

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

FILE COPY

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER
(92 MED 511)

MUHAMMAD Y. KHAN, M.D.,
RESPONDENT.

The parties to this proceeding for purposes of sec. 227.53, Stats. are:

Muhammad Y. Khan, M.D.
1218 West Kilbourn Avenue
Suite 101
Milwaukee, WI 53233

Wisconsin Medical Examining Board
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Muhammad Y. Khan, M.D., personally, and by Paul J. Gossens, attorney for Dr. Khan, and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Muhammad Y. Khan, M.D., 1218 West Kilbourn Avenue, Suite 101, Milwaukee, Wisconsin, 53233, was born on 4/7/41 and has been licensed and currently registered to practice medicine and surgery in the State of Wisconsin since 8/24/76, license #20290. Dr. Khan is not licensed in any other state.

2. Dr. Khan specializes in the practice of general surgery and has been board certified in this specialty since 1980. He was recertified in 1991.

3. A complaint is pending before the Wisconsin Medical Examining Board alleging that Dr. Khan failed to recognize that the patient had a history of alcohol abuse and compromised liver function, that he failed to adequately evaluate the patient for other potential causes for the symptoms which lead him to a diagnosis of cholecystitis and cholelithiasis and that he proceeded with a cholecystectomy.

4. Dr. Khan denies the allegations of the complaint and contends that he provided appropriate medical care for the patient in that he considered surgery to be critical for the patient considering her level of pain.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to sec. 448.02, Stats.

2. The Wisconsin Medical Examining Board has the authority to resolve and dismiss this proceeding by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED, pursuant to the Stipulation of the parties, that Muhammad Y. Khan, M.D. will participate in and satisfactorily complete the following education program:

1. The education program will focus on the pre-operative evaluation of patients who are candidates for surgeries ordinarily and customarily performed by physicians who specialize in the practice of general surgery. The objective of this education program is to ensure and reinforce in Dr. Khan the level of knowledge and skill a surgeon possesses in the performance of pre-operative evaluations of patients.

2. The education program will be conducted under the direction and supervision of a mentor, Freddy S. Racadio, M.D., a physician board certified in general surgery and holding the position of Chief of Surgery at Sinai Samaritan Hospital in Milwaukee, Wisconsin.

3. The education program will be conducted over a period of 6 months commencing on the date of this Final Decision And Order. The education program will consist of the following two components:

a. Each month over the six months of the education program Dr. Khan and the mentor will meet to review and critique Dr. Khan's pre-operative patient records for ten surgical candidates treated or evaluated by Dr. Khan. The review and critique will focus on the pre-operative evaluation of the patients and the risk factors presented by the patients. Dr. Khan will submit his list of all of the previous month's surgical candidates to the mentor. The list will identify for each patient the patient's diagnosis and the surgical procedures recommended or performed by Dr. Khan. The mentor will select ten patients from the list and notify Dr. Khan of the patients selected. Dr. Khan will provide the patients' records to the mentor prior to the review.

b. Dr. Khan and the mentor will meet at least monthly over the six months of the education program to review and critique patient records selected by the mentor from the mentor's surgical practice as they relate to pre-operative evaluation and assessment of risk factors. Dr. Khan will also observe the mentor perform up to five clinical pre-operative evaluations of the mentor's patients each month of the program. At least eight hours a month will be devoted to the review, critique and observation of mentor's records and patients for the first two months of the education program. The amount of time devoted to the review, critique and observation of the mentor's records and patients in each of the succeeding four months will be within the sole discretion of the mentor and will be governed by the mentor's assessment of the amount of time necessary to fulfill the educational objectives of this education program as set forth in paragraph 1. The distribution of time between review of the mentor's patient records and observation of pre-operative evaluations as they are being performed by the mentor shall be in the sole discretion of the mentor.

4. At the conclusion of the education program, if it has been satisfactorily completed by Dr. Khan, the mentor will submit a letter to the Medical Examining Board in care of Michelle Neverman, Department Monitor, Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, stating that in his opinion the education program has been satisfactorily completed in accordance with the terms of the Final Decision And Order and that the objectives of the program have been accomplished.

5. Dr. Khan will pay the costs of the education program, including the professional fees and expenses of the mentor, within 30 days of the dates on which statements for professional services and expenses are submitted to him.

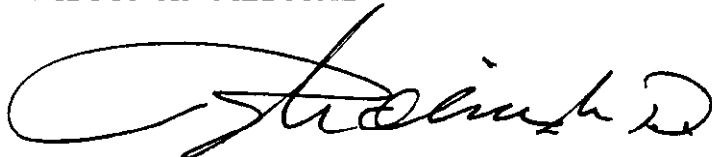
IT IS FURTHER ORDERED that the Complaint shall be, and hereby is, dismissed.

IT IS FURTHER ORDERED that if after 6 months the mentor advises the Board that Dr. Khan has not successfully completed the program, the Board may further investigate the matter. If the Board determines that there is probable cause to believe that Dr. Khan has violated the terms of this Final Decision And Order, the Board may invoke its authority under sec. 448.02(4), Stats., to suspend Dr. Khan's license.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin, this 26 day of February, 1997.

WISCONSIN MEDICAL EXAMINING BOARD



~~Glenn Hoberg, DO, Secretary~~ *R. Molina, MD*
I\KHANLEGAL\FD&O1114 DOC *Chair*

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
	:	(92 MED 511)
MUHAMMAD Y. KHAN, M.D.,	:	
RESPONDENT.	:	

It is hereby stipulated between Muhammad Y. Khan, M.D., personally, and by his attorney, Paul J. Gossens, and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Muhammad Y. Khan, M.D., 1218 West Kilbourn Avenue, Suite 101, Milwaukee, Wisconsin, 53233, was born on 4/7/41 and has been licensed and currently registered to practice medicine and surgery in the State of Wisconsin since 8/24/76, license #20290. Dr. Khan is not licensed in any other state.

