



KATHY HOCHUL  
Governor

## Department of Health

JAMES V. McDONALD, M.D., M.P.H.  
Commissioner

JOHANNE E. MORNE, M.S.  
Acting Executive Deputy Commissioner

December 22, 2023

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

David W. Quist, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Corning Tower Building, Room 2512  
Empire State Plaza  
Albany, New York 12237

Aimal Khan, M.D.  
[REDACTED]

Aimal Khan, M.D.  
[REDACTED]

**RE: In the Matter of Aimal Khan, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 23-276) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct  
New York State Department of Health  
Office of Professional Medical Conduct  
Riverview Center  
150 Broadway - Suite 355  
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

Jean T. Carney, Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Riverview Center  
150 Broadway – Suite 510  
Albany, New York 12204

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Ms. Carney at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



Natalie J. Bordeaux  
Chief Administrative Law Judge  
Bureau of Adjudication

NJB: c,g  
Enclosure

**STATE OF NEW YORK: DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

COPY

**IN THE MATTER  
OF  
AIMAL KHAN, M.D.**

**DETERMINATION  
AND  
ORDER**  
BPMC-23-276

The New York State Department of Health, Bureau of Professional Medical Conduct (Department) served Aimal Khan, M.D. (Respondent) with a Notice of Hearing dated July 17, 2023 and Statement of Charges dated May 31, 2023, pursuant to Public Health Law (PHL) § 230(10)(d)(i). (Exhibit 1.) The Respondent filed an answer to the charges on September 1, 2023.

The Department charged the Respondent with professional misconduct under NY Education Law § 6530(15), failing to comply with an order issued pursuant to PHL § 230(7)(a). The Respondent denied the allegations that he neither scheduled nor commenced the required examination and that he has not provided all consents and releases deemed necessary and requested by the Office of Professional Medical Conduct (OPMC).

Pursuant to PHL § 230(10)(e), **JOSE M. DAVID, M.D.**, Chair, **LINDA A. BRADY, M.D.**, and **JOAN MARTINEZ MCNICHOLAS**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee. **NATALIE J. BORDEAUX**, administrative law judge (ALJ), served as the administrative officer. The Department appeared by David W. Quist, Esq. The Respondent appeared and represented himself.

After considering the entire hearing record, the Hearing Committee hereby issues this Determination and Order, sustaining the charges and revoking the Respondent's New York medical license. All findings, conclusions, and determinations are unanimous.

### **HEARING RECORD**

This hearing was held on September 14-15, and November 2 and 9, 2023. A transcript of the hearing was made. (T 1 – 335.) The record closed November 9, 2023, at the conclusion of the hearing.

Department witnesses:	April Soltren, Senior Investigative Specialist, OPMC Colleen Squitieri, Supervising Nurse Investigator, OPMC
Department exhibits:	1-15
Respondent witnesses:	Aimal Khan, Respondent
Respondent exhibits:	C, PP, QQ, RR, SS

### **FINDINGS OF FACT**

1. The Respondent was authorized to practice medicine in the State of New York on December 14, 2012 by issuance of license number 268030. (Exhibit 3.)

2. Pursuant to PHL § 230(7)(a), a committee on professional conduct found reason to believe that the Respondent may be impaired by alcohol, drugs, physical disability or mental disability. After affording the Respondent an opportunity to be heard, the committee directed the Respondent by order dated February 11, 2022, and effective February 14, 2022, to submit to a comprehensive examination by [REDACTED] no later than March 11, 2022. The order required the Respondent to provide, within seven days from the date the order was signed, "any releases or consents with respect to confidentiality that the Examining Physician, the Board, or the Office of Professional Medical Conduct deem necessary," and further advised that the Respondent's failure to comply completely shall be professional misconduct. (Exhibits 4-8.)

3. By letter dated February 14, 2022, April Soltren, Senior Investigative Specialist for the OPMC, advised the Respondent that pursuant to the February 11, 2022 order, he was required to contact [REDACTED] to schedule the ordered comprehensive evaluation no later than March 11, 2022. Ms. Soltren's letter also advised the Respondent:

You must execute all appropriate releases as directed by [REDACTED] including a release authorizing [REDACTED] or their designee to communicate with the Interim Director of the...OPMC or her designee. You must also execute releases authorizing [REDACTED] to send their final report of evaluation to OPMC and to you...

