

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

In the Matter of the Accusation	)	
Against:	)	
	)	
	)	
KULSOOM ALVI KHAN, M.D.	)	Case No. 16-2011-219705
	)	
Physician's and Surgeon's	)	
Certificate No. C-52915	)	
	)	
Respondent	)	
_____	)	

DECISION

The Proposed Decision of Mary-Margaret Anderson, Administrative Law Judge, dated September 19, 2012 is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(C), to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

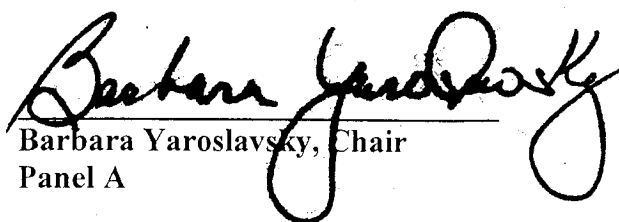
Page 2, paragraph 5, second bullet, the year "2009" at the end of the second sentence is stricken and replaced with "2008."

The Proposed Decision as amended is hereby accepted and 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 December 5, 2012.

IT IS SO ORDERED: November 5, 2012.

MEDICAL BOARD OF CALIFORNIA

  
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Barbara Yaroslavsky, Chair  
Panel A

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

In the Matter of the Accusation Against:

KULSOOM ALVI KHAN, M.D.

Physician's and Surgeon's  
Certificate No. C52915

Respondent.

Case No. 16-2011-219705

OAH No. 2012070085

**PROPOSED DECISION**

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on September 6, 2012, in Oakland, California.

Jane Zack Simon, Deputy Attorney General, represented the Medical Board of California.

John L. Fleer, Attorney at Law, represented Respondent Kulsoom Alvi Khan, M.D., who was present.

The record closed on September 6, 2012.

**FACTUAL FINDINGS**

1. Complainant Linda K. Whitney filed the Accusation in her official capacity as Executive Director of the Medical Board of California (Board).
2. On July 11, 2007, the Board issued Physician's and Surgeon's Certificate No. C52915 to Kulsoom Alvi Khan, M.D. (Respondent). Respondent's certificate will expire March 31, 2013, unless renewed.
3. Respondent holds an inactive license to practice medicine in the state of Nebraska. She is a psychiatrist.
4. On July 18, 2011, the Nebraska Department of Health and Human Services and Respondent entered into a settlement agreement concerning an action filed against her

license. The resulting order provided that Respondent's license to practice medicine would be suspended for a total of 90 days and that reinstatement of the license was at the discretion of the Nebraska authorities.

5. The settlement agreement contained the statement that Respondent "pleads no contest to the allegations of the Petition for Disciplinary Action." The Petition contained the following pertinent allegations:

- Patient SF was treated by Respondent from March 11 through June 7, 2002, and from April 26 through June 20, 2006.
- Respondent and her husband allowed SF to live with them from 2007 through April 2008. Respondent and her husband employed SF as a nanny during February and March of 2009. SF worked approximately 51.28 hours per month and was paid approximately \$300 per month.
- Respondent and her husband arranged for SF to have an attorney to help her with a child custody matter and legal problems. Respondent and her husband signed SF's son up for 100 hours at the Sylvan Learning Center.
- On May 21, 2008, Respondent admitted to an investigator that she had a physical relationship with SF during the summer of 2007, but not during the time she was treating SF as a patient.

#### *Respondent's evidence*

6. Respondent was born in Pakistan, and received her medical degree in that country in 1994. She also completed a psychiatric internship. Respondent immigrated to the United States in 1996, and completed a residency program in psychiatry at Southern Illinois University in 2001. The same year she began practicing psychiatry in Nebraska at the Faith Regional Center, working mainly in the outpatient clinic.

7. Respondent and her husband employed SF to live in their home and care for their daughter. The arrangement ended in late 2007. Respondent engaged in what she described as an "inappropriate physical relationship" with SF for approximately two months in 2007. It appears that SF described this relationship to her therapist, who reported it to the Nebraska licensing authorities.

8. In 2008, Respondent moved to California with her family. She began work as a psychiatrist at the Santa Clara Valley Medical Center (SCVMC). Her position there, which she still holds, is as a staff psychiatrist in the Urgent Care Clinic.

9. Respondent advised her employers at the SCVMC of the Nebraska proceedings. She also sought psychological help. Respondent began treatment with Carol

Zimbelman, LCSW, on September 10, 2010, and continues to see her weekly. Zimbelman recommended that Respondent see a psychiatrist who specializes in the treatment of bipolar disorder. Respondent therefore sought help from Julie C. Bonner, M.D. Respondent has seen Dr. Bonner for psychopharmacology treatment approximately every two weeks since November 28, 2011.

