

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs

vs.

Aimal Khan, M.D.,
Respondent

Docket No:

01205-49-11

File No.

11-49-01175

AMENDED CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.

2. At all relevant and material times, **Aimal Khan, M.D.**, ("Respondent") holds a license to practice medicine as a physician in the Commonwealth of Pennsylvania, number MD-434927.

3. If this matter were to proceed to a formal hearing, the Commonwealth alleges that it would prove the following factual allegations. The Respondent neither admits nor denies these factual allegations:

a. Respondent's license will expire on 12/31/2012, but may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

- b. The Respondent's last known address on file with the Board is 687 Stoverdale Road, Hummelstown, PA 17036.
- c. Respondent last practiced in Dauphin County, Pennsylvania.
- d. Due to the failure to complete patient records over a period of time and Respondent's contention that he suffers from medical conditions that have impaired his ability to complete patient records, a Petition for Mental/Physical exam was presented to the Probable Cause Screening Committee of the State Board of Medicine to determine that Respondent was capable of practicing medicine with reasonable skill and safety.
- e. A true and correct copy of the Petition to Compel Mental and Physical Examination is attached and incorporated as **EXHIBIT 1**
- f. On November 23, 2010, the Probable Cause Screening Committee of the State Board of Medicine found that there was probable cause that Respondent is unable to practice medicine with reasonable skill and safety to patients by reason of illness and ordered Respondent to undergo a mental/physical examination by Roger J. Cadieux, M.D. on January 7, 2011.
- g. On December 22, Roger J. Cadieux, M.D. performed the mental/physical examination of Respondent and concluded, *inter alia*, that Respondent, at the present time, is unable to practice medicine safely.
- h. Doctor Cadieux further found that the Respondent could correct these difficulties with focused and rapid psychiatric intervention, that Respondent should involve himself in in weekly or byweekly psychotherapy with a "senior psychotherapist who is willing and able both to treat his underlying psychiatric conditions but also supervise his

productivity in maintaining his notes and supplying quarterly reports to the State Board of Medicine to ensure his compliance with this very important aspect of his profession.”

i. On January 30, 2011, the Probable Cause Screening Committee of the State Board of Medicine entered an Order Temporarily suspending the Respondent’s license to practice medicine.

j. Respondent has indicated his willingness to participate in focused and rapid treatment recommendations and has provided the Commonwealth with evidence that he has involved himself in treatment.

k. Based upon Respondent’s willingness to comply with Dr. Cadieux’s treatment recommendations and providing evidence that he is currently in treatment, the Commonwealth has agreed to and has withdrawn the Immediate Temporary Suspension of Respondent’s license, contingent upon the Board’s approval of this within Consent Agreement.

4. The Commonwealth alleges that, by virtue of the foregoing, Respondent violated the Act at 63 P.S. Section 422.42 (5) in that Respondent is temporarily unfit to practice as a physician as found by Dr. Roger J. Cadieux, M.D.

5. Without admitting to any liability or to any of the factual averments set forth in paragraphs 3 and 4, as to the facts the Commonwealth intends to prove at the hearing, the Respondent agrees, in the interests of a prompt and final resolution of these proceedings, and intending to be legally bound, not to contest the issuance of the following Order in settlement of this proceeding:

a. Respondent violated the Act at 63 P.S. §422.41(5) in that the Respondent is temporarily unfit to practice as a physician due to illness.

b. Respondent's license, No MD-434927 is indefinitely **SUSPENDED** for no less than 2 years, such suspension to be immediately **STAYED** in favor of no less than 2 years **PROBATION**, and subject to the following terms and conditions:

GENERAL

(1) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a license to practice. Provided, however, summary traffic violations shall not constitute a violation of this Order.

(2) Respondent shall at all times cooperate with the Bureau of Professional and Occupational Affairs ("Bureau"), any of its agents or employees and the Bureau of Enforcement and Investigation ("BEI") and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and

verifications of actions that may be required by the Bureau, BEI or any of its agents or employees.