(Exhibit 8.)

4. On February 18, 2022, the Respondent submitted two HIPAA (Health Insurance Portability and Accountability Act) authorizations to the OPMC: one authorizing [REDACTED] to release his medical record to [REDACTED] and another HIPAA authorization allowing [REDACTED] to release the Respondent's "[r]esults of examination(s), evaluation(s), test(s)" to the Respondent. These authorizations only permitted [REDACTED] and [REDACTED] to discuss the Respondent's health information with the "Interim Director of the OPMC" but did not authorize the release of the Respondent's medical records to the OPMC. (Exhibit RR.)

5. By separate letter dated February 22, 2022, Ms. Soltren informed [REDACTED] of the February 11, 2022 order requiring the Respondent to submit to a complete, in-depth medical and psychiatric evaluation, including a comprehensive drug screen. (Exhibit 9.)

6. By email dated February 22, 2022, OPMC attorney David Quist sent the Respondent's then-attorney partially completed HIPAA authorizations to allow OPMC Investigator Colleen Squitieri to receive the Respondent's entire medical record from the following providers who had provided care or evaluations to the Respondent: (a) [REDACTED]; (b) [REDACTED]; and (c) [REDACTED] (Exhibit 12; T 202.)

7. On February 24, 2022, the Respondent emailed Mr. Quist a signed authorization for

release of health information by [REDACTED] who he described as his "only healthcare provider for the past 5 years." He did not provide the OPMC with signed, completed HIPAA authorizations for [REDACTED] (Exhibits QQ, SS.)

8. On March 8, 2022, the Respondent emailed [REDACTED] the following inquiry:

Pursuant to the attached order, please describe the nature of the examination you will be conducting upon me including an explanation of all test(s), evaluation(s), and examination(s). How long will the examination take and how much will it cost? Can it be done on a Saturday or Sunday, if it has to be in person (as I work all weekdays) or can it be done remotely on evenings during the week?

(Exhibit 11.)

9. By letter dated March 10, 2022, [REDACTED] answered the Respondent's email inquiry, in which he explained the duration, cost, and nature of the assessment, noting that it is customary for a urine toxicology screen to be performed. In addition, [REDACTED] advised the Respondent that assessments are in-person, and are scheduled on Mondays. (Exhibit 10.)

10. The Respondent failed to submit to the comprehensive medical examination by March 11, 2022, and has not submitted to such examination on any subsequent date. (T 61-62, 65.)

11. The Respondent has not provided the OPMC with all required consents for the release of his medical records or other protected health information. (T 56, 58, 207, 216.)

### CONCLUSIONS

As required by PHL § 230(10)(f), the Hearing Committee based its conclusions on whether the Department met its burden of establishing the charges by a preponderance of the evidence. The Hearing Committee sustains all factual allegations and the charge set forth in the Statement of Charges.

Factual Allegations A and B

The Respondent was afforded, and availed himself of, the opportunity to be heard on September 21, 2021 to determine whether he was impaired by alcohol, drugs, physical disability or mental disability. Based upon information presented by both the Department and the Respondent, a committee on professional conduct “found reason to believe that the [Respondent] may be impaired by alcohol, drugs, physical disability[,] or mental disability,” and on February 11, 2022 ordered him, pursuant to PHL § 230(7)(a), to schedule and commence an examination by [REDACTED] by March 11, 2022. (Factual allegation A.) (Exhibits 4-8.) The Respondent has not complied with that order. (Factual allegation B.)

The Respondent argues that he has “commenced efforts towards such exam and has requested that [REDACTED] and the State comply with the protections of the Americans with Disabilities Act.” The Respondent’s “commenced efforts” took the form of a March 8, 2022 email to [REDACTED] asking for an explanation of the nature of the examination to be conducted, its duration, cost, location, and whether such examination could be conducted on the weekend. Despite receiving a response from [REDACTED] on March 10, 2022, the Respondent did not contact [REDACTED]’s office again. He did not schedule and commence the evaluation process, let alone complete it. (Exhibit 10; T 60-62, 64-65.) Instead, he elected to raise an objection regarding the evaluation process with Mr. Quist in January 2023, prompting Mr. Quist to respond and advise the Respondent that his objections were not deemed persuasive and that he was required to schedule the evaluations by February 2, 2023, and commence the evaluation by February 24, 2023. (Exhibit C.)

