

OCT 10 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2121

IN RE: THE APPLICATION TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY FILED BY HAMED A. ELFEKY, M.D., LICENSE NO. 58670, 330 SOUTH WATERFORD LANE, WILMINGTON, DELEWARE 19808

AGREED ORDER OF FINE

Come now the Kentucky Board of Medical Licensure (“the Board”) and Hamed A. Elfeky, M.D. (“the applicant”), and, based upon their mutual desire to fully and finally address the applicant’s non-disclosure on his application, hereby ENTER INTO the following **AGREED ORDER OF FINE**:

STIPULATIONS OF FACT

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

1. At all relevant times, Hamed A. Elfeky, M.D. was an applicant for a medical license within the Commonwealth of Kentucky.
2. The applicant’s medical specialty is Pathology.
3. On or about December 13, 2022, the applicant submitted an application for a license to practice medicine in the Commonwealth of Kentucky.
4. The applicant answered “no” to Question 6, Category I of the application, which asked, “Have you ever resigned your privileges or failed to renew privileges at a licensed hospital or from the medical staff of the hospital, while under investigation or while you were subject to disciplinary proceedings by the hospital?”

5. On or about December 19, 2019, Reston Hospital Center reported that while under investigation and a performance improvement plan due to two cases which raised quality of care concerns, the applicant resigned his medical staff membership and clinical privileges at Reston Hospital Center effective November 21, 2019.
6. On or about July 10, 2023, the applicant entered into a Consent Order with the Virginia Board of Medicine. The findings of fact are as follows:

On October 23, 2019, Patient A presented to the Reston Hospital Center ("RHC") with a hard, circumscribed lesion in her left breast. Due to Patient A's history of breast cancer in 2013, she underwent a skin-sparing mastectomy with a sentinel node biopsy to confirm a breast cancer diagnosis. The biopsy sample was sent to Dr. Elfeky for testing in the pathology department.

Dr. Elfeky did not handle the gross examination of the specimen, which was conducted by another health care provider. Dr. Elfeky received the sampled tissue, prepared slides and read them, and based his report on those slides. Several days after the biopsy procedure, Patient A's treating physician received the pathology report from Dr. Elfeky, which indicated a finding that no cancer was present in Patient A's breast tissue. Patient A's treating physician contacted Dr. Elfeky concerning his report, indicating to him that the finding was likely not correct. She requested that Patient A's breast tissue specimens be re-evaluated.

After Patient A's sample was re-tested by Dr. Elfeky, including the previously overlooked lesion, Dr. Elfeky examined the new tissue and identified the index lesion, which was then sampled. Dr. Elfeky issued a revised report, informed Patient A's treating physician that the initial finding was mistaken, and confirmed the presence of cancer in Patient A's breast before releasing the report. Dr. Elfeky attributed the mistake to a physician assistant providing him a specimen of the scar tissue associated with Patient A's first breast cancer surgery from 2013, rather than a sample of the suspected carcinoma. Patient A's treating physician was concerned about the incorrect finding because, as she noted in her March 27, 2020 interview with the DHP investigator, had she proceeded in a course of treatment for Patient A based on Dr. Elfeky's initial mistaken report, the patient would likely not have received chemotherapy, resulting in a potential adverse patient outcome.

In Spring 2019, Patient B was diagnosed with node negative, triple negative invasive left breast carcinoma and was referred for surgery. On October 23, 2019, Patient B underwent a mastectomy with a sentinel node biopsy. While

the treating physician was in the operating room and Patient B was under full anesthesia, a frozen section of the carcinoma was sent to pathology with a request that an analysis be completed in 20 minutes and the results be provided before concluding the surgery and bringing the patient out of anesthesia.

After waiting, the treating physician called the pathology department and spoke with Dr. Elfeky. According to the treating physician's March 27, 2020 DHP interview, Dr. Elfeky told her that the lymph node was negative for cancer. He failed to mention, however, that he had not completely examined all of the sections of the sample and that an additional deeper section of the sample still needed to be examined before completing the frozen section diagnosis. As a result of the initial diagnosis relayed by Dr. Elfeky, Patient B's treating physician began to close her incision. While in the process of completing the incision closure procedure, however, Dr. Elfeky called Patient B's treating physician back and informed her that he made a mistake in his initial finding. He stated that he found carcinoma in Patient B's lymph node specimen. As a result of this error, Patient B's treating physician had to re-open the closed incision site and begin an axillary node dissection procedure. Patient B's treating physician assessed that the delay in the surgical procedure did not result in an adverse patient outcome, but did acknowledge that had Patient B woken up before she was able to initiate the axillary node dissection procedure, the patient would have had to be scheduled for a second surgical procedure at another time, which would have increased patient risk.

The treating physician expressed her concerns to the appropriate hospital administrators. With questions raised concerning Dr. Elfeky's practice, the Executive Medical Committee ("EMC") of the hospital initiated a peer review of both Patient A and Patient B's cases. As a result of their review, the EMC recommended that Dr. Elfeky be placed on a Performance Improvement Plan ("PIP"). The PIP required 100% prospective, if possible, over-read on resection cases by a second pathologist.

On November 21, 2019, Dr. Elfeky resigned his hospital staff membership and voluntarily surrendered his clinical privileges.

7. Pursuant to the Virginia Consent Order, the applicant was reprimanded.
8. The applicant was given notice of the Board meeting on September 21, 2023. The applicant did not appear. The Board voted to grant the applicant's application, contingent upon the applicant entering into this Agreed Order of Fine.

STIPULATED CONCLUSIONS OF LAW

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

1. By submitting his application for medical license to the Board, the applicant's medical license is subject to regulation and discipline 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 the applicant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice.
3. Based upon the Stipulations of Fact, the applicant has engaged in conduct which violates the provisions of KRS 311.595(1), (17) and (21). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.
4. 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 of Fine.

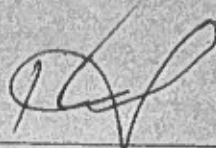
AGREED ORDER OF FINE

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, as an express condition of the Board approving Dr. Hamed A. Elfeky's Application for License to Practice Medicine in the Commonwealth of Kentucky, the parties hereby ENTER INTO the following **AGREED ORDER OF FINE:**

1. The applicant is hereby FINED One Thousand Dollars (\$1,000.00).
2. Upon verified payment of the above fine, the applicant will be issued a Kentucky Medical License.

SO AGREED on this 10th day of October, 2023.

FOR THE APPLICANT:



HAMED A. ELFEKY, M.D.

COUNSEL FOR THE APPLICANT
(IF APPLICABLE)

FOR THE BOARD:



WAQAR A. SALEEM, M.D.
ACTING PRESIDENT



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