

**FILED OF RECORD**

**MAR 29 2004**

**K.B.M.L.**

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. CME204

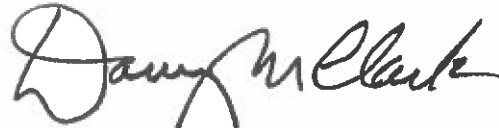
IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY BRETT M. RYABIK, M.D., LICENSE NO. 28055, 914 EAST BROADWAY, #16, LOUISVILLE, KENTUCKY 40204

**ORDER OF FINE; GRANTING SIX MONTHS  
TO COMPLY WITH 201 KAR 9:310**

Based upon a review of the records of the Kentucky Board of Medical Licensure (hereafter "the Board"), the Board FINDS that the licensee has failed to 1) timely complete the continuing medical education requirements of 201 KAR 9:310; and, 2) obtain an extension of time for completion of the continuing medical education requirements. Accordingly, the Board ORDERS that a FINE of FOUR HUNDRED DOLLARS (\$400.00) is imposed against the licensee, with the fine being due and payable immediately.

Pursuant to 201 KAR 9:310, Section 7(2)(a), the licensee is GRANTED a period of six (6) months, until September 24, 2004, to come into compliance, by paying the fine imposed and by completing the continuing medical education requirements. NOTICE is hereby given that, if the licensee should fail to come into compliance within that six (6) month period, the license to practice medicine in the Commonwealth of Kentucky held by the licensee shall be immediately suspended and shall remain suspended until the licensee has submitted verifiable evidence that the licensee has completed the continuing medical education requirements.

SO ORDERED this 23rd day of March, 2004.



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DANNY M. CLARK, M.D.  
PRESIDENT

Certificate of Service

I certify that the original of this Order was delivered to C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, and a copy was mailed, by certified mail return-receipt requested, to Brett M. Ryabik, M.D., 914 East Broadway, #16, Louisville, Kentucky 40204 on this 29<sup>th</sup> day of March, 2004.

*C. Lloyd Vest II*

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C. Lloyd Vest II  
General Counsel  
310 Whittington Parkway, Suite 1B  
Kentucky Board of Medical Licensure  
Louisville, Kentucky 40222  
(502) 429-8046

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 954

FILED OF RECORD  
AUG 11 2004  
K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY BRETT M. RYABIK, M.D., LICENSE NO. 28055, 914  
EAST BROADWAY, #16, LOUISVILLE, KENTUCKY 40204

**AGREED ORDER OF SUSPENSION**

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, and Brett M. Ryabik, M.D., and, based upon their mutual desire to fully protect patients and the public pending the parties' final resolution of an investigation, hereby ENTER INTO the following **AGREED ORDER OF SUSPENSION**:

**STIPULATIONS OF FACT**

The parties stipulate the following facts, which serve as the factual bases for this Agreed Order of Suspension:

1. At all relevant times, Brett M. Ryabik, M.D., has been licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Psychiatry.
3. On December 19, 2003, Sergeant William Stivers, Louisville Metro Narcotics Unit, reported that the licensee had been arrested on that date for Possession of Controlled Substances. As a result of further investigation by that unit's Prescription Drug Squad, the licensee was arrested again on January 9, 2004 for 2 counts of Obtaining Drugs by Fraud or Deceit and 2 counts of Trafficking in Controlled Substances. At the time of his arrest, the licensee was employed by Seven Counties Services as a child psychiatrist.

4. Sgt. Stivers provided the following information,

The licensee had prescribed Schedule II and III narcotics to Jessica Cobbett and Stuart Sturgill, who lived with the licensee. Both of these persons confirmed they had received narcotics from the licensee without being seen at his office or treated as a patient by him.

The licensee has admitted to detectives that he received pills back from prescriptions he wrote for Marsha Boyd and David Covington, without conducting medical examinations on these individuals and without maintaining a patient chart for either individual.

Ms. Boyd provided a taped statement to detectives in which she acknowledged that she would return Hydrocodone and Oxycodone pills to the licensee, from prescriptions he had written for her. She did this approximately 15-25 times for a total of about 60-65 pills.

The licensee was in possession of an unlawful package of Methadone and Oxycodone at the time of his arrest. The drugs were found in cellophane, hidden inside a cigarette pack.

