. Noplis's assault. DVD II, 10:15 and 10:20 a.m.

43. Although a person may be upset enough at another's inappropriate comments to seek to have him removed from a bar, it is not believable that such statements would have been sufficiently inflammatory and upsetting for Ms. Johnson to contact the police in order to falsely accuse the person, who she never previously met, of a criminal assault.

44. As Ms. Johnson and Amanda were looking for her car, they happened to see Dr. Noplis who was attempting to enter his truck that was parked in the same general area as Amanda's. DVD II, 10:16 a.m. and 10:18 a.m.

45. Ms. Johnson reported Dr. Noplis's license plate to the police dispatcher, and she and Amanda then walked away in the opposite direction. DVD II, 10:17 a.m.

46. As Ms. Johnson continued with her report to the dispatcher, Dr. Noplis ran up to her from behind, and without saying anything, hit her in the head again and ran off in the opposite direction. DVD II, 9:58 a.m., 10:21 a.m. and 10:48 a.m.

47. It was unclear from the testimony why Dr. Noplis hit Ms. Johnson again in the parking lot, but his conduct is consistent with his being intoxicated, upset at being thrown out of the bar, and frustrated that he could not locate his date.

48. Dr. Noplis ran in the direction of Diamonds, which was a bar across the street from Gerstle's. DVD II, 9:58 a.m.

49. The blow to Ms. Johnson's head was delivered with enough force that she dropped to her knees, and after picking up her telephone, she asked the dispatcher, "Did you hear that, he just hit me again?" DVD II, 9:58 a.m.

50. Ms. Johnson and Amanda then went back to Gerstle's to wait for the police, who the dispatcher said would be arriving shortly. DVD II, 10:18 a.m.

51. Ms. Johnson provided a report to the police, and she was later interviewed by Detective Chris Horn as part of the police investigation that resulted in the criminal charges against Dr. Noplis. DVD II, 9:59 a.m. and 10:22 a.m.

52. The police did not speak to Dr. Noplis that evening. DVD II, 11:48 a.m.

53. In his defense, Dr. Noplis does not deny that he had a physical confrontation with Ms. Johnson in the parking lot outside of Gerstle's, but he asserts that he simply pushed Ms. Johnson away from his truck in response to her attempt to scratch his vehicle with her key. DVD II, 11:18 a.m.

54. According to Dr. Noplis, Ms. Johnson had followed him as he walked to his truck and was calling Shannon to tell her he had left Gerstle's. DVD II, 11:17-11:18 a.m.

55. When he saw that she was just fifty feet away, Dr. Noplis asserted he then moved away from the truck but rushed back when he saw Ms. Johnson getting ready to "key" his truck. DVD II, 11:18 a.m.

56. Dr. Noplis asserted that he simply pushed Ms. Johnson out of the way while saying, "Don't you do it," and never hit her. DVD II, 11:18 a.m. and 11:37 a.m.

57. Dr. Noplis acknowledged that Ms. Johnson's friend screamed at him, and he alleges at that point he decided Ms. Johnson was "crazy," and since he had insurance on the truck, any further confrontation wasn't worth the trouble. DVD II, 11:18 a.m.

58. As Dr. Noplis moved away from Ms. Johnson, he was finally able to contact his date, who met him to proceed to Diamonds. DVD II, 11:18-11:19 a.m.

59. Dr. Noplis asserted that he had a Diet Coke at Diamonds and called Uber for a ride since he was afraid to go near his truck and was concerned that Ms. Johnson might follow him home. DVD II, 11:19 a.m.

60. Dr. Noplis's assertions simply aren't believable.

61. In spite of his alleged concern that Ms. Johnson was poised to damage his vehicle, Dr. Noplis admitted at the administrative hearing that he never called the police or spoke with a police officer to report her activities. DVD II, 11:58 a.m.

62. Thus, although Dr. Noplis went to the bar across the street from Gerstle's, he never attempted to monitor Ms. Johnson's activities from that location and did not approach the

police to report Ms. Johnson's misconduct when they arrived in response to her telephone call to the police.

63. Instead, Dr. Noplis asserted that he and his date simply went into Diamonds to drink a Diet Coke, seemingly unconcerned about the possible damage that might be inflicted on his vehicle, but at the same time, he remained concerned enough about Ms. Johnson's alleged hostility toward him that he contacted Uber for a ride home out of fear she might follow him if he drove his own vehicle. DVD II, 11:18-11:19 a.m.

