

EFFECTIVE AS A FINAL ORDER

DATE: 8/6/2019

FILED

JUL 16 2019

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

KS State Board of Healing Arts

In the Matter of)
Kang Lu, M.D.) Docket No. 20-HA 00003
Kansas License No. 04-37020)

SUMMARY ORDER

NOW ON THIS 16 day of July, 2019, this matter comes before Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A 77-537.

Pursuant to K.S.A 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within fifteen (15) days of service. Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and order are made for and on behalf of the Board:

Findings of Fact

1. Kang Lu, M.D.'s ("Licensee") last known mailing address to the Board is: [REDACTED]
[REDACTED].
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-37020 on approximately January 31, 2014, and having last renewed such license on approximately July 11, 2018.
3. Licensee's license to practice medicine and surgery in the State of Kansas is currently Active.

4. During all times relevant to the facts set forth in this order, Licensee has held an Active license to practice medicine and surgery in the state of Kansas.

5. Licensee is the sole owner of Minuteman Radiology, Inc., located at 5753 Highway 85 North, #2442, Crestview, Florida 32536.

6. Licensee is known to be licensed to practice in approximately forty-six (46) other states.

7. On February 7, 2019, the Board of Registration in Medicine for the Commonwealth of Massachusetts (“Massachusetts Board”) filed a Statement of Allegations against Licensee alleging:

a. In 2003, the Brookline Police Department investigated the Respondent’s fitness to possess and carry a firearm. As part of their investigation, they reviewed various incidents and interactions [Licensee] had with the Brookline Police Department. Upon completion of their investigation, The Brookline Police Department revoked [Licensee’s] License to Carry (“LTC”). The Brookline Police Department took custody of [Licensee’s] firearms. [Licensee] was notified that it would be unlawful for him to possess any firearms.

b. On September 11, 2014, [Licensee] was stopped by the Massachusetts State Police (“MSP”) while operating a motor vehicle with his young child in the car. The MSP receive information that the vehicle operated by [Licensee] was driving erratically. After locating the vehicle and effectuating a motor vehicle stop, the Trooper observed that [Licensee’s] child was not in the proper booster seat. [Licensee] refused to provide his license and registration and to identify himself to the Trooper. When the Respondent was removed from the vehicle, the Trooper located a knife on [Licensee’s] hip. [Licensee] was placed under arrest. [Licensee] was uncooperative throughout the booking process.

c. [Licensee] was arraigned in Westfield District Court on September 12, 2014 on the charges of Carrying a Dangerous Weapon pursuant to M.G.L. c.269 §10, Refusing to Identify Self pursuant to M.G.L. c.90 §25, Marked Lanes Violation pursuant to M.G.L c.89 §4, and Operating a Motor Vehicle with a Child Under 5 Without a Car seat pursuant to M.G.L. c.90 §7A. The matter was resolved on December 8, 2014. The Commonwealth filed a Nolle Prosequi relative to Count 1, Carrying a Dangerous Weapon. The Court decriminalized Count 3, Failure to Identify Self, making it a civil infraction.

