

**CONSENT AGREEMENT
BETWEEN
CYMA KHALILY, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO
17-CRF-0006**

This Consent Agreement is entered into by and between Cyma Khalily, M.D., [Dr. Khalily], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Khalily enters into this Consent Agreement being fully informed of her rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation of Section 4731.22(B)(20), Ohio Revised Code, for "violating or attempting to violate, any provisions of this chapter or any rule promulgated by the board," and/or for "failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code," as defined in Section 4731.22(B)(43), Ohio Revised Code.
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Sections 4731.22(B)(20) to wit: "Standards and procedures for reviews of 'Ohio Automated Rx Reporting System' (OARRS)," Rule 4731-11-11 Ohio Administrative Code," and 4731.22(B)(43), Ohio Revised Code, as set forth in the Notice of Opportunity for Hearing issued to Dr. Khalily on or about January 11, 2017, a copy of which is attached hereto and incorporated herein. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Khalily is licensed to practice medicine and surgery in the State of Ohio, license number 35.060037.
- D. Dr. Khalily states that she is not licensed to practice in any other state or jurisdiction.
- E. Dr. Khalily admits all of the factual and legal allegations as set forth in the aforementioned Notice of Opportunity for Hearing.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, and Dr. Khalily knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

REPRIMAND

1. Dr. Khalily is hereby **REPRIMANDED**.

Further, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, and Dr. Khalily knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

2. **Controlled Substances Prescribing Course:** Within one year of the effective date of this Consent Agreement, Dr. Khalily shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Khalily submits the documentation of successful completion of the course dealing with the prescribing of controlled substances, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of medicine in the future.

3. **Medical Records Course:** Within one year of the effective date of this Consent Agreement, Dr. Khalily shall submit acceptable documentation of successful completion of a course or courses on maintaining adequate and appropriate medical records. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Khalily submits the documentation of successful completion of the course dealing with maintaining adequate and appropriate medical records, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of medicine in the future.

4. Dr. Khalily shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every six months thereafter, and/or as otherwise requested by the Board. If an appearance is

missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

REQUIRED REPORTING BY LICENSEE

5. Within thirty days of the effective date of this Consent Agreement, Dr. Khalily shall provide a copy of this Consent Agreement to all employers or entities with which she is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Khalily shall promptly provide a copy of this Consent Agreement to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments. In the event that Dr. Khalily provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Khalily shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, within thirty days of the date of each such notification, Dr. Khalily shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.
6. Within thirty days of the effective date of this Consent Agreement, Dr. Khalily shall provide a copy of this Consent Agreement by certified mail to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate. Dr. Khalily further agrees to provide a copy of this Consent Agreement by certified mail at time of application to the proper licensing authority of any state in which she applies for any professional license or for reinstatement of any professional license. Additionally, within thirty days of the effective date of this Consent Agreement, Dr. Khalily shall provide a copy of this Consent Agreement to any specialty or subspecialty board of the American Board of Medical Specialties under which she currently holds or has previously held certification. Further, within thirty days of the date of each such notification, Dr. Khalily shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.
7. Dr. Khalily shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

MONETARY FINE:

8. Within thirty days of the effective date of this Consent Agreement, Dr. Khalily shall remit payment in full of a monetary fine of thirteen thousand dollars (\$13,000.00). Such payment shall be made in full via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.

Further, Dr. Khalily acknowledges and agrees that her failure to timely remit full payment shall constitute a violation of this agreement and agrees to pay all reasonable costs associated with the collection of any payment.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Khalily appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Khalily has violated any term, condition or limitation of this Consent Agreement, Dr. Khalily agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

The Reprimand of Dr. Khalily shall not terminate. Further, Dr. Khalily shall not request termination of the probationary terms contained within this Consent Agreement for a minimum of one year. In addition, Dr. Khalily shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year, except that she may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

In the event that the Board initiates future formal proceedings against Dr. Khalily, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or upon this Consent Agreement being superseded by a subsequent final Board Order taking effect.

In the event that any term, limitation, or condition contained in this Consent Agreement is determined to be invalid by a court of competent jurisdiction, Dr. Khalily and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

ACKNOWLEDGMENTS/LIABILITY RELEASE

By executing her signature on this Consent Agreement, Dr. Khalily agrees that in the event the Board, in its discretion, does not ratify this Consent Agreement, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Dr. Khalily and the Board further agree that if this

Consent Agreement is not approved, it shall not constitute an admission against interest in this proceeding and shall not prejudice the ability of the Board to adjudicate this matter.

This Consent Agreement represents the sole and entire agreement of the parties hereto and supersedes all prior written or oral negotiations, agreements, or understandings between the parties. No party to this agreement has been induced to enter into the Consent Agreement by any representations or inducements except those expressly set forth in this written agreement. Further, all parties agree that to the extent any language in the agreement will be interpreted in a subsequent dispute, no ambiguous language shall be construed against the party drafting this Consent Agreement.

