

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

RAJAI TAWFIQ KHOURY, M.D.

CONSENT ORDER

The West Virginia Board of Medicine ["Board"] and Rajai Tawfiq Khoury, M.D., [Dr. Khoury], freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code §30-3-14, *et seq.*:

FINDINGS OF FACT

1. Dr. Khoury holds an active license to practice medicine in the State of West Virginia, License No. 12203, which was initially issued in 1980. His address of record with the Board is in Wheeling, West Virginia.

2. On May 19, 2013, the Complaint Committee of the Board ["Complaint Committee"] initiated a complaint against Dr. Khoury alleging certain violations of the West Virginia Medical Practice Act and the Board's legislative rules, including violations of W. Va. Code §§ 30-3-14(c)(16) and (17) and W.Va. Code R. §§11-1A-12.1(e),(j),(o),(aa) and (bb) and W. Va. Code R. §11-1A-12.2(d).

3. Dr. Khoury has been registered as a supervising physician for physician assistant Melissa Beth Grover [Ms. Grover] since January 10, 2005.

4. Prior to the Board's initial approval of Ms. Grover's request to work under Dr. Khoury's supervision in January 2005, and on the occasion of the biennial renewal of Ms. Grover's PA license in 2007, 2009, 2011 and 2013, Dr. Khoury

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has certified to the Board, by his dated signature, that he reviewed the West Virginia Medical Practice Act and the Board's legislative rules governing the extent to which Physician Assistants shall function, and that he understood the same.

5. The West Virginia Medical Practice Act establishes an application process for physician assistants to request prescriptive writing privileges, and authorizes the Board to promulgate rules regarding the eligibility of physician assistants for prescriptive writing authority. W. Va. Code §30-3-16(r).

6. Additionally, the Board's legislative rule governing the licensure and discipline of physician assistants sets forth eligibility criteria for obtaining limited prescriptive writing privileges from the Board. W.Va. Code R. §11-1B-14.

7. In association with her physician assistant renewal application for the period of April 1, 2013, through March 31, 2015, Ms. Grover indicated that she had current prescriptive writing privileges (PWP) under Dr. Khoury.

8. At the time of her March 2013 renewal application, Ms. Grover had neither requested nor received PWP from this Board.

9. Ms. Grover has written prescriptions under the supervision of Dr. Khoury, without approval from the Board, since 2011.

10. Dr. Khoury avers that prior to writing prescriptions under her own name, Ms. Grover obtained a DEA registration number.

11. Dr. Khoury has represented that he was confused about whether the Board's PWP process and the DEA registration number process were integrated, but he acknowledges that his assigned physician assistant was permitted to write prescriptions under his supervision without prior Board approval.

12. The Board and Dr. Khoury voluntary enter into this Consent Order to resolve the complaint against Dr. Khoury and to protect the public interest.

CONCLUSIONS OF LAW

The Board and Dr. Khoury stipulate to the following conclusions of law:

1. Dr. Khoury's license to practice medicine and surgery in the State of West Virginia is subject to regulation and discipline by the West Virginia Board of Medicine, the "regulatory and disciplinary body for the practice of medicine and surgery" for physicians, podiatrists and physician assistants in West Virginia. W.Va. Code §30-3-5 and §30-3-7(a).
2. The Board has a mandate to ensure "a professional environment that encourages the delivery of quality medical services" to protect the public interest. W.Va. Code §30-3-2.
3. The West Virginia Medical Practice Act sets forth conduct which may render an individual unqualified for licensure or subject to discipline or other restrictions upon licensure. W.Va. Code §30-3-14. Pursuant to W.Va. Code §30-1-8(c), the Board has promulgated legislative rules that "delineate conduct, practices or acts which, in the judgment of the board, constitute professional negligence, a willful departure from accepted standards of professional conduct and/or which may render an individual unqualified or unfit for licensure, registration or other authorization to practice." W. Va. Code R. §11-1A-12.

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4. Probable cause exists to substantiate disciplinary charges against Dr. Khoury pursuant to W. Va. Code §§ 30-3-14(c)(16) and (17) and W.Va. Code R. §§11-1A-12.1(e),(j),(o),(aa) and (bb) and W. Va. Code R. §11-1A-12.2(d).

5. It is appropriate and in the public interest to waive the commencement of proceedings against Dr. Khoury and to proceed without the filing of charges, or a formal Complaint and Notice of Hearing, subject to compliance by Dr. Khoury with the provisions of this Consent Order.

6. It is appropriate to impose upon Dr. Khoury's license the restrictions, limitations, conditions and accommodations set forth in the Order herein below and contingent upon Dr. Khoury's compliance with the terms of this Consent Order.

7. This Consent Order sets forth reasonable and appropriate restrictions, limitations, conditions and accommodations upon the practice of medicine and surgery by Dr. Khoury in West Virginia.

