

MAY 08 2019

JD

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

**In the Matter of
Alexander Azuka Juwah, M.D**

Docket No. 19-HA00052

**Application for Institutional License
To Practice Medicine and Surgery**

**ORDER DENYING INSTITUTIONAL LICENSE TO PRACTICE
MEDICINE AND SURGERY**

On April 12, 2019, the parties appeared before the Kansas Board of Healing Arts (Board) for a conference hearing on Licensee's Application for Institutional Licensure in Kansas. Alexander Juwah, M.D. (Applicant) appeared in person, *pro se*. Matt Gaus, Associate Litigation Counsel, presented the opposition to the application on behalf of the disciplinary panel Board. The members of the disciplinary panel, Dr. Gerald Minns, Dr. Myron Leinwetter, and Ms. Anne Hodgdon did not participate in discussions or voting on the decision and were recused from attorney-client communications and Board deliberations relating to the case.

Upon review of the Applicant's application, the Board's Response in Opposition to Applicant's licensure, exhibits submitted, and the statements and testimony received at the hearing, the Board **DENIES** Applicant's Application for Institutional Licensure in Kansas and makes the following determinations:

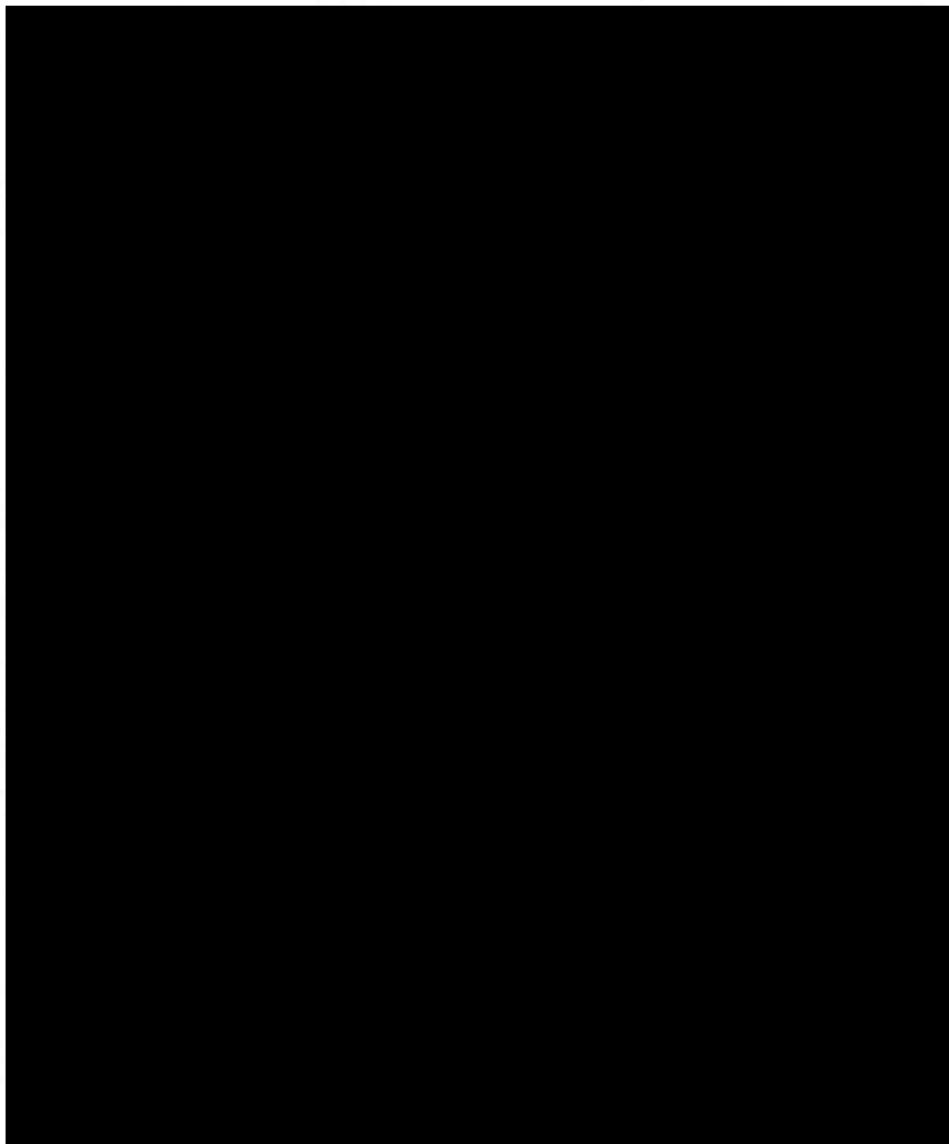
FACTS

1. On Applicant's Kansas Application, Applicant answered "yes" to disciplinary question 12(t) which asks, "Have you ever been arrested? Do not include minor traffic or parking violations or citations except those related to a DUI, DWI or a similar charge. You must include all arrests including those that have been set aside, dismissed or expunged or where a stay of execution has been issued." (Application, p. 11).
2. On Applicant's Kansas Application, Applicant answered "yes" to disciplinary question 12(u) which asks, "Have you ever been charged with a crime, imprisoned, or placed on probation (a crime includes both Class A misdemeanors and felonies)? You must include all convictions including those that have been set aside, dismissed or expunged or where a stay of execution has been issued."
3. On Applicant's Kansas Application, Applicant inadvertently answered "no" to disciplinary question 12(h) which asks, "Has any licensing authority ever limited, restricted, suspended, revoked, censured or placed on probation, or had any other

disciplinary action taken against any professional license you have held?" but provided clarifying evidence that he had in fact been so disciplined. (Id.).

