

## The Specialist Training Authority of the Medical Royal Colleges

Appeal Panel: His Honour Henry Palmer, Chairman: Professor A Fielder, Fellow of the Royal College of Ophthalmologists and Dr A H Freeman, Fellow of the Royal College of Radiologists.

The Oral Appeal of Dr Richard Arjun Kaul heard on the 2nd and 3rd February 1999 at the Blair Bell Lecture Theatre at the Royal College of Obstetricians and Gynaecologists, 27 Sussex Place, Regents Park, London NW1 4RG.

### Decision and Reasons of the Appeal Panel.

Dr Kaul is 34 years of age and a registered medical practitioner. He is a British subject. He obtained his primary medical qualification, MB BS, in July 1988 at the Royal Free Hospital and held appointments as a House Officer in the UK. He then went to the USA where he completed his residency training in anaesthesia, graduating in July 1995, and was subsequently granted a Certificate (on the 4th October 1996) by the American Boards of Anaesthesiology (ABA). This training and qualification entitled him to practise as an attending anaesthetist anywhere in the United States. Following the completion of his residency training, he returned to the UK and worked from the 4th September 1995 to the 3rd September 1996 in a training post (senior registrar equivalent) at the Bristol Royal Infirmary. The panel notes that, according to the letter dated the 9th March 1998 from the Department of Anaesthesia, Bristol Royal Infirmary, signed by Professor Prys-Roberts and Dr Johnson (Document A 31-2), Dr Kaul's level of expertise was considered to be "that of a British trainee who had passed the FRCA and had just embarked on Higher Specialist Training" and that his status "was equivalent to SpR2". According to this letter, Dr Kaul was advised that, in view of the provisions of the European Specialist Medical Qualifications Order (ESMQO), if he wished to achieve entry to the Specialist Register, he would probably need to complete a further eighteen months to two years of training as a Senior Registrar/Specialist Registrar.

Dr Kaul chose not to heed the advice of Professor Prys-Roberts and Dr Johnson and, on the 22nd January 1997, he submitted an application directly to the Royal College of Anaesthetists (RCA) which was considered by the Equivalence Committee of the College in March 1997. The conclusion was reached that he had failed to satisfy the published criteria required for the recognition of equivalence of training of overseas trained applicants (page 81). These criteria had previously been agreed with the Specialist Training Authority (STA). The RCA, therefore, recommended to the STA that Dr Kaul was not eligible for entry to the Specialist Register and this recommendation was accepted by the STA. Accordingly, the STA informed Dr Kaul by letter dated the 12th June 1997 that his application had been unsuccessful and that, if he wished to pursue entry to the Specialist Register, it would be necessary for him to complete a further period of 18 months advanced anaesthetic training.

However, Dr Kaul felt that this decision was wrong and that the STA had failed to take into account all relevant factors. He lodged a Notice of Appeal on the 11th



September 1997 and stated in an accompanying letter that, when he graduated from his residency in the USA, he achieved attending status, which entitled him to practise independently as an attending anaesthetist, and that his training and qualifications were at least as good as those achieved by trainees in the UK. He pointed out that there were reciprocal arrangements for consultants who had been trained in Europe and that the training which he had received in America was not in any way inferior to that training.

In response to Dr Kaul's Notice of Appeal, the STA supplied the information required by Regulation 6(7) of the Regulations Governing Appeals. The Authority stated that it had assessed the application only under Article 9(2)(b) of the ESMQO and that it had concluded that Dr Kaul's training in the USA could not be considered equivalent, either in duration or content, to that required for the award of a CCST in anaesthesia. In particular, as regards duration, the period of training in the UK was six years, whereas in the USA the period was only four years.

The jurisdiction of the Appeal Panel is derived from Article 13 of the ESMQO and, for the purposes of the present case, this can be summarised as follows: where, under Article 9(2)(b), the applicant has failed to satisfy the STA that he has specialist medical qualifications [in anaesthesia] awarded outside the UK . . . which are equivalent to a CCST, he has the right to appeal against that decision to the Appeal Panel and the Appeal Panel is required "to reconsider the question and determine whether or not the appellant should so satisfy the STA". The Regulations Governing Appeals made pursuant to Article 13(2) make provision for the procedures to be followed in relation to appeals.

