

BEFORE THE ARIZONA STATE BOARD
OF MEDICAL EXAMINERS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In the Matter of:)	
)	Docket No. 98F-9902-MDX
KRANTINATH V. RAIKHELKAR, M.D.)	
Holder of License No. 14151)	FINDINGS OF FACT,
For the Practice of Medicine)	CONCLUSIONS OF LAW AND
In the State of Arizona)	ORDER
)	
P.L.S. v. Krantinath V. Raikhelkar, M.D.)	
)	

On November 21, 1998, this matter came before the Arizona Board of Medical Examiners (Board) for oral argument and consideration of the Administrative Law Judge (ALJ) Grant Winston's proposed Findings of Fact and Conclusions of Law and Recommended Order.¹ Attached hereto is a copy of the ALJ's Findings of Fact and Conclusions of Law and Recommended Order. KRANTINATH V. RAIKHELKAR, M.D. (Respondent) was notified of the Board's intent to consider this matter on the aforementioned date at the Board's public meeting; however, Respondent did not appear but was represented by John Stookey, Attorney at Law, with the law firm of Osborn Maledon, P.A. The State was represented by Assistant Attorney General Michael N. Harrison with the Office of the Arizona Attorney General. Assistant Attorney General Terri Skladany of the Solicitor General's Section of the Attorney General's Office was present and available to provide independent legal advice to the Board.

The Board, having considered the ALJ's report and the entire record in this matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.²

¹ The Administrative Hearing was held on August 18, 1998 at the Office of Administrative Hearing.
² Unless otherwise stated, the ALJ's Findings of Fact and Conclusions of Law and Recommended Order are adopted by the Board.

I.

FINDINGS OF FACT

The Board adopts and incorporates herein the Administrative Law Judge's proposed findings of fact paragraphs one (1) through nineteen (19).

II.

CONCLUSIONS OF LAW

The Board adopts and incorporates herein the Administrative Law Judge's proposed conclusions of law paragraphs one (1) through five (5).

III.

ORDER

Based upon the Findings of Fact and Conclusions of Law as adopted, the Board hereby enters the following Order:

1. Paragraphs one (1) and two (2) of the Administrative Law Judge's Recommended Order are adopted and incorporated herein; and,

2. The Board rejects and deletes paragraph three (3) of the Recommended Order for the following reason. Respondent's license to practice is currently suspended and therefore the Administrative Law Judge's recommendation to continue the suspension is deemed redundant and unnecessary; and,

3. Upon this order becoming final and effective, Dr. Raikhelkar's suspended Board license shall be considered officially expired. In the event that Dr. Raikhelkar at any time in the future wishes to obtain a new license to practice medicine in the State of Arizona from the Board he shall make application for said license pursuant to the requirements of A.R.S. § 32-1401, et seq., whereupon the Board shall consider said application pursuant to all applicable statutory requirements of a new applicant for Board license.

4. Dr. Raikhelkar is hereby notified that he may file a motion for rehearing in this matter requesting reconsideration of the Board's decision. Said motion for rehearing must be filed with the Board's Executive Director within thirty (30) days after service of this Order with a right to submit said motion and the right to seek judicial review of this agency's Order is waived; and, service of this Order is effective upon date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

of mailing. See. A.R.S. § 41-1092.03 and § 41-1092.04, as amended. To obtain an Order from the Board granting the motion for rehearing and reconsideration, Dr. Raikhelkar must comply with the requirements of Board Administrative Rule A.A.C. R4-16-102(C) and establish good cause for granting said motion. The timely filing of a motion for rehearing will stay the effective date of this Order, until such motion is ruled upon and disposed of by the Board.

DATED this 25th day of November, 1998.

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

By: 

CLAUDIA FOUTZ
Executive Director
MELISSA S. CORNELIUS
Deputy Director

COPY of the foregoing mailed by certified mail – return receipt requested this 25th day of November, 1998, to:

Larry A. Hammond, Esq. (w/encl.)
Osborn Maledon, P.A.
2929 N. Central Avenue
21st Floor
Phoenix, Arizona 85012
Attorney for Respondent

COPY of the foregoing mailed this 25th day of November, 1998, to;

Krantinath V. Raikhelkar, M.D.
1204127 Trimbak, Apt. 5
Shiuajinajar Pune, India 411004

COPY of the foregoing delivered this 25th day of November, 1998, to;

Cliff J. Vanell, Director (w/encl.)
Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007

