

JUN 22 2023

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. D2301

IN RE: THE APPLICATION TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY FILED BY JOSE L. LIZARDI, M.D., 1209 WEST SWANN AVENUE, TAMPA, FLORIDA 33603

**ORDER DENYING APPLICATION FOR LICENSURE**

At its June 15, 2023 meeting, the Kentucky Board of Medical Licensure (“the Board”) took up the *Application for Medical/Osteopathic License* in the Commonwealth of Kentucky filed by Jose L. Lizardi, M.D. (“the applicant”). In addition to the application, the Board reviewed the following pertinent information: applicant’s letter of explanation regarding Application Question No. 1, dated November 9, 2022; Federation Credentials Verifications Service Report, dated June 22, 2022; applicant’s letter of explanation regarding Board Actions, undated; Federation of State Medical Boards Physician Data Center Practitioner Profile, dated March 17, 2023; Application for Consent Order Before the New York State Board of Medicine including attachments, dated August 10, 1987; Application for Consent Order Before the New York State Board of Medicine including attachments, dated June 22, 1995; applicant’s letter of explanation regarding malpractice claims, undated; Complaint, *Skelly-Hand, et al. v. Lizardi, et al.*, Index No. 111075, New York Supreme Court of the County of St. Lawrence, dated January 28, 2002; Partial Satisfaction of Judgment, *Skelly-Hand, et al. v. Lizardi, et al.*, Index No. 111075, New York Supreme Court of the County of St. Lawrence, dated December 6, 2013; Complaint, *Thompson v. Lizardi*, Index No. CV-2014-0143206, New York Supreme Court of the County of St. Lawrence, dated April 3, 2014; Stipulation of Discontinuance, *Thompson v. Lizardi*, Index No. CV-2014-0143206, New York Supreme Court of the County of St. Lawrence, filed December 5, 2016; and Hospital, Clinic, Facility Affiliation List, and CME Form, received August 26, 2022.

The applicant was given notice of the Board's June 15, 2023 meeting via the email address he provided on his application. He did not appear.

Having considered all the information presented and being sufficiently advised, the Board makes the following Findings of Fact and Conclusions of Law and denies the Application for a Kentucky Medical/Osteopathic License filed by Jose L. Lizardi, M.D.

#### FINDINGS OF FACTS

1. On or about August 9, 2022, Jose L. Lizardi, M.D. submitted an application for a license to practice medicine in the Commonwealth of Kentucky.
2. The applicant answered "No" to Question 1, Category 1 of the application, which asked,  

Have you ever been dismissed from, resigned while under investigation, been placed on a disciplinary probation or reprimanded at a medical school or a postgraduate training program?
3. The applicant answered "Yes" to Question 3, Category 1 of the application, which asked,  

Have you ever had any license, certificate, registration or other privilege as a health care professional denied, revoked, suspended, probated, restricted or limited, or subjected to any other disciplinary action, by a State medical/osteopathic licensing board, or Federal, or International authority?
4. The applicant answered "Yes" to Question 9, Category 1 of the application, which asked,  

Have you ever been or are you currently under investigation by any State, Federal or International licensure authority or any drug licensure/enforcement authority?
5. The applicant answered "Yes" to Question 14, Category 1 of the application, which asked,  

In the past ten (10) years have you had to pay a settlement or judgment in a malpractice action or other civil action against your medical practice, or are there any malpractice or other civil actions against your medical practice presently pending in any court?
6. On or about July 1, 1981, the applicant entered the Strong Memorial Hospital of University of Rochester, Obstetrics and Gynecology Residency Program. Concerns arose about the applicant's character related to completion of medical records and contact with patients. He was placed on probation November 2, 1984, with eventual suspension of his license.

Prior to final action, he was involved in a serious motor vehicle accident. After recovery, he elected to continue training elsewhere. This was not disclosed on his application for licensure.

7. On or about August 26, 1987, the New York State Board for Professional Medical Conduct (“the New York Board”) charged the applicant with fourteen specifications of professional misconduct. The applicant did not contest those charges of professional misconduct and fraud. Events leading to the charges include:

- On or about February 2, 1983, while employed at Planned Parenthood of Rochester and Monroe County, Inc. (“Planned Parenthood”), the applicant performed a gynecological examination on Patient A. During this examination, the applicant, without medical purpose:
  - Stimulated Patient A’s clitoris;
  - Questioned Patient A about her sexual activities; and
  - Told Patient A that she had a pretty face and beautiful eyes, while touching Patient A’s breasts.
- In or about July 1983, while employed at Planned Parenthood, the applicant performed a gynecological examination on Patient B. During this examination, the applicant, without medical purpose:
  - Suggested to Patient B that she call him anytime she wanted;
  - Telephoned Patient B at her home in or about August 1983 and had sexual relations with her; and
  - Patient B returned to Planned Parenthood in or about September 1983, because of a vaginal infection. During Patient B’s examination, the applicant spoke to her in an obscene, threatening and disparaging manner.
- The applicant falsified the findings from a physical examination which he purportedly performed on Patient C at Strong Memorial Hospital on October 24, 1984. The applicant did not, in fact, perform a physical examination at the time he documented the results of such an examination in Patient C’s hospital record.
- The applicant was the chief resident on call for the OB/GYN department at the Genesee Hospital in Rochester, New York during the night shift which spanned March 24-25, 1985. At this same time, he was moonlighting as the on-call physician at the Rochester Psychiatric Center. When the applicant was confronted with the fact that he had professional responsibilities as an on-call physician to two separate hospitals at

the same time, he denied that he was on-call at both hospitals. The applicant falsely stated that he was at home.