At the hearing of this appeal, Dr Kaul told the Appeal Panel that the only Article on which he intended to rely was Article 9(2)(b) of the ESMQO. He asserted that the STA had not adjudicated in a proper and fair way and that it had placed too much emphasis on the duration of training. He argued that the intensity of the training which he had undergone in four years in the USA had enabled him to acquire a level of experience and skill which was at least as good as that achieved by trainees who had undergone six years training in the UK. He also argued that the content of his training was as comprehensive as UK training and he observed that neither the RCA nor the STA had ever pointed out to him the areas in which his training was, or might have been, deficient in content. He contended that his competence as an anaesthetist had been established by the fact that, during the year he had spent at the Bristol Royal Infirmary, he was never attended in theatre and that there had never been any complaint or criticism of his professional work. He said that it was too simplistic an approach simply to compare the four years' training programme in the USA with the six years' programme in the UK; a detailed comparison ought to be made in order to investigate whether, and, if so, in what respects, his training had fallen short of the training provided to UK trainees.

Dr Kaul called two witnesses in support of his case, both of whom were impressive and helpful. Professor Albert Saubermann is a distinguished anaesthetist from the Montefiore Centre, New York, who has had many years experience of training residents in the USA and who was himself involved in the training and supervision of



Dr Kaul He gave carefully considered and thoughtful evidence which the Appeal Panel found valuable and helpful. He gave details of the training programme and, having compared this with the UK training programme, concluded that there was no significant difference. He considered that the duration of training in the USA was adequate to meet their curriculum objectives and that the goal of each of the programmes was the same, namely to produce fully trained and competent anaesthetists. He said that a trainee in Dr Kaul's time would expect to average 350 to 400 anaesthetics per year and that, although the "numbers game" was of limited value, he considered that this was the optimum number, qualifying this by saying that one might learn a great deal from a few cases or very little from a large number of cases. In both programmes the trainees were highly supervised and monitored and the training centres themselves were carefully regulated.

Professor Strunin, the President of the RCA and also a member of the STA, gave evidence at the hearing. He confirmed that the criteria applied by the Equivalence Committee of the RCA in the case of applications for recognition of equivalence of overseas training were as set out at page 81 and that these criteria had been agreed by the STA. They included, amongst other things, the requirement that the applicant should have completed whole time training, equivalent in duration, content and assessment to that defined by the current Royal College training guides. He said that when he had to assess a trainee from overseas, he did so by first looking at the length of his training and he almost invariably found that there was a deficiency in training at the Senior Registrar level and that was the position in Dr Kaul's case. He said that the system in the USA is totally different to that of the UK; "our goal is to train doctors for the NHS under the training programme approved by the STA, and that is the only goal which we have, whereas the goal of the USA training programme is to train doctors to work in the American system". He said that the six year training period could not be reduced because it would be impossible to include all the components of the very comprehensive curriculum in a shorter period; in fact the RCA had recently come to the conclusion that the period of training would have to be increased from six years to seven. Professor Strunin dealt with the details of the UK training programme as set out in the documentation provided to the Appeal Panel and said that the STA had considered the issue of equivalency of content and had concluded that Dr Kaul had failed to establish this. As regards numbers of cases, he said that a trainee in the UK might expect to do 4000 to 5000 cases over the whole of the training period and that, with the reservation that numbers alone were only part of the story, this was a significantly higher number of cases than those which a trainee might expect to do in the USA. In these circumstances, the RCA was not prepared to recommend, nor the STA to conclude, that Dr Kaul should be entitled to entry to the Specialist Register. The view of both the RCA and the STA was that only four-and-a-half years of his training could be considered as relevant for purposes of equivalency and that, if Dr Kaul wished to pursue entry to the Specialist Register, he would have to complete a further period of 18 months advanced anaesthetic training.

As noted above, the function of the Appeal Panel is to decide whether or not Dr Kaul should satisfy the STA that his specialist medical qualifications in anaesthetics awarded in the USA are equivalent to a CCST. "Equivalent" does not necessarily mean "identical" but can properly be taken to mean "equal in value or worth".