4. On or about August 8, 2007, Applicant was charged with Offering a False Instrument for Filing in the Second Degree, a Class A Misdemeanor in the Criminal Court of the City of New York, County of Queens. This charge stemmed from Applicant's failure to disclose [REDACTED] on his motor vehicle renewal in 2003. Applicant stated he purposefully withheld [REDACTED] as he was worried it "may affect my chances of renewal for driving a motor vehicle." (Application, p. 11).
5. Applicant entered a plea to this charge and was found guilty as charged on October 19, 2007. He was placed on one (1) year probation and required to complete one hundred fifty (150) hours of community service. Applicant successfully completed his criminal probation. (Id).
6. Due to the criminal conviction, the New York State Office of Professional Medical Conduct (the "New York Board") proceeded with disciplinary action on Applicant's permit to practice medicine and surgery in the State of New York. Applicant signed a Consent Order on June 4, 2008, admitting to professional misconduct. He was placed on three (3) years' probation and required to complete continuing education in the area of professional ethics. (Ex. 1, Consent Agreement).
7. The New York Board discharged Applicant from probation on June 26, 2011. (Ex. 2, New York Board letter 7/14/2011).
8. Applicant first applied for an Institutional license in Kansas on or about May 11, 2012. (Ex. 3, 2012 Application p. 1).
9. Among numerous concerns regarding this initial 2012 application, Applicant disclosed that he had failed the USMLE Step 1 five (5) times before passing, and that he had failed the USMLE Step 3 eight (8) times and had never passed. (Application, p. 57).
10. Additionally, the Federation of State Medical Boards Physician Profile report indicated that the University of Benin (Applicant's medical school) did not complete the Medical Education Form and did not provide a certified copy of Applicant's diploma, raising questions as to Applicant's medical education. (Application, pp. 30-31).
11. Applicant withdrew his initial Application via written correspondence on November 27, 2012. (Ex. 4, Letter from Applicant 11/27/12).
12. At the time of his most recent application. Applicant had not practiced as a physician since September 2012, a period of over four (4) years, working instead as a "Medical Assistant and Observership". (Application, p. 4).

