

FILED OF RECORD

AUG 29 2024

K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2172

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF
KENTUCKY HELD BY WILLIAM R. MARTIN, M.D., LICENSE NO. 34442,
2780 FREDERICA STREET, OWENSBORO, KENTUCKY 42301

AMENDED AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel B, and William R. Martin, M.D. (hereafter "the licensee"), and, based upon their mutual desire to resolve the pending investigation, the parties hereby ENTER INTO the following **AMENDED AGREED ORDER**:

STIPULATIONS OF FACT

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

1. At all relevant times, William R. Martin, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Orthopaedic Surgery.
3. The Board received a report concerning actions taken by Owensboro Health Regional Hospital (the "Hospital") pertaining to the licensee. According to the report, the Hospital's Medical Executive Committee (the "MEC") recommended terminating the licensee's appointment and privileges based on concerns about his professional conduct. However, no formal action was taken against the licensee because he decided to resign his Medical Staff appointment and clinical privileges at the Hospital in lieu of proceeding with a hearing.

4. Multiple witnesses at the Hospital described an event occurring in the operating room on or about August 21, 2023. The statements are as follows:
 - **Employee M.M.:** Dr. Martin was having trouble removing a suture grasper out of the cannula during a shoulder arthroscopic repair of rotator cuff revision. The patient was in the beach chair position with their head in the head frame. He pulled, while his voice was getting elevated, and finally pulled the suture grasper out. He then proceeded to hit the patient on their right side of their face with his hand.
 - **Employee G.D.:** The doctor was trying to get the instrument out of the arthroscopic shoulder canula. He was visibly upset because he was struggling getting the instrument out. He gave the instrument back to the passing CST. The doctor then proceeded to punch the patient in the right side of the face.
 - **Employee A.S.:** Dr. Martin was using a grasper during a shoulder arthroscopy and it wasn't working how he wanted it to. He then got mad, yanked the grasper out of the trocar and hit the patient in the face.
 - **Employee M.S.:** During a lunch break, I was the present CRNA during the incident. I was at the head of the bed while surgeon was performing procedure. A "choice of words" were said by the surgeon and multiple instruments were being asked for aggressively. From the head of the bed, I did not see any physical altercation, but some of the surgical technicians scrubbed out and left after the event.
5. By letter dated August 24, 2023, to the licensee, the Hospital's Chief Medical Officer memorialized the licensee's agreement to voluntarily refrain from exercising his clinical privileges pending further review.
6. On or about August 28, 2023, the Leadership Council met to begin the review process. The licensee was invited to attend at 7:30 am in the Board Room to discuss this matter and provide his input and perspectives. The Leadership Council waited 30 minutes for the licensee to join. He did not.
7. On or about September 5, 2023, the Leadership Council again met, and the licensee joined. He responded that he had no recollection of the event. He did report the incompetence of a tech involved in the case. The Leadership Council explained that

three incident reports were filed about the event. The licensee stated that he would never intentionally hit a patient. He was asked if he was aware of any bouts of frustration and not remembering. The licensee said no. He stated that he did two additional cases following this case, and nothing indicated an issue. He also noted that he doesn't think hitting a patient from that position is possible. He said that he may have moved a drape, but he would never hit someone. The licensee was excused, and the other witnesses were also interviewed. The Leadership Council felt that the incident reports raised legitimate concerns of a serious nature regarding patient safety and referred the matter to the MEC.

8. On or about September 18, 2023, the MEC called a special meeting to obtain facts regarding the incident, including to meet with the licensee and two of the surgical techs who reported the incident. The MEC recognized that the licensee's story differed from the tech's. However, the three techs all reported the same thing, and their statements were consistent throughout the review process, whereas the licensee's statements to the MEC varied compared to his initial conversations regarding the event. A vote was taken, and the majority voted to terminate his appointment and privileges.
9. On or about September 19, 2023, the Hospital informed the licensee by letter that the MEC found his actions on that day demonstrated conduct that was so beyond the norms of acceptable practice that it must recommend the revocation of his appointment and clinical privileges at the Hospital.
10. On or about June 6, 2024, the licensee responded to the Board via email. The licensee believes that he batted the drapes, which was misinterpreted as hitting the

patient. He also suggests that the MEC was biased because it is composed of physicians employed by the Hospital, which he alleges is in direct competition with his orthopedic group. After significant emotional and financial costs, he opted to resign his privileges at the Hospital rather than continue with a hearing.

11. The licensee agreed to enter into this Amended Agreed Order in lieu of the issuance of a Complaint.

STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Amended 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(21). Accordingly, there are legal grounds for the parties to enter into this Amended Agreed Order.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending matter without an evidentiary hearing by entering into an informal resolution such as this Amended Agreed Order.

AMENDED 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 the pending investigation, the parties hereby ENTER INTO the following AMENDED AGREED ORDER:

1. The license to practice medicine within the Commonwealth of Kentucky held by William R. Martin, M.D., is hereby PLACED ON PROBATION FOR A PERIOD

OF FIVE (5) YEARS, with that period of probation to become effective immediately upon the filing of this Amended Agreed Order.

2. During the effective period of this Amended Agreed Order, the licensee's medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

a. Within twenty (20) days of the entry of this Amended Agreed Order, the licensee shall enroll in the next available Professional Fitness for Duty Assessment administered by Acumen Assessments, LLC, <https://www.acumenassessments.com>, Tel. (785) 856-8218;

i. The licensee shall successfully complete all components of the program, including pre-course and post-course components, at his own expense and as directed by Acumen;

ii. The licensee shall complete any necessary waiver/release so that Acumen and the Board may communicate about any and all matters related to the licensee's participation in the program;

iii. If the Assessment recommends development of a treatment plan, the licensee shall take all necessary steps to arrange for Acumen to immediately develop such a plan, at the licensee's expense, so that the proposed treatment plan may be presented to the Panel for review along with the Assessment; and

b. 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 Amended 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 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 Amended 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 Amended Agreed Order.

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

SO AGREED on this 27th day of August, 2024.

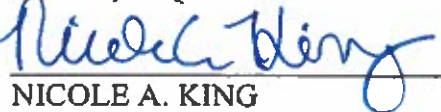
FOR THE LICENSEE:


WILLIAM R. MARTIN, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:


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


NICOLE A. KING
Assistant General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-7150