

IN AND BEFORE THE OKLAHOMA STATE BOARD  
OF MEDICAL LICENSURE AND SUPERVISION  
STATE OF OKLAHOMA

**FILED**

JUN 22 2020

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.* )  
OKLAHOMA STATE BOARD )  
OF MEDICAL LICENSURE )  
AND SUPERVISION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KANG LU, M.D., )  
LICENSE NO. MD 28919, )  
 )  
Defendant. )

Case No. 19-04-5729

**VERIFIED COMPLAINT**

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), for its Verified Complaint against Kang Lu, M.D. (“Defendant”), alleges and states as follows:

**I. JURISDICTION**

1. The Board has jurisdiction over the subject matter and is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma. 59 O.S. § 480, *et seq.* and Okla. Admin. Code 435:5-1-1 *et seq.*
2. In Oklahoma, Defendant holds medical license no. 28919, issued 02/07/2012. Defendant holds or has held licenses to practice in 46 other U.S. states. As of August 2019, fifteen states had taken action against the Defendant’s licenses, including suspensions and revocations.
3. The acts and omissions complained of herein were made while Defendant was licensed to practice medicine by the State of Oklahoma.

**II. ALLEGATIONS OF UNPROFESSIONAL CONDUCT**

4. This action arises out of criminal and unprofessional conduct by the Defendant resulting in suspensions or revocations of Defendant’s medical licenses in at least 14 issuing states as of the date this Complaint is filed.
5. On November 6, 2018, the Defendant was convicted in the Court of Quebec for criminal offenses related to allegations that the Defendant imported 3 restricted firearms: a Glock, a Ruger, and a Noricon, along with three prohibited ammunition storage magazines into



Canada. Defendant was charged with “indictable offenses” under section 104 of the Canadian Criminal Code, which carry a possible sentence of up to 5 years’ imprisonment. Defendant’s conviction stemmed from his arrest and prosecution by the Canada Border Services Agency on or about October 13, 2018 and his subsequent plea of guilty to the charges on or about November 6, 2018 in cases numbered 455-73-000407-182 and 455-73-0000408-180. Defendant was incarcerated for approximately 36 days in connection with the crimes and his firearms were ordered destroyed. When initially stopped by Canadian border authorities, in response to direct questioning regarding whether there were any firearms or any type of defensive weapons in his vehicle, Defendant claimed there were no weapons in the vehicle; he later changed his story to say there was only one weapon in the vehicle. The officers then found a loaded gun in the compartment between the two front seats. Upon further search of the vehicle, officers found two other handguns and two of the prohibited ammunition magazines in the trunk in a suitcase. When he was ordered to exit the vehicle, Customs agents observed a 6-inch knife at Defendant’s belt. Defendant plead guilty to importing three restricted firearms and three prohibited devices that are ammunition storage magazines. At the sentencing hearing, Defendant explained to the Quebec Court that he is obligated to declare every year if he had plead guilty for a criminal offense when he renews his physician license; so Defendant requested an “absolute discharge” of the offenses, presumably by Defendant’s own logic so he would not need to make any report of the incident on his license renewal applications, as Defendant has a history of failing to report arrests and criminal charges upon applying for renewal of his licenses to practice medicine. The cases were not discharged by the Court, and Defendant was found guilty of the aforementioned offenses and convicted.

6. Defendant later submitted a fraudulent 2019 Application for Renewal of Oklahoma License (hereafter “LRA”) to OSBMLS on January 27, 2019 when he failed to report said arrest, resulting criminal charges, and subsequent conviction in the Court of Quebec. More specifically, on January 27, 2019, in response to Question D “Have you been arrested for, charged with, or convicted of a felony or misdemeanor other than a traffic violation?” the Defendant answered “No.” The Defendant’s 2019 LRA was approved.
7. Defendant also failed to report to the Board an arrest and criminal charges stemming from an incident on January 27, 2019 in Auburn, Massachusetts during which Defendant was arrested by the Auburn Police Department and jailed. At the time of his arrest, Defendant was suspected of having solicited sex from his female passenger in exchange for money, due to the passengers alleged admission to officers that the Defendant had given her money in exchange for sex. During a pat-frisk of Defendant, it was determined that the Defendant had a loaded Glock handgun in his waistband and a magazine storage device in his pants pocket. Defendant additionally had a 6-inch sheath knife at his belt at the time of the police encounter, and boxes of ammunition were located in the vehicle. Defendant did not have a license to carry the firearms due to his license to carry (hereafter “LTC”) having been revoked in 2003 by the Brookline Police Department after an investigation into incidents and interactions the Respondent allegedly had with the Department. The next day, Defendant was arraigned in the District Court of Worcester on the charges of 1) Possession of a Large Capacity Firearm; 2) Carrying a Firearm Without a License, 3) Possession of Ammunition without Firearms Identification Card, and 4) Sexual Conduct for a Fee. On January 31<sup>st</sup> the Court denied bond to the Defendant, finding that he was a danger to the