However, the STA, as the body to which Parliament has entrusted the functions set out in the ESMQO, including issues relating to the assessment of equivalence, is entitled to specify the criteria which an applicant must satisfy as a condition of satisfying the test of equivalence. The case of The Queen v. Specialist Training Authority of the Medical Royal Colleges, ex parte British Medical Association (Divisional Court 5th November 1998, Mr Justice Dyson) is authority for the proposition that, once the criteria have been specified by the STA, they cannot be challenged unless they are not authorised by the legislation or they are unreasonable in the Wednesbury sense, that is to say that they are so irrational that no rational person could have made them. The appeal Panel is aware that Mr Justice Dyson was dealing with a case in which equivalence was an issue under Article 12 (2)(c)(ii) of the ESMQO, as amended but, despite that, it does not seem possible to distinguish the two cases; Article 12(2)(c)(ii) is concerned with whether or not UK specialist qualifications are equivalent to a CCST, whereas Article 9(2)(b) is concerned with whether or not non-UK qualifications are equivalent to a CCST; if the STA are entitled to specify conditions which must be satisfied in the former case, then they are entitled to do so in the latter case. If the Appeal Panel were free to do so, it might have been prepared to consider whether or not the short-fall in the duration of the training period was fatal to Dr Kaul's case, but it considers that it is bound to follow the decision of Mr Justice Dyson and, therefore, bound to decide that, since the STA has specified a six year training period as a condition of equivalence, Dr Kaul's case must fail on this point.

Nevertheless, the Appeal Panel wishes to express its views on some other aspects of the case. As regards the content of the training programmes, we consider that the UK programme is designed to meet the requirements of the UK health system and that it is, therefore, inevitable that the USA training programme, which is designed to meet the requirements of the USA health system, is significantly different. It is, we think, for that reason that the USA training programme is not equivalent in breadth or depth to the UK programme and, whilst not wishing to place undue emphasis on mere numbers, we think that the greater number of cases included in the UK programme is likely to provide the trainee with a greater level of skill and experience than his opposite number in the USA.

For all these reasons, the Appeal Panel is satisfied that Dr Kaul has failed to demonstrate that his specialist medical qualifications in anaesthetics awarded to him in the USA are equivalent to a CCST in the specialty of anaesthetics and, accordingly, we have unanimously concluded that his appeal must fail.

The Appeal Panel would like to make it clear that this decision is not in any way intended as implying any criticism of Dr Kaul's competence as an anaesthetist. Competence is not an issue. He has called witnesses and produced testimonials which provide ample evidence to support the fact that he has achieved a high level of skill and ability. We have no reason to doubt this. In this appeal, we are concerned solely with the equivalence of qualifications and it is no part of our task to judge Dr Kaul's professional expertise. We express the hope that he will not feel that our decision will in any way adversely influence his future career.



Dated the 22<sup>nd</sup> day of Feb<sup>ruary</sup> 1999



His Honour Henry Palmer, Chairman



Professor A Fielder



Dr A H Freeman



## LEGAL ARGUMENT

Until February 22, 2001, Richard Kaul, M.D., a Board Certified anesthesiologist licensed independently in England and in New Jersey, enjoyed a stellar, unblemished medical career. Since 1992, Dr. Kaul administered anesthesia over 44,000 times over a period of eight years. The only adverse outcome he ever had was in the dental case of Mrs. Bangura. On February 22, 2001, a jury in England, after 13 hours of deliberation over a two day period, returned a non-unanimous verdict of criminal negligence. The British judge determined that Dr. Kaul had been "punished enough" and suspended his mere six month sentence. Based solely upon this illusory "conviction", Dr. Kaul's license to practice in England was rescinded in April, 2002. Except for this tragic occurrence, Dr. Kaul had administered anesthesia to over 44,000 patients and has never had an infraction, one problem, or even one incident. In essence, what would have been—at most—a civil allegation of medical negligence in the United States, spun out of control into a series of events that brings Dr. Kaul before this Board.