(3) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Consent Agreement and Order.

(4) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

(5) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action pertaining to the practice of Respondent's profession, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction, or the Drug Enforcement Agency of the U.S. Department of Justice, or any investigation, action, restriction or limitation relating to Respondent's privilege to practice the profession.

(6) Respondent shall notify BEI by telephone within 72 hours and in writing within ten (10) days of the change of his home address, phone number, place(s) of employment and/or practice.

SPECIAL TERMS

(7) Respondent shall engage and continue to engage in treatment

with a senior psychotherapist at least biweekly that will treat both his underlying psychiatric conditions and address his productivity in maintaining his notes and the keeping/preparation of his client's medical records.

(8) Within 30 days of the approval of this Consent Agreement Respondent shall, at his own expense, provide a report from his treating psychiatrist that he has engaged in treatment consistent with the foregoing paragraph.

(9) Respondent shall, at his own expense, cause copies of the reports of his treating psychiatrist to be filed every sixty (60) days for the first year of Probation and quarterly thereafter with BEI at the following addresses:

**LINDA TROSTLE
MONITORING OFFICER
BUREAU OF ENFORCEMENT AND
INVESTIGATION
2601 NORTH THIRD STREET
P.O. BOX 2649
HARRISBURG, PA 17105-2649**

MONITORED/SUPERVISED PRACTICE

(10) During the period of probation, Respondent shall practice medicine only in an office and practice setting that includes other physicians.

(11) Respondent may not work in any practice setting without direct

monitoring/supervision of his medical records preparation and completion.

(12) Respondent shall notify BEI, in writing, within 72 hours of notification of the following:

- a. The name and address of the monitor/supervisor responsible for Respondent's practice.
- b. The name(s) and address(es) of the place(s) at which Respondent will practice the profession and a description of Respondent's duties and responsibilities at such places of practice.
- c. Any restrictions on Respondent's practice.

(13) Within ten (10) days of the date of this Order, Respondent shall supply any monitor/supervisor or any current employer with a copy of this Consent Agreement and Order. Respondent shall also supply any prospective employer with a copy of this Consent Agreement and Order at the time of application for employment.

(14) Respondent shall have any monitor/supervisor submit to BEI the following information in writing:

- a. Within fifteen (15) days of the date of this Order, verification that the monitor/supervisor has received a copy of this Consent Agreement and Order and understands the conditions of this probation;

- b. An evaluation of Respondent's work performance on a 60-day or more frequent basis as requested by the prosecuting attorney or BEI; and
- c. Any suspected violation by Respondent of this probation.

REPORTING/RELEASES

- (15) Respondent, his providers, monitor(s)/supervisor(s), employer(s) or other person(s) shall cause any reports, data or other information required to be filed with BEI under this Order, unless otherwise directed, with:

Probation Compliance Officer
Bureau of Enforcement and Investigation
Box 2649
Harrisburg, PA 17105-2649

- (16) Respondent consents to the release by the Bureau of BEI of any information or data produced as a result of this probation to any employer, prospective employer or monitor/supervisor.

- (17) Respondent shall sign waivers and/or release forms upon request of the Bureau or BEI or its designated representative for any and all records, inclusive of medical or other health related records, pertaining to treatment rendered to Respondent.

- (18) Respondent shall execute any waivers or consent forms required to allow the Bureau or BEI to obtain access to any agreements or any other records generated through the Bureau or BEI or its agents.

COSTS

(19) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Order, including production of records.

BUREAU/BEI EVALUATIONS

(20) Upon request of the prosecuting attorney or BEI, the Respondent shall submit to evaluations, physical examination or interviews by a provider approved by the prosecuting attorney or BEI. Failure of Respondent to submit to the such examination or interviews when directed shall constitute a violation of this Order.

