

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF MEDICINE

**In Re: Virgil McMillion, D.O.
Lic. #21730**

Docket No.: 2022-MED-006

**ORDER OF EMERGENCY
SUSPENSION - 04/06/22**

I. CASE SUMMARY/PROCEDURAL HISTORY:

On 02/18/22, the Office of Professional Licensure and Certification (“OPLC”) received a notification from the Interstate Medical Compact Commission (“IMLC”) reporting an Order of Summary Suspension issued by the Wyoming Board of Medicine pertaining to the physician license for Virgil McMillion (“Licensee”). The Order of Summary Suspension attached indicated the Licensee’s license was suspended in relation to allegations he sexually assaulted a health care employee that had resulted in criminal proceedings. Additionally, the Licensee had attempted to obtain a license in the state of West Virginia by means of fraud, which had resulted in discipline in that state, as well as emergency suspensions and voluntary surrenders of Licensee’s license in other states. Upon learning of the IMLC report on 04/06/22, the New Hampshire Board of Medicine (“Board”) held an emergency meeting the same day during its regular meeting, pursuant to RSA 329:18-b and N.H. Code Admin. R., Title Med 409.01 (“Rules”). This Order of Emergency Suspension follows.

In cases involving imminent danger to life or health, the board may order suspension of a license pending hearing for a period of no more than 120 days...

RSA 329:18-b.

On 04/06/22, Nikolas Frye, Esq., acted as presiding officer under Rule 201.02(q).

II. EVIDENCE PRESENTED AND CONDUCT OF HEARING:

The Board was presented with an email notification from the IMLC, dated 02/18/22, which included 1) a 02/17/22 Order of Summary Suspension of Virgil Waid McMillion, D.O. issued by the Wyoming Board of Medicine; and 2) a 02/05/22 Consent Order involving Licensee issued by the West Virginia Board of Osteopathic Medicine. Additionally, the Board considered 1) a 03/10/22 printout from the MyLicense Office database involving Licensee's license; 2) 03/09/22 and 03/28/22 Physician Data Center Practitioner Profiles for Licensee; 3) a 02/28/22 Order for Suspension of License to Practice Medicine involving Licensee and issued by the Maryland State Board of Physician's; 4) a 03/09/22 Consent to Voluntarily Surrender South Dakota Medical License involving Licensee ; and 5) a 03/10/22 Final Order involving Licensee issued by the South Dakota Board of Medical and Osteopathic Examiners. A review of the evidence presented, and the reasonable inferences taken there from, allows the Board to find as follows below.

The Licensee is actively licensed in New Hampshire as a physician with license number 21730 and is part of the multi-state compact with his state of Principal License being West Virginia. In December of 2020, Licensee was the subject of a search warrant for saliva swab samples in relation to allegations that in late July or early August of 2019, he had sexually assaulted a healthcare worker at a healthcare facility in Lewis County, West Virginia. On 08/04/19, after the alleged conduct occurred, Licensee applied for a Letter of Qualification to the West Virginia Board seeking licensure through the IMLC. West Virginia's Board eventually issued Licensee a first Letter of Qualification on 02/26/20 for four states, which expired 02/25/21. As part of the application process for a second Letter of Qualification, Licensee answered "no" to the following question: "[a]re you under investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction?" He additionally signed an Affidavit and Authorization for Release of Information for Application for an IMLC Letter of Qualification and

Medical Licenses in IMLC Member States, which incorporated the following statement: “I will immediately notify the SPL and the [IMLC] Commission in writing of any changes to any of the answers contained in this application, if such a change occurs at any time prior to a medical license being issued by one or more Member Boards.” The West Virginia Board issued Licensee the second letter on or about 06/04/21.

On or about 07/12/21, Licensee was indicted in West Virginia for sexual assault in the second degree in connection with the ongoing criminal investigation and later arraigned on or about 07/23/21 where he is reported by local media to have plead “not guilty”. Through at least 10/06/21, the IMLCC and West Virginia Board do not appear to have received any updates from Licensee relating to the aforementioned criminal investigation. The net result was multiple states licensed Licensee based upon West Virginia issuing him the second letter, which was obtained, in part, based upon his response on the application to the aforementioned question and him signing the aforementioned affidavit.

On 02/05/22, Licensee entered into a Consent Order with the West Virginia Board of Osteopathic Medicine based upon the fallout from his actions. The Board ordered a reprimand, fine, and rendered his second letter of qualification null and void. Multiple other states in the IMLCC, which had licensed Licensee based upon that second letter, have since issued discipline-related orders too. Wyoming issued an Order of Summary Suspension of Licensee on 02/17/22, due to the criminal conduct of the Licensee involving a healthcare worker and his apparent use of misrepresentation and/or fraud in obtaining a license. Wyoming’s Order noted Licensee advertises as practicing telehealth and therefore has access to Wyoming’s public, even if he physically practices in West Virginia. In response to Wyoming’s Order, on 02/28/22, the Maryland State Board of Physician’s issued an Order for Suspension of License to Practice Medicine pertaining to Licensee. On 03/10/22, the Licensee voluntarily surrendered his License in South

Dakota in lieu of an emergency suspension, pursuant to a Consent to Voluntarily Surrender South Dakota Medical License involving Licensee dated 03/09/22.

The New Hampshire Board of Medicine was first presented with the 02/18/22 IMLC email and noted supplemental documentation herein on 04/06/22. Licensee currently has nothing preventing him from practicing in New Hampshire either via telehealth or in-person.

III. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

The Board finds there is a reasonable basis to suspend the Licensee's New Hampshire license on an emergency basis. There are sufficient facts to prove that Licensee has engaged in serious professional misconduct, including 1) sexually assaulting a health care worker; and 2) attempting, by means of fraud and/or misrepresentation, to obtain a license to practice. Such conduct appears to be a violation of RSA 329:17, VI(a), RSA 329:17, VI (c), RSA 329:17, VI(d), and/or RSA 329:17, VI(i). The Licensee's conduct on its face, his use of telemedicine, and the recent actions taken against the Licensee's licenses in other states because of his conduct, demonstrate the Licensee poses an imminent threat to the public health, safety, and welfare, so as to warrant immediate emergency suspension of his physician's license pursuant to RSA 541-A:30(III) and RSA 329:18-b.

IV. CONCLUSION AND DECISION:

Pursuant to RSA 541-A:30(III) and 329:18-b, the Board hereby orders the immediate emergency suspension of Virgil McMillion's license as a practicing physician, pending a follow up emergency hearing in this matter. A Notice of Emergency Hearing with an appropriate date/time shall follow forthwith.

DATED: 4/8/2022

_____/s/ Nikolas Frye, Esq._____
Hearings Examiner
Authorized Representative of the Board of
Medicine-
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301