The revocation of Dr. Kaul's license in England was predicated on his conviction of a "crime". First, and foremost, there was no "crime" as would be defined in the United States or in New Jersey. Neither was there a conviction. The "conviction" was void and thus any subsequent decisions based upon same are without any basis. Thus, the complaint in the September 20, 2002 Provisional Order of Discipline ("POD") and any exhibits used to support the POD must be stricken from the record before the Board. There was not a unanimous verdict in the underlying criminal matter, and therefore, any and all proceedings flowing from the unconstitutional criminal proceedings are null and void in New Jersey and cannot be collaterally employed in New Jersey.



It is a time-honored constitutional requirement that all twelve jurors must find a criminal defendant guilty beyond a reasonable doubt. The United States Constitution guarantees an accused the right to a unanimous verdict in all criminal actions in federal court. According to N.J. Court Rule 1:8-9, "In every trial by jury, the verdict shall be returned by the jury to the judge in open court. The verdict shall be unanimous in all criminal actions." Similarly, the New Jersey Constitution declares that in criminal actions "the verdict shall be unanimous." The United States Constitution requires more than a unanimous jury verdict when a defendant is accused of a crime. Additionally, the Constitution requires a judge to instruct the jury that the state or federal government bears the burden of proving each element of the offense charged. Fundamental fairness dictates that the trial judge must remain impartial and should inform the jury that all twelve of the jurors must agree as to all of these underlying material facts that constitute the criminal offense. In this instance, the record of the British court proceedings is replete with constitutional infractions that violate our U.S. and New Jersey constitutions - the non-unanimous jury verdict alone nullifies the criminal conviction. At Dr. Kaul's British criminal trial there were multiple serious infractions intolerable to our system of American justice. In fact, the British crime of criminally negligent manslaughter does not exist in New Jersey.

- What occurred in the United Kingdom is unique to a foreign jurisdiction; there is no equivalent statute or "crime" of criminally negligent manslaughter in the State of New Jersey:
- There was not a unanimous jury verdict;



- The British judge failed to set forth the elements of the "crime" of manslaughter, failed to require the prosecution to carry its burden of proof and failed to instruct the jury to apply the "but for" standard of proximate cause and proof beyond a "reasonable doubt;"
- Because there was not a constitutionally sound "conviction," no crime was committed that would not be invalidated by the United States or New Jersey Constitution.

Secondly, all proceedings in a foreign jurisdiction must be stricken from the record because, there is no jurisdictional predicate for sanctioning Dr. Kaul pursuant to NJSA 45:1-21 (g) because the statute upon which such sanction is based does not apply and thus, the POD must be dismissed for lack of jurisdiction.

Third, even if the Board were to review the proceedings below, which it should not, there is no jurisdictional predicate to revoke Dr. Kaul's license pursuant to N.J.S.A 45:1-21(c), because there is no authority to apply a lesser standard of proof from a foreign jurisdiction to the statutes governing New Jersey, and thus the POD must be dismissed with prejudice.

Fourth, even if there were a matter to be reviewed, in this instance, Dr. Kaul is entitled to a full, plenary hearing. Recently, the New Jersey Supreme Court held in In the Matter of the License of Andrew T. Fanelli, D.O., 174 N.J. 165 (2002) that a physician has a right to a plenary hearing on the facts, before the Board may revoke his or her license to practice medicine. In Fanelli, supra, the physician had plead guilty to a criminal charge, whereas, in this case, there was never a plea to the criminal charge, and, in fact, there would never have been a criminal charge if this matter had occurred in the United States or in New Jersey.

Fifth, because he was not advised of his Fifth Amendment rights or any due process rights, including his right to seek counsel, any and all statements provided by Dr. Kaul to this Board in



response to the Demand for Statement Under Oath must be stricken from the record. Thus there is no basis upon which to sustain revocation of Dr. Kaul's license pursuant to N.J.S.A. 45:1-21(b). To the extent that the statement is admitted into the record, the introduction should be pursuant to N.J.R.E. 104 for the limited purpose with the instructions that Dr. Kaul, as a lay witness, cannot be bound to make "admissions" which contain legal conclusions. Dr. Kaul is not a legal expert, has no training with respect to the nuances of the words "gross negligence" and therefore, the State should not be permitted to treat Dr. Kaul's submission as an "admission" of any legal import. Additionally, to the extent the submission is introduced, it should only be used after Dr. Kaul has an opportunity to testify. Otherwise, the submission denies Dr. Kaul his due process rights. Moreover, Dr. Kaul has never been afforded a hearing on the issue of whether there was any "gross negligence".

