

MAY - 9 2024

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2153

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY DAVID R. GELLER, M.D., LICENSE NO. 36536, 3920
DUTCHMANS LANE, SUITE 302, LOUISVILLE, KENTUCKY 40207

AGREED ORDER

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel A, and David R. Geller, M.D., ("the licensee"), and, based upon their mutual desire to fully and finally resolve the pending investigation without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER**:

STIPULATIONS OF FACT

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

1. At all relevant times, David R. Geller, M.D. ("the licensee"), was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is surgery.
3. On or about February 17, 2022, based on the recommendation of its Medical Executive Committee, U of L Health-Jewish Hospital's Board of Directors voted to revoke the licensee's privileges due to quality concerns; this was a non-final decision entitling the licensee to request a hearing. On or about March 31, 2022, the licensee requested a hearing; however, before a hearing could take place, the licensee took a six-month a medical leave of absence, during which his medical staff privileges were suspended and the hearing postponed. While on medical leave, the licensee's medical staff appointment expired resulting in the automatic termination of his privileges and

rendering a hearing moot; thus, the proceedings terminated without any adverse factual findings, final determination, or adverse action.

4. Following termination of his privileges at U of L Health-Jewish Hospital, the licensee ceased performing procedures in the Commonwealth of Kentucky. Although he maintains an office in the Commonwealth, at which he sees patients pre- and post-procedure, he performs procedures on those patients at facilities in another state.
5. In or around February 2024, as part of the Board's investigation, the licensee submitted to a multi-day, multi-component clinical skills assessment at LifeGuard, a Board-approved independent, individualized clinical skills assessment program located in Mechanicsburg, Pennsylvania.
6. At the time of the assessment, LifeGuard found the licensee's practice to be as follows:

...his outpatient setting is basically him and one more person that helps with answering phone calls and billing. He explained that recently two people that used to work with him unfortunately passed away, which has affected things a little. Perhaps as result of this, his charts and organization when it came to patient documentation was very poor and disorganized.

He does not have a Nutritionist or Bariatric Nurse Coordinator which means that his patients get very little education when it comes to nutrition and exercise before and after surgery. Most of his patients have to drive 1 to 3 hours in order to see him before surgery. As a result, if they have any complications after surgery they tend to be away, and he potentially cannot take care of them based on the distance.

He does not have any partners but expresses that when he is off or on vacation, two general surgeons would cover for him. Otherwise, he covers constantly for his own patients. At the moment, he is performing surgeries in a low acuity level hospital that allows for overnight stay but lacks an emergency department, intensive care unit, and even CT scanners.

He seems to have a large experience as he explains that he has done > 3000 gastric bypasses. Currently, 75% of his practice is Roux en Y Gastric Bypasses, 20% sleeves and the rest are revisions.

7. LifeGuard assessors noted, in part, that

... Dr. Geller performs adequately in many areas. He is showing some consistent difficulties on tasks of verbal learning and memory. He had a mild problem with rapid mental flexibility, and some mild issues with visual organization. There could be a number of factors contributing to the pattern here, including general health status, possible vascular risk factors, and/or depression/adjustment concerns.

I think his health status needs to be clarified in terms of any issues with performing the demanding task of surgery. I encourage him to seek some professional support for coping with the number of stresses he has currently, health issues and work issues as well.

...

Overall, he seems to be strong from a decision-making standpoint. Based on some of the complications I reviewed, as well as operative reports, it seems like he has been doing things the same way for many years. Lately, he may have had some more complications than in the past, and above what is expected for someone with his experience. The way his Bariatric practice is set up seems to be very basic; poor to no support and no multidisciplinary approach, which are the current standard of care in this specialty.

...

The lack of a good, working, electronic health record system or even an organizing template for his medical records is a detriment to Dr. Geller's practice. His medical records are a haphazard collection of information, causing some things to be missing or difficult to find. This jeopardizes good patient care - especially should one of his patients have complications necessitating transfer to other caregivers or hospital.

8. Upon completion of the assessment, LifeGuard made several remediation plan recommendations, including the following

- The licensee should seek a neuropsychological assessment and is encouraged to seek some professional support for coping with the number of stresses that he currently has, including health issues as well as work issues;
- The licensee should seek regular medical follow-up to address health concerns in terms of issues that may affect his ability to perform the demanding task of surgery;
- The licensee should complete the continuing medical education specific to medical records documentation and current standards of bariatric surgery;
- A board-certified physician should engage in a period of onsite observation of the licensee's surgical practice, both in office during pre- and post- procedure engagements and during performance of surgical procedures;
- The licensee should participate in a monitoring program for at least 12 months, on a quarterly basis.

9. The licensee and the Board agreed to resolve the Board's pending investigation by entry of this Agreed Order in lieu of proceedings on a Complaint.

STIPULATED CONCLUSIONS OF LAW

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

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 has engaged in conduct which violates the provisions of KRS 311.595(8), (9) [as illustrated by KRS 311.597(4)] and (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.

AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve this pending matter without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER:**

1. The license to practice medicine held by David R. Geller, M.D., is hereby PLACED ON PROBATION FOR A PERIOD OF FIVE (5) YEARS, with that period of probation beginning immediately upon the filing of this Agreed Order.