- d. [Licensee] submitted his 2015 License Renewal Application (“LRA”) with the Board of Registration in Medicine. [Licensee] disclosed the criminal charges in Westfield District Court. [Licensee’s] LRA was approved.
- e. On April 12, 2015, [Licensee] was stopped by an officer from the Palmer Police Department for failing to use a turn signal. Also present in the care with [Licensee] was his girlfriend and his child in the backseat. [Licensee] refused to identify himself to the officer and refused to provide his license and registration. [Licensee] would not comply with the Officer’s request and was forcefully removed from the vehicle. [Licensee] was placed under arrest.
- f. [Licensee] was arraigned on April 13, 2015 in Palmer District Court for Failure to Signal pursuant to M.G.L. c.90 §14B, Refusing to Identify Self pursuant to M.G.L. c.90 §25, Resisting Arrest pursuant to M.G.L. c.268 §32B, Carrying a Dangerous Weapon pursuant to M.G.L. c.269 §10(b), and Disorderly Conduct pursuant to M.G.L. c.272 §53. The matter was resolved on March 12, 2015. The Court decriminalized Count 2, Failure to Identify Self, and found [Licensee] responsible and imposed a civil fine of \$100. The Commonwealth dismissed the remainder of the charges.
- g. On [Licensee’s] 2017 License Renewal Application, he answered negatively in response to Question 17 (a) and (b), inquiring whether he had been charged with a criminal offense and whether any criminal offenses/charges had been resolved during the applicable time period. [Licensee] did not disclose the 2015 criminal charges out of Palmer District Court. [Licensee’s] LRA was approved.
- h. On October 13 2018, [Licensee] was arrested by Canadian agents for attempting to cross the border with three pistols – a Glock, Ruger, and Noricon – one of which was loaded and not stored properly. [Licensee] was also in possession of a particular magazine, which is prohibited in Canada. At first, [Licensee] told the Canadian agent that he did not have any weapons. A search of his vehicle revealed the possession of these weapons.
- i. [Licensee] pleaded Guilty in the Court of Quebec for importing three restricted firearms, and three prohibited devices that are ammunition storage magazine. [Licensee] was sentenced to serve 1 day in jail. Prior to his plea, [Licensee] was in Canadian custody for 36 days.
- j. [Licensee] submitted his 2019 License Renewal Application with the Board of Registration of Medicine. He answered negatively in response to Question 17 (a) and (b), inquiring whether he had been charged with a criminal offense and whether any criminal offenses/charges had been resolved during the applicable time period. [Licensee] did not disclose his 2018 Canadian arrest or conviction.
- k. On January 27, 2019, [Licensee] was pulled over by the Auburn Police Department for a motor vehicle infraction while driving a Toyota sedan with a Florida registration. The car was registered to Minutemen Radiology from Crestview Florida. There was a female passenger in his vehicle at the time of the stop.

l. After a brief investigation, it was revealed that [Licensee] had given his passenger money in exchange for sex. During a pat-frisk of [Licensee], the officers recovered a Glock handgun in his waistband and a handgun magazine in his left pant pocket. The Glock was loaded with a magazine of fifteen 9mm bullets. A review of Massachusetts Firearms Licensing Records showed that [Licensee] did not have an active license to carry. His license to carry was revoked by the Brookline Police Department in 2003.

m. On January 28, 2019, [Licensee] was arraigned in Worcester District Court. The Commonwealth filed a motion pursuant to M.G.L. c. 276 §58A. On January 31, 2019, the Court found [Licensee] dangerous and that there are no conditions of release to reasonably ensure the safety of the public. The District Court Judge made specific findings to make this determination: that [Licensee] admitted during the booking process that he will possess firearms upon release; and [Licensee] had demonstrated a pattern of being armed when interacting with law enforcement.

8. Also, on or about February 7, 2019, an Affidavit of Robert M. Bouton was submitted in support of the allegations set forth by the Massachusetts Board. Mr. Bouton was the Massachusetts Board Investigator assigned to the investigate Licensee's Massachusetts Board matter.

9. Based on the evidence of the record, the Massachusetts Board suspended Licensee's registration to practice medicine in the Commonwealth of Massachusetts as the Board determined the health, safety, and welfare of the public necessitated suspension.

10. Licensee's suspension by the Massachusetts Board is still in place.

11. [REDACTED] Licensee

has had actions taken and reported by the following state medical boards:

a. Medical Licensure Commission of Alabama on or about April 5, 2019, issued an order immediately suspending Licensee's license until such time that the Administrative Complaint shall be heard and a decision rendered thereon;

b. Arizona Medical Board on or about March 8, 2019, an Interim Summary Suspension of Licensee's license was issued based on Massachusetts Board action

and based on Licensee's failure to disclose multiple reportable criminal charges to the Board as required by Arizona statute. On or about June 27, 2019, the Arizona Board revoked Licensee's license to practice;