Lastly, Dr. Kaul questions why he is being treated disparately from other physicians, who may not even be Board Certified, and who had many alleged infractions, yet who received full, plenary hearings before an Administrative Law Judge, with full review by the Board. In this instance, the State has an obligation to determine, in the first instance, whether the events that occurred in England have any corollary to the system of justice here. But notwithstanding the State's unwillingness to give credence to Dr. Kaul's legal arguments, the State now attempts to thwart Dr. Kaul's due process rights to have his witnesses testify on his behalf. Certainly, the Supreme Court has long recognized that a physician's license is an important property right and thus entitled to the full panoply of constitutional protections.

As a result, it is respectfully requested, that the Board dismiss the POD filed against Dr. Kaul in its entirety.



I. This entire matter must be dismissed as a matter of law since the proceedings before this Board stem from an unconstitutional proceeding in a foreign country which is null and void and of no effect in New Jersey.

A. The genesis of this matter was based upon an indictment which is not a crime in New Jersey.

1. Comity is discretionary, not mandatory, and should never be afforded when the prior conviction was per se unconstitutional.

The State has asked the Board to recognize the British criminal conviction of manslaughter based on the doctrine of "comity." The Latin word "comitas" means courtesy or civility. It is an indulgence or favor granted another nation, as a mere matter of indulgence without any claim of right made. Black's Law Dictionary, 5<sup>th</sup> Edition.

The principles of comity are applied when U.S. courts exercise their discretion to determine whether the courts will recognize or enforce a foreign judgment. Comity is applied where courtesy, politeness, convenience or goodwill between sovereigns, expediency, reciprocity, or "considerations of high international politics concerned with maintaining amicable and workable relationships between nations" are applied. Joel R. Paul, *Comity in International Law*, 32 HARV. INTL L.J. 1, 3-4 (1991) Therefore, comity is totally discretionary and depends upon the facts and circumstances of each matter.

The most commonly cited statement of comity in U.S. law, is the U.S. Supreme Court's opinion in Hilton v. Guyot, 159 U.S. 113 (1895). In Hilton, a French liquidator sued a U.S. citizen in a U.S. court to enforce a French executory judgment rendered against the U.S. citizen on the basis of business activities in Paris. The issue was whether a United States court should give full faith and credit to foreign court's judgment. The Hilton court ruled that a foreign judgment should be



recognized in the United States *only* if the foreign state gave full faith and credit to U.S. court judgments. Since France refused to grant such reciprocal treatment, the U.S. Supreme Court refused to honor the French judgment. Writing for the majority, Justice Horace Gray stated that:

The United States is not party to any international treaty on enforcement of foreign judgments, and therefore may recognize foreign judgments only on the basis of comity. Comity in the legal sense, is neither a matter of absolute obligation on the one hand nor of mere courtesy and good will upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws, 159 U.S. 113, (1895) See also Harold Maier, Interest Balancing and Extraterritorial Jurisdiction, 31 Am.J Comp. L. 579, 589 (1983) laws.

Thus, the forum state will recognize a foreign law or judgment only to the extent that the foreign country affords comity to the forum state. In Hilton, Justice Gray implied that since no sovereign law is effective within the territory of another state - - unless allowed by the territorial sovereign - - the courts of the forum state must determine whether to apply the foreign law. There is no reciprocity required here. Especially since, the "foreign state" [England] did not accept Dr. Kaul's Board Certification and American post-graduate anesthesiology training - - and found his American training was not the equivalent required by the Royal College. Thus, England afforded Dr. Kaul no reciprocity of treatment. Similarly, Dr. Kaul's British license was not recognized in New Jersey - he had to pass an examination here to be licensed in New Jersey.

