

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 1601

AUG 14 2014

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MARCELLO PIETRANTONI, M.D., LICENSE NO. 29075, 210 EAST GRAY STREET, SUITE 602, LOUISVILLE, KENTUCKY 40202

**AGREED ORDER OF PROBATION**

Come now the Kentucky Board of Medical Licensure ("the Board"), acting by and through its Inquiry Panel B, and Marcello Pietrantonio, M.D. ("the licensee"), and, based upon their mutual desire to fully and finally resolve this pending grievance without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER OF PROBATION**:

**STIPULATIONS OF FACT**

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

1. At all relevant times, Marcello Pietrantonio, M.D. ("the licensee") was licensed by the Board to practice medicine in the Commonwealth of Kentucky.
2. The licensee's medical specialty is Maternal-Fetal Medicine.
3. On or about February 25, 2014, in the United States District Court, Western District of Kentucky (Louisville), the licensee was indicted on one (1) count of causing the introduction and delivery for introduction into interstate commerce devices, within the meaning of the Federal Food, Drug and Cosmetic Act, which were misbranded, in violation of 21 U.S.C. §§331(a), 333(a)(1), 352(c) and 352 (f)(1).
4. On or about March 13, 2014, the licensee entered a Plea Agreement in which he entered a voluntary plea of guilty to the charges and stipulated the following facts:

In or about and between December 2008 and September 2010, Marcello Pietrantonio caused the introduction into interstate commerce, within the meaning of the Federal Food, Drug and Cosmetic Act, medical devices which were misbranded, in that the device's label or labeling was not likely to be read and understood by the ordinary individual under customary conditions of purchase and use, and/or was not in the English language, and/or failed to bear adequate directions for use.

5. On or about March 13, 2014, judgment was entered against the licensee on his plea of guilty to a violation of 21 U.S.C. §§331(a), 333(a)(1), 352(c) and 352 (f)(1). The licensee was sentenced and placed on probation for a period of twenty-four (24) months and ordered to pay restitution in the amount of \$633.00 to Cigna and criminal monetary penalties of \$1,158.00.

#### **STIPULATED CONCLUSIONS OF LAW**

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

1. The licensee's Kentucky medical license is subject to regulation and discipline by this Board.
2. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates the provisions of KRS 311.595(4) and (9), as illustrated by KRS 311.597(4), and KRS 311.595(10). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Probation.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending grievance without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Probation.

## AGREED ORDER OF PROBATION

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 grievance without an evidentiary hearing, the parties hereby ENTER INTO the following **AGREED ORDER OF PROBATION:**

1. The license to practice medicine held by Marcello Pietrantonì, 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 Agreed Order of Probation.
2. During the effective period of this Agreed Order of Probation, the licensee's medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- a. The licensee SHALL comply with all terms and conditions of his probation as set forth in the Judgment in a Criminal Case, *U.S.A. v. Pietrantonì*, Case No. 3:14-MJ-114, U.S. District Court (Western District of Kentucky), filed March 13, 2014 (attached hereto and incorporated herein);
- b. Within twenty (20) days of the filing of this Agreed Order, the licensee SHALL make all necessary arrangements to enroll in the *ProBe* Program offered through the Center for Personalized Education for Physicians (CPEP), 7351 Lowry Boulevard, Suite 100, Denver, Colorado 80230, Tel. (303) 577-3232, at the earliest time;
  - i. The licensee SHALL complete and "unconditionally pass" the *ProBe* Program at the time and date(s) scheduled, at his expense and as directed by CPEP's staff;
  - ii. The licensee SHALL provide the Board's staff with written verification that he has completed and "unconditionally passed" CPEP's *ProBe* Program, promptly after completing the program;
  - iii. The licensee SHALL take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any evaluations, reports or essays from the

*ProBe* Program to the Board's Legal Department promptly after their completion;

- c. Pursuant to KRS 311.565(1)(v), the licensee SHALL pay a FINE in the amount of one-thousand dollars (\$1,000.00) according to the following schedule: at least \$200.00 each month for five (5) months, with payment due on the first day of each month, beginning September 1, 2014, and continuing until such time as the fine is paid in full; and
  - d. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee expressly understands and agrees that if he should violate any term or condition of this Agreed Order of Probation, 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 the licensee has violated any term or condition of this Agreed Order of Probation, 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 Probation 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 Probation.

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


SO AGREED on this 12 day of August, 2014.


FOR THE LICENSEE:

  
MARCELLO PETRANTONI, M.D.

ROBERT J. BENVENUTI, III  
COUNSEL FOR THE LICENSEE

FOR THE BOARD:

  
RANDEL C. GIBSON, D.O.  
CHAIR, INQUIRY PANEL B

  
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