64. Dr. Noplis also asserted that Ms. Johnson's allegation that he hit her in the parking lot is not believable because he's right-handed, and since she alleged that he had struck from behind and hit her on the left side of the head, such a blow would have been more typically delivered by a left-handed person. DVD II, 11:38 a.m.

65. During his testimony about the confrontation in Gerstle's restroom, however, Dr. Noplis clearly indicated with his gestures that it was his right hand that was allegedly smashed in the door and almost broken. DVD II, 11:15 a.m.

66. Thus, assuming his hand had been caught in the door and was injured to the extent that he alleged, it's certainly reasonable that Dr. Noplis would have struck Ms. Johnson with his left, uninjured hand.

67. The hearing officer notes, however, that Dr. Noplis did not offer any medical records to support his assertion that his hand had been injured that evening, and in spite of his assertion that Ms. Johnson was enraged and had attempted to damage his truck, no evidence was presented that the truck suffered any damage that evening.

68. After the police arrived at Gerstle's and Ms. Johnson reported Dr. Noplis's assaults, she went to Jewish Hospital in Louisville, Kentucky, for treatment of ringing in her ears and pain, swelling, and bruising on the side of her head. DVD II, 10:22 a.m. and 10:29 a.m.

69. She received a CT scan, was diagnosed with Concussive Syndrome, give ibuprofen, and was told to return to the hospital if her symptoms became worse. DVD II, 10:23-10:24 a.m.

70. An x-ray was also taken of her knee because it was bloody and bruised. DVD II, 10:30 a.m.

71. As part of his guilty plea, Dr. Noplis paid Ms. Johnson \$821.36 in restitution for her hospital expenses not covered by insurance. DVD I, 9:21 a.m.; DVD II, 10:30 a.m.

72. Therefore, Dr. Noplis's assertion that he merely pushed Ms. Johnson away from his truck, and did not strike her in the head or with enough force to cause her to drop to the ground is not believable. DVD II, 11:18 a.m. and 11:37 a.m.

73. Considering the conduct of Dr. Noplis and Ms. Johnson's statement that he seemed drunk and smelled of alcohol, Dr. Noplis's assertions that he was not intoxicated and had only two or three drinks that evening were not believable. DVD II, 10:32-10:33 a.m. and 11:23 a.m.

74. As part of his guilty plea Dr. Noplis was required to receive an assessment for substance abuse, and upon completion of the evaluation, there was no specific recommendation for any type of therapy unless he felt he needed it, which he didn't believe was needed. DVD I, 9:22 a.m.

75. At the administrative hearing, counsel for Dr. Noplis suggested that Ms. Johnson pursued the criminal action against Dr. Noplis for her own financial gain, but she responded that she simply sought justice for being assaulted and has never contacted an attorney or the media about the incident. DVD II, 10:39-10:40 a.m.

76. Although Ms. Johnson was clearly upset that Dr. Noplis received a sentence of probation for his assault, as reflected by her statement that she received “justice but no satisfaction” from the criminal case, the hearing officer found her candor about that matter generally reflective of and consistent with her testimony regarding the other matters addressed in her testimony. DVD II, 10:39-10:40 a.m.

77. The hearing officer found that Ms. Johnson provided a consistent and believable narrative of the events that transpired on the evening of August 1-2, 2015, and she was not intoxicated that evening or so hostile toward Dr. Noplis at the administrative hearing that she was less than completely candid and truthful in her testimony about her actions and the conduct of Dr. Noplis.

78. In this action the Board alleges two additional instances of misconduct by Dr. Noplis that are related to criminal action against him.

79. The Board asserts that during a pretrial proceeding Dr. Noplis invoked his status as a physician to seek special treatment from the trial court on his criminal charges, and as a result, he brought the medical profession into disrepute in violation of KRS 311.595(9), as illustrated by KRS 311.597(4).

80. In support of that allegation the Board asserted that Dr. Noplis’s attorney improperly raised Dr. Noplis’s status as a physician in an appearance before the trial court at

which his attorney argued that Dr. Noplis should not be subject to an arrest warrant for the assault of Ms. Johnson but should be booked on the charges pursuant to a summons, which would have less time consuming for the defendant who had an active medical practice. Exhibit 5.

81. The Board also alleged that counsel cited Dr. Noplis's status as a physician in written objections to the court's ruling that resulted in Dr. Noplis being handcuffed and taken to the jail for several hours pursuant to the arrest warrant. DVD II, 12:40 p.m.; Exhibit 6.