2. During the effective period of this Agreed Order, the licensee's Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS until further order of the Board:
- a. On or before May 6, 2024, the licensee SHALL enroll in the 2024-2025 ASMBS Surgical Mentoring Program;
 - i. Once enrolled, the licensee SHALL complete the program at the time and date(s) scheduled, at his expense;
 - ii. The licensee SHALL provide the Board's staff with written verification that he has successfully completed the program promptly after completion;
 - iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that program providers, including the assigned mentor, may provide a copy of any evaluations from the program to the Board's Legal Department;
 - b. Within sixty (60) days of the filing of this Agreed Order, the licensee SHALL obtain a Board-approved proctor (who shall be a board-certified bariatric surgeon, unaffiliated with the licensee's practice), who shall on a *quarterly basis* (beginning July 1, 2024) and for a minimum of one (1) year, spend at least one (1) day directly observing, on-site, the licensee's office practice seeing patients pre- and post- procedure and at least one (1) day observing the licensee's surgical practice (i.e. performance of procedures);
 - i. For review and written Board-approval, the licensee SHALL submit the proctor's name, curriculum vitae and a written statement from the proctor that (1) he/she has read this Agreed Order and the LifeGuard Assessment Report and (2) he/she agrees to provide independently written quarterly reports to the Board/Board staff including the proctor's evaluation and assessment of the licensee's:
 - Techniques employed during surgical procedures;
 - Compliance with standards of care during pre- and post-procedure patient encounters in the office;
 - Clinical documentation of pre- and post- procedure in-office encounters and surgical procedures;
 - Informed consent process; and
 - Organization and workflow of his practice;
 - ii. The licensee SHALL be responsible for and pay any costs/expensed associated with the proctorship;
 - c. Within sixty (60) days of the filing of this Agreed Order, the licensee SHALL make all necessary arrangements to enroll in each of the following

online continuing medical education courses specific to current standards of bariatric surgery:

- ASMBS Annual Meeting <https://asmbs.org/professional-education/annual-meeting/>
 - Advanced Practice Provider (APP) Lecture Series – “To Revise or Not to Revise: Perspectives on the Bariatric Revision Process.”
<https://asmbs.org/videos/advancedpractice-provider-app-lecture-series-to-revise-or-not-to-revise-the-bariatric-revisionpatient/>
 - “Complications of Metabolic and Bariatric Surgery.”
<https://asmbs.org/videos/the-fellowproject-complications-of-metabolic-and-bariatric-surgery/>
 - “Management of Bile Reflux After Single-Anastomosis Duodenal Switch (SADS) -Conversion to RYGB.”
<https://asmbs.org/videos/management-of-bile-reflux-after-singleanastomosis-duodenal-switch-sads-conversion-to-rygb/>
- i. Once enrolled, the licensee SHALL complete the course at the time and date(s) scheduled, at his expense;
- ii. The licensee SHALL provide the Board’s staff with written verification that he has successfully completed the courses promptly after completion;
- iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that course providers may provide a copy of any evaluations from the course to the Board’s Legal Department promptly after their completion;
- d. On May 18-19, 2024, the licensee SHALL participate in and successfully complete, at his expense, PBI Education’s “Medical Record Keeping (MR-17)” course;
- i. The licensee SHALL also take all necessary steps to enroll in any recommended post-course or extended program;
- ii. The licensee SHALL provide the Board’s staff with written verification that he has successfully completed the course and any recommended post-course or extended program promptly after completion;
- iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that course providers may provide a copy of any evaluations from the course to the Board’s Legal Department promptly after their completion;


- e. Within sixty (60) days of the filing of this Agreed Order, the licensee SHALL submit, at his expense, to a neuropsychological evaluation to be conducted by Raskin & Associates, 7400 New LaGrange Road, Suite #312, Louisville, Kentucky 40222, Tel. 502/394-9990;
 - i. The licensee SHALL provide the Board's staff with written verification that he has successfully completed the evaluation promptly after completion;
 - ii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that evaluator may provide a copy of any evaluation reports directly to the Board's Legal Department;
 - f. Within sixty (60) days of the filing of this Agreed Order, the licensee SHALL schedule an appointment with his preferred mental health care provider in the Louisville area, The Couch, for the earliest date available and SHALL participate in treatment with said provider on at least a quarterly basis;
 - g. Within six (6) months of the entry of this Agreed Order, the licensee SHALL reimburse the Board's costs in the amount of \$1,312.50; and
 - h. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order, 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, 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 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.

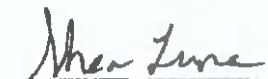
4. The licensee understands and agrees that any violation of the terms of this Agreed Order would provide a legal basis for additional disciplinary action, including revocation, pursuant to KRS 311.595(13).

SO AGREED on this 9th day of May, 2024.

FOR THE LICENSEE:



DAVID R. GELLER, M.D.




SHEA LUNA, ESQ.
COUNSEL FOR THE LICENSEE

FOR THE BOARD:



WAQAR A. SALEEM, M.D.
CHAIR, INQUIRY PANEL A



LEANNE K. DIAKOV
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150