The Respondent's "commenced efforts" never resulted in scheduling, commencing, and completing the evaluation with [REDACTED]. He did not comply with the February 11, 2022 Board order, despite the OPMC's extended deadlines.

The Respondent further asserts that he has "complied with the February 2022 order...to the fullest extent possible under the limits provided by Title II of the Americans with Disabilities Act." (T 33.) The Respondent's compliance with the February 11, 2022 order was not limited by the Americans with Disabilities Act (ADA). The ADA prohibits discrimination by covered entities.

The Respondent claims that the evaluation process violated his rights under the ADA. (T 35.) The ADA was enacted to protect the rights of people with disabilities with respect to employment, public services, public accommodations, and services by private entities. 42 U.S.C. §§ 12101, 12112, 12132, 12182, and 12184. Title II of the ADA (invoked by the Respondent in his opening and closing remarks to the Hearing Committee) pertains to actions by a public entity, defined as (A) any State or local government; (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and (C) the National Railroad Passenger Corporation, and any commuter authority. 42 U.S.C. § 12131(1). Title II explains further that discrimination is prohibited against a "qualified individual with a disability" (a person who, with or without reasonable modifications to rules, policies, or practices, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity). 42 U.S.C. §§ 12131(2) and 12132. The OPMC does not provide such services, program participation or activities to licensees. The ADA is inapplicable to this proceeding.



The work of the OPMC is focused solely on protecting the public while affording licensees prescribed due process rights. All licensees have the same rights, and no licensees, regardless of their disability or other status, are denied access to those rights.

The Respondent's argument simply assumes that he has a disability, without saying just what that disability consists of. He has never claimed to have a disability. To the contrary, he has disputed any and all concerns raised that he may be impaired and should be evaluated to ensure that any impairment, even if one is identified, does not impact his ability to practice medicine. The Respondent has not articulated legal justification for invoking any protections regarding his disability status.

The committee presiding over his earlier hearing merely determined that the Respondent *may be* impaired. A licensee deemed to be impaired in the practice of medicine may be subject to disciplinary measures (Education Law § 6530(7)), not merely because of physical or mental impairments, but because those impairments, if established, are proven to impact the licensee's practice of medicine. Such a determination necessitates differentiation on a case-by-case basis. The present hearing did not involve analysis of impairments because the OPMC did not have information to make such a charge.

The Respondent also offers the unintelligible argument that a "fitness for duty cannot commence properly because it would not be ADA compliant due to the fact that the evidence is unsubstantiated in the initial charge against [him]." (T 36.) The present hearing was not an opportunity to relitigate the hearing that resulted in the February 11, 2022 order. Nor did that hearing run afoul of the ADA. The committee on professional conduct that issued the February 11, 2022 order afforded both parties the opportunity to be heard and acted well within the scope of its statutory authority. Neither the OPMC nor the board for professional medical conduct has

Aimal Khan, M.D.

treated this Respondent differently from any other licensee based upon any disability, in terms of services, programs, or activities.

The Respondent has not been precluded from establishing that he is not impaired in any way regarding his ability to practice medicine through the ordered evaluation process. Both Dr. [REDACTED] and the OPMC made efforts to respond to the Respondent's inquiries and objections, resulting in what is now a nearly two-year lag, during which the Respondent has continued to ignore and seek end runs around the February 11, 2022 order and the authority of the State Board for Professional Medical Conduct.

The Respondent offered a bill for professional services rendered by [REDACTED] a physician not selected by the committee on professional conduct that issued the February 11, 2022 order but which the Respondent offered to that committee as a prospective evaluator. The invoice from [REDACTED] describes the following services: "Review of documents, preparation of report, reviewing and revising report." (Exhibit TT.) This document does not establish that the Respondent has undergone the required evaluation by [REDACTED] or otherwise complied with the February 11, 2022 order.

