

MAR 25 2024

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1934

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY ROBERT F. ROSS, M.D., LICENSE NO. 25361, 34 CROW HILL, FORT THOMAS, KENTUCKY 41075

**DEFAULT AND FINAL ORDER**

On March 21, 2024, the Kentucky Board of Medical Licensure, acting by and through its Inquiry Panel B, took up this case to consider the licensee's failure to submit to an assessment ordered pursuant to KRS 311.604. The Panel reviewed a memorandum from Jon Marshall, Medical Investigator, dated January 22, 2024; a memorandum from Mr. Marshall, dated August 1, 2023; an Agreed Order, Case No. 1934, filed of record September 9, 2019; correspondence from Elizabeth Grace, M.D., CPEP, dated June 4, 2020, regarding the licensee's completion of ProBe Program; a Certificate of Credit, dated September 27, 2019, documenting the licensee's completion of the CPEP/UC Health Memorial Hospital Medical Recordkeeping Seminar on September 20, 2019; a transcript of the licensee's completion of the Prescribing Controlled Drugs CME, offered through Vanderbilt University Medical Center, on February 5-7, 2020; an Order to Complete Clinical Skills Assessment, Case No. 1934, filed of record September 25, 2023; e-mail correspondence between the licensee and Mr. Marshall, dated October 31, November 1 and 6 and December 12 and 13, 2023; and e-mail correspondence between Tracey Ziegler, LifeGuard, and Jill Lun, KBML Legal Assistant, dated January 19, 2024.

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. At all relevant times, Robert F. Ross, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Family Medicine.
3. On or about September 19, 2019, the licensee entered into an Agreed Order, Case No. 1934, pursuant to which he was required to participate in and complete certain remedial education courses and implementation programs, including CPEP post-documentation seminar program, "Personalized Implementation Program" (PIP) and to maintain a log of controlled substances prescribed in order to allow for follow up consultant reviews.
4. On or about September 21, 2023, the Panel considered Agreed Order, Case No. 1934, and the licensee's failure to make meaningful progress toward fulfillment of its terms and conditions due to the licensee having not been engaged in the active practice of medicine since 2019. The Panel also considered that the licensee was actively pursuing an opportunity to resume practice.
5. On or about September 25, 2023, the Panel ordered the licensee to complete a clinical skills assessment pursuant to KRS 311.604 to determine where the licensee is competent practice medicine.
6. On or about October 25, 2021, the Order to Complete Clinical Skills Assessment was served upon the licensee.
7. The licensee did not comply with the terms and conditions set forth in the Order to Complete Clinical Skills Assessment, filed of record September 25, 2023.
8. On or about October 31, 2023, the licensee sent an email to the Board's medical investigator confirming that he had contacted the clinical skills assessor, LifeGuard, and "I

have the application and I will complete and submit this week. This should allow me to complete the LifeGuard course by early December.”

9. On or about November 6, 2023, the licensee sent an email to the Board’s medical investigator confirming that he had completed and submitted an application for a clinical skills assessment to LifeGuard.
10. On or about December 12, 2023, the licensee sent an email to the Board’s medical investigator stating that, because a potential practice opportunity was no longer available, he did not want to spend the time and money on the assessment.
11. On or about December 13, 2023, the medical investigator interviewed Tracey Zeigler of LifeGuard. Ms. Zeigler stated that the licensee contacted LifeGuard on November 29, 2023 and submitted an application; and that LifeGuard had sent him a formal proposal with an acceptance deadline of December 20, 2023.
12. On or about January 19, 2024, Ms. Zeigler emailed the medical investigator and informed him that the licensee had not been in contact with LifeGuard since November 29, 2023 and did not sign the formal proposal which then expired on December 20, 2023.
13. The Inquiry Panel finds that the licensee failed to demonstrate that his failure to comply with the Order to Complete Clinical Skills Assessment was due to circumstances beyond his control.
14. The licensee’s failure to submit to the assessment as ordered pursuant to KRS 311.604 constitutes an admission that the physician is unable to practice medicine according to accepted and prevailing standards.

## 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 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 additional testimony or without presentation of additional evidence.

...
2. When Inquiry Panel B issued the Order to Complete Clinical Skills Assessment it had received information 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 to Complete Clinical Skills Assessment and was aware of the terms and conditions for the scheduling and completion of the assessment.
4. The licensee's failure to schedule and complete the assessment pursuant to the Order to Complete Clinical Skills Assessment was not due to circumstances beyond the licensee's control, but rather his desire to not spend the money or the time on the assessment.
5. Pursuant to KRS 311.604, by failing to successfully complete the assessment as directed, the licensee is unable to practice medicine according to accepted and prevailing standards.
6. Pursuant to both KRS 311.604, the licensee's failure to successfully submit to the assessment as directed constitutes a default and this final order may be entered without additional testimony and without presentation of additional evidence.

## ORDER OF INDEFINITE RESTRICTION

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

### **ORDERS:**

1. The license to practice medicine in the Commonwealth of Kentucky held by Robert F. Ross, 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 and until the licensee has successfully completed the assessment specified in the Order to Complete Clinical Skills Assessment, filed of record September 25, 2023, and the Board has received a copies of the written reports of that assessment from the assessor(s). The decision whether to grant a request to resume the active practice of medicine lies solely within the Board’s discretion.

SO ORDERED this 25<sup>th</sup> day of March, 2024.

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

**Certificate of Service**

I certify that on this 25<sup>th</sup> day of March, 2024, the original of this Default and Final Order was delivered to Michael 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 Robert F. Ross, M.D., License No. 25361, 34 Crow Hill, Fort Thomas, Kentucky 41075.



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Leanne K. Diakov  
General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222

**EFFECTIVE DATE AND APPEAL RIGHTS**

Pursuant to KRS 311.593(1) and 13B.120, this order shall be effective immediately. 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.