82. Initially, the hearing officer notes that none of those allegations of misconduct are contained in the *Complaint* issued against Dr. Noplis, and therefore they are not properly before the Board in this action under the provisions of KRS 13B.050.

83. After reviewing the videotape of Dr. Noplis's appearance before the court in a pretrial proceeding and his counsel's written objections to the trial court's rulings at that proceeding, the hearing officer finds that Dr. Noplis's counsel did not invoke Dr. Noplis's status as a physician to seek special treatment from the court. Instead, his attorney highlighted the fact that Dr. Noplis was not a flight risk since he had ties to the community, an example of which was his active medical practice. In addition, his counsel argued that Dr. Noplis was in essence being punished by the prosecuting attorney, and was being prevented from returning to his job, by being forced to spend the afternoon at the jail while being booked on a simple misdemeanor charge when there was a much simpler and shorter procedure available that would allow him to return immediately to work at his medical practice. Exhibits 5 and 6.

84. Therefore, the hearing officer finds the preponderance of the evidence does not support a finding that Dr. Noplis used his status as a physician in order to obtain special treatment on the criminal charge.

85. The Board also alleges that Dr. Noplis failed to properly notify the Board of the pending criminal action against him.

86. On February 25, 2016, Dr. Noplis filed an electronic application for the renewal of his Kentucky medical license. Exhibit 1.

87. On the application, Dr. Noplis answered “No” to the question, “Since you last registered, to your knowledge, have you become the subject of any criminal investigation or are any criminal charges pending against you?” Exhibit 1, marked page 479, Question 12.

88. At the administrative hearing Dr. Noplis admitted that on August 13, 2015, he had been charged with one count of Assault in the Fourth Degree, that on September 16, 2015, he had been arraigned on that charge, and that on the date he applied to renew his medical license the charge was pending against him. DVD I, 9:17-9:18 a.m.

89. Dr. Noplis testified that shortly after submitting his renewal application he realized his mistake and contacted his attorney, but no evidence was provided at the administrative hearing regarding whether he ever notified the Board of his mistake prior to the Board bringing charges against him. DVD II, 11:54 a.m.

90. Dr. Noplis’s response on his application that no criminal charges were pending against him was false, and consequently, he is subject to the provision on the 2016 license renewal application that provides, “Failure to truthfully and completely answer any question on this application (electronic or manual), including intentional or inadvertent non-disclosure, will result in a minimum fine of \$1,000.00.” Exhibit 1, first page.

91. Dr. Noplis failed to provide any explanation at the administrative hearing for his “mistake” in answering the question incorrectly, and in light of the fact the criminal charges had

been pending against him for over six months at the time he filed the application, the preponderance of the evidence supports the conclusion he knowingly answered the question incorrectly.

92. Nine months after assaulting Ms. Johnson, Dr. Noplis was involved in another physical altercation, this time at his medical office and with the person designated in the *Complaint* as Patient A.

93. On May 16, 2016, Patient A arrived at Dr. Noplis's office for his scheduled appointment. DVD I, 9:24 a.m.

94. Patient A had started seeing Dr. Noplis approximately seven months earlier and had six appointments with him prior to the May 16, 2016, visit. Exhibit 12.

95. At the time of his latest visit, Patient A was sixty-two years old, 5'8" tall, weighed 225-230 pounds, and described himself as being "short, over-weight, bad knees, etc." DVD I, 2:59 p.m.; Exhibit 12.

96. Patient A was being treated by Dr. Noplis for Depression, Generalized Anxiety Disorder, and Panic Disorder, and had been prescribed several medications for those conditions. Exhibit 12, first and last pages.

97. At his previous appointment before the May 16, 2016, visit, Dr. Noplis had prescribed Patient A Mirapex as an additional but off-label medication for the treatment of his depression. DVD II, 11:28-11:29 a.m.

98. On May 16, 2016, disputes arose between Dr. Noplis and Patient A over the patient's decision to reduce his daily dose of the medication from the prescribed twice a day to

just once a day and over the question whether the new medication had been prescribed for depression or for restless leg syndrome. DVD I, 2:22-2:25 p.m.; Exhibit 7.

99. Patient A had thought something might be wrong with Noplis that day since he didn't give his usual greeting upon Patient A's arrival for his appointment. DVD I, 9:23 a.m. and 2:26 a.m.

100. Dr. Noplis attempted to make it clear to Patient A that the medication had been prescribed to treat depression, but according to Dr. Noplis, Patient A had "a huge aversion to the depression diagnosis." DVD II, 11:30 a.m.