The licensee admitted using the drugs he diverted from his patients and acquaintances.

5. Supervisors at Seven Counties Services related that a search of their database showed that Cobbett, Boyd and Covington had not been patients at Seven Counties. Sturgill was seen and evaluated by Cherly Stuckey, staff person, on February 8, 2003; the case was opened and closed on that date. There was no record of Sturgill being treated by anyone else at Seven Counties.
6. Special Agent Paul Settles, Drug Enforcement Administration (DEA), reported that the licensee had admitted to him that he had bought drugs off the street, and had diverted drugs for money and his personal use, for years. The Licensee denies selling drugs for money.
7. A review of prescribing records against Seven Counties database disclosed that the licensee wrote prescriptions for scheduled drugs for 23 persons who were not patients of Seven Counties. The licensee's only practice location was Seven Counties.
8. The licensee provided the following information to the Board's investigator,

He has a 7-8 year history of back pain caused by a genetic malformation with resulting degenerative disc disease, herniation, and bulging discs at several levels. This caused him a great deal of pain. He has used a tens unit, ice and exercises. A spinal endoscopy removed scar tissue and gave an accurate diagnosis, but did not relieve a great deal of pain. He saw an osteopath for spinal manipulation and another physician for acupuncture.

His treating physician prescribed Oxycontin 10mg 3 times a day and then increased it to 30mg 3 times a day. The dosage was then reduced to 20mg 3 times a day and remained at that level for a long period of time.

He was compliant with his pain medication until about 1 ½ years ago, when his pain got worse. He did not want to appear to his physician as if he were drug-seeking. Instead of asking his treating physician to increase the medication, he began to get prescription drugs from friends who were also taking pain pills.

When he did ask one time for an increase in medication, his physician denied the request because he appeared to be stable on the decreased dosage. The licensee did not reveal to his physician that he had been taking additional medications.

He was arrested on December 19, 2003 when he was stopped for a traffic violation and the officer found unlawfully packaged pills in his possession.

He denied splitting medications with any patients at Seven Counties. He only did that with persons outside of Seven Counties. He stated that he treated Covington and Boyd out of his home and maintained records for them there, but did not produce those records. He denied splitting medications with them.

When he was unable to get enough pain medication from friends who were taking the medication for their own pain, he would resort to buying prescription drugs from other people his friends knew. He used splitting prescriptions as a last resort. He acknowledged that the prescriptions for Hydrocodone, Oxycodone and Methadone he wrote for Sturgill and Cobbett were not justified; they were written so they could split the pills.

The Licensee denies writing prescriptions for Methadone.

9. The Kentucky Physicians Health Foundation (hereafter "the Foundation") arranged for the licensee's admission for residential treatment at MARR in Atlanta, Georgia in January 2004. His release date has not been determined as of this time.
10. The criminal charges against the licensee have not been resolved as of this date.

#### STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Agreed Order of Suspension:

1. The licensee's 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(8), (9), and (10). Accordingly, there are legal grounds upon which the Board may take disciplinary action against the licensee's medical license.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve a pending grievance, without an evidentiary hearing, by entering into an informal resolution such as this Agreed Order of Suspension. In this case, the parties are only resolving a portion of the grievance by entering into the Agreed Order of Suspension. The Panel will review the licensee's fitness to practice medicine upon his completion of residential treatment. Moreover, the Panel expressly reserves the right to take any appropriate disciplinary action pursuant to KRS 311.591 and 311.595, upon resolution of the criminal charges pending against the licensee.

#### **AGREED ORDER OF SUSPENSION**

Based upon the Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully protect patients and the public pending final resolution of the grievance, the parties hereby ENTER INTO the following

#### **AGREED ORDER OF SUSPENSION:**

1. The license to practice medicine in the Commonwealth of Kentucky held by Brett M. Ryabik, M.D., is hereby SUSPENDED for a maximum period of FIVE (5)

YEARS, with that period of suspension to commence immediately upon the filing of this Agreed Order of Suspension;

