

SEP 19 2024

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2173

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY J. RUSSELL ROSS, M.D., LICENSE NO. 14833, 2816 VEACH ROAD, SUITE 403, OWENSBORO, KENTUCKY 42303

**AGREED ORDER OF RETIREMENT**

Come now the Kentucky Board of Medical Licensure (hereafter “the Board”), acting by and through its Inquiry Panel B, and J. Russell Ross, M.D., (hereafter “the licensee”), and, based upon the licensee’s desire to retire from the practice of medicine during a pending investigation, hereby ENTER INTO the following **AGREED ORDER OF RETIREMENT**:

**STIPULATIONS OF FACT**

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

1. At all times, J. Russell Ross, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee’s medical specialty is urology.
3. On or about January 17, 2023, Ohio County Healthcare (“OHC”) suspended the licensee’s surgical privileges, stating in part as follows:

Due to concerns that have been brought to our attention regarding, a pattern of patient harm secondary to surgical procedures as well as discrepancies in documentation of patient encounters, the Medical Executive Committee (MEC) is taking investigative action. It is the obligation of this committee to ensure Ohio County HealthCare provides safe, quality services to those who trust us with their healthcare needs. As a response to the above concerns, please be informed that your surgical privileges are hereby temporarily suspended at Ohio County HealthCare pending completion of the investigation process as outlined in section 9.3 of the Medical Staff By-Laws.

4. On or about February 17, 2023, the licensee agreed to participate in a Focused Professional Practice Evaluation ("FPPE") with proctoring of cases and intermittent review of outcomes with reinstatement of surgical privileges during the FPPE.
5. On or about April 4, 2023, OHC informed the licensee of ongoing concerns and the licensee's noncompliance with the FPPE terms, stating in part

Your new FPPE began this year on March 1st, although it has not been a full 12 weeks for a quarterly review of cases there have already been some concerns. The FPPE is regarding quality of care and appropriate management of patients focusing on TURPs, kidney stones and documentation. The purpose of submitting a History and Physical prior to scheduling is to document the appropriate work up has been done on each patient prior to scheduling. In the cases you have scheduled thus far we have had to request additional documentation and work up on almost every case. These incomplete H&P's reflect poor documentation and not the improvement required by your FPPE.

We are sending this update to notify you that the above concerns are not in compliance with the FPPE. This letter gives you an opportunity to correct both the required work ups and documentation prior to the first 12-week review. Failure to improve will result in a failure of the FPPE and a voluntary relinquishment of your privileges as agreed in the FPPE. ...

6. On or about July 14, 2023, OHC again informed the licensee of ongoing concerns and the licensee's noncompliance with the FPPE terms, stating in part

A written complaint regarding your behavior was submitted and brought to the attention of the MEC. The complaint is regarding complaints that you attempted to bully outpatient surgery staff to disregard protocol and room a patient before testing was resulted. Bullying will not be tolerated at Ohio County Healthcare as it is not in the spirit of "outstanding care here." Also, we would like to remind you that the FPPE is for patient safety and is a requirement for both you and staff.

Once again, we are sending this update to notify you that the above concerns are not in compliance with the FPPE. This letter gives you an opportunity to correct both the required work ups and documentation prior to the first 12-week review. Failure to improve will result in a failure of the FPPE and a voluntary relinquishment of your privileges as agreed in the FPPE. ...

7. On or about July 12, 2023, an outside peer review was concluded which found “concerns about patient management and surgical technique” and “indications of inappropriate conduct towards hospital staff.” The reviewer noted a pattern of the licensee failing to evaluate patients in-office and rule non-surgical interventions in accordance with American Urological Association standards; failure to complete resections due to perceived time limits; a protocol of catheter retraction overnight following resection; significant peri-operative surgical complications; excessive or unusual postoperative bleeding requiring repeated surgical intervention; diagnosing patients with bladder neck contracture even though they had not had prior urologic surgery; an incident of bladder and bowel perforation; an incident in which a patient was taken to the OR for removal of a cystic mass but at the time of the procedure no mass was found; the licensee’s highly dismissive and condescending behavior toward staff; and concerns of the licensee’s overall judgment.
8. On or about July 26, 2023, the licensee resigned from the Ohio County Hospital Medical Staff.
9. On or about August 1, 2024, the licensee entered into an Interim Agreed Order (Diversion) with the Board, pursuant to which he agreed to submit to a clinical skills assessment and reimburse the Board’s costs of investigation.
10. On or about August 5, 2024, the licensee stated his intent to retire from the practice of medicine immediately and asked to resolve the Board’s investigation by entering into this Agreed Order of Retirement.

#### CONCLUSIONS OF LAW

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

1. The licensee's Kentucky medical license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee is in violation of the provisions of KRS 311.595(21). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve the pending investigation without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Retirement.

### **AGREED ORDER OF RETIREMENT**

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon the licensee's intent to retire, the parties hereby ENTER INTO the following


#### **AGREED ORDER OF RETIREMENT:**

1. In accordance with the licensee's stated intent, the license to practice medicine within the Commonwealth of Kentucky held by J. Russell Ross, M.D., is **RETIRED**, effective immediately upon the date of filing of this Agreed Order of Retirement and continuing for an indefinite period;
2. Beginning immediately and continuing throughout the indefinite period of this Agreed Order of Retirement, the licensee is indefinitely restricted from performing any act, within the Commonwealth of Kentucky, which constitutes the "practice of medicine or osteopathy" as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction or any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
3. The licensee SHALL NOT petition the Board to resume practice or to reinstate his license to practice medicine in the Commonwealth of Kentucky, prior to the expiration of two (2) years from entry of this Agreed Order of Retirement and in accordance with KRS 311.604 and .607. The licensee understands that the decision whether to allow him to resume practice or to reinstate his license to again practice medicine in the Commonwealth of Kentucky lies within the sole discretion of the Panel;
  - a. Prior to petitioning for reinstatement of a license to practice medicine, the licensee SHALL

- i. Complete, at his expense, a Board-approved clinical skills assessment program at either LifeGuard, 400 Winding Creek Boulevard, Mechanicsburg, Pennsylvania, 17050, Tel. (717) 909-2590 or Center for Personalized Education for Professionals (“CPEP”), 720 South Colorado Boulevard, Suite 1100-N, Denver Colorado 80246, Tel. (303) 577-3232;
  - ii. Obtain an education plan from CPEP or LifeGuard, if recommended based on results of the clinical skills assessment;
  - iii. Submit evidence sufficient to satisfy to the Panel that he is of good moral character and both physically and mentally competent to resume the practice of medicine without undue risk or danger to patients or the public; and
  - iv. Reimburse the Board’s costs in the amount of \$4,200.00.
4. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order of Retirement, 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 Retirement, the Panel Chair 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 Agreed Order of Retirement 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 Retirement; and
5. The licensee understands and agrees that any violation of the terms of this Agreed Order of Retirement would provide a legal basis for additional disciplinary action, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.

SO AGREED on this 19 day of September, 2024.

FOR THE LICENSEE:

  
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J. RUSSELL ROSS, M.D.

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COUNSEL FOR THE LICENSEE  
(IF APPLICABLE)

FOR THE BOARD:



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



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