Finally, the Respondent's claim that [REDACTED] is biased, or would be biased, because of the information received from other treating providers (T 99-100) is without merit and also irrelevant. The OPMC articulated a legitimate basis for requesting the HIPAA authorizations discussed below regarding factual allegations C and D. The Respondent's concerns regarding possibly negative comments or determinations in an evaluation do not render the evaluation or the evaluator biased. The Respondent never commenced the required evaluation with Dr. [REDACTED]

The applicable laws in this matter are PHL § 230(7)(a), which authorizes the Board, by its committees on professional conduct, to direct a licensee to submit to a medical or psychiatric examination when the committee has reason to believe the licensee may be impaired by alcohol, drugs, physical disability or mental disability; and Education Law § 6530(15), failure to comply with an order issued pursuant to PHL §§ 230(7), (10)(a), and (17). The Respondent has not complied with the February 11, 2022 order.

Factual Allegations C and D

The February 11, 2022 order also directed the Respondent to comply with terms set forth in an attached Exhibit "A". (Exhibit 4.) Most relevant to the allegations in this matter, Exhibit "A" required the Respondent to provide, within seven days from the date the order was signed, any releases or consents with respect to confidentiality that [REDACTED] the Board, or the OPMC deemed necessary. (Factual allegation C.) Based upon information received by the OPMC regarding the Respondent's treating providers, the OPMC required the Respondent's completion of HIPAA authorizations for [REDACTED] (Exhibit 12; T 202, 207.)

The Respondent ultimately completed, with the OPMC's assistance, a HIPAA authorization for [REDACTED] but refused to return HIPAA authorizations for [REDACTED] [REDACTED]. The only explanation provided by the Respondent was that [REDACTED] was his "only health care provider" and "only healthcare provider for the past 5 years." (Exhibits PP and QQ.)

The Respondent's HIPAA authorization regarding [REDACTED] only permitted [REDACTED] [REDACTED] to discuss the Respondent's health information with the OPMC's then-Interim Director, while only allowing evaluation and testing information to be released to the Respondent. (Exhibit RR.) The HIPAA authorization regarding [REDACTED] as the Respondent completed it,

would not allow [REDACTED] to release the evaluation report and testing to the OPMC directly and to enable him to communicate directly with the Respondent's providers. (T 54-55, 177, 212.)

It is standard practice for the OPMC to request, as is authorized by PHL § 230(7)(b), HIPAA authorizations from a licensee's past and present treating providers so that a licensee's complete history is obtained and provided to the designated evaluator. (T 50.) Those records must be provided directly to the OPMC, rather than from the licensee, to ensure that the OPMC receives the complete, true, and accurate medical record from the treating provider. (T 51-52, 282-83.)

The Respondent took issue with the OPMC's request for information from prior treating providers. (T 263-66.) There is no legal basis for his objections. The Respondent's prior treating providers possess information relevant to the concerns raised by the committee on professional conduct in its February 11, 2022 determination. Furthermore, neither a five-year lookback period, as the Respondent suggested in his response to the OPMC, nor a predetermined cutoff regarding older records, are supported by PHL § 230(7)(b) or any other applicable law.

[REDACTED] are both [REDACTED] who monitored and treated the Respondent. (Exhibits 13, 14; T 278-79.) [REDACTED] does not possess first-hand knowledge regarding the Respondent's psychiatric evaluations and psychiatric care rendered. (Exhibit 15.)

The Respondent has not demonstrated overreach or irrelevance in the OPMC requiring the Respondent's completion of HIPAA authorizations for [REDACTED]. The Respondent has failed to provide all releases and consents deemed necessary and requested by the OPMC. (Factual allegation D.)

### PENALTY DETERMINATION

In determining an appropriate penalty, the Hearing Committee considered the full spectrum of penalties under PHL § 230-a, including revocation, suspension, probation, censure and reprimand. The Department requested the suspension of the Respondent's medical license until such time as the Respondent complies with the February 11, 2022 order. (T 327.) Given that this hearing was convened to determine whether the Respondent had complied with the February 11, 2022 order, and the Hearing Committee has decided that the Respondent has failed to comply with that order, a suspension on the terms requested by the Department, or on any other terms, is an inadequate remedy for his demonstrated willful refusal to comply.