Dr. Khalily acknowledges that she has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

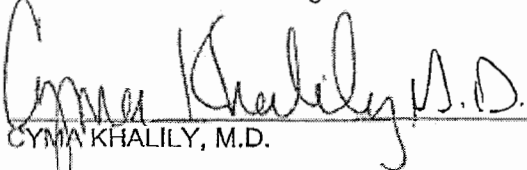
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

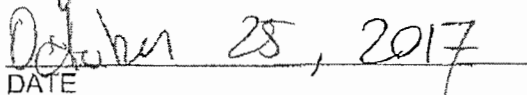
Dr. Khalily hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Khalily acknowledges that her social security number will be used if this information is so reported and agrees to provide her social security number to the Board for such purposes.

EFFECTIVE DATE

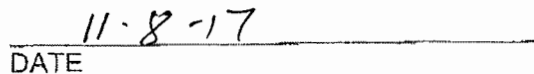
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below. Further, Dr. Khalily specifically acknowledges that the electronic transmission of a scanned or photostatic copy of any executed signature to this Consent Agreement, upon being received by the Board, shall be deemed to have the full legal force and effect as the original.


CYMA KHALILY, M.D.


DATE




KIM G. ROTHERMEL, M.D.
Secretary

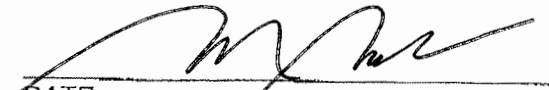

DATE

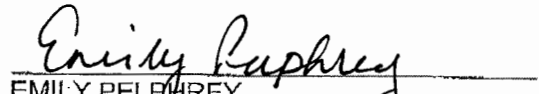


DANIEL ZINSMASER, ESQ.
Attorney for Dr. Khalily

10/29/2017
DATE

BRUCE R. SAFERIN, D.P.M.
Supervising Member


DATE
11-8-17


EMILY PELFREY
Assistant Attorney General

11.3.17
DATE

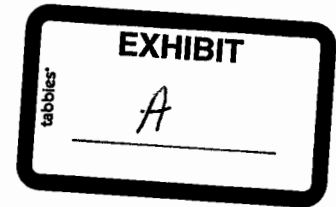


State Medical Board of
Ohio

30 E. Broad St., 3rd Floor
Columbus, Ohio 43215
(614) 466-3934
www.med.ohio.gov

January 11, 2017

Case number: 17-CRF- 0006



Cyma Khalily, M.D.
8624-A Winton Road
Cincinnati, OH 45231

Dear Doctor Khalily:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about October 11, 2016, you were interviewed by a Board investigator concerning your utilization of the Ohio Automated Rx Reporting System [OARRS] related to your prescribing of Schedule II-V controlled substances [reported drugs], including opioid analgesics and benzodiazepines. Further, on or about October 11, 2016, you provided a sworn statement related to such prescribing. Information obtained during the interview and through your sworn statement included:
 - After the investigator informed you that it appeared you possibly may have written numerous prescriptions for reported drugs without checking OARRS as required, you admitted that you probably had not kept up in checking OARRS when required.
 - You further admitted that you did not routinely check OARRS as required prior to prescribing reported drugs, and you had been remiss in your responsibility to check OARRS.
 - When the Board investigator asked why you had written numerous prescriptions for reported drugs without checking OARRS as required, you stated that your failure to do so was related to being unable to keep up with all the regulations and being overworked, but you acknowledged that it was your responsibility nonetheless.
- (2) In the routine course of your practice, you undertook the care of Patients 1 through 9, as identified on the attached Patient Key. (The Patient Key is confidential and not subject to public disclosure.) During or about January 1, 2016, through September 2016, despite the fact that you were required to obtain and review an OARRS report before prescribing Schedule II-V controlled substances including opioid analgesics and/or

Mailed 1-12-17

benzodiazepines, you issued such prescriptions to Patients 1 through 9 without having first obtained or reviewed each patient's OARRS report as required; and/or without documenting such receipt and review in the medical record; and/or without documenting in the medical record the reason why such report was not available and any efforts made in follow-up to obtain the requested information.

Your acts, conduct, and/or omissions that occurred on or after April 1, 2015, as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute "[f]ailure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code," as that clause is used in Section 4731.22(B)(43), Ohio Revised Code.

Further, your acts, conduct, and/or omissions that occurred on or after December 31, 2015, as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Standards and Procedures for Reviews of "Ohio Automated Rx Reporting System" (OARRS), Rule 4731-11-11, Ohio Administrative Code.

Furthermore, for any violations that occurred on or after September 29, 2015, the board may impose a civil penalty in an amount that shall not exceed twenty thousand dollars, pursuant to Section 4731.225, Ohio Revised Code. The civil penalty may be in addition to any other action the board may take under section 4731.22, Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold

a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Kim G. Rothermel, M.D.
Secretary

KGR/MRB/bjr
Enclosures

CERTIFIED MAIL #91 7199 9991 7036 9431 1925
RETURN RECEIPT REQUESTED

**IN THE MATTER OF
CYMA KHALILY, M.D.**

17-CRF-0006

**JANUARY 11, 2017, NOTICE OF
OPPORTUNITY FOR HEARING -
PATIENT KEY**

**SEALED TO
PROTECT PATIENT
CONFIDENTIALITY AND
MAINTAINED IN CASE
RECORD FILE.**



January 11, 2017

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Kim G. Rothermel, M.D.
Secretary

KGR/MRB/bjr
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17-CRF-0006

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