BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: Kang Lu, M.D. Physician's and Surgeon's Certificate No. A 118204 Respondent.	Case No. 800-2019-052795

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 4, 2021.

IT IS SO ORDERED February 25, 2021.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **KANG LU, M.D** 5753 Highway 85 N. Suite 2442 Crestview, FL 32536-9365 Physician's and Surgeon's Certificate No. A 118204 Respondent.	Case No. 800-2019-052795 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). This First Amended Accusation was brought and maintained solely in the official capacity of the Board's Executive Director, who is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Thomas Ostly, Deputy Attorney General.

2. Kang Lu, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On August 26, 2011, the Board issued Physician's and Surgeon's Certificate No. A 118204 to Kang Lu, M.D. (Respondent). The Physician's and Surgeon's Certificate is renewed and current with an expiration date of January 31, 2021, but is in suspended status pursuant to an Order issued by the Board on March 11, 2019 under Business and Professions Code section 2310(a).

JURISDICTION

4. First Amended Accusation No. 800-2019-052795 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent, who filed his Notice of Defense contesting the First Amended Accusation. A copy of First Amended Accusation No. 800-2019-052795 is attached as Exhibit A.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 800-2019-052795. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in First Amended Accusation No. 800-2019-052795, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the First Amended Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation, he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF, electronic and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 118204, issued to Respondent Kang Lu, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline

against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2019-052795 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2019-052795 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: Jan. 7, 2021 Kang Lu

KANG LU, M.D.
Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 1/19/2021

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

Thomas Ostly

THOMAS OSTLY
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A
FIRST AMENDED ACCUSATION NO. 800-2019-052795

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **KANG LU M.D.** 5753 Highway 85 N, Suite 2442 Crestview, FL 32536-9365 Physician's and Surgeon's Certificate No. A118204 Respondent.	Case No. 800-2019-052795 **FIRST AMENDED ACCUSATION**

The Complainant alleges:

1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs, and brings this First Amended Accusation solely in her official capacity.

2. On August 26, 2011, Physician's and Surgeon's Certificate No. A118204 was issued by the Medical Board of California (Board) to Kang Lu, M.D. (Respondent). The certificate is renewed and current with an expiration date of January 31, 2021, but is SUSPENDED pursuant to an Order issued by the Board on March 11, 2019 based on Business and Professions Code section 2310(a).

JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California under the authority of the following sections of the California Business and Professions Code (Code) and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the licensed of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 2234 of the Code provides that the Board shall take action against a licensee who is charged with unprofessional conduct.

D. Section 2234(e) provides that the commission of any act involving dishonest or corruption substantially related to the qualifications, functions or duties of a physician constitutes unprofessional conduct.

E. Section 802.1 of the Code requires a physician charged with a felony to report the charge to the Board within 30 days. The licensee must also report a conviction of any felony or misdemeanor within 30 days of the conviction.

FACTS COMMON TO ALL CAUSES FOR DISCIPLINE

4. Respondent is a radiologist who is licensed in a number of states. On February 7, 2019, the Massachusetts Board of Registration in Medicine (Massachusetts Board) issued an Order of Temporary Suspension based on its determination that the health, safety and welfare of the public necessitated suspension. The Order of Temporary Suspension immediately suspended Respondent's Massachusetts license, and included a specific requirement that Respondent must provide a copy of the Order within 24 hours to the state licensing boards of all states in which he held any kind of license to practice medicine. A copy of the Order of Temporary Suspension is attached as Exhibit A.