- The applicant was absent without approval while he was the chief resident in the OB/GYN department at the Genesee Hospital in November 1984 and April 1985.
8. On or about November 20, 1987, the Board of Regents voted to suspend the applicant's license to practice as a physician for six years; the first year was an actual suspension with the applicant on probation for the last five years. The terms of the probation included that the applicant would conform to moral and professional standards of conduct; all physical examinations of female patients would be performed in the presence of a female attendant; and he would undergo psychiatric or psychological therapy for a period of six years.
  9. On or about June 22, 1995, the applicant submitted an Application for Consent Order which included the New York Board's Statement of Charges. It charged the applicant with four specifications of professional misconduct: Practicing medicine with gross negligence, practicing medicine with gross incompetence and two counts of violating terms of his probation. The applicant admitted to guilt of practicing with gross negligence. The charges were based on the following findings:
    - In August 1992 Dr. Lizardi provided medical care to a 24-year-old pregnant woman in hospital ER. He failed to perform additional diagnostic tests and procedures including hemoglobin/hematocrit levels and/or culdocentesis and exploratory laparotomy; he transferred patient to a hospital 20 miles away and told her she could travel by private car.
    - The applicant violated a term of probation in that he did not conduct himself in a manner befitting his professional status and failed to conform to moral and professional standards of conduct.
  10. On or about June 26, 1995, Dr. Lizardi's Application for Consent Order was adopted. The applicant's medical license was placed on probation for a term of three years based upon gross negligence. The applicant agreed to the penalty of two years suspension of his license, that suspension stayed, to run concurrently with three years' probation. The terms

of his probation included that he would conform to moral and professional standards of conduct; he would submit proof of New York State licensure and payment of fines; and he would comply with quarterly, random chart reviews of his medical files.

11. On or about January 28, 2002, the parents and natural guardians of an infant filed a Complaint against the applicant and Canton-Postdam Hospital related to the infant's delivery on or about February 25, 1996. (*Skelly-Hand, et al. v. Lizardi, et al*, Index No. 111075, New York Supreme Court of the County of St. Lawrence) The Complaint alleged that as labor progressed, complications arose including but not limited to fetal distress and delivery of a child with severe shoulder dystocia as a result of the hospital and the applicant's care. Specifically, it alleged that the applicant failed to properly monitor, evaluate and treat the mother during the course of her labor, negligently evaluated the size of the infant and negligently delivered the infant.
12. On or about November 19, 2012, a judgment of \$3,152,572.09 was entered against the applicant in the action *Skelly-Hand, et al. v. Lizardi, et al*, Index No. 111075, New York Supreme Court of the County of St. Lawrence.
13. On or about April 4, 2014, a Complaint was filed against the applicant, alleging negligence and lack of informed consent. (*Thompson v. Lizardi*, Index No. CV-2014-0143206, New York Supreme Court of the County of St. Lawrence) On or about October 5, 2011, the applicant delivered the plaintiff's baby vaginally and left gauze packing in her vagina. The Complaint further alleges that the applicant failed to inform the mother of the existence of the gauze, failed to provide timely follow-up care for her and failed to inform her of the attendant risks.

14. On or about November 22, 2016, the applicant paid \$15,000 as full and final settlement of the action, *Thompson v. Lizardi*, Index No. CV-2014-0143206, New York Supreme Court of the County of St. Lawrence.

#### CONCLUSIONS OF LAW

1. By submitting an application for a 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. KRS 311.595(1) provides that the Board may deny an application for a license based upon proof that the licensee "knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit."
4. KRS 311.595(9) provides that the Board may deny an application for a license based upon proof that the licensee has "engaged in dishonorable, unethical or professional conduct of a character likely to deceive, defraud or harm the public or any member thereof." KRS 311.597(3) defines such conduct to include,

A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence, or malpractice.

5. KRS 311.595(17) provides that the Board may deny an application for a license based upon proof that the licensee has

Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof. [...]

6. KRS 311.595(21) provides that the Board may deny an application for a license based upon proof that the applicant has

Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. [...]

7. Based upon the Findings of Fact, the applicant engaged in conduct which violates the provisions of KRS 311.595(1), (9), (17) and (21). Accordingly, there are legal grounds for the Board to deny licensure to the applicant.

**ORDER DENYING APPLICATION FOR LICENSURE**

After due deliberation, the Board hereby ORDERS that the *Application for Medical/Osteopathic License* in the Commonwealth of Kentucky filed by Jose L. Lizardi, M.D., is hereby DENIED.

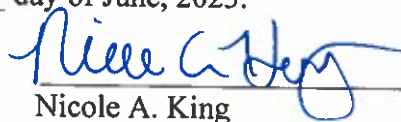
SO ORDERED this 22<sup>nd</sup> day of June, 2023.



WILLIAM C. THORNBURY, JR., M.D.  
PRESIDENT

Certificate of Service

I certify that the original of this Order Denying Application for Licensure 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 the applicant, Jose L. Lizardi, M.D., 101 West Beach Place, Suite 2703, Tampa, Florida 33603, on this 22<sup>nd</sup> day of June, 2023.



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EFFECTIVE DATE AND APPEAL RIGHTS

This Order Denying Application for Licensure is effective upon filing.

Pursuant to KRS 311.571(7), KRS 311.593(2), and KRS 13B.140, the applicant may obtain judicial review of this Order 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, as noted above. Copies of the petition shall be served by the applicant upon the Board and its General Counsel or Assistant 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.