CONSENT

By signing his name to this Consent Order, Rajai Tawfiq Khoury, M.D., acknowledges that he understands and agrees with the following:

1. Dr. Khoury has read and understands this entire Consent Order;
2. Dr. Khoury agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. Khoury understands that he has the right to legal representation in this matter, at his own expense, and agrees that he has been afforded adequate time and

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opportunity to exercise his right to consult with counsel regarding the legal effect of this Consent Order;

4. Dr. Khoury understands that this Consent Order is a legally binding Order of the West Virginia Board of Medicine that affects his rights and privileges;

5. Dr. Khoury acknowledges that he is fully aware that, without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code § 30-3-14(h) and §29A-5-1, *et seq.*;

6. Dr. Khoury is aware of his legal rights in this matter, including the right to a formal hearing before the West Virginia Board of Medicine; the right to be represented by counsel, at his own expense, at any such hearing; the right to confront and cross-examine witnesses against him; the right to present evidence and testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; and the right to appeal under Chapters 29A and 30 of the West Virginia Code in the event of a final order or decision adverse to him;

7. Dr. Khoury knowingly and voluntarily waives all such rights;

8. Dr. Khoury agrees to the entry of this Consent Order relative to his practice of medicine in the State of West Virginia;

9. Dr. Khoury acknowledges that if he violates any of the terms of this Consent Order, further action may be taken against his license by the Board, as permitted by law; and

10. Dr. Khoury understands that this Order is a public document which will be available for public inspection, will be accessible through the Board's website,

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and will be a permanent part of his historical file with the Board. Matters contained herein may be reported to other jurisdictions, the National Practitioner Data Bank, the Federation of State Medical Boards and as otherwise required by law.

ORDER

WHEREFORE, on the basis of the foregoing stipulated Findings of Fact and Conclusions of Law, and with the consent of Dr. Khoury, the West Virginia Board of Medicine hereby ORDERS as follows:

1. Dr. Khoury is hereby assessed a **CIVIL FINE** of one thousand dollars (\$1,000.00) for permitting a physician assistant whom he supervises to write prescriptions without first receiving prescriptive writing privileges from the Board. Such fine shall be paid to the Board, in full, by Dr. Khoury on or before October 14, 2013. Any failure by Dr. Khoury to submit full payment of this fine by October 14, 2013, shall constitute a material breach of this Order, and may subject Dr. Khoury to additional disciplinary action pursuant to West Virginia Code §30-3-14.

2. Dr. Khoury agrees to read and comply with all laws and rules of the Board pertaining to physician assistants, West Virginia Code §30-3-16 and W. Va. Code R. §11-1B-1 *et. seq.* so that he is fully aware of his responsibilities in supervising a physician assistant.

3. Within ten days of the entry of this Order, Dr. Khoury shall submit to the Board written certification, with his original and dated signature, that he has read and fully understands West Virginia Code §30-3-16 and W. Va. Code R. §11-1B-1 *et. seq.*, and that, in particular, he has reviewed and is familiar with: the eligibility requirements for prescriptive writing privileges; the limitations upon a physician assistant's scope of

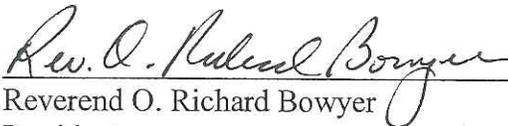
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authority to write prescriptions, once privileges have been granted by the Board; and the responsibilities of a supervising physician.

4. Dr. Khoury shall not permit any physician assistant working under his supervision, now or in the future, to write prescriptions without first obtaining prescriptive writing privileges from the Board.

5. This Consent Order shall be deemed entered and effective upon the date of its full execution by the parties. Full execution shall occur on the date the last signature is affixed hereupon.

WEST VIRGINIA BOARD OF MEDICINE


Reverend O. Richard Bowyer
President

Date: 9/27/13


Teresa Frazer, M.D.
Secretary

Date: 10/3/13

ACCEPTANCE

I, RAJAI TAWFIQ KHOURY, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I UNDERSTAND THE EFFECT IT WILL HAVE UPON MY LICENSE TO PRACTICE MEDICINE AND SURGERY IN WEST VIRGINIA.

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BY SIGNING THIS CONSENT ORDER, I HAVE WAIVED CERTAIN RIGHTS, BUT I DO SO KNOWINGLY AND VOLUNTARILY, AND I DO NOT WISH TO ASSERT THOSE RIGHTS IN THIS MATTER.

I UNDERSTAND THAT I HAVE THE RIGHT TO LEGAL COUNSEL, AND I HAVE BEEN PROVIDED WITH AMPLE TIME TO SEEK LEGAL ADVICE REGARDING MY ACCEPTANCE OF THIS CONSENT ORDER.

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THE POTENTIAL CONSEQUENCES OF VIOLATING THIS CONSENT ORDER.

Rajai Tawfiq Khoury

Rajai Tawfiq Khoury, M.D.

Date: 9/19/2013

STATE OF WV

COUNTY OF Ohio, to-wit:

I, Carla J Sleime, a Notary Public for said

county and state do hereby certify that Rajai Tawfiq Khoury, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 20 day of September, 2013.

My Commission expires Oct 6, 2013

Carla J Sleime

Notary Public