VIOLATIONS OF THIS ORDER

(21) The failure of the Respondent to comply with the terms and conditions of this Consent Agreement including the failure to engage in treatment, the submission of the required treatment records and the failure to keep medical records in accordance with the Act will constitute and result in an immediate violation of this agreement.

(22) Notification of a violation of the terms or conditions contained in this Agreement shall result in the **IMMEDIATE TERMINATION** of the period of probation, and **ACTIVATION** of an **INDEFINITE SUSPENSION** of Respondent's license to practice the profession in the Commonwealth of Pennsylvania as follows:

a. The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee ("Committee") a Petition that indicates

that Respondent has violated any terms or conditions of this Agreement.

b. Upon a probable cause determination by the Committee that Respondent has violated any of the terms or conditions of this Agreement, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Respondent's license.

c. Respondent shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first class mail, postage prepaid, sent to the Respondent's last registered address on file with the Board, or by personal service if necessary.

d. Within twenty (20) days of mailing of the preliminary order, Respondent may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Respondent's violation of the agreement, in which Respondent may seek relief from the preliminary order activating the suspension. Respondent shall mail the original answer and request for hearing to the Department of State, Bureau of Professional and Occupational Affairs, Office of Prothonotary, 2601 North Third Street, P.O.

Box 2649, Harrisburg, PA 17105-2649, and a copy to the prosecuting attorney for the Commonwealth, as well as all subsequent filings in the matter.

e. If Respondent submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Respondent's request for a formal hearing.

f. Respondent's submission of a timely answer and request for a hearing shall not stay the suspension of Respondent's license under the preliminary order. The suspension shall remain in effect unless the Board or the hearing examiner issues an order after the formal hearing staying the suspension again.

g. The facts and averments in this Agreement shall be deemed admitted and uncontested at this hearing.

h. If the Board or hearing examiner after the formal hearing makes a determination against Respondent, a final order will be issued sustaining the suspension of Respondent's license and imposing any additional disciplinary measures deemed appropriate.

i. If Respondent fails to timely file an answer and request for a hearing, the Board shall issue a final order affirming the suspension of Respondent's license.

j. If Respondent does not make a timely answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or the hearing examiner makes a determination against Respondent sustaining the suspension of Respondent's license, after at least 5 years of active suspension and any additional imposed discipline, Respondent may petition the Board for reinstatement based upon an affirmative showing that Respondent is fit to safely practice, and verification that Respondent has abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the profession in this Commonwealth.

k. Respondent's failure to fully comply with any terms of this Agreement may also constitute grounds for additional disciplinary action.

l. Nothing in this Agreement shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary action or corrective measures for violations or facts not contained in this Agreement.

6. Respondent may request return to non-probationary status of his license to practice medicine in the Commonwealth of Pennsylvania upon an affirmative showing that Respondent has complied with all terms and conditions of this Consent Order. The written Petition shall be filed with the Counsel to the Board, P.O. Box 2649, Harrisburg, PA 17105-2649. The Petition should include a criminal record check, any other materials the Respondent would like the Board to consider, a discharge report/summary from his treating psychiatrist that indicates that Respondent's return to non-probationary status would not pose a clear and immediate danger to the public health and safety and a report/summary from his current monitor/supervisor which indicates that Respondent has been in compliance keeping/preparation of patient medical records. Respondent's license may be returned to non-probationary status **administratively, without hearing**, unless the Commonwealth objects based upon evidence that Respondent has either (1) not continued Respondent's treatment, (2) failed to prepare or keep patient records within the standard of care for the profession; (3) Respondent has been terminated from a position during the period of suspension for suspected impairment and/or failure to keep patient records within the standard of care for the profession, (4) Respondent has failed to abide by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the medical profession in this Commonwealth during Respondent's period of suspension. This includes, but is in no way limited to, any criminal disposition or arrest, any violation of Respondent's criminal probation or parole and/or any disciplinary action taken against Respondent by any licensing jurisdiction, or (5) for any other reason demonstrating a clear and immediate danger to the public health and safety.