13. Because of the time elapsed since Applicant had last practiced, he was referred to the Center for Personalized Education for Physicians ("CPEP") for a re-entry evaluation, which he completed January 23-24, 2018. (Ex. 5, CPEP letter 1/26/2018).
14. Applicant paid a deposit on his CPEP evaluation, but never remitted the balance of \$5745, and therefore CPEP declined to release the evaluation results until such time as Applicant made payment. (Ex. 6, Email from Applicant, 9/1/2018).
15. CPEP did, however, send Applicant a letter containing the results of his cognitive function screening test, which was separate from the rest of the evaluation. The letter contained the following:



(Ex. 5, CPEP letter 1/26/2018).

16. On September 1, 2018, in response to an inquiry as to whether he was still interested in licensure, Applicant replied that he was, but reiterated that he had yet to pay the balance owed to CPEP and had yet to complete the [REDACTED] (Ex. 6, Email from Applicant, 9/1/2018).
17. At the time of his Application, Maria M. Gustilo, Medical Director of the Osawatomie State Hospital, signed a certificate of employment certifying that Applicant was "under [her] direction and under contract from 3/1/2017 to Ongoing." (Application, p. 9).
18. Because it had been approximately eighteen (18) months since Applicant's application had been received, and because Applicant clearly had not been practicing with the Osawatomie State Hospital during that time, an inquiry was made as to the status of Applicant's position there. On August 28, 2018, an official of the Osawatomie State hospital responded to the inquiry stating that Dr. Gustilo is "still interested" in employing Applicant "provided we have a position for him." (Ex. 7, Email from Osawatomie 8/28/2018).
19. On November 1, having heard nothing further from Applicant, Applicant was contacted to inquire about the status of the release of the CPEP report; the status of his completion of [REDACTED] and the status of any continuing attempts to pass USMLE Step 3. Applicant failed to respond to this inquiry. (Ex. 8, Email to Applicant, 11/1/2018).

Conclusions of Law

Under K.S.A. 65-2836(c), the Board may deny licensure, or grant licensure subject to terms and conditions, if the Board finds the Applicant has been convicted of a class A misdemeanor, whether or not related to the practice of the healing arts. The Board finds Applicant was convicted of Offering a False Instrument for Filing in the Second Degree, a Class A Misdemeanor in the Criminal Court of the City of New York, County of Queens.

Under K.S.A. 65-2836(j) the Board may deny licensure, or grant licensure subject to terms and conditions, if the Board finds the Applicant had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state. The Board finds Applicant violated this provision of law when his license was placed on probation for three years as a result of the New York criminal conviction.

Under K.S.A. 65-2836(b) the Board may deny licensure, or grant licensure subject to terms and conditions, if the Board finds the Applicant has committed an act of professional incompetency. K.S.A. 65-2837(a)(3) defines "professional incompetency" in pertinent part as "a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts." The Board finds Applicant's available CPEP assessment results demonstrate Applicant does not have the competency necessary to safely practice as a physician in Kansas.

K.S.A. 65-2895 requires the holder of an Institutional license to be employed by any institution within the Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, employed by any institution within the Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party. Here, while Applicant has shown he might obtain qualifying employment, Applicant does not have a clear employment offer, contract, or any other reasonably certain indication he has obtained qualifying employment.

THEREFORE, Applicant's Application for an Institutional license to practice medicine and surgery is **DENIED**.

Dated this 8 day of May, 2019.

KANSAS STATE BOARD OF HEALING ARTS


Kathleen Selzler Lippert, Executive Director

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, et seq. Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson St., Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true copy of the foregoing was served this 8th day of May, 2019 by depositing the same in the United States Mail, first-class postage prepaid, and via email, addressed to:

Alexander Azuka Juwah, M.D.

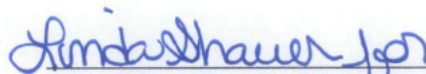
[REDACTED]
Queens, New York 11412

And a copy was delivered to:

Matt Gaus, Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612

Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612

And the original was filed with the office of the Executive Director.



Elizabeth Visocsky, Operations Manager