- c. Arkansas State Medical Board on or about March 1, 2019, issued an emergency order of suspension pending further hearing or orders of the board;
- d. Medical Board of California on or about March 11, 2019, suspended Licensee's license to practice;
- e. Illinois Department of Financial & Professional Regulation on or about February 14, 2019, temporarily suspended Licensee's license based on sister state discipline imposed by the Massachusetts Board;
- f. Louisiana State Board of Medical Examiners on or about March 19, 2019 summarily suspended Licensee's license to practice;
- g. Maryland Board of Physicians on or about April 5, 2019 suspended Licensee's license to practice based on the Massachusetts Board of Medicine action;
- h. Massachusetts Board on or about February 7, 2019, summarily suspended Licensee's license;
- i. State of Michigan BPL on or about April 10, 2019 entered a summary suspension against Licensee's license to practice medicine based on the Virginia Department of Health Professions Order of Mandatory Suspension dated February 28, 2019;
- j. New York State Department of Health Office of Professional Medical Conduct on or about April 26, 2019 precluding Licensee from the practice of

medicine in New York State and from practicing in any setting where his practice is based solely on his New York State medical license;

k. Department of Health Professions for Virginia on or about February 28, 2019, a mandatory suspension was issued;

l. Vermont Board of Medical Practice on or about April 17, 2019 approved an Order for Interim Suspension of Licensee's Vermont medical license effective immediately;

12. On or about Tuesday, May 19, 2015, Licensee submitted a renewal to the Kansas Board. In his renewal, Licensee answered "No" to Attestation Question B. "In the past 12 months have you been arrested, charged with or convicted of any felony, misdemeanor or the military equivalent? This includes a diversion or plea to a felony, misdemeanor or the military equivalent." His Licensee was renewed as Active despite his failure to disclose his September 11, 2014 arrest, and his April 12, 2015 arrest.

13. On or about February 21, 2019, Licensee did self-report his license was suspended by the Massachusetts Board stating it was "a proximate result of being detained and charged with violations of 'carrying a firearm' without a license in Massachusetts (MGL 269 § 10), I am currently under investigation by the [Massachusetts Board] for this and other matters." Licensee did not self-report the Canadian Board Patrol arrest and ultimate guilty plea in the Court of Quebec for importing three restricted firearms, and three prohibited devices that are ammunition storage magazine.

Applicable Law

14. Pursuant to K.S.A. 65-2836 "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:

- (a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.
- (j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken . . . by the proper licensing authority of another state, territory, District of Columbia or other country.”

Conclusions of Law

15. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

16. The Board finds Licensee violated K.S.A. 65-2836(a), in that Licensee failed to disclose his September 11, 2014 arrest, and his April 12, 2015 arrest on his renewal submitted on or about May 19, 2015.

17. The Board finds Licensee violated K.S.A. 65-2836(j), in that Licensee had disciplinary action taken against him proper licensing authority, in that Licensee was disciplined by numerous state Boards.

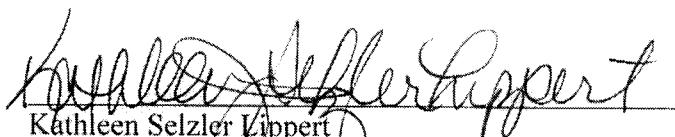
18. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee.

IT IS, THEREFORE, ORDERED that Licensee shall hereby be **INDEFINITELY SUSPENDED** for Licensee's violation of the Kansas Healing Arts Act until such time Licensee can prove by clear and convincing evidence the suspension should be lifted.

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 16 day of July 2019.

KANSAS STATE BOARD OF HEALING ARTS


Kathleen Selzler Lippert
Executive Director

FINAL ORDER 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 Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true copy of the foregoing **FINAL ORDER** was served this 6th day of August 2019 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Kang Lu, M.D.
[REDACTED]
[REDACTED]

Kang Lu, M.D.
[REDACTED]
[REDACTED]

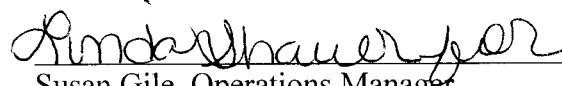
And a copy was hand-delivered to:

Susan R. Gering, Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

Office of the General Counsel
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.



Susan Gile, Operations Manager