5. The Order of Temporary Suspension was based on a series of events involving Respondent's possession of firearms and other weapons. In 2003, the Brookline, Massachusetts Police Department investigated Respondent's fitness to possess and carry firearms. Various incidents and interactions with the police were reviewed, and ultimately, Respondent's license to carry was revoked and his firearms taken into custody. Respondent was notified that it would be unlawful for him to possess any firearms in the future. In September 2014 and again in April 2015, Respondent was stopped by Massachusetts officers for traffic offenses. In both instances, he refused to provide license and registration or to identify himself, and once, a knife was found on his hip. Charges were filed, and ultimately resolved for minor infractions. Respondent submitted his Massachusetts Board License Renewal Application in 2017, and falsely represented he had not been charged with any criminal offenses. On October 13, 2018, Respondent was arrested by Canadian agents for attempting to cross the border with three firearms, one of which was loaded and improperly stored. He was also in possession of an ammunition magazine that was prohibited in Canada. He plead guilty in the Court of Quebec for importing three restricted firearms and three prohibited ammunition storage magazines. His Massachusetts 2019 License Renewal Application did not disclose the criminal offense or conviction. On January 27, 2019, Respondent was pulled over by Massachusetts police for a traffic infraction. Officers discovered a loaded Glock handgun in Respondent's waistband and an ammunition magazine in his pant pocket. Firearms Licensing Records showed that Respondent did not have an active license to carry, and that the 2003 revocation of that license was still in effect. During the arraignment process, Respondent was initially denied release based on his statements that he would possess firearms upon release, and because he had demonstrated a pattern of being armed when interacting with law enforcement. He was subsequently released to home confinement. A copy of the Statement of Allegations issued by the Massachusetts Board is attached as Exhibit B.

6. On March 5, 2020, the Massachusetts Board issued a Final Decision and Order. The Final Decision and Order noted that Respondent has a pattern of being armed when interacting with law enforcement, admitted intention to continue to possess and carry 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. In so doing, Respondent was convicted of a crime, fraudulently renewed his certificate of registration, violated laws and regulations of the Commonwealth of Massachusetts, and engaged in conduct that undermined the integrity of the medical profession. The Massachusetts Board noted Respondent's demonstrated inability to abide by the laws, and revoked Respondent's license to practice medicine in Massachusetts. A copy of the Final Decision and Order issued by the Massachusetts Board of Registration in Medicine is attached as Exhibit C.

7. Respondent did not report the Temporary Suspension Order to the Medical Board of California as required by the terms of the Order.

8. Respondent did not report to the Medical Board of California his 2018 criminal conviction.

9. On January 24, 2019, Respondent electronically submitted to the Medical Board of California his renewal application. The submission was made under penalty of perjury. In response to a question, "Since you last renewed your license, have you been convicted of any crime in any state, the USA, and its territories, military court or a foreign country", Respondent stated "No."

FIRST CAUSE FOR DISCIPLINE

(Discipline Imposed by Another State)

10. The actions of the Massachusetts Board, as set forth above, constitute cause for discipline pursuant to sections 141 and 2305 of the Code.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Report)

11. Respondent's failure to report his various arrests and convictions, as described above, constitutes unprofessional conduct and cause for discipline pursuant to sections 2234 and/or 802.1 of the Code.

12. Respondent's failure to comply with the Order of the Massachusetts Board requiring him to notify the Medical Board of California of the suspension of his Massachusetts license constitutes unprofessional conduct and cause for discipline pursuant to section 2234 of the Code.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct; False Information)

13. Respondent's conduct in failing to disclose his 2018 conviction, as described in paragraphs 5-9 and 11, above, constitutes unprofessional conduct and an act of dishonesty or corruption, and is cause for discipline pursuant to sections 2234 and/or 2234(e) of the Code.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A118204 issued to respondent Kang Lu, M.D.;

2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, if placed on probation, to pay the costs of probation monitoring; and

4. Taking such other and further action as the Board deems necessary and proper.

DATED: MAY 18 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2019-011

In the Matter of

KANG LU, M.D.

ORDER OF TEMPORARY SUSPENSION

In accordance with the Rules of Procedure Governing Disciplinary Proceedings of the Board of Registration in Medicine, 243 CMR 1.03(11)(a), the Board of Registration in Medicine ("the Board") **ORDERS** that

> The certificate of registration to practice medicine in the Commonwealth of Massachusetts of Kang Lu, M.D.'s Registration No. 250034, is **SUSPENDED** effective immediately. Kang Lu, M.D. must cease the practice of medicine immediately, and he is directed to surrender his wallet card and wall certificate to the Board forthwith.

The Board has determined that the health, safety, and welfare of the public necessitate said suspension.

The Respondent shall provide a copy of this Order of Suspension within twenty-four (24) hours 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; and the state licensing boards of all states in which he has any kind of license to practice medicine; Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent is further directed to certify to the Board within forty-eight (48) hours that he has complied with this directive.

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.

Dated. February 7, 2019

EXHIBIT B

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2019-011

In the Matter of	)
KANG LU, M.D.	)

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that KANG LU, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 19-046.