FINDINGS OF FACT

- 1
2
3 1. Respondent, Dr. Krantinath V. Raikhelkar, is, and at all times material hereto
4 was, a licensed allopathic physician in the State of Arizona, and holder of
5 Arizona license number 14151.
- 6
7 2. As a result of prior consolidated cases before the Board, and involving Dr.
8 Raikhelkar's same license (Re: L.M. v. Krantinath Raikhelkar, M.D., Inv.
9 #4190; E.D. v. Krantinath Raikhelkar, M.D. Inv. #3813; J.M. v. Krantinath
10 Raikhelkar, M.D. Inv. #7596; BOMEX Inquiry (1-19-93) Krantinath Raikhelkar,
11 M.D., Inv. #4862, and Health & Human Services v. Krantinath Raikhelkar,
12 M.D. Inv. #7466), his license, by Board order dated January 26th, 1996, was
13 suspended for a period of three years, and his participation in Medicare was
14 suspended for a concurrent time period, and until he complied with the other
15 terms of that same order. Most pertinent to the case *sub judice* was
16 paragraph 5. of the order. There is where Dr. Raikhelkar was ordered to
17 "cooperative [*sic*] fully with the Board with respect to any pending or future
18 investigations and . . . keep the Board informed of his current address at all
19 times."
- 20 3. Scarcely two months subsequent to the entry of the above-described Board
21 order, on March 29th, 1996, the Board mailed correspondence to Dr.
22 Raikhelkar at the address which he had last provided the Board as his official
23 address of record, or 1510 Turquoise Road, Riviera, AZ, 86442. (While the
24 envelope was addressed to the Turquoise Road address, the *letter* inside it
25 was addressed to Dr. Raikhelkar's home address of record with the Board,
26 1792 Escalera Avenue, Riviera, AZ 86442.) The letter was sent via the United
27 States Postal Services, Certified Mail, Return Receipt Requested. The Board,
28 in this letter, sought to advise Dr. Raikhelkar that, owing to his failure to remit
29 his license renewal fee after having been advised in writing that the Board had
30 pending an investigation concerning his license. This letter continued to
31 advise Dr. Raikhelkar of what steps he would need to take to renew his
32 license belatedly.

- 1 4. No response to this letter from Dr. Raikhelkar was received by the Board.
2 Also as matters of fact, the United States Postal Service returned the March
3 29th, 1996 correspondence to the Board unopened. The U.S.P.S. provided
4 information on the envelope which indicated that Dr. Raikhelkar had moved to
5 the new address of 7190 Airway Avenue #C, Yucca Valley, CA, 92284-3866.
6
- 7 5. The Board promptly mailed again this correspondence to Dr. Raikhelkar on
8 the same date the U.S.P.S. returned it to them, April 17th, 1998. In its second
9 effort the Board mailed the letter to the address where the U.S.P.S. had
10 informed them Dr. Raikhelkar had moved, that is, the 7190 Airway Avenue
11 address. This attempt too was made by Certified Mail, Return Receipt
12 Requested. Once again, the U.S.P.S. returned the letter to the Board after it
13 went unclaimed by the addressee, Dr. Raikhelkar. The Board received the
14 letter on May 20th, 1996.
- 15 6. The Board's Executive Director, Mr. Mark R. Speicher, sent a letter via regular
16 mail to Dr. Raikhelkar at the Airway Avenue address on June 3rd, 1996. The
17 object of that letter was to inform Dr. Raikhelkar that his license had been
18 suspended as a result of the Board not having received a completed renewal
19 packet from Dr. Raikhelkar and the pendency of a Board investigation
20 involving his license. The letter further advised Dr. Raikhelkar that his license
21 could not expire at that time because there was the ongoing investigation. No
22 response from Dr. Raikhelkar to this license was received by the Board.
23
- 24 7. The ongoing investigation adverted to by Mr. Speicher in the June 3rd, 1996
25 letter described above, originated in a letter of complaint to the Board by
26 P.L.S., received May 3rd, 1996. This letter from P.L.S., in the normal course of
27 the Board's investigatory function resulted in the opening of Investigation No.
28 9902, which is that associated with the instant hearing. In her letter of
29 complaint P.L.S. described how she had been operated on by Dr. Raikhelkar
30 for a colon repair. Her complaint was that Dr. Raikhelkar's surgical
31 performance left her in a physical state near death, and that another physician
32 was required to return her to a condition of acceptable health after Dr.
33 Raikhelkar's surgery.
34
35