public and that no conditions of release would reasonably ensure the safety of the public. During the recorded booking process, Defendant was allegedly evasive about his place of residence and allegedly admitted that he intended to possess firearms after his release. On February 11, 2019, Defendant was released on bail with several conditions such as house arrest with GPS monitoring, weekly telephone reporting, a prohibition against possessing weapons and a requirement to surrender all weapons, a prohibition from leaving the State of Massachusetts without permission, and mandatory compliance with any determination of the Board of Registration of Medicine. This arrest occurred on January 27, 2019, the very same day Defendant submitted an LRA to the Board regarding the preceding time frame since his last renewal. On that date, in response to Question D, "Have you been arrested for, charge with, or convicted of a felony or misdemeanor other than a traffic violation?" the Defendant answered "No." Defendant submitted his 2020 LRA online at 11:35 a.m. on January 27, 2019. The following year, on January 5, 2020, in response to Question P "Since last renewal, have you been arrested, charged with, or convicted of a felony or misdemeanor, other than a traffic offense?" Defendant answered "No." Thus, Defendant failed to report his January 2020 arrest and subsequent charges on either LRA. Both the 2019 and the 2020 LRAs were approved.

8. In a letter to OSBMLS dated August 28, 2019, the Defendant explained that, despite having at least one charge still pending at that time in Massachusetts, he disagreed with the allegation that he had failed to report prior criminal charges on his renewal applications because "simply calling an act a 'crime' doesn't make it so. A crime requires a guilty mind (mens rea), a guilty act (actus reus), concurrence (intend must coexist with the act), and a crime must cause actual harm. Since no person has accused me of harming, injuring, threatening, stealing or damaging them or their rights in anyway (sic), I can not consent to the proposition that I have committed or failed to report any crime." Defendant asserted that he had not violated the Medical Practice Act of Oklahoma or of any other state, nor had he told a lie.
9. Additionally, on a 2016 LRA submitted by Defendant on December 31, 2015, Defendant failed to report an arrest in Massachusetts during the relevant time period and the resulting criminal charges. Specifically, in response to Question D "Have you been arrested for, charged with, or convicted of a felony or misdemeanor other than a traffic violation?" the Defendant answered "No." The Defendant's LRA was approved. The preceding April, Defendant was arrested by the Palmer Police Department in Palmer, Massachusetts after a vehicle driven by the Defendant was pulled over for an alleged traffic violation. Respondent then allegedly refused to identify himself to the officer or provide his license and registration. After he allegedly refused to comply with the officer's requests, Defendant was forcefully removed from the vehicle and placed under arrest. Defendant was arraigned on April 13, 2015 in Palmer District Court on the charges of 1) Failure to Signal, 2) Refusing to Identify Self, 3) Resisting Arrest, 4) Carrying a Dangerous Weapon, and 5) Disorderly Conduct. The matter was resolved on April 15, 2015 when the Court decriminalized Count 2) Failure to Identify Self, found the Defendant responsible and imposed a civil fine of \$100. The remainder of the charges were dismissed by the Commonwealth. In this instance, Defendant was in fact arrested and charged with misdemeanor offenses which he failed to report to the Board.



