COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

BOARD OF REGISTRATION IN MEDICINE

Adjudicatory Case No: 2019-011
(RM-19-0067)

In the Matter of

Kang Lu, M.D.

Final Decision and Order

At its November 22,2019 meeting, the Board considered the Chief Administrative Magistrate's June 13, 2019 Recommended Decision, the Respondent's Objections to the Administrative Magistrate's Recommended Decision (Respondent's Objections), and heard from the Parties. The Board issued a Partial Final Decision, attached hereto and incorporated by reference, adopting the Findings of Fact and Conclusions of Law and deferring consideration of a sanction pending the Respondent's completing a forensic psychiatric evaluation. After full consideration of the Recommended Decision, the Parties' Memoranda on Disposition and the forensic psychiatric evaluation, the Board adds the following sanction:

Sanction

As a function of this Board's obligation to protect the public health, safety, and welfare, it is proper for the Board to discipline the Respondent. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979).

The record demonstrates that the Respondent had a pattern of being armed when interacting with law enforcement, admitted intention to continue to possess and carry guns despite lacking a license to carry a firearm in Massachusetts, and provided false answers regarding criminal charges against him in his 2017 and 2019 license renewal applications (LRA) to the Board.

In so doing, the Respondent was convicted of a crime, fraudulently renewed his certificate of registration, violated laws and regulations of the Commonwealth, and engaged in conduct that undermines the integrity of the medical profession.

In some instances, the Board has imposed a reprimand and fine and/or indefinite suspension for false answers concerning criminal matters on license applications. See e.g., *In the Matter of Samuel B. Wilson, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2007-023 (Consent Order, May 16, 2007)(physician reprimanded and fined $2,500 for disclosing only one of two operating under the influence arrests on renewal application). In other instances, the Board has imposed license revocation for failures to disclose multiple criminal arrests on license renewal applications. See e.g., *In the Matter of Praveen N. Adhyapak, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2005-033 (Final Decision and Order, December 7, 2005).

The Board often has imposed revocation as the sanction cases involving criminal convictions. See e.g., *In the Matter of Gerald Morris, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2009-020 (Final Decision & Order, December 16, 2009)(physician's inchoate right to renew his license revoked where he was convicted of issuing internet prescriptions for non-medical purposes); and *In the Matter of Mukunda Mukerjee, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2007-016 (Final Decision and Order, October 17, 2007)(physician's inchoate right to renew his license revoked after he was disciplined in another state for unlawful distribution of a controlled substance).

In choosing an appropriate sanction in the pendant case, the Board considers the Respondent's demonstrated inability to abide by "the laws of State and Nation." *In the Matter of Sherwin H. Raymond, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 243, 15 (Memorandum of Decision, July 29, 1981)(quoting *State ex rel, McAvoy v. Louisiana State Board of Medical Examiners*, 238 La. 502, 516 at n.2 (1959)).

In consideration of the Respondent's criminal conviction, fraud in the license renewal process, and demonstrated inability to abide by the laws of State and Nation, the Board hereby REVOKES the Respondent's license to practice medicine.[1] This sanction is imposed for each

[1] "A person previously registered by the Board may apply for reinstatement of his or her application no sooner than five years after revocation, unless the Board orders otherwise". 243 CMR 1.05(4)

violation of law listed in the Conclusions of Law section above and not a combination of any or all of them.

In consideration of the Respondent's cooperation with the Board, as reflected by his completing a forensic psychiatric evaluation, and the results of that forensic psychiatric evaluation, the Board allows the Respondent to petition for reinstatement of his license to practice medicine three years from the date of this Order. Any petition for reinstatement must include, but may not be limited to: i) documented compliance with all recommendations included in the current evaluation; ii) an updated evaluation by Dr. Donald Meyer; and iii) such other information as the Board may require.[2]

The Respondent shall provide a complete copy of this Final Decision and Order, with all exhibits and attachments, within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing boards of all states in which he has any kind of license to practice medicine; the Drug Enforcement Administration – Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this revocation. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

The Respondent has the right to appeal this Final Decision and Order within thirty (30) days, pursuant to G.L. c. 30A, §§14 and 15, and G.L. c. 112, § 64.

Date: March 5, 2020

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Board Chair

[2] "An application for reinstatement is addressed to the Board's discretion, must be made in the form the Board prescribes, must be filed in original with ten copies, and will be granted only if the Board determines that doing so would advance the public interest. If the Board denies a petition for reinstatement, the Respondent shall not re-petition for reinstatement until at least two years after the date of denial, unless the Board orders otherwise." Id.