

FILED
DEC 31 2013
KS State Board of Healing Arts

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

In the Matter of)
Sergey Shushunov, M.D.)
)
Kansas License No. 04-29772)
_____)

KSBHA Docket No. 14-HA00037

FINAL ORDER REVOKING LICENSURE

NOW on this 13th day of December 2013, comes on for conference hearing before the Kansas State Board of Healing Arts (“Board”) the Petition for discipline filed against the medical license of Sergey Sushunov, M.D. (“Licensee”). Susan R. Gering, Associate Litigation Counsel, appears on behalf of the Petitioner. Licensee appears in person and through counsel, Danielle R. Sanger.

Pursuant to the authority granted to Board by 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 agency record and the documentary evidence admitted; hearing the testimony of Licensee and the arguments of the parties; and being otherwise duly advised in the premises, the Board makes the following findings of fact, conclusions and order:

1. Licensee is licensed to practice of medicine and surgery in the State of Kansas, having been issued License No. 04-29772. Licensee’s medical license is presently designated as “inactive.” Licensee is a pediatrician.
2. On September 27, 2012, Licensee pled guilty to and was convicted of attempted armed robbery, a Class 1 Felony, and aggravated battery, a Class 3 Felony in the Circuit Court of Cook County, Illinois.

3. On September 12, 2013, Associate Litigation Counsel filed a Petition against Licensee's medical license alleging that Licensee's felony convictions violate K.S.A. 65-2836(c) of the Healing Arts Act.

4. A conference hearing on the Petition was set for October 11, 2013.

5. On October 1, 2013, Licensee requested a continuance of the conference hearing in order to have adequate time to prepare. The request for a continuance was unopposed and was granted by the Board. The conference hearing was continued to December 13, 2013.

6. At the onset of Licensee's presentation of evidence during the conference hearing on December 13, 2013, Licensee's counsel verbally requested that the proceedings be continued to a later date and the matter converted to a formal hearing due to the anticipated amount of time to present Licensee's documentary evidence in addition to Licensee's testimony. Whereupon, the Board informed the parties that the Board members had received and reviewed the documentary evidence in advance of the conference hearing. The Board President inquired of Licensee's counsel as to whether she wished to go forward with the conference hearing. Licensee's counsel agreed that she would go forward with the hearing.

7. Licensee's criminal convictions stem from an incident that occurred on May 17, 2011, in which Licensee confronted another man regarding that man's relationship with Licensee's spouse. Licensee's crimes involved Licensee pointing a gun at the man and physically beating him. The Board finds that Licensee's testimony about the underlying incident is reasonably consistent with the crimes for which he was convicted.

8. For his two felony convictions, Licensee was sentenced to serve six months in the Cook County Department of Corrections and two years of probation. Licensee was released from incarceration after three (3) months for good behavior. Licensee's term of probation is scheduled to end September 26, 2014.

9. Licensee still has approximately nine (9) months remaining under probation. Licensee's probationary terms include a requirement to "[c]omply with reporting and treatment requirements as determined by the Adult Probation Department assessment." No evidence was presented by Licensee as to his compliance with this or any other probationary term. The Board considers compliance with and completion of criminal probation to be important factors in considering the degree of Licensee's rehabilitation.

10. As evidence of mitigating circumstances, Licensee asserts that he was under a lot of stress in his personal life, Confidential and had family of origin issues which all affected his judgment at the time of his crime. Licensee essentially describes his acts on May 17, 2011, as crimes of passion. Licensee further cites to his lack of any prior criminal or disciplinary issues and has not had any subsequent issues since his crimes occurred.

11. As further mitigating evidence, Licensee offers Confidential Confidential

12. As evidence of rehabilitation, Licensee offers Confidential Confidential

Confidential

Confidential None of the documentary evidence includes any professional opinions regarding Licensee's rehabilitation as it relates to the practice of medicine. The Board considers the evidence relevant to Licensee's general well-being, but concludes that it does bear on whether Licensee poses any threat in his capacity as a medical doctor.

13. As additional evidence of rehabilitation, Licensee also offers multiple affidavits from professional and personal colleagues that generally provide positive observations about his personal character and professionalism in his practice of medicine. Additionally, many affiants expressed that Licensee's crimes were out-of-character for him and that Licensee had appeared remorseful to them. The Board views these affidavits as statements of endorsement by Licensee's peers, rather than as specific evidence of rehabilitation. Furthermore, the Board notes that none of the affiants were made available for testimony and were not subject to cross examination. The Board has no ability to evaluate the affiants' credibility. As such, the content of their sworn statements is given limited weight by the Board.

14. As noted in the affidavits and in Licensee's testimony, Licensee has expressed remorse about his crimes, but his regret appears to be primarily centered around his failure to address his Confidential stress and marital situation at an earlier time, rather than true repentance for his criminal acts.

15. As evidence of aggravating circumstances, Associate Litigation Counsel notes the numerous steps involved in carrying out the crimes which tend to demonstrate it was not entirely a spontaneous act of passion; the violent nature of the crime which included the use of a gun; and

the fact that the victim's two (2) minor children were present in the home when Licensee committed the crimes.

16. Pursuant to K.S.A. 65-2836(c), there are grounds for disciplinary action against a licensee's license for a felony conviction, regardless of whether the crime was related to the practice of the healing arts. K.S.A. 65-2836(c) further provides that:

The board shall revoke a licensee's license following conviction of a felony occurring after July 1, 2000, unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee 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.

17. The Board concludes that Licensee has violated K.S.A. 65-2836(c) in that he has been convicted of two (2) felony crimes.

18. The Board concludes that the mitigating circumstances presented by Licensee do not outweigh the aggravating factors surrounding Licensee's criminal acts. Licensee's crimes greatly detract from the trust the public must be able to place in their healthcare professionals. The Board does not agree that Licensee's emotional and physical state mitigate his actions on May 17, 2013. Licensee's crimes reflect a lack of integrity and poor moral character, even if he was under great stress at the time. While his violent acts were not related to the practice of the healing arts, they took place in the home where the victim's minor children were present. Licensee's disregard for the potential effect on them is even more egregious when one considers that Licensee is a pediatrician.

19. The Board concludes that Licensee's efforts at rehabilitation have largely been aimed at improving Licensee's health and mental state for his own benefit. Licensee has done little to atone for his crimes. Additionally, Licensee remains under probation with the Cook

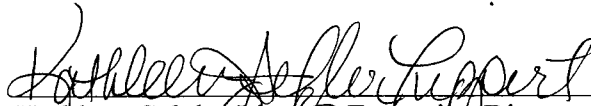
County Department of Corrections. As such, Licensee has not had the opportunity to prove himself under circumstances where his conduct is not subject to scrutiny.

20. The Board concludes that Licensee has not presented clear and convincing evidence that he will not pose a threat to the public in his capacity as a licensee and that he has been sufficiently rehabilitated to warrant the public trust.

21. The Board concludes that revocation of licensure is warranted in the circumstances.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's license to practice medicine and surgery in Kansas is hereby **REVOKED.**

IT IS SO ORDERED THIS 30 DAY OF Dec, 2013, 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, 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 and correct copy of the above and foregoing **Final Order Revoking Licensure** was served this 31st day of December, 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Sergey Shushunov, M.D.
Confidential

Buffalo Grove, IL 60089

Danielle R. Sanger
Sanger Law Office
5040 Bob Billings Parkway, Suite C-1
Lawrence, Kansas 66049

And a copy was hand-delivered to:

Susan Gering, 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