101. Dr. Noplis has a strict policy regarding patients' compliance with taking medications as prescribed. DVD I, 9:27 a.m.

102. On a previous occasion when Patient A failed to take a different medication as prescribed, Dr. Noplis warned him that if it happened again, he would be dismissed as a patient. DVD II, 11:31 a.m.

103. Dr. Noplis asserted Patient A became irate and began yelling at him after being informed that he would no longer be seen as a patient due to failure to take his medications as prescribed. DVD II, 11:32 a.m.

104. Patient A asserted that he attempted to tell Dr. Noplis that he had cut back the medication to only once a day because it was causing fatigue, but Dr. Noplis interrupted him and wouldn't allow him to explain. DVD I, 3:23 p.m.

105. Patient A candidly admits that during the confrontation on May 16, 2016, he became more agitated than he should have, raised his voice louder than Dr. Noplis during their argument, and that in his frustration he shoved or pushed Dr. Noplis in the chest with a forearm

while moving toward the office door in response to Dr. Noplis's demand that Patient A leave the office. DVD I, 2:34 p.m. and 3:29 p.m.; Exhibit 7.

106. Patient A also asserted, however, that Dr. Noplis was also yelling at him, and that each was face to face with the other in the middle of the office. DVD I, 3:27 p.m.

107. In response to the push Dr. Noplis yelled, "Don't touch me," and "then immediately rared [sic] back his right hand and sarted [sic] pummeling me at least twice, with fisted punches at my head, no doubt trying to hit and hurt me with everything he had!!" Exhibit 7, page 1.

108. Patient A asserted that he was able to block with his forearm most of the force of the two or three blows attempted by Dr. Noplis. DVD I, 2:36-2:37 p.m.; Exhibit 7.

109. Dr. Noplis denies ever striking or arguing with Patient A and asserted that Patient A was the only one yelling and screaming during the encounter. DVD I, 9:24 a.m.

110. Dr. Noplis admitted he may have raised his voice "a little bit" while asking Patient A to leave, and at the time he may have been irritated "on the inside but not on the outside." DVD I, 9:24-9:25 a.m.

111. There's no dispute that Patient A pushed Dr. Noplis with a forearm, but Dr. Noplis asserts that blow was much more forceful than reported by Patient A.

112. After stepping out of the way to allow Patient A to leave the office, Dr. Noplis asserted that Patient A hit him in his side with enough force that the blow caused him to spin around and bounce off the wall next to him. DVD I, 9:28-9:29 a.m.

113. At the time Dr. Noplis was thirty-seven years old, 5'10" tall, and weighed approximately 230-240 pounds. DVD I, 9:27 a.m.

114. Patient A described Dr. Noplis as a “very big, muscular, body-building/tight shirt dressed younger man,” and Dr. Noplis never disputed that description. Exhibit 7.

115. Despite the blow having allegedly been delivered with enough force to propel him into the wall, Dr. Noplis never asserted at the administrative hearing that Patient A’s blow injured him in any way.

116. After allegedly bouncing off the wall, Dr. Noplis asserts he turned toward Patient A who then allegedly grabbed Dr. Noplis by the throat. DVD I, 9:29 a.m.

117. Dr. Noplis asserts that he then grabbed Patient A’s hands with his own and slid them down the front of him, which could have caused the lanyard that Dr. Noplis wore around his neck to break. DVD I, 9:29 a.m.; DVD II, 11:34 a.m.

118. Dr. Noplis asserted that no time during the struggle did he strike Patient A but speculated that Patient A’s resulting black eye may have been caused by Dr. Noplis’s thumb making contact with the eye while defending himself. DVD I, 9:29-9:30 a.m. Exhibits 8 and 10.

119. As further support for his contention that he did not, and would not, strike a patient, Dr. Noplis asserted that his extensive training in the martial art of Jujitsu would not permit him to respond in such a manner. DVD II, 11:36 a.m.

120. One of the guiding principles of Jujitsu is to do no harm, and Dr. Noplis described the martial art as a defensive tactic that teaches one not how to harm the opponent but to escape harm and to force the opponent to submit. DVD II, 11:36 a.m.

121. Dr. Noplis obviously did not follow his training or the teachings of Jujitsu in his encounter with Ms. Johnson, and consequently, his martial arts training provides no support for the assertion that he would not have struck Patient A.

122. While admitting that he pushed Dr. Noplis with a forearm, Patient A vehemently denied that he grabbed Dr. Noplis around the neck. DVD I, 3:38 p.m.

