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COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2062

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MARCELLO PIETRANTONI, M.D., LICENSE NO. 29075, 6322 CLIFF DRIVE, JEFFERSONVILLE, INDIANA 47130

**ORDER OF INDEFINITE RESTRICTION**

On November 17, 2022, the Kentucky Board of Medical Licensure (“the Board”), acting by and through its Hearing Panel B, took up this case to consider the licensee’s failure to submit to a clinical skills assessment ordered pursuant to KRS 311.604. The Panel reviewed a memorandum from John Lewis, Medical Investigator, dated November 10, 2022; Order of Indefinite Restriction, Case No. 1838, filed of record March 22, 2019; Order to Complete Clinical Skills Assessment, Case No. 2062, filed of record July 25, 2022; and e-mail correspondence from the licensee, dated November 7, 2022. In addition, the licensee was given notice and did appear and was heard by the Panel.

Having considered all of the relevant information available to it and being sufficiently advised, the Panel makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Marcello Pietrantoni, M.D. (“the licensee”), has not engaged in the active practice of medicine since February 2018.
2. On or about March 22, 2019, the Board issued an Order of Indefinite Restriction against the licensee’s medical license, pursuant to which the licensee was allowed to practice medicine except for maternal-fetal medicine or obstetrics and gynecology.

3. On or about July 21, 2022, the licensee requested that he be allowed to resume the practice of obstetrics and gynecology and maternal-fetal medicine.
4. On or about July 21, 2022, the Panel denied the licensee's request to resume the practice of obstetrics and gynecology and maternal-fetal medicine and to defer further consideration until he completes at least one year of a residency training program specific to those specialties.
5. On or about July 21, 2022, while requesting that he be allowed to resume the practice of obstetrics and gynecology and maternal-fetal medicine, the licensee informed the Panel that he has not engaged in the active practice of medicine for more than two (2) years. According to the licensee, he had not engaged in any practice of medicine since October 2017 although he previously testified in Case No. 1838 that he practiced addiction medicine in early 2018.
6. On or about July 25, 2022, pursuant to KRS 311.604, the Board ordered the licensee to schedule and complete a board-approved general medicine clinical skills assessment within no more than ninety (90) days from the date of entry of the order.
7. After ninety days (90) had passed, the licensee had neither scheduled nor completed a board-approved general medicine clinical skills assessment.
8. The licensee presented to the Panel that he is unable to schedule or complete the ordered clinical skills assessment for financial reasons and he does not agree that an assessment is necessary.
9. The licensee failed to comply with the Order to Complete Clinical Skills Assessment and failed to demonstrate that his failure to do so was due to circumstances beyond his control.

## CONCLUSIONS OF LAW

1. KRS 311.604 provides, in part,
  - (1) When a hearing or inquiry panel receives information that a physician has not been engaged in the active practice of medicine for at least two (2) years, the panel may order the physician to successfully complete a board-approved clinical competency examination or a board-approved clinical skills assessment program at the expense of the physician. The Panel shall review the results of the examination or assessment and determine whether the physician may resume the practice of medicine without undue risk or danger to the patients or the public.
  - (2) Failure of a physician to successfully complete the clinical competency examination or the clinical skills assessment when directed shall constitute an admission that the physician is unable to practice medicine according to accepted and prevailing standards, unless the failure was due to circumstances beyond the control of the physician. The failure shall constitute a default and a final order may be entered without presentation of additional evidence.  
...
2. When the Panel issued the Order to Complete Clinical Skills Assessment in July 2022, it made the requisite findings under KRS 311.604 that there was probable cause to believe that the licensee had not been engaged in the active practice of medicine for at least two (2) years.
3. The licensee received notice of the order and was fully aware of the dates by which to schedule and complete the assessment.
4. The licensee's failure to schedule the assessment pursuant to the Order to Complete Clinical Skills Assessment was not due to circumstances beyond the licensee's control. While the Board understands that failure to practice may lead to certain financial difficulties, it does not support a conclusion that a licensee is thus completely without any ability to work or otherwise earn or secure money to pay for an assessment.

5. Pursuant to KRS 311.604, by failing to successfully complete a clinical skills assessment as directed by the Board, the licensee has admitted that he is unable to practice medicine according to accepted and prevailing standards.
6. Pursuant to KRS 311.604, the licensee's failure to successfully complete a clinical skills assessment as directed by the Board constitutes a default and this final order may be entered without additional testimony or without presentation of additional evidence.

#### ORDER OF INDEFINITE RESTRICTION

Based upon the Findings of Fact and Conclusions of Law, and Panel B hereby

#### **ORDERS:**


1. The license to practice medicine in the Commonwealth of Kentucky held by Marcello Pietrantonio, M.D., is hereby RESTRICTED FOR AN INDEFINITE PERIOD OF TIME to begin immediately upon the date of filing of this Order and continuing until further Order of the Panel;
2. During the effective period of restriction, the licensee SHALL NOT engage in any act which would constitute the "practice of medicine" as that term is defined by 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 the Panel;
3. The licensee SHALL be afforded the opportunity at reasonable intervals to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients and the burden of persuasion on that issue rests solely upon the licensee. The Panel shall not consider any request by the licensee to resume the active practice of medicine unless he has successfully completed a clinical skills assessment by either the Center for Personalized Education for Professionals (CPEP), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232, or LifeGuard, 400 Winding Creek Boulevard, Mechanicsburg, Pennsylvania 17040, Tel. (717) 909-2590, and the Board has received a copy of the written Clinical Skills Assessment Report from either CPEP or LifeGuard. The decision whether to grant a request to resume the active practice of medicine lies solely within the Board's discretion.

SO ORDERED this 21<sup>st</sup> day of November, 2022.

  
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DALE E. TONEY, M.D.  
CHAIR, HEARING PANEL B

CERTIFICATE OF SERVICE

I certify that the original of this Order of Indefinite Restriction was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and a copy was mailed via certified mail return-receipt requested to Marcello Pietrantonio, M.D., License No. 29075, 6322 Cliff Drive, Jeffersonville, Indiana 47130, on this 21<sup>st</sup> day of November, 2022.

  
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LEANNE K. DIAKOV  
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Kentucky Board of Medical Licensure  
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Louisville, KY 40222  
Tel. (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 Indefinite Restriction 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. 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.