2. Dr. Khan specializes in the practice of general surgery and has been board certified in this specialty since 1980. He was recertified in 1991.

3. A complaint is pending before the Wisconsin Medical Examining Board alleging that Dr. Khan failed to recognize that the patient had a history of alcohol abuse and compromised liver function, that he failed to adequately evaluate the patient for other potential causes for the symptoms which lead him to a diagnosis of cholecystitis and cholelithiasis and that he proceeded with a cholecystectomy.

4. Dr. Khan denies the allegations of the complaint and contends that he provided appropriate medical care for the patient in that he considered surgery to be critical for the patient considering her level of pain.

5. The parties to this proceeding have achieved this mutually agreeable resolution as the final resolution of this contested matter and stipulate to dismiss the Complaint with the approval of the Medical Examining Board.

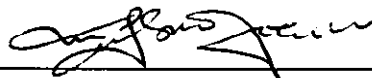
6. The parties recognize and acknowledge that by signing this stipulation they freely, voluntarily and knowingly waive their rights including the right to a hearing at which witnesses may be called and cross-examined and all other rights afforded them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

7. The parties waive all costs and other claims arising out of this proceeding. The parties further agree that each party shall pay all costs incurred and fees generated by the expert witnesses and consultants retained by the respective parties in the preparation of this case.


8. The parties to this Stipulation and the Board Advisor, Sandra Mahkorn, M.D., may appear before the Wisconsin Medical Examining Board to speak in support of this Stipulation.

9. If any term of this Stipulation or the incorporated Final Decision And Order is not accepted by the Wisconsin Medical Examining Board, then no term of this Stipulation or the Final Decision And Order will be binding in any manner on any party, and the matter will be returned to the Division of Enforcement for further proceedings.

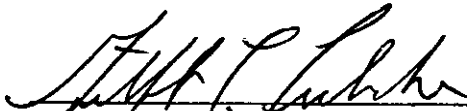
Dated: 12/20/96


Muhammad Y. Khan, M.D.

Dated: 12/20/96


Paul J. Gossens
Attorney for Muhammad Y. Khan, M.D.

Dated: 1/10/97


Gilbert C. Lubcke
Attorney for the Department of Regulation and
Licensing, Division of Enforcement

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Muhammad Y. Khan, M.D.,

AFFIDAVIT OF MAILING

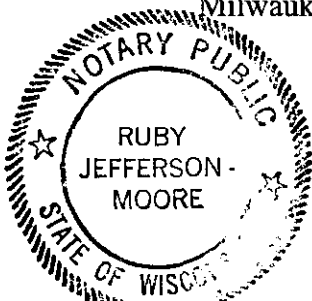
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On February 28, 1997, I served the Final Decision and Order dated February 26, 1997, LS9603041MED, upon the Respondent Muhammad Y. Khan's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 374 033.

Paul J. Gossens, Attorney
Gossens & George, S.C.
219 North Milwaukee Street, Suite 500
Milwaukee WI 53202



Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 28th day of February, 1997.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

GOSSENS & GEORGE, S.C.
Attorneys At Law

SUITE 500
219 NORTH MILWAUKEE STREET
MILWAUKEE, WISCONSIN 53202
(414) 289-9400

Paul J. Gossens
Virginia E. George

February 27, 1997

VIA FACSIMILE

Wayne Austin
Department of Regulations
& Licensing
1400 E. Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

RE: The Matter of Muhammad Y. Khan, M.D.

Dear Mr. Austin,

The Medical Examining Board has approved an Order relating to Muhammad Y. Khan, M.D. You have asked that we contact you immediately upon the Board's adopting of the Order so that you can be reminded that this is not reported to the National Data Bank nor is it to be sent out under the Wisconsin Regulatory Digest.

Thank you for your cooperation.

Very truly yours,



Paul J. Gossens

PJG:lu
cc: Muhammad Khan

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**State of Wisconsin ** DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson
Governor

December 6, 1996

Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P.O. BOX 8935
MADISON, WISCONSIN 53708-8935
(608) 266-2112

Mr. Gilbert Lubcke, Attorney
Division of Enforcement
Wisconsin Department of Regulation and Licensing
1400 East Washington Avenue
Madison, WI 53702

Mr. Paul Gossens, Attorney
Gossens & George, S.C.
Suite 500
219 North Milwaukee Street
Milwaukee, WI 53202

Re: Stipulation (92 MED 511 - Muhammad Y. Khan)

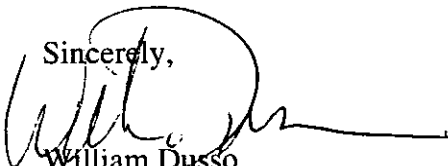
Dear Mr. Lubcke and Mr. Gossens:

This letter is for the purpose of confirming the opinion that I expressed to you in our telephone conversation on December 3, 1996. Based on the specific information you provided, in my opinion, were the Medical Examining Board to adopt the final decision and order you sent to me, the Board's decision and order would not be an action it must report to the Data Bank.

My opinion is based on the materials submitted with Mr. Gossens' letter of November 20, 1996 and the federal code and regulations relating to the National Practitioner Data Bank as interpreted in the Guidebook for the National Practitioner Data Bank by the U.S. Department of Health and Human Services.

My opinion is shared by Mr. Wayne Austin, who provides legal advice to the Medical Examining Board, and Ms. Pamela Haack, who is responsible for reporting actions to the Data Bank.

Sincerely,



William Dusso
Legal Counsel

cc: Wayne Austin
✓ Pamela Haack

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NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

February 28, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)