123. John Lewis has been a medical investigator with the Board for three years, and prior to taking that position he served five years as a sergeant in the public integrity unit of the Louisville Metro Police Department and had a total of twenty-three years of service with that police force. DVD II, 9:18 a.m.

124. On June 29, 2016, approximately six weeks after the incident, Mr. Lewis interviewed Dr. Noplis about the confrontation with Patient A. DVD II, 9:20-9:21 a.m.

125. Dr. Noplis reported to Mr. Lewis that he and Patient A had engaged in a “heated argument” over his compliance with the medications prescribed to him and that Patient A had pushed him causing the lanyard to tear from his neck. DVD II, 9:19 a.m. and 9:41 a.m.

126. Mr. Lewis recalled that Dr. Noplis showed him the lanyard and that it had a breakaway feature which was not difficult to tear, but he couldn’t recall exactly how the lanyard looked. DVD II, 9:41-9:42 a.m.

127. At no time during the interview did Dr. Noplis inform Mr. Lewis that he was trained in Jujitsu, and he never asserted that Patient A had choked him or that he had used his Jujitsu skills to remove Patient A’s hands from his neck. DVD II, 9:20 a.m.

128. If Dr. Noplis had reported those allegations to Mr. Lewis, they would have been “a big deal” and “a significant piece of information” that would have been included in his report on the incident. DVD II, 9:38-9:39 a.m.

129. Neither of the office staff who responded to the commotion in Dr. Noplis’s office reported that he had any redness on his neck as a result of Patient A allegedly choking him.

130. Therefore, in light of Patient A's denial of Dr. Noplis's choking allegations and Dr. Noplis's failure to report them or his use of martial arts training to defend against such an attack, the preponderance of the evidence does not support Dr. Noplis's assertion that Patient A attempted to choke him.

131. No one in the office saw the confrontation between Dr. Noplis and Patient A, but two employees heard a disturbance coming from Dr. Noplis's office.

132. Melissa Watson works as the front desk clerk at Louisville Behavioral Health Systems, and she heard the commotion as she passed Dr. Noplis's office. DVD I, 10:39 a.m.

133. She took three or four steps back to the office doorway and asked if everything was O.K. DVD I, 10:38 a.m.

134. Dr. Noplis was standing by his desk with his lanyard in his hand and reported that Patient A had just ripped it off his neck. DVD I, 10:40 a.m.

135. Dr. Noplis told her to call the police, and she asked Patient A to come with her and to leave the office in accordance with Dr. Noplis's directive. DVD I, 10:40 a.m.

136. At the administrative hearing Ms. Watson couldn't recall specifically what Patient A said in response to her request, but she testified that if she had told the Board's investigator that Patient A response to her was "he hit me," that's what he said. DVD I, 10:42 a.m. and 10:46 a.m.

137. Mr. Lewis testified that Ms. Watson informed him during the interview on June 28, 2016, that Patient A had indeed stated that Dr. Noplis had hit him. DVD II, 9:21 a.m.

138. Annie Hulsman is employed at Louisville Behavioral Health Systems as the intake coordinator, and her office is adjacent to Dr. Noplis's. DVD I, 10:49-10:50 a.m.

139. She heard Patient A yelling at Dr. Noplis, and Dr. Noplis repeatedly asking Patient A to leave the office. DVD I, 10:50 a.m.

140. She went to the officer, saw the broken lanyard, and heard Dr. Noplis say, “you placed your hands on me. You need to leave the office immediately.” DVD I, 10:50-10:51 a.m.

141. Patient A responded by saying, “you hit me, you hit an old man,” but Dr. Noplis immediately denied that assertion. DVD I, 10:51 a.m.

142. Patient A then repeated his assertion that Dr. Noplis had hit him and was still mad as he lingered in the office area, but he left the building before the police arrived twenty-five minutes later. DVD I, 10:52-10:53 a.m. and 10:57 a.m.

143. The responding police officers did not file a report over the incident since Dr. Noplis chose not to file charges against Patient A. DVD II, 9:23-9:24 a.m.

144. Other than the broken lanyard, neither Dr. Noplis nor Patient A showed signs of a physical struggle, and none of the furniture in the office was out of order after the confrontation. DVD I, 10:55 a.m.

145. Patient A’s own testimony was consistent with the recollection of the employees since he asserted that in response to an employee asking Dr. Noplis whether she should call the police, Patient A immediately responded, “Yes, call the police. He’s hitting me.” DVD I, 2:38 p.m.