7. Respondent waives the filing and service of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

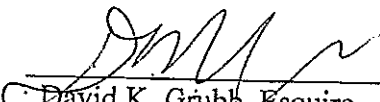
8. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

9. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

10. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

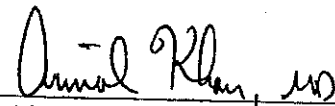
11. This Agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

12. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


David K. Grubb, Esquire
Prosecuting Attorney

Department of State

DATED:


Aimal Khan, M.D.,
687 Stoverdale Road
Hummelstown, PA 17036
Respondent

DATED: 10-11-11

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

In Re: The Fitness of	:	
Aimal Khan, M.D.	:	
To Practice Medicine	:	File No. 09-49-08481
With Reasonable Skill and Safety	:	

PETITION TO COMPEL MENTAL AND PHYSICAL EXAMINATION

AND NOW, comes the Commonwealth of Pennsylvania, by and through its Prosecuting Attorney, David K. Grubb, to file the within Petition to Compel Mental and Physical Examination in accordance with the Medical Practice Act ("Act") at 63 P.S. §422.41(5), and in support thereof, avers upon knowledge, information and belief as follows:

1. At all relevant and material times, Respondent held a license to practice medicine and surgery in the Commonwealth of Pennsylvania, license number MD434927, which was originally issued on July 1, 2008.
2. Respondent's license is current, will expire on 12/31/10, and may be continually renewed thereafter upon the filing of the appropriate documentation and the payment of the necessary fees.
3. Respondent's last known address on file with the Board is 687 Stoverdale Road, Hummelstown, PA 17036.
4. On or about August 26, 2009, the Department of State received a complaint indicating that Respondent, while employed with T.W. Ponessa & Associates Counseling Services, Inc., from January 5, 2009 through February 7, 2009, failed to complete approximately 11 psychiatric evaluations and 130 progress notes.

EXHIBIT

1

5. The Complaint indicates that despite negotiations between Respondent and his former employer, Respondent failed to provide the evaluations and progress notes and missed numerous deadlines for completion of same.
6. On or about January 22, 2010, Professional Conduct Investigator (PCI), Steven L. Shade interviewed Respondent regarding the incomplete patient records.
7. During the January 22, 2010 interview, Respondent admitted to PCI Shade that he had not completed the patient records and was in the process of providing them to the Complainant via Fax.
8. On or about October 26, 2010, the undersigned Prosecuting Attorney sent Respondent a Compliance Letter indicating that the Commonwealth would refrain from filing formal disciplinary charges provided that Respondent present evidence that he completed all patient records in this matter within 20 days. (A true and correct copy of the Compliance Letter is attached and incorporated as **Exhibit A**).
9. On or about November 15, 2010, the undersigned Prosecuting Attorney received an email from Respondent which requested additional time for completion of the records and indicated Respondent had difficulty completing the records due to medical conditions which included Depression, Anxiety and Obstructive Sleep Apnea. (A true and correct copy of the Email is attached and incorporated as **Exhibit B**).
10. Due to the failure to complete numerous patient records over a protracted period of time and Respondent's contention that he suffers from medical conditions that have prevented his ability to complete patient records, it is submitted that a

Mental/Physical exam of Respondent is warranted to ensure that Respondent is capable of practicing medicine with reasonable skill and safety.