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

8. As is within the Board's normal procedural course to follow upon receipt of such a complaining letter as that from P.L.S., the Board's Medical Investigator, in this case Mr. Mike Wheeler, then sent a letter to Dr. Raikhelkar via regular mail to the 7190 Airway Avenue address on May 15th, 1996. The letter was to give notice to the doctor that P.L.S.'s complaint had been received, and that therefore he was required to file a complete narrative statement of the matter with the Board within fifteen days from the date of the letter. The Board received no response to this letter. Hence, the Board through Mr. Wheeler sent a second notice to Dr. Raikhelkar dated June 12th, 1996, and mailed to the 7190 Airway Avenue address. The second notice repeated the Board's demand for Dr. Raikhelkar's comments and records. The Board received no response to the second notice from Dr. Raikhelkar. Finally, Mr. Wheeler mailed a third notice of the complaint and demand for response to Dr. Raikhelkar on July 23rd, 1996. This time Mr. Wheeler attempted mailing the document to Dr. Raikhelkar's last known home address of record, 1792 Escalera Drive, Riviera, AZ 86442, via certified mail, return receipt requested. No response from Dr. Raikhelkar was received by the Board. The U.S.P.S. returned the mailing to the Board on August 29th, 1996, noting thereon that Dr. Raikhelkar had moved, and listing his new address as the 7190 Airway Avenue address.

9. On September 11th, 1996, a physician's medical consultative report and summary was dictated by Dr. Phillip Saba, and a few days later transcribed relative to P.L.S.'s Complaint (Inv. #9902). However, as a result of the Board's inability to contact Dr. Raikhelkar, Inv. #9902 was significantly frustrated and the investigation had to be detoured by the Board to a formal hearing on the matter of Dr. Raikhelkar's failure to respond to the Board's request for information. This hearing constitutes that referred hearing. Complaint and Notice of Hearing for this hearing was sent to Dr. Raikhelkar at the 7190 Airway Avenue address.

10. At long last, on June 21st, 1998, Dr. Raikhelkar notified the Board in writing through his once and future lawyer, Mr. Larry A. Hammond, of his current address: 1204/27 Trimbak, Apt. 5, Shiuaji Najar Pune, India 41104.

1 Accordingly, the Board entered that address as Dr. Raikhelkar's new address
2 of record on June 25th, 1998.

3
4 11. Mr. Hammond was Dr. Raikhelkar's lawyer in the previous 1996 Board cases,
5 and his lawyer in the 1996 United States District Court criminal matter in which
6 Dr. Raikhelkar was the named defendant, and that arose out of the same
7 transactions and occurrences involving Dr. Raikhelkar which gave rise to the
8 consolidated 1996 Board complaints and investigations referenced above.

9
10 12. Dr. Raikhelkar and Mr. Hammond defended at hearing to a large extent on
11 their argument that the Board had actual or constructive notice of Dr.
12 Raikhelkar's moving to India, and even having his actual Indian address. It is
13 true that on the face of the United States District Court Judgment in Criminal
14 Case CR 94-67-001-PHX-SMM, a document that the Board's files contained
15 soon after it was entered June 4th, 1996, an address appears similar to, but
16 different from Dr. Raikhelkar's Indian address provided the Board by Mr.
17 Hammond in June of 1998. It is somewhat different because in transliterating
18 the Indian characters to English some variations will frequently occur, and
19 there exist numerical differences between the addresses. A provision of the
20 judgment itself is that the defendant, Dr. Raikhelkar is allowed to live and work
21 in India. However, neither Dr. Raikhelkar nor Mr. Hammond, nor anyone else
22 notified the Board that Dr. Raikhelkar was moving his residence, or that his
23 new address could be found on the judgment, or that that address would now
24 and in future be Dr. Raikhelkar's official address of record with the Board.

25 13. Mr. Hammond testified at hearing claiming, consistent with his letter of May
26 19th, 1998, to Ms. Donna M. Nemer, Acting Deputy Director of the Board, that
27 the Board and the Board's Executive Director Mr. Mark R. Speicher, and the
28 Board's counsel, knew that Dr. Raikhelkar had moved to India. However,
29 neither the letter nor any other evidence shows that Dr. Raikhelkar, personally
30 or through counsel, ever actually notified the Board of his change of address,
31 and his new address in India, prior to June 21st, 1998.

32
33 14. Dr. Raikhelkar and Mr. Hammond argue that because of all this historical
34 interaction between the Board and themselves, and the documents that were
35

1 placed inside the Board's files, the Board had actual or constructive notice of
2 Dr. Raikhelkar's new address, and should have on their own arrived at the
3 conclusion that that address should henceforth be deemed his official address
4 of record. The argument fails for two reasons.