146. Originally, Patient A thought his forearm had deflected Dr. Noplis’s blows since he did not feel any facial pain, but two days later prior to attending a Wednesday church service, he was surprised when his wife asked him about his black eye. DVD I, 3:47-3:48 p.m. and 3:52 p.m.; Exhibits 7, 8 and 10.

147. The fact that Patient A did not have more severe bruising around the eye is consistent with his assertion that he thought he had blocked Dr. Noplis's blows with a forearm. DVD I, 3:33 p.m.; Exhibit 7.

148. Patient A's failure to discover that he had a black eye until two days after the injury is consistent with Patient A's lifestyle since he does not shower every day and shaves only on Sundays and Wednesdays. DVD I, 3:46 p.m.

149. In addition, his wife worked long hours as a school principal, and due in part to his anxiety symptoms, he and his wife rarely saw each other during that time period. DVD I, 3:50 p.m.

150. There was no evidence presented that suggested the cause for Patient A's black eye was anything other than the physical blows delivered by Dr. Noplis.

151. After considering the testimony of the witnesses and the physical evidence supporting Patient A's allegation that Dr. Noplis struck him, the hearing officer finds the preponderance of the evidence supports Patient A's allegation that Dr. Noplis attempted to hit him in response to being shoved by Patient A.

152. The hearing officer found Patient A to be a credible witness. He candidly acknowledged his own role in provoking Dr. Noplis, admitted to having conducted himself in an inappropriate manner, and was embarrassed by and immediately regretful of his conduct. DVD I, 2:40-2:41 p.m., 2:48 p.m.

153. Patient A called Dr. Noplis's office a few days later to apologize for his "inexcusable behavior" and requested that he be allowed to return as a patient because he thought

Dr. Noplis was a good doctor, but Dr. Noplis refused to speak with him and sent a letter dismissing Patient A as his patient. DVD I, 2:48 p.m. and 3:42-3:43 p.m; Exhibit 9.

154. On the same day that he received the letter of dismissal, Patient A drafted his grievance to the Board. Exhibits 7 and 9.

155. There was no evidence presented that Patient A took any legal action against Dr. Noplis or sought any compensation from him as a result of the incident.

156. The preponderance of the evidence does not support the conclusion that Patient A reported the incident to the Board in an effort to retaliate against Dr. Noplis for his conduct or for his refusal to allow Patient A to return to the practice.

157. Patient A reported the incident because Dr. Noplis's actions were unprofessional and because Patient A was concerned that Dr. Noplis could inflict much more severe injuries to another patient. DVD I, 2:42 p.m. and 2:58 p.m.

158. At the administrative hearing Dr. Noplis acknowledged that it is unethical for a physician to strike a patient. DVD I, 9:32 a.m.; Exhibit 13.

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 the provisions of KRS Chapter 13B and KRS 311.591.
3. Under KRS 13B.090(7), the Board had the burden to prove by a preponderance of the evidence the allegations against Dr. Noplis.
4. The Board has met its burden of proof on most of the allegations.

5. Dr. Noplis was charged with violating KRS 311.595(1), which subjects an applicant for a medical license to discipline if he has “knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit.”

6. The preponderance of the evidence supports the conclusion that Dr. Noplis completed the application form and falsely stated that he was not subject to a criminal investigation by the Commonwealth of Kentucky at the time he submitted the application. Dr. Noplis knew that the criminal charge of Assault in the Fourth Degree was still pending against him, and he offered no explanation how he could have been confused by the question or mistaken in answering the question “No.” Therefore, the preponderance of the evidence supports the finding that he intentionally answered the question falsely and thereby violated KRS 311.595(1).

7. Dr. Noplis was also charged with violating KRS 311.595(9), as illustrated by KRS 311.597(4), which subjects a licensee to discipline if he has “engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof.”

8. Under KRS 311.597(4), the term “dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof” is defined to “include but not be limited to the following acts by a licensee:”

Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American Medical Association or the code of ethics of the American Osteopathic Association. For

the purposes of this subsection, actual injury to a patient need not be established.

9. The evidence did not support the conclusion that Dr. Noplis, or his attorney on Dr. Noplis's behalf, sought special treatment from the trial court or invoked his status as a physician on September 16, 2015, in order to gain some advantage or benefit not available to other individuals.