Clearly, comity "in the legal sense" is not an "absolute obligation." Comity is not legally binding. Although it is a "legal" doctrine, the fact that no comity is afforded, does not occasion a legal sanction. In fact, the American Courts resist enforcing a foreign judgment if there is evidence



of fraud, or if the foreign judgment is contrary to the public policy of the forum. See Restatement (Second) Conflict of Laws, 98 (1989).

The State cites Cole for the proposition that the Board may use a prior revocation, in this case, the "erasure", as a basis to revoke Dr. Kaul's license. Although the statute would permit, in limited circumstances, the Board to revoke a physician's license on the basis that a revocation had occurred in "another state" the Cole analogy fails for a multitude of reasons. First, an agency's interpretation of a statute is entitled to deference, however, if the interpretation is clearly erroneous, as it is here, then it must not be applied. In this case, the statute does not specifically address the issue of whether a revocation, in a foreign country, can be relied upon to meet the statutory criteria. Thus, the statute must be read literally and narrowly prior to revocation of a physician's license. See Ocampo v. Department of Health, 806 So.2d 633 (Fla. 2002). (holding that disciplinary actions are penal in nature, must be strictly construed, with any ambiguity interpreted in favor of the licensee).

Second, assuming that the Board interprets the statute broadly, the statute cannot be applied unless the due process predicates for the statutory criteria have been satisfied. That is, due process must have been afforded to the licensee in the first revocation. In re Fanelli, supra. In this matter, there was no due process, since Dr. Kaul never would have had his license revoked had the same facts occurred in New Jersey, and Dr. Kaul was not afforded "due process" in the criminal proceedings in the United Kingdom. Thus, the "erasure" of his license, cannot be afforded any weight because there was never "due process" in the underlying proceedings. Cole is thus inapposite and not on point in this matter.

In cases in which a state court has revoked a physician's license, predicated upon the revocation in another state, the statute has been applied because the revocation occurred in a sister



state, not a foreign country. In cases in which the revocation has been upheld, the courts have first examined that there was "due process" in the first, or prior state proceedings. Khan v. New York State Dept. of Health, 711 N.Y.S.2d 69 (N.Y. 2000); Bhuket v. State ex rel. Missouri State Bd. Of Registration for the Healing Arts, 787 S.W.2d 882 (Mo. App. 1990); McKay v. Board of Medical Examiners of State of Or., 788 P.2d 476 (Or.App. 1990);

Third, the State's argument must fail for yet another basic reason. The Board is not required to revoke the license, but rather a discretionary latitude is afforded *if* the circumstances warrant. Even then, where a literal "sister" state, e.g. New York, revoked a license of a physician, the administrative court didn't automatically apply such revocation, but rather considered whether the application of the statute was appropriate. See Brigham, supra where it was held that notwithstanding the revocation of Dr. Brigham's license, after a full administrative hearing on the merits, the administrative law judge determined that license revocation not appropriate, and the Administrative Law Judge's decision was affirmed by the Board. See also Becker v. De Buono, 657 N.Y.S. 2d 471 (N.Y. 1997); Ricci v. Chassin, 632 N.Y.S. 2d 303 (N.Y. 1995).

The British conviction is null and void in this country and in this state because (a) there is no equivalent crime recognized in New Jersey criminal statutes (b) a non-unanimous jury verdict per se violates the U.S. Constitution; and (c) the British Judge did not require the jury to find that Dr. Kaul violated each element of the allegations beyond a reasonable doubt, which violates New Jersey statute N.J.S.A. 2C:2-2 and the United States Constitution.

In a 1964 New Jersey Supreme Court case, the Court allowed a complaint to be brought against a New Jersey estate for the maintenance of a decedent's son, who was a ward of the Commonwealth of Pennsylvania. The New Jersey Supreme Court opined that "There is no sensible



basis for declining to entertain the plaintiff's action in our courts for we have long become accustomed to the enforcement of a right created by foreign states which are neither penal in nature nor offensive to our policy." See Pennhurst State School v. Estate of Goodhart, 42 N.J. 266, 271 (1964). In contrast to Pennhurst, supra the Board cannot enforce Dr. Kaul's British conviction because it is both penal in nature and offensive to New Jersey and New Jersey Medical Board policy. In New Jersey, physicians are neither criminally indicted nor administratively disciplined if a patient "dies" unless there has been violation of New Jersey statutes.