- 5
6 15. First, by the term of the 1996 Consent Agreement Dr. Raikhelkar accepted the
7 affirmative duty to positively inform the Board of his current address at all
8 times. There is no evidence to support a finding that he did this. Certainly, no
9 onus rested on the Board to conclude from the totality of circumstances that
10 Dr. Raikhelkar intended to move to India, had moved to India, and ascertain
11 exactly to where in India he had moved. A review of the evidence reveals the
12 most that can be said is that an Indian address contained as a small part of a
13 federal criminal judgment was provided the Board incidentally with all the
14 other documents that came into the Board's possession over an extended
15 period of time as a result of the 1996 administrative cases. If Dr. Raikhelkar
16 assumed that in the process of all this written information going to the Board
17 he had kept the Board informed of his current address, he was negligent in
18 thinking so. It was properly for Dr. Raikhelkar to pen a simple straightforward
19 letter to the Board stating "My new address as of such-and-such a date shall
20 be. . . .," rather than leave it to chance that the Board's employees would
21 happen upon a federal court document with an address on it that they
22 perhaps could assume to be that of Dr. Raikhelkar's, past, present and future.
- 23 16. Second, Dr. Raikhelkar's (or any other Board licensee) clearly and directly
24 apprising the Board of her or his current address of record is a protection for
25 both the Board and the licensee. Dangerous would be the precedent of
26 allowing proof of supplying the Board with an address of record by
27 circumstantial evidence, or by evidence that the Board could have discovered
28 an address, and then inferred that the address was the address the physician
29 wished to have considered as official for Board purposes, and then deemed it
30 to be such, and then sent official Board correspondence to that address.
- 31 17. Dr. Raikhelkar's failure to adequately apprise the Board of his current address
32 also directly caused his failure to cooperate fully with Investigation 9902
33
34
35

1 (P.L.S.'s complaint), including his failure to timely furnish the Board
2 information legally requested.

3
4 18. It should be found that Dr. Raikhelkar's shortcoming in this case was one of
5 omission not one of commission. He did not willfully keep from the Board his
6 current address, nor did he give a false address. He, in connection with his
7 attorney, assumed that he had done what he had consented and been
8 ordered to do. That he fell short of the mark was not an act of intentional
9 disobedience of the previous consent order. Moreover, he was relying to a
10 large extent upon his lawyer Mr. Hammond to assure compliance with the
11 consent order was accomplished. These facts do not turn wrong into right,
12 but they do have some bearing on what should occur as a result of them
13 considered with all other facts here found.

14 19. The Complaint and Notice of Hearing was filed by the Board with the Office of
15 Administrative Hearings on May 11th, 1998, including notice that the hearing
16 would be conducted on Tuesday, August 18th, 1998, at 1:30 p.m. in the Office
17 of Administrative Hearings, 1700 West Washington, Phoenix, Arizona.
18 Respondent's Answer was filed July 16th, 1998. The hearing was held as
19 noticed.

20
21 **CONCLUSIONS OF LAW**

- 22
23 1. This matter is within the jurisdiction of the Board as the Respondent is, and at
24 all times material hereto was, the holder of a license issued by the Board.
25 A.R.S. §32-1401 *et seq.*, and rules thereunder promulgated.
26
27 2. This administrative hearing was held, and these findings of fact, conclusions
28 of law and recommended order made under authority of and pursuant to
29 A.R.S. §32-1451.J., and A.R.S. §41-1092.
30
31 3. The Board's first allegation of unprofessional conduct brought against the
32 Respondent is for violating A.R.S. §32-1401.25.(a), "Violating any federal or
33 state laws or rules and regulations applicable to the practice of medicine."
34 The charge instances A.R.S. §32-1435.B. as the law violated by Respondent.

1 That statute reads: "Each person holding a current license to practice
2 medicine in this state shall promptly and in writing inform the board of his
3 current residence, office address and telephone number and of each change
4 in his residence and office address or telephone number that may later occur."
5 There is sufficient evidence of record to conclude that Respondent engaged in
6 unprofessional conduct by violating A.R.S. §32-1401.25.(a), as set forth in the
7 Complaint and Notice of hearing. Respondent failed to promptly notify the
8 Board in writing either of his residential or office address, or telephone
9 number, as required by A.R.S. §32-1435.B.

10 4. The second allegation of unprofessional conduct charged against the
11 Respondent is for violating A.R.S. §32-1401.25.(r): "Violating a formal order,
12 probation, consent agreement or stipulation issued or entered into by the
13 board or its executive director under the provisions of this chapter." There is
14 sufficient evidence of record to conclude that the Respondent twice violated
15 this statutory sub-part. First, Respondent violated the 1996 Board order by
16 failing to keep the Board informed of his current address. Second,
17 Respondent violated that order by not cooperating fully with the Board's
18 investigation into Inv. # 9902, P.L.S.'s complaint. True, he did not cooperate
19 with the Board's investigation because he was unaware of the investigation.
20 However, he was unaware of the investigation because he had violated the
21 Board's order and A.R.S. §32-1435.B. by failing to keep the Board informed of
22 his current address. Just as the convict who has murdered his parents cannot
23 seek mercy from the court on the ground he is an orphan, one act of
24 unprofessional conduct cannot be the basis of exoneration from another.

