

FILED BV

JAN 24 2019

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

KS State Board of Healing Arts

In the Matter of)
)
SOMNATH ROY, M.D.) **Docket No. 19-HA00020**
Application for License)
To Practice Medicine and Surgery)

FINAL ORDER DENYING APPLICATION FOR LICENSURE

On the 14th day of December, 2018, the Application of Somnath Roy, M.D. (Applicant) for License to Practice Medicine and Surgery came on for hearing before the Kansas State Board of Healing Arts (Board). Applicant appeared in person, pro se. Katie Baylie appeared as litigation counsel to present the opposition to the application on behalf of the Disciplinary Panel of the Board. The members of the Board who served on the Disciplinary Panel were recused.

After reviewing the agency record, the evidence presented, and 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:

FACTS

1. On or about May 29, 2018, Applicant submitted an original application for a license to practice medicine and surgery in the State of Kansas. Such application was deemed completed and filed with the Board on August 28, 2018.
2. In connection with the instant application, Applicant disclosed he was charged with and convicted of four felony counts of Grand Sexual Imposition and two misdemeanor counts of Sexual Imposition in the Court of Common Pleas in Lorain County, Ohio in November 2012.
3. Based on the criminal case, the Ohio State Medical Board revoked Applicant's license to practice medicine and surgery in the state of Ohio on or about May 7, 2014.
4. In connection with the instant application, Applicant disclosed he surrendered his license to practice medicine in New York and was excluded from the New York State Medicaid program, as more specifically described in paragraph 8 of the Petition, incorporated by reference, here.
5. In connection with the instant application, Applicant disclosed that he withdrew his application for licensure in Alabama due to his criminal convictions.

6. Applicant provided the following written response regarding his Ohio convictions:

“I was running a solo office practice and I had to be involved in hiring new office employees when some old employee quits giving two weeks' notice... I took all interviews alone without third party presence as usual which I realized later on as the biggest mistakes I have ever made. One of these applicants called me afterhours and wanted to come for interview that evening at 7:00 pm. I was reluctant to talk to her that evening but finally I agreed to her repeated request to come as she needs this job urgently and she is a nursing student and working as a medical assistant in our office will help her career as LPN. She came alone and I finished interview and offered her the job and asked her to report in our office from following Monday. She stayed in our office for about 35 minutes and left with her cousin who was waiting for her in the parking lot. She went home and came back to the police station same evening and complained to the police that she was in our office for two hours and I touched her breast inappropriately. Two days later the Elyria police called me and wanted to talk to me about the complaint. Because of my inexperience I went to the police station without any legal aid and gave them my statement. I repeatedly denied touching anyone's breast. In response to a twisted question of ever touching any patient's breast I answered, it's possible that someone's breast might be touched when you are examining the armpit for lymph nodes or listening the lung sounds on the side of the chest wall with a stethoscope. From this statement the detective police proved that I touched their breast. Similar type of complaint came from another applicant who knew the first applicant but we could not prove that. Three months later in July, 2007 [sic] both these applicants filed civil law suits of One and half million dollar & One million dollar respectively against me for inappropriate touching of their breasts... Finally my bench trial was scheduled in Nov. 2012. My attorney took the case very lightly as there was no evidence and based on he says she says he suggested me not to speak under oath because of my language and accent issue. When the judgment came of GSI (gross sexual imposition) with fourth degree felony my whole family was devastated. My Ohio state medical license was suspended since December of 2012 on the basis of this wrongful conviction of GSI and won't consider until the this GSI conviction is reversed. My Post-Conviction Relief Appeal is still pending in the Lorain County Court of Common Pleas since Jan. 2014. I, therefore, request the Medical Board of Kansas to consider my unique case of wrongful conviction and take independent decision.”

7. Applicant provided testimony and argument at the hearing consistent with his written response.

APPLICABLE LAW

K.S.A. 65-2836(c):

. . . In the case of a person who has been convicted of a felony or convicted in a general court-martial and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

CONCLUSIONS

8. Due to his felony convictions, Applicant has the burden to show, by clear and convincing evidence, that: (1) he will not pose a threat to the public; and (2) he has been sufficiently rehabilitated to warrant the public trust. The Board must deny the application unless it makes these two findings by a vote of 2/3 of Board members present and voting.

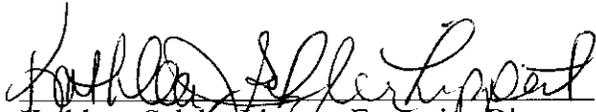
9. In light of his felony convictions, the Board unanimously concludes that Applicant failed to show, by clear and convincing evidence, that: (1) he will not pose a threat to the public; and (2) he has been sufficiently rehabilitated to warrant the public trust.

ORDERS

It is therefore **ORDERED** that Applicant's application to practice medicine and surgery in the State of Kansas is hereby **DENIED**.

IT IS SO ORDERED THIS 24 DAY OF JANUARY, 2019, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

KANSAS STATE BOARD OF HEALING ARTS


Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Proposed Default Order. Pursuant to K.S.A. 77-520, a party against whom a proposed default order is issued may file a written motion to vacate the order. A motion to vacate the proposed default order must be timely filed within seven (7) days following service of the proposed default order. If no timely motion to vacate the proposed default order is received and granted, the proposed default order becomes effective as a Final Order without further proceedings. Pursuant to K.S.A. 77-531, if served by mail, three (3) days are added to the time limits set forth above. Any such motion must be filed with the Board to the attention of Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612. A party may petition for judicial review of a Final Order by filing a timely petition in the District Court, as authorized by K.S.A. 77-601, *et seq.* A petition for judicial review is generally timely if 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, Lower Level-Suite A, Topeka, KS 66612

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true copy of the foregoing **FINAL ORDER DENYING APPLICATION FOR LICENSURE** was served this 24th day of January, 2019 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

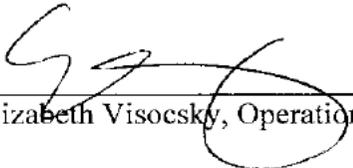
Somnath Roy, MD

[REDACTED]
Avon, OH 44011
[REDACTED]

And a copy was hand-delivered to:
M. Katie Baylie, Associate Litigation Counsel
Susan Gering, Deputy Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson Street, 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

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



Elizabeth Visocsky, Operations Manager