10. Defendant did report a previous arrest on his 2015 LRA with OSBMLS. According to the Commonwealth of Massachusetts Board of Registration in Medicine Adjudicatory Case No. 2019-011, the Defendant was stopped on September 11, 2014 by the Massachusetts State Police while allegedly operating a motor vehicle and driving erratically. The Defendant allegedly refused to provide his license and registration and to identify himself. He was removed from the vehicle and had a knife on his hip. Defendant was arrested and arraigned the next day in Westfield District Court for 1) Carrying a Dangerous Weapon, 2) Refusing to Identify Self, 3) Marked Lanes Violation, and 4) Operating a Motor Vehicle with Child Under 5 Without a Car Seat. The matter was later resolved as a civil matter. On December 13, 2014, when the Defendant submitted his LRA online, in response to Question D "Have you been arrested for, charged with, or convicted of a felony or misdemeanor other than a traffic violation" the Defendant answered "Yes." As further explanation to his answer, the Defendant provided a narrative of the encounter, arrest, detention, and the charges that followed, as well as the status on the date the LRA was submitted. In his explanation, the Defendant acknowledged his awareness of his reporting requirement, writing "I understand my failure to answer questions contained in this application truthfully and completely may lead to denial, revocation or other disciplinary action." Additionally, the Defendant included in his explanation a brief argument that, because "there was never an 'evil act,' a guilty mind, an injured party or damage to property to support a valid cause of action . . . and there was never a crime mala in se," that essentially there had been no crime. The Defendant cited the U.S. Constitution, a U.S. Supreme Court case, and [his] "natural, God-given 'common-law' rights pursuant to section 1-308 (formerly 1-207) of the Uniformed (sic) Commercial Code." This general argument has persisted throughout the Defendant's numerous encounters with law enforcement and the courts over the years and can be found in the Quebec Court record, the Commonwealth of Massachusetts Board record, and the Arizona Medical Board record, along with other arguments involving the 2<sup>nd</sup> Amendment to the U.S. Constitution and other reasons the Defendant believes his many failures to report were lawful.
11. Although Dr. Lu reports that he does not physically reside nor practice in the State of Oklahoma, he is a radiologist and could potentially read films for an Oklahoma-based entity from his remote location. Dr. Lu is the owner of Minutemen Radiology Inc. for which principle locations have been listed in Missouri and Florida. Dr. Lu admits he has seen Oklahoma patients via telemedicine on rare occasions.
12. An investigation was initiated by OSBMLS in late March 2019 due to action taken by the Massachusetts Medical Board on February 7, 2019 temporarily suspending Defendant's license on the grounds that the health, safety, and welfare of the public necessitated the suspension. The history of that case and the swift and decisive actions taken against Defendant are evident in the records of those proceedings. In its *Statement of Allegations*, the Board alleged that Dr. Lu was convicted of a crime, fraudulently procured the renewal of his certificate of registration, committed an offense against provisions of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder, and violated a regulation of the Board: 243 CMR 1.03(5)(a)(1) fraudulent procurement of certificate of registration or its renewal and 243 CMR 1.03(5)(a)(7) conviction of any crime. In June of 2019, the *Order of Temporary Suspension* was affirmed on appeal. In the same document, the Chief Administrative Magistrate recommended the



Board discipline the Defendant based on its findings that the allegations in the *Statement of Allegations* had been proven by a preponderance of the evidence at the hearing. More specifically, the Appeals Division found the Board had proven the Defendant made false representation in his 2017 and 2019 requests to renew his Massachusetts medical license, that Defendant was convicted of a crime in 2018, that Defendant had “committed an offense against provisions of the laws of the Commonwealth relating to the practice of medicine and regulations adopted thereunder, and lacks good moral character and engaged in conduct that undermines the public confidence in the integrity of the medical profession.” On March 5, 2020, the Massachusetts Board issued its *Final Decision and Order* permanently revoking Defendant’s license with the option to reapply for licensure in 3 years. Defendant was ordered on that date to “provide a complete copy of the *Final Decision and Order*, with all exhibits and attachments, within 10 days to [among other named entities] State licensing boards of all states in which he has any kind of license to practice medicine.” On March 31, 2020, Defendant provided the *Notice to Medical Boards of Revocation* and *Final Decision and Order* from Massachusetts Board. No exhibits were provided, although in its *Final Decision and Order* the Board references a forensic psychiatric evaluation of the Defendant and the results of the same as being part of the basis for that Board’s final action. However, the evaluation results were not specifically referenced as an attached exhibit in the *Final Decision and Order*.