10. In addition, pursuant to KRS 13B.050(3)(d), the Board is required to provide a physician with "a statement of the factual basis for an agency action along with a statement of issues involved, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument." The *Notice of Administrative Hearing* issued in this action states that the factual basis for the Board's action is contained in the *Complaint*. That document, however, makes no reference to an allegation that Dr. Noplis improperly used his status as a physician in the criminal proceedings. Therefore, even if there had been evidence presented in support of those allegations, they were not properly before the hearing officer at the administrative hearing.

11. The Preamble to the AMA Code of Medical Ethics states that "a physician must recognize responsibility to patients first and foremost, as well as to society, to other health professionals, and to self." The standards of conduct that "define the essentials of honorable behavior for the physician" include the requirement that he "shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights," "shall uphold the standards of professionalism," "shall respect the law," and shall "regard responsibility to the patient as paramount." Exhibit 13, *Preamble and Principles of Medical Ethics*, I, II, III, and VIII.

12. The preponderance of the evidence supports the conclusion that Dr. Noplis violated KRS 311.595(9), as illustrated by KRS 311.597(4), by his conduct toward Patient A and Ms. Johnson. He brought the medical profession into disrepute and violated the AMA Code of Medical Ethics by assaulting Ms. Johnson at Gerstle's bar on August 2, 2015, and by assaulting Patient A during his office appointment on May 16, 2016.

13. Dr. Noplis does not dispute that a physician violates the AMA Code of Medical Ethics and brings the medical profession into disrepute when he strikes a patient, and since the hearing officer has found that the preponderance of the evidence supports the conclusion that Dr. Noplis struck Patient A during an office appointment, Dr. Noplis has violated KRS 311.595(9), as illustrated by KRS 311.597(4).

14. Dr. Noplis asserts that he cannot be guilty of violating KRS 311.595(9), as illustrated by KRS 311.597(4), for his assault of Ms. Johnson because his conduct does not constitute a felony or a misdemeanor offense involving moral turpitude.

15. Pursuant to KRS 311.595(4), a licensee may be disciplined if he has "entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor under the laws."

16. The hearing officer notes that even though Dr. Noplis entered an *Alford* plea to the assault of Ms. Johnson, he stands convicted of that offense. A guilty plea entered pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), "carries the same consequences as a standard plea of guilty. By entering such a plea, a defendant may be able to avoid formally admitting guilt at

the time of sentencing, but he nonetheless consents to being treated as if he were guilty with no assurances to the contrary." *Wilfong v. Commonwealth*, 175 S.W.3d 84, 102 (Ky.App. 2004), quoting *State v. Faraday*, 842 A.2d 567, 588 (2004).

17. In addition, although Dr. Noplis's criminal conviction is not a felony or a crime involving moral turpitude, the Board has not charged him with a violation of KRS 311.595(4).

18. Dr. Noplis attempts to use that fact as a defense to the Board taking any action against him under other provisions of KRS 311.595. He asserts that since all misdemeanor convictions that don't involve moral turpitude are excluded from sanction under KRS 311.595(4), the Board is prohibited from disciplining a physician under any other applicable provision of KRS 311.595 for conduct that may serve as the basis for a misdemeanor offense. *Motion to Dismiss and Memorandum in Support of Motion to Dismiss*, dated October 18, 2016.

19. In support of his assertion Dr. Noplis cited *Miller-Canfield v. KBML*, 96-CA-2577-MR, an unpublished decision by the Kentucky Court of Appeals. In that case the court ruled that a violation of KRS 311.595(9), as illustrated by KRS 311.597(4), must involve conduct that is directly related to the physician's practice of medicine. Dr. Noplis asserts that since Ms. Johnson was not his patient and did not have a professional relationship with him, the Board may not charge him with violating those statutes based upon his assault conviction.

20. Prior to the administrative hearing the Board conceded that Dr. Noplis's misdemeanor offense does not constitute a crime of moral turpitude subject to discipline under KRS 311.595(4). *Order From Final Prehearing Conference*, dated November 28, 2016, page 2. The Board also conceded that if *Miller-Canfield* had been a published decision by the Kentucky Court of Appeals, that case would be controlling on the issue before the hearing officer. Mr.

DeMoisey acknowledged, however, that since *Miller-Canfield* is an unpublished opinion, the hearing officer is not bound by the holding in the case. *Id.*

21. Pursuant to CR 76.28(4)(c), “opinions that are not to be published shall not be cited or used as binding precedent in any other case in any court of this state,” but such opinions “may be cited for consideration by the court if there is no published opinion that would adequately address the issue before the court.” Therefore, the Kentucky Supreme Court’s own rules make it clear that the hearing officer is not bound by that decision in deciding the merits of Dr. Noplis’s legal argument.

