

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

vs.

KULSOOM KHAN, M.D.,

Defendant.

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11-3000


ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on October 13, 2011.

ORDER

1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.

DATED this 27 day of October, 2011.



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 27th day of October, 2011 a copy of the foregoing **ORDER ON AGREED SETTLEMENT** was sent by United States certified mail, postage prepaid, return receipt requested, to **Mark Fitzgerald, Fitzgerald, Vetter & Temple, 1002 Riverside Blvd., Suite 200, P.O. Box 1407, Norfolk, NE 68702-1407** and by interoffice mail to **Susan M. Ugai, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.**



Keith B. Roland
DHHS Legal Services
P.O. Box 98914
Lincoln NE 68509-8914
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THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

FILED

OCT 13 2011

DHHS
Legal and Regulatory Services

STATE OF NEBRASKA, ex rel. JON
BRUNING, Attorney General,

Plaintiff,

v.

KULSOOM A. KHAN, M.D.,

Defendant.

AGREED SETTLEMENT

The Plaintiff and the Defendant, Kulsoom A. Khan, M. D., in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Kulsoom A. Khan, M. D, is the holder of inactive license # 21700 to practice medicine by the Nebraska Department of Health and Human Services Division of Public Health ("Department"). Defendant's license went inactive on October 1, 2008.
2. The Defendant acknowledges receipt of a copy of the Petition for Disciplinary Action and waives the need for further service of the Petition upon her.
3. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant waives any right to judicial review of an order by the Department's Chief Medical Officer which approves the terms of this Agreed Settlement.
4. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce her to enter into this Agreed Settlement.

5. The Defendant acknowledges that she has read the Petition for Disciplinary Action filed by the Attorney General's Office. The Defendant pleads no contest to the allegations of the Petition for Disciplinary Action.

6. The Defendant and the Plaintiff agree that the Chief Medical Officer enter a final disciplinary order.

7. The Plaintiff and the Defendant consent to the Chief Medical Officer entering a disciplinary order which suspends the Defendant's license to practice medicine for ninety (90) days. The Defendant shall not engage in any conduct which constitutes the practice of medicine during the period of suspension of her medical license.

8. The Defendant acknowledges that reinstatement of her license to practice as a physician in the State of Nebraska is at the discretion of the Department and upon approval of the Board of Medicine and Surgery.

9. Any Nebraska medical license now in the possession of the Defendant shall be surrendered to the Department upon the entry of the Chief Medical Officer's Order of Agreed Settlement.

10. The Attorney General's Office has given notice of this Agreed Settlement to the Board of Medicine and Surgery and has received their input in accordance with NEB. REV. STAT. §§ 38-190 (Reissue 2008) and 71-161.03 (Reissue 2003).

11. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing.

AGREED TO:

Kulsoom Khan
Kulsoom A. Khan, M.D.
Defendant

State of California)
County of Santa Clara) ss.

Acknowledged before me by Kulsoom A. Khan, M. D., on this 18th day of
July, 2011.



Shirley Cheng
Notary Public

STATE OF NEBRASKA, ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: Susan M. Ugai #21845 for:
Susan M. Ugai, #16677
Assistant Attorney General
2115 State Capitol
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(402) 471-9658

Attorneys for Plaintiff.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA



STATE OF NEBRASKA, ex rel. JON)
BRUNING, Attorney General,)
)
Plaintiff,)
)
vs.)
)
KULSOOM A. KHAN, M.D.,)
)
Defendant.)

PETITION FOR
DISCIPLINARY ACTION

The Plaintiff alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Jurisdiction is based on NEB. REV. STAT. §§ 38-176, 38-186, 38-196 (Reissue 2008) and 71-150 (Reissue 2003)
2. At all times relevant herein, the Defendant, Kulsoom A. Khan, M.D., has been the holder of now inactive license #21700 which was issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department") for her practice as a medical doctor.
3. The Department is the agency of the State of Nebraska authorized to enforce the laws of Nebraska regulating the practice of medicine.
4. The Nebraska Board of Medicine and Surgery considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to NEB. REV. STAT. §§ 38-1,105, 38-1,106 (Reissue 2008), 71-168.01(7), and 71-168.01(8) (Reissue 2003).
5. Defendant's primary practice is in the field of psychiatry.