2. During the effective period of this Agreed Order of Suspension, the licensee's Kentucky medical license SHALL BE SUBJECT to the following terms and conditions:
  - a. The licensee shall not engage in any conduct which constitutes the "practice of medicine," as that term is defined in KRS 311.550(10) – the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities – unless and until approved to do so, by written Order, by the Panel;
  - b. The Panel will not consider a petition to resume the active practice of medicine unless it is accompanied by a favorable recommendation by the Medical Director, Kentucky Physicians Health Foundation (the Foundation), which shall include: a copy of his contract with the Foundation; a copy of the discharge summary from any treatment facility or program attended by the licensee; if not included in that discharge summary, a statement of all aftercare requirements for the licensee; and, an assessment by the Foundation's Medical Director that the licensee may safely resume the active practice of medicine without undue risk or danger to patients or the public. If the licensee should petition the Panel for reinstatement of his medical license, the burden shall be upon him to satisfy the Panel that he is presently of good moral character and qualified

both physically and mentally to resume the practice of medicine without undue risk or danger to his patients or the public.

- c. If the Panel should permit the licensee to resume the active practice of medicine, it will do so by appropriate order, which shall include all terms and conditions deemed appropriate by the Panel following their review of the information available. These terms shall include but are not limited to the following:
- i. The licensee SHALL maintain his contractual relationship with the Foundation and shall fully comply with all terms of that contractual relationship;
  - ii. The licensee SHALL submit to observed, random drug screens and alcohol determinations as directed by the Foundation and/or the Board or its agent(s), the purpose being to ensure that the licensee remains drug and/or alcohol-free. The cost of such blood, urine and breathalyzer alcohol and/or drug analyses and reports will be borne by the licensee, which costs shall be paid within thirty (30) days after the date of the invoice therefore. Failure to make timely payment of such costs, to comply with the conditions set by the Board or its agent(s) regarding the collection of specimens, to provide a specimen upon request, or to remain alcohol and/or drug-free shall be considered a violation of this Agreement;
  - iii. The licensee SHALL pay the costs of the investigation and proceedings within six (6) months of resuming the active practice of medicine; and
  - iv. The licensee 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. Any such medical treatment and prescribing shall be reported directly to the Board in writing by the treating physician within ten (10) days after the date of treatment. The licensee must inform the treating physician of this responsibility and ensure timely compliance. Failure to inform the treating physician of this responsibility shall be considered a violation of the Agreed Order;
- d. The licensee SHALL provide written notification to the Board's staff of the resolution of the criminal charges presently pending against him or subsequently filed against him, within 10 days of his knowledge of that



resolution. As soon as the licensee receives any written Order resolving any criminal charges against him, he SHALL immediately provide the written Order(s) to the Board's staff. The Panel may use any criminal conviction as a basis for denial of a petition for reinstatement, or it may take any action authorized by KRS 311.591, 311.592 and 311.595 based upon such criminal conviction.

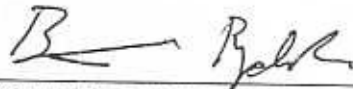
3. If the Panel should grant the petition for reinstatement, it shall do so by issuing an Order of Probation or Order of Indefinite Restriction, for a period of time to be determined by the Panel with terms and conditions fixed by the Panel, based upon the information available to the Panel at that time. As a condition of granting the petition for reinstatement, the Panel may require the licensee to enter into an Agreed Order of Probation or Indefinite Restriction, with appropriate terms and conditions.
4. The licensee expressly agrees that, if the licensee should violate any term or condition of this Agreed Order of Suspension, 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 of Suspension, the Panel Chairperson 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 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 of Suspension;

5. The licensee understands and agrees that any violation of the provisions of this Agreed Order of Suspension may serve as the basis for additional disciplinary action against his Kentucky medical license, pursuant to KRS 311.595(13), including revocation of his medical license.

SO AGREED on this 11th day of August, 2004.

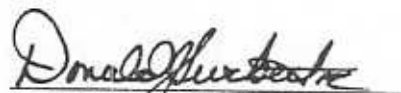
FOR THE LICENSEE:



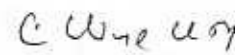
BRETT M. RYABIK, M.D.

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COUNSEL FOR DR. RYABIK  
(IF APPLICABLE)

FOR THE BOARD:



DONALD J. SWIKERT, M.D.  
CHAIR, INQUIRY PANEL A



C. LLOYD VEST II  
General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-8046