22. In response to Dr. Noplis’s assertion that the Board had no jurisdiction over the conduct related to his assault conviction, the Board cited *Parrish v. KBML*, 145 S.W.3d 401 (Ky.App.2004). In that case the court ruled that conduct which may be the basis for a criminal charge does not preclude the Board from using that same conduct to charge the licensee with engaging in dishonorable, unethical, or unprofessional conduct. *Id.*, at 410. The *Parrish* decision, however, is not completely dispositive of the issue before the hearing officer because in that case all of the licensee’s actions that were considered to be dishonorable, unethical, or unprofessional conduct were directly related to her practice of medicine. *Id.*, at 408-410.

23. In its decision finding that Dr. Parrish could be sanctioned under KRS 311.595(9), as illustrated by KRS 311.597, the court stated that her “attempt to define the jurisdiction of the Board in an excessively narrow fashion is contrary to the plain meaning and legislative purpose of the Medical Practices Act.” *Id.*, at 409. The court went on to state that “the fact that a given act may be the basis of a criminal charge does not bar the Board from also

disciplining a physician for that act. Indeed, many of the grounds for discipline in the Kentucky Medical Practices Act are expressly based on criminal conduct.” *Id.*, at 410.

24. In this action, Dr. Noplis attempts to define the Board’s jurisdiction narrowly by asserting the Board is without jurisdiction to bring charges under the “catchall” provision of KRS 311.595(9) if a physician has pled guilty to a misdemeanor not involving moral turpitude. *Memorandum in Support of Motion to Dismiss*, page 3. That position is contrary to the holding in *Parrish*, and therefore, the Board may discipline a physician under KRS 311.595(9) for criminal conduct, even if it is not subject to discipline under KRS 311.595(4).

25. Under KRS 311.597, the Board has defined “dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof” to include four categories of conduct, but the statute also specifically states that the definition of the term “shall include but not be limited to” those four categories.

26. In addition, while KRS 311.597(3) includes as dishonorable, unethical or unprofessional conduct, any act that was “committed during the course of his medical practice,” no such restriction is included in KRS 311.597(4) for “conduct that is calculated or has the effect of bringing the medical profession into disrepute.”

27. The hearing officer also notes that this action illustrated the extent to which a physician’s conduct outside the office setting can relate to and have an impact upon his conduct when serving in the capacity as a physician. Dr. Noplis’s response to Ms. Johnson was completely disproportionate to her conduct that may have provoked or merited a response. Several months later, Dr. Noplis’s reaction to Patient A, when considered in light of his assault of Ms. Johnson, suggested, at the least, that he struggles with anger management and self-control.

Thus, the Board is authorized under its statutes to discipline Dr. Noplis under KRS 311.595(9), for his actions toward individuals outside of the office setting that may bring the medical profession into disrepute.

28. In addition, as a practicing psychiatrist who treats patients suffering from addiction, Dr. Noplis has brought the medical profession into disrepute by engaging in criminal acts while in a state of intoxication that can be grounds for other individuals to seek, or to be ordered to obtain, treatment from professionals like himself.

RECOMMENDED ORDER

Based upon the foregoing findings of fact and conclusions of law, the hearing officer recommends the Board find Dr. Noplis in violation of KRS 311.595(1) and (9), as illustrated by KRS 311.597(4), and take any appropriate action against his license based upon his violations of those statutes.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

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.

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

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 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.

Pursuant to KRS 23A.010(4), "Such review [by the 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 27th day of March, 2017.



THOMAS J. HELLMANN
HEARING OFFICER
810 HICKMAN HILL RD
FRANKFORT KY 40601
(502) 330-7338
thellmann@mac.com

CERTIFICATE OF SERVICE

I hereby certify that the original of this RECOMMENDATION was mailed this 28th day of March, 2017, by first-class mail, postage prepaid, to:

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

for filing; and a true copy was sent by first-class mail, postage prepaid, to:

J FOX DEMOISEY
DEMOISEY LAW OFFICE PLLC
4360 BROWNSBORO ROAD SUITE 315
LOUISVILLE KY 40207

SARA FARMER
ASSISTANT GENERAL COUNSEL
KY BOARD OF MEDICAL LICENSURE
HURSTBOURNE OFFICE PARK STE 1B
310 WHITTINGTON PKWY
LOUISVILLE KY 40222



THOMAS J. HELLMANN

1752FC