6. Patient S.F. was treated by Defendant from March 11, 2002 through June 7, 2002, and from April 26, 2006, through June 20, 2006.

7. Defendant and her husband allowed S.F. to live with them from 2007 through April 2008. Defendant and her husband employed S.F. as a nanny during February and March of 2008. S.F. worked approximately 51.28 hours per month and was paid approximately \$300 per month.

8. Defendant and her husband arranged for S.F. to have an attorney to help her with her child custody matter and helped her handle her legal problems. Defendant and her husband signed S.F.'s son up for 100 hours at the Sylvan Learning Center.

9. On May 21, 2008, Defendant admitted to Investigator P.L. she had a physical relationship with S.F. during the summer of 2007, but not during any period of time when she was treating S.F. as a patient.

FIRST CAUSE OF ACTION

10. Paragraphs 1 through 9 are incorporated herein by reference.

11. NEB. REV. STAT. §§ 38-178(23) (Reissue 2008) and 71-147 (10) (2006 Cum. Supp.) provides that a professional license may be disciplined, revoked, or suspended for unprofessional conduct.

12. NEB. REV. STAT. §§ 38-179 (Reissue 2008) and 71-148 (Reissue 2003) define unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation regardless of whether a person, patient or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest.

13. NEB. REV. STAT. §§ 38-179(15) (Reissue 2008) and 71-148(22) (Reissue 2003) define unprofessional conduct as such other acts as may be defined in rules and regulations adopted and promulgated by the board of examiners in the profession of the applicant, licensee, certificate holder or registrant with the approval of the Department.

14. Title 172 Chapter 88-013.21 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public.

15. Title 172 Chapter 88-013.16 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as commission of any act of sexual misconduct, or exploitation related to the person's practice of medicine and surgery. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both.

16. Defendant's conduct is unprofessional conduct and is grounds for discipline.

SECOND CAUSE OF ACTION

17. Paragraphs 1 through 16 are incorporated herein by reference.

18. Title 172 Chapter 88-013.1 Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as any departure from or failure to conform to the ethics of the medical profession, as found in the American Medical Association's Code of Medical Ethics and Opinions.

19. The American Medical Association's Code of Medical Ethics and Opinions § 8.14 Sexual Misconduct in the Practice of Medicine also provides:

"Sexual or romantic relationships between a physician and a former patient may be unduly influenced by the previous physician-patient relationship. Sexual or romantic relationships with former patients are unethical if the physician uses or exploits trust, knowledge, emotions, or influence derived from the previous professional relationship."

20. The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, Section 1.1, 2009 Edition Revised, states: "A psychiatrist shall not gratify his or her own needs by exploiting the patient. The psychiatrist shall be ever vigilant about the impact that his or her conduct has upon the boundaries of the doctor-patient relationship, and thus upon the well-being of the patient. These requirements become particularly important because of the essentially private, highly personal, and sometimes intensely emotional nature of the relationship established with the psychiatrist."

21. The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, Section 2.1, 2009 Edition Revised, states: "The requirement that the physician conduct himself/herself with propriety in his or her professional and in all the actions of his or her life is especially important in the case of the psychiatrist because the patient tends to model his or her behavior after that of his or her psychiatrist by identification. Further, the necessary intensity of the treatment relationship may tend to activate sexual and other needs and fantasies on the part of both patient and psychiatrist, while weakening the objectivity necessary for control. Additionally, the inherent inequality in the doctor-patient

relationship may lead to exploitation of the patient. Sexual activity with a current or former patient is unethical."

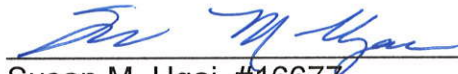
22. Defendant's personal relationship with a former patient constitutes unprofessional conduct and is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Chief Medical Officer set this Petition for Disciplinary Action for hearing and enter an order for appropriate disciplinary action pursuant to NEB. REV. STAT. §§ 38-183 (Reissue 2008) and 71-155 (Reissue 2003) and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON BRUNING,
Attorney General, Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
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