The Respondent has shown complete disdain for the Department's authority and for any questions directed toward him or about him. He repeatedly hampered the Department's efforts to obtain his compliance with the February 11, 2022 order. (Exhibits 1-12, C, PP, QQ, RR.) At the hearing, he was disrespectful to and combative with the Department's witnesses, the ALJ, and Mr. Quist, who had significantly extended compliance deadlines in an effort to avoid a hearing on this matter. (T 50-51, 82, 111, 124-29, 133, 140-43, 162-65, 168-69, 172-74, 178-80, 201, 203, 205, 223, 232-33, 238, 241, 247-48, 250, 255-56, 260, 269-73, 285-86, 288, 293-94, 298, 301-02, 312-15, 319-20, 322, 324, 327-31.)

In addition, the Respondent unilaterally decided that he would not call his proposed witness and would no longer participate fully in this hearing after being denied an adjournment. (T 313-14) His questions and statements at the hearing revolved around theories that the OPMC acted irregularly in his case and that the OPMC had a financial incentive to refer him to a particular evaluator, instead of addressing or accepting responsibility for his failure to abide by the February 11, 2022 order. (T 295, 329, 331.)

Aimal Khan, M.D.

The Respondent was evasive throughout the OPMC's efforts to obtain his compliance, and throughout this hearing. He insisted on obtaining medical clearance from [REDACTED] [REDACTED] proposed to the committee that issued the February 11, 2022 who was not selected for the Respondent's evaluation. (T 304-05.) Given his actions and overall demeanor, this Hearing Committee finds that the only appropriate penalty is the revocation of the Respondent's medical license.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The first and second specifications of misconduct as set forth in the Statement of Charges is **SUSTAINED**.
2. The Respondent's license to practice medicine in the State of New York is **REVOKED** pursuant to PHL § 230-a(4).
3. This Determination and Order shall be effective upon service of the Respondent in accordance with PHL § 230(10)(h).

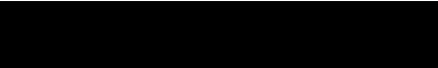
DATED: December 21, 2023  
Albany, New York

[REDACTED]  
\_\_\_\_\_  
JOSE M. DAVID, M.D., Chair  
LINDA A. BRADY, M.D.  
JOAN MARTINEZ MCNICHOLAS

Aimal Khan, M.D.

To: David W. Quist, Esq.  
New York State Department of Health  
Bureau of Professional Medical Conduct  
Room 2512 -- Corning Tower  
Empire State Plaza  
Albany, New York 12237

Aimal Khan, M.D.  


Aimal Khan, M.D.  


NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

AIMAL KHAN, M.D.

STATEMENT

OF

CHARGES

AIMAL KHAN, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 14, 2012, by the issuance of license number 268030 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about February 11, 2022, a Committee of the State Board for Professional Conduct issued an Order Pursuant to §230(7)(a) of the Public Health Law requiring Respondent to submit to and cooperate with an examination by [REDACTED]

[REDACTED] Such examination was required to be scheduled and commenced within thirty days from the date the order was signed.

B. To date, Respondent has neither scheduled nor commenced the required examination.

C. On or about February 11, 2022, a Committee of the State Board for Professional Conduct issued an Order Pursuant to §230(7)(b) of the Public Health Law authorizing the Office of Professional Medical Conduct to obtain medical records or other protected health information pertaining to Respondent's physical or mental condition, as well as information from other sources that the examining physician would deem necessary to properly conduct the examination. The Order further requires Respondent to provide releases or consents deemed necessary within seven days from the date the Order was signed.



D. To date, Respondent has not provided all releases or consents deemed necessary, and requested.

**SPECIFICATION OF CHARGES**

**FIRST AND SECOND SPECIFICATIONS**  
**FAILURE TO COMPLY WITH A BOARD ORDER**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(15) by failing to comply with an order issued pursuant to Public Health Law §230(7), as alleged in the facts of:

1. The facts of Paragraphs A and B.
2. The facts of Paragraphs C and D.

DATE: May 31, 2023  
Albany, New York

  
JEFFREY J. CONKLIN, ESQ.  
Deputy Director  
Bureau of Professional Medical Conduct