11. The Act at 63 P.S. §422.41(5) provides that the Board may compel a medical assistant to submit to a mental and physical examination by a physician designated by the Board, as follows:

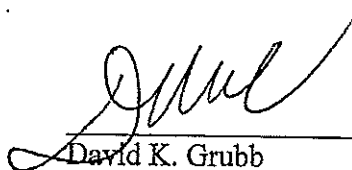
(5) Being unable to practice the profession with reasonable skill and safety to patients by reason of illness, addiction to drugs or alcohol, having been convicted of a felonious act prohibited by the Act . . . known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony related to a controlled substance in a court of law of the United States or any other state, territory, possession, or country, or if he or she shall become mentally incompetent. An applicant's statement on the application declaring the absence of a conviction shall be deemed satisfactory evidence of the absence of a conviction unless the Board has some evidence to the contrary. In enforcing this paragraph, the Board shall, upon probable cause, have authority to compel a practitioner to submit to a mental or physical examination by a physician or a psychologist approved by the Board. Failure of a practitioner to submit to such examination when directed by the Board, unless such failure is due to circumstances beyond her or her control, shall constitute an admission of the allegations against him or her, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A practitioner affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume a competent practice of his or her profession with reasonable skill and safety to patients.
12. Probable cause consists of available facts and circumstances that would warrant a person of reasonable caution in believing that a person cannot practice medicine and surgery with reasonable skill and safety to patients.
13. Based upon the foregoing, there are available facts and circumstances leading to the belief that Respondent cannot practice medicine and surgery with reasonable skill and safety to patients by reason of illness.
14. It is respectfully requested that the Board approve Roger J. Cadieux, M.D., psychiatrist, to conduct the mental and physical evaluation of Respondent in

accordance with the Act at 63 P.S. §422.41(5); that the Board empower Roger J. Cadieux, M.D., to disclose all records, reports and results of the examination(s) to the Prosecuting Attorney and, if necessary, to testify as to his examination(s) of Respondent.

WHEREFORE, the Prosecuting Attorney respectfully requests that the Board's Probable Cause Committee FIND that probable cause exists that Respondent is unable to practice medicine and surgery with reasonable skill and safety to patients, and issue an Order (1) finding that probable cause exists that Respondent is unable to practice medicine and surgery with reasonable skill and safety to patients; (2) compelling Respondent to submit to a mental and physical examination with Roger J. Cadieux, M.D. within 60 days, as scheduled by the Commonwealth; (3) compelling Respondent to execute releases, including releases for all of Respondent's medical, substance abuse treatment, psychiatric, and mental health records within the past five years and cause Respondent's physicians and any other health care providers to transmit said records directly to Roger J. Cadieux, M.D. prior to the examination; (4) compelling Respondent to transmit a copy of Respondent's curriculum vitae to Roger J. Cadieux, M.D. for receipt prior to the examination; (5) compelling Respondent to cooperate fully with the Commonwealth's prosecuting attorney and Roger J. Cadieux, M.D. in the event the examination needs to be rescheduled; (6) compelling Respondent to submit to all tests administered by Roger J. Cadieux, M.D. during the examination, provide any and all information requested, and attend subsequent appointments as requested; (7) compelling Respondent to answer truthfully all questions asked by Roger J. Cadieux, M.D. during the examination; and (8) directing Roger J. Cadieux, M.D. to promptly provide the Commonwealth with a written report of his evaluator's examination of Respondent, together with all relevant medical records and test results pertaining

to Respondent, and to be prepared to testify before the Board about his examination of Respondent.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'D. Grubb', is written over a horizontal line.

David K. Grubb
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State
P. O. Box 2649
Harrisburg, PA 17105-2649
(717) 783-7200

ORDER

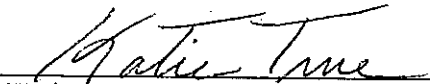
AND NOW, this 24th day of Jan, 2012, the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

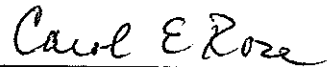
This Order shall take effect immediately.

BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

STATE BOARD OF MEDICINE


Katie True
Commissioner


Carol E. Rose, M.D.
Chairperson

Date of mailing: 30, Jan, 2012

For the Commonwealth:

David K. Grubb, Esquire
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

Robert S. Mirin, Esquire
The Law Offices of Robert S. Mirin
2515 North Front Street
Harrisburg, PA 17110

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