13. As of August 19, 2019, fifteen states had taken action against the Defendant’s licenses. The least of which being conditions placed on the license (New York) and greatest of which being revocation (Arizona and Massachusetts). According to NPDB records, on April 17, 2019 Defendant entered into a voluntary agreement in Vermont to refrain from practice or to suspend license pending completion of an investigation. On July 13, 2019, voluntarily entered into a stipulation with the Minnesota Board of Medical Practice to Suspend Indefinitely his license there. An Interim Consent Order was entered at the Louisiana State Board of Medical Examiners on June 10, 2019 for suspension of Defendant’s license there. The remainder of states who took action have entered various orders of suspension pending completion of the investigations and proceedings against the Defendant.

### III. VIOLATIONS

14. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:
  - a. Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license, in violation of 59 O.S. § 508.
  - b. Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license, in violation of Okla. Admin. Code § 435:10-7-4(8).
  - c. Procuring, aiding or abetting a criminal operation in violation of 59 O.S. § 509(1).
  - d. Failure to provide the Board all information required by the Board pursuant to statute, 59 O.S. § 495a.1, in violation of Okla. Admin. Code § 435:10-7-10.



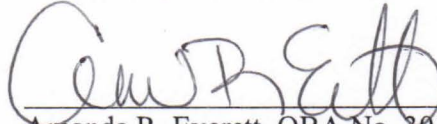
- e. Failure to demonstrate to the Board the licensee's continuing qualification to practice medicine and surgery by reporting to the Board any action taken against the licensee for acts or conduct similar to acts or conduct described in the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as grounds for disciplinary action by: a) any jurisdiction or authority (United States or foreign) that licenses or authorizes the practice of medicine and surgery, b) any peer review body, c) any health care institution, d) any professional medical society or association, e) any law enforcement agency, f) any court, or g) any governmental agency, in violation of 59 O.S. § 495a.1.
- f. The conviction or confession of, or plea of guilty, nolo contendere, no contest or Alford plea to a felony or any offense involving moral turpitude, in violation of 59 O.S. 509(5).
- g. The conviction of a felony or any offense involving moral turpitude whether or not related to the practice of medicine, in violation of Okla. Admin. Code § 435:10-7-4(10).
- h. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public, in violation of 59 O.S. § 509(8).
- i. Conduct likely to deceive, defraud, or harm the public, in violation of Okla. Admin. Code § 435:10-7-4(11).
- j. The violation, or attempted violation, direct or indirect, of any of the provisions of the Allopathic Medical and Surgical Licensure and Supervision Act, either as principal, accessory or accomplice, in violation of 59 O.S. § 509(13).
- k. Disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine and surgery based upon acts of conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof, in violation of Okla. Admin. Code § 435:10-7-4(31).
- l. Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section in violation of Okla. Admin. Code § 435:10-7-4(32).
- m. Failure to report to the Board surrender of a license or other authorization to practice medicine and surgery in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds of action as defined in this section, in violation of Okla. Admin. Code § 435:10-7-4(33).

- n. Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of any action, stipulation, or agreement of the Board in violation of Okla. Admin. Code § 435:10-7-4(39).

#### V. CONCLUSION

Given the foregoing, the undersigned respectfully requests the Board conduct a hearing, and, upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation and any other appropriate action with respect to Defendant's professional license, including an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



Amanda R. Everett, OBA No. 30107

Assistant Attorney General

OKLAHOMA STATE BOARD OF MEDICAL

LICENSURE AND SUPERVISION

101 N.E. 51<sup>st</sup> Street

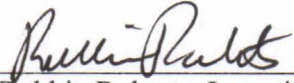
Oklahoma City, Oklahoma 73105

405.962.1400

**VERIFICATION**

I, Robbin Roberts, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1. I have read the above Complaint regarding Kang Lu, M.D.; and
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Robbin Roberts, Investigator  
OKLAHOMA STATE BOARD OF MEDICAL  
LICENSURE AND SUPERVISION

Date: 6-16-20

Oklahoma  
\_\_\_\_\_  
County, State of Execution