25
26 5. The third and final charge of unprofessional conduct against the Respondent
27 is for violating A.R.S. §32-1401.25.(dd): Failing to furnish information in a
28 timely manner to the board or its investigators or representatives if legally
29 requested by the board." There is sufficient evidence to conclude that the
30 Respondent violated this statutory sub-part as set forth in the Complaint and
31 Notice of Hearing. Board Investigator Mr. Wheeler, and Board Executive
32 Director Mr. Speicher, both legally requested information from the
33 Respondent, which Respondent, due to his other already mentioned
34 unprofessional conduct, failed to provide.

RECOMMENDED ORDER

1
2 Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby
3 ordered as follows:
4

- 5 1. That a letter of reprimand be issued by the Board to the Respondent;
6
7 2. That the costs of this formal hearing are to be paid by the Respondent;
8
9 3. That Respondent's license 14151 remain suspended, independently of any
10 other orders of the Board, until such time when the Respondent has complied
11 with paragraph 2. of this order.
12

13 Dated this 9th day of September, 1998.

14 **OFFICE OF ADMINISTRATIVE HEARINGS**

15
16 

17
18 **GRANT WINSTON**
19 **ADMINISTRATIVE LAW JUDGE**

20
21 Original prepared this 15 day of September, 1998, to:

22
23 Claudia Foltz
24 Board of Medical Examiners
25 1651 E. Morten Ave., Suite 210
26 Phoenix, AZ 85020-4160

27 Transmitted by: 
28
29
30
31
32
33
34
35

1 assessment with 90% correct answers, that he showed good judgment when judgment
2 was needed and that he would receive a passing grade on a board certification
3 examination. The PACE assessment rated Respondent very good to excellent on the
4 mock oral boards in the UCSD residency program. After due consideration of the facts
5 and law applicable to this matter, the Board voted to amend the 1996 Order by issuing the
6 following Order.

7 **ORDER**

8 IT IS HEREBY ORDERED that:

- 9 1. The PACE assessment is accepted as a substitute for the mini-residency.
10 2. Respondent's license is reinstated.
11 3. Respondent is placed on Probation for two years from the effective date of

12 this Order pursuant to the following terms:

13 a. Respondent shall fully comply with any probationary terms imposed as
14 part of any sentence entered in the *United States v. Krantinath Raikhelkar, M.D. and*
15 *Thomas Southwick*.

16 b. Respondent shall submit to periodic office and practice surveys at a
17 frequency to be determined by the Board.

18 c. Respondent shall promptly engage the service of a Board-approved
19 medical practice consultant to advise him in the area of practice management, record
20 keeping and billing. Respondent shall comply with any recommendation of such medical
21 practice consultant.

22 d. Respondent shall obey all laws.

23 **RIGHT TO PETITION FOR REVIEW**

24 Respondent is hereby notified that he has the right to petition for a rehearing.
25 Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with

1 the Board's Executive Director within thirty (30) days after service of this Order and
2 pursuant to A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a
3 rehearing. Service of this order is effective five (5) days after date of mailing. If a motion
4 for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it is
5 mailed to Respondent.

6 Respondent is further notified that the filing of a motion for rehearing is required to
7 preserve any rights of appeal to the Superior Court.

8 DATED this 13th day of December, 2001.



BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

14
15
16
17
18
19
20
21
22
23
24
25

By Claudia Foutz
CLAUDIA FOUTZ
Executive Director

15 ORIGINAL of the foregoing filed this
16 2 day of January, 2002 with:

17 The Arizona Board of Medical Examiners
18 9545 East Doubletree Ranch Road
19 Scottsdale, Arizona 85258

20 Executed copy of the foregoing
21 mailed by U.S. Certified Mail this
22 2 day of January, 2002 to:

23 Krantinath Raikhelkar, M.D.
24 4591 West Flint Street
25 Chandler, Arizona 85226-2985

Copy of the foregoing hand-delivered this
2 day of January, 2002 to:

Christine Cassetta
Assistant Attorney General

1 Sandra Waitt, Management Analyst
2 Lynda Mottram, Compliance Officer
3 Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
4 Arizona Board of Medical Examiners
5 9545 E. Doubletree Ranch Road
6 Scottsdale, AZ 85258

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25