10. Respondent now believes that her inappropriate behavior with a former patient in 2007 was attributable to lack of judgment caused by a manic episode of her then-undiagnosed bipolar disorder. She currently manages her condition by engaging in therapy and taking numerous medications prescribed by Dr. Bonner. The medications are Latuda, Lexapro, Lamictal, Mirapex, trazedone, prazosin and Nuvigil. She is confident that she will not repeat her prior behavior. Respondent attributes this confidence to the fact that she is closely supervised at work; there are peer consultations on cases; a patient's bill of rights and a sexual harassment policy are strictly enforced; and she is not overworked or overscheduled, the way she was in Nebraska. Respondent now puts her family first and takes better care of herself.

11. Michael Meade, M.D., is the Medical Director and Chair of the Department of Psychiatry at SCVMC. In a letter dated July 9, 2012, Dr. Meade confirmed that he has been Respondent's immediate supervisor since August 2007. Respondent told him about the Nebraska discipline, including that inappropriate behavior with a former patient was involved. He decided to allow Respondent to continue working, and to provide close supervision.

Dr. Meade also wrote that Respondent "does both crisis intervention work, and ongoing medication management of patients in need" and that her "interactions with her patients have always been respectful and appropriate."

12. Carol Zimbelman, Respondent's therapist, wrote a letter dated July 10, 2012. She stated that Respondent is doing very well, and continues to improve. She opined that Respondent does not present a threat to her patients. Zimbelman also reported that Respondent:

Has gained a great deal of insight into her behavior; she understands why she engaged in the behaviors she did and why she did not maintain appropriate boundaries. We have explored her family history, and we have also worked on coping skills. She is not in danger of repeating this kind of behavior. She continues to learn more and more about herself, her motivations, and her core issues.

13. In a letter dated July 9, 2012, Dr. Bonner confirmed that Respondent was diagnosed with "Bipolar Affective Disorder type I" in 2009. She opined that Respondent has no manic symptoms currently and poses no threat to her patients. Further, Respondent has demonstrated insight into the incident with the patient in Nebraska.

14. On April 19, 2009, Respondent completed a continuing medical education course entitled "The California Professional Boundaries & Ethics Program-Professional Boundary Problems: Addressing Causes, Prevention and Treatment." Respondent earned 24 credits for the course, which was convened in Sacramento and provided by the University of Alabama School of Medicine.

#### LEGAL CONCLUSIONS

1. Business and Professions Code section 141, subdivision (a), provides:

For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

- Business and Professions Code section 2305 provides:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate 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 of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

2. Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code sections 141 and 2305 by reason of the matters set forth in Findings 4 and 5.

3. The parties are agreed that the appropriate outcome of this matter would be a probationary license. Given the stability of Respondent's present situation, including that she is supervised in her employment and in treatment for her mental condition, this argument is persuasive. It is concluded that a term of probation with conditions that include a boundaries course (with credit given to the 2009 course, if it is found to warrant such credit) and ongoing psychotherapy will be sufficient to protect the public.

## ORDER

Physician's and Surgeon's Certificate No. C52915, issued to Kulsoon Alvi Khan, M.D. is revoked; however, revocation is stayed and the certificate is placed on probation for three years pursuant to the following terms and conditions.

### 1. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, Respondent shall enroll in a professional boundaries program, at Respondent's expense, equivalent to the Professional Boundaries Program, Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine (Program). Respondent, at the Program's discretion, shall undergo and complete the Program's assessment of Respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems relevant. The Program shall evaluate Respondent at the end of the training and the Program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire Program not later than six months after Respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on Respondent's performance in and evaluations from the assessment, education, and training, the Program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with Program recommendations. At the completion of the Program, Respondent shall submit to a final evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

The Program's determination whether or not Respondent successfully completed the Program shall be binding.

Failure to participate in and complete successfully all phases of the Program, as outlined above, is a violation of probation.

### 2. Psychotherapy

Respondent shall undergo and continue psychotherapy treatment with her current therapist, Carol Zimbelman, LCSW, or another psychotherapist approved by the Board, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written

evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations. Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

### 3. Practice Monitoring

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine or billing, or both, and whether

Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within three calendar days after being so notified by the Board or designee.

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

#### 4. Solo Practice

Respondent is prohibited from engaging in the solo practice of medicine.

#### 5. Notification

Prior to engaging in the practice of medicine Respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities, or insurance carrier.

#### 6. Supervision of Physician Assistants

During probation, Respondent is prohibited from supervising physician assistants.



## 7. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court-ordered criminal probation, payments, and other orders.

## 8. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

## 9. Probation Unit Compliance

Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee.

Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's certificate.

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

## 10. Interview with the Board or its Designee

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

## 11. Residing or Practicing Out-of-State

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051

and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Probation Monitoring Costs.

Respondent's certificate shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's certificate shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two-year period shall begin on the date probation is completed or terminated in that state.

#### 12. Failure to Practice Medicine - California Resident

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's certificate shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

#### 13. Completion of Probation

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

14. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

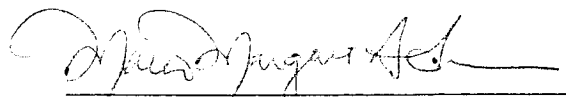
15. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

DATED: September 19, 2017



MARY-MARGARET ANDERSON  
Administrative Law Judge  
Office of Administrative Hearings