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JUL 18 2012

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

KS State Board of Healing Arts

In the Matter of)
PERRY YUNG-PING LIN, M.D.)
)
Kansas License No. 04-35820)
_____)

KSBHA Docket No. 12-HA00093

FINAL ORDER GRANTING LICENSURE AND PROTECTIVE ORDER

NOW on this 22nd day of June 2012, comes before the Kansas State Board of Healing Arts (“Board”) the application of Perry Yung-Ping Lin, M.D. (“Applicant”) for licensure to practice medicine and surgery in the State of Kansas. Applicant appears in person and by and through counsel, Blake Reeves of Polsinelli & Shughart, P.C. Jessica A. Bryson, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to the authority granted by the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act K.S.A. 77-501, *et seq.*, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the file, hearing the statements and arguments of the parties, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. On or about February 9, 2012, Applicant submitted an application for a license to practice medicine and surgery in the State of Kansas. Such application was deemed complete and filed with the Board on June 1, 2012.
2. On or about June 1, 2012, counsel for the Respondent Board filed a Response in Opposition to Application for Licensure (“Response in Opposition”).
3. Applicant graduated from McGill University Faculty of Medicine with a Doctor of Medicine and Master of Surgery degree in May of 1988.

4. In 1993, Applicant successfully completed a five (5) year residency in obstetrics and gynecology at Royal Victoria Hospital in Quebec, Canada, and then successfully completed a two (2) year residency in Gynecology Reproductive Endocrinology and Infertility in 1995, which is accredited b RCPSC.

5. Applicant currently holds active licenses to practice medicine and surgery in Wisconsin, Oklahoma, and Quebec, Canada.

6. Applicant has inactive licenses to practice medicine and surgery in Minnesota, Arizona, and Ontario, Canada.

7. Applicant disclosed on his application that he has been named a defendant in five (5) malpractice actions, four (4) of which had settled with payouts on his behalf.

8. The first malpractice action was filed based on patient care provided by Applicant in 1996, CONFIDENTIAL . The second malpractice action was filed based on patient care provided by Applicant in 1997, CONFIDENTIAL . The third malpractice action was filed based on patient care provided by Applicant in 2005, and CONFIDENTIAL . The fourth malpractice action was filed based on patient care which was provided by Applicant in 2005, CONFIDENTIAL . The allegations in each action are set forth in the Response in Opposition and incorporated herein by reference.

9. K.S.A. 65-2836 states in part:

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency, except that the board may take appropriate disciplinary action or enter into a non-disciplinary resolution when a licensee has engaged in any conduct or professional practice on a single occasion that, if continued, would reasonably be expected to constitute an inability to practice the healing arts with reasonable skill and safety to patients or unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto.

10. K.S.A. 2837 states in part:

As used in K.S.A. 65-2836, and amendments thereto, and in this section:

(a) "Professional incompetency" means:

(2) Repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.

(b) "Unprofessional conduct" means:

(24) Repeated failure to practice healing arts with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

11. Respondent alleges that Applicant's malpractice settlement history is evidence of failure to adhere to the standard of care or other behavior demonstrating a manifest incapacity or incompetence to practice the healing arts.

12. The Board finds that the malpractice settlements do not contain any factual findings or admissions with respect to the allegations of negligence made against Applicant in each case.

13. The Board concludes that the malpractice settlements do not in and of themselves provide any factual basis to find that Applicant failed to meet the standard of care or otherwise behaved incompetently.

14. While a malpractice settlement may be grounds for denial of licensure pursuant to K.S.A. 65-2836(w) where the underlying claim is “related to act or conduct similar to acts or conduct which would be grounds for disciplinary action,” the Response in Opposition did not allege such grounds.

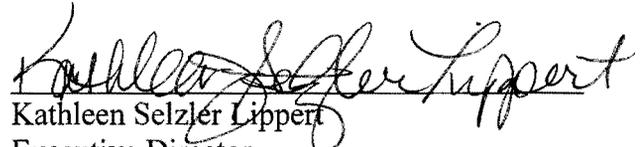
15. The Board further recognizes that there are many factors prompting settlement of a medical malpractice lawsuit that do not necessarily bear on whether such negligence occurred. Application and disciplinary cases presented to the Board that involve allegations of medical malpractice settlement(s) as grounds for licensure denial or discipline must be considered on their unique facts and circumstances. When evaluating malpractice settlements, the Board looks to its “Guidelines for the Imposition of Disciplinary Actions” and may consider factors that include, but are not limited to, whether there have been multiple settlements with similar allegations; a significant number of settlements occurring in a relatively short span of time; the seriousness of the alleged negligence; and the degree of patient injury.

16. The Board takes note that the patient care underlying all of Applicant’s malpractice settlements occurred over five years ago, with two cases occurring longer than ten years ago. As such, the settlements alone do not raise a present concern about Applicant’s competence to practice.

17. The Board finds that Applicant has presented satisfactory qualifications for licensure in the State of Kansas.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant is hereby GRANTED a license to practice medicine and surgery in the State of Kansas.

IT IS SO ORDERED THIS 18th DAY OF JULY, 2012, IN THE CITY OF
TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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, the Board's Executive Director, at 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER GRANTING LICENSURE** was served this 18th day of July 2012 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Blake H. Reeves
700 W. 47th Street, Suite 1000
Kansas City, MO 64112
Attorney for Applicant

Perry Yung-Ping Lin, M.D.
CONFIDENTIAL
Guymon, Oklahoma 73942
Applicant

And a copy was hand-delivered to the following:

Jessica A. Bryson, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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



Cathy Brown, Executive Assistant