Biographical Information

1. The Respondent was born on January 4, 1977. He is a 2005 graduate of Boston University School of Medicine. He is certified in Diagnostic Radiology by the American Board of Radiology. He was licensed to practice medicine in Massachusetts on August 5, 2012 under certificate number 250034. That license is set to expire on January 4, 2021. The Respondent is licensed to practice in forty-six other states including: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina,

Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

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

Factual Allegations

3. 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 the Respondent had with the Brookline Police Department. Upon completion of their investigation, The Brookline Police Department revoked the Respondent's License to Carry ("LTC"). The Brookline Police Department took custody of the Respondent's firearms. The Respondent was notified that it would be unlawful for him to possess any firearms.

4. On September 11, 2014, the Respondent was stopped by the Massachusetts State Police ("MSP") while operating a motor vehicle with his young child in the car. The MSP received information that the vehicle operated by the Respondent was driving erratically. After locating the vehicle and effectuating a motor vehicle stop, the Trooper observed that the Respondent's child was not in the proper booster seat. The Respondent 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 the Respondent's hip. The Respondent was placed under arrest. The Respondent was uncooperative throughout the booking process.

5. The Respondent 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.

6. The Respondent submitted his 2015 License Renewal Application ("LRA") with the Board of Registration in Medicine. The Respondent disclosed the criminal charges in Westfield District Court. The Respondent's LRA was approved.

7. On April 12, 2015, the Respondent was stopped by an officer from the Palmer Police Department for failing to use a turn signal. Also present in the car with the Respondent was his girlfriend and his child in the backseat. The Respondent refused to identify himself to the officer and refused to provide his license and registration. The Respondent would not comply with the Officer's request and was forcefully removed from the vehicle. The Respondent was placed under arrest.

8. The Respondent 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 the Respondent responsible and imposed a civil fine of $100. The Commonwealth dismissed the remainder of the charges.

9. On the Respondent'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. The Respondent did not disclose the 2015 criminal charges out of Palmer District Court. The Respondent's LRA was approved.

10. On October 13 2018, the Respondent 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. The Respondent was also in possession of a particular magazine, which is prohibited in Canada. At first, the Respondent told the Canadian agent that he did not have any weapons. A search of his vehicle revealed the possession of these weapons.

11. The Respondent pleaded Guilty in the Court of Quebec for importing three restricted firearms, and three prohibited devices that are ammunition storage magazine. The Respondent was sentenced to serve 1 day in jail. Prior to his plea, the Respondent was in Canadian custody for 36 days.

12. The Respondent 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. The Respondent did not disclose his 2018 Canadian arrest or conviction.

13. On January 27, 2019, the Respondent 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.

14. After a brief investigation, it was revealed that the Respondent had given his passenger money in exchange for sex. During a pat-frisk of the Respondent, 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 the Massachusetts

Firearms Licensing Records showed that the Respondent did not have an active license to carry. His license to carry was revoked by the Brookline Police Department in 2003.

15. On January 28, 2019, the Respondent 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 the Respondent 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 the Respondent admitted during the booking process that he will possess firearms upon release; and the Respondent had demonstrated a pattern of being armed when interacting with law enforcement.

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, §5. eighth par. (b), 243 C.M.R 1.03(5)(a)2, and 243 C.M.R. 1.03(5)(a)11, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has committed an offense against any provisions of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder to wit:

i. The Respondent has violated 243 C.M.R. 1.03(5)(a)1 by procuring his certificate of registration or its renewal fraudulently.

ii. The Respondent has violated 243 C.M.R. 1.03(5)(a07 upon conviction of a crime.

B. Pursuant to 243 C.M.R. 1.03(5)(a)1 the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has procured his certificate of registration or its renewal fraudulently.

C. Pursuant to 243 C.M.R. 1.03(5)(a)7 the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has been convicted of a crime.

D. Pursuant to *Levy* v. *Board of Registration in Medicine*, 278 Mass. 519 (1979); *Raymond* v. *Board of Registration in Medicine*, 287 Mass. 78 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician lacks good moral character and engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Board Chair

Date: February 7, 2019

EXHIBIT C

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.

Candace Lapidus Sloane, MD

Date: March 5, 2020

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.