There is no parallel case that supports the Board exercising its discretion to apply "comity" to the British criminal judgment. In fact, the New Jersey courts do not apply the principle of "comity" where there is no reciprocity, and where the application foreign judgment denies the defendant due process and constitutional safeguards applied in the forum state, e.g. New Jersey. Thus, the Board cannot recognize or enforce this foreign judgment and the ensuing erasure because the underlying criminal judgment was manifestly unjust and strongly violates the New Jersey constitution and New Jersey statute. See State v. Cruz, 171 N.J. 419, 430 (2002); N.J.S.A. 2C:2-2.

The State has failed to give this Board a reason why the Board should defer to the British criminal conviction, which in New Jersey is clearly null and void ab initio. What is at the heart of this matter is whether criminal allegations could be brought against Dr. Kaul, had the same events taken place in New Jersey. The answer is clearly "no" for the simple reason that what occurred in England is not, would not, and could not be deemed in any way "criminal" in New Jersey. What occurred in the United Kingdom is foreign to our system of justice -- there is no legal precedent for a criminal indictment if a patient has a heart attack after conscious sedation and dies through no fault of the treating physicians. Therefore, what is before this Board is an issue of first impression for a



logically compelling reason - - New Jersey does not recognize foreign criminal judgments if the underlying action taken is not deemed criminal in New Jersey. That is why the State can find no parallel cases on this matter. There are none.<sup>1</sup>

In general, American Courts do not recognize a foreign criminal court judgment if it is untenable. In fact, criminal sanctions have no extra-territorial effect. "The general rule is that the courts will not recognize or enforce the criminal or penal judgment of another forum", Matthew Goode, The Tortured Tale of Criminal Jurisdiction, 21 Melb. U.L.Rev. 411, 453 (1997). See also The Antelope, 23 U.S. (10 Wheat.) 66 (1825). Historically, states do not have any jurisdiction or authority to enforce a criminal judgment arising from a foreign jurisdiction. See Wisconsin v. Pelican Insurance Co., 127 U.S. 265, 290 (1888). In this 1888 case, Justice Gray, writing for the United States Supreme Court elaborated on the policies and underpinnings which explain why the state is reluctant to enforce a foreign judgment. In fact, the State has a rule of forbearance:

The rule that the courts of no country execute the penal laws of another applies not only to prosecutions and sentences for crimes and misdemeanors, but to all suits in favor of the State for the recovery of pecuniary penalties for any violation of statutes for the protection of its revenue, or other municipal laws, and to all judgments for such penalties. If this were not so, all that would be necessary to give ubiquitous effect to a penal law would be to put the claim for a penalty into the shape of a judgment.

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<sup>1</sup> The State has argued that this matter should be governed by In the Matter of the Suspension or Revocation of the License of Donald R. Cole, 194 N.J. Super. 237 (1984). Cole, however, is not applicable in this instance. First, the Cole matter involved the application of an actual "sister" state, e.g. New York's decision. No one has ever called the United Kingdom a "sister state." In fact, the two countries were separated in the 18<sup>th</sup> century. Second, as discussed supra, the laws are different. Third, the Supreme Court in Cole specifically found that it had compared the standard of the two states and found that New York's standard of proof was the same as New Jersey's. This is not the case here. Fourth, even in Cole, the matter was heard administratively and Dr. Cole was permitted to put on his case and his witnesses. Reciprocity was not rubber-stamped and full due process was afforded before the Court made a determination that it would be appropriate to give "comity" to a "sister state" revocation.



In the famous Commentaries on the Conflict of Laws, Justice Joseph Story opined:

The common law considers crimes as altogether local, and cognizable and punishable exclusively in the country where they are committed. No other nation therefore has any right to punishment, or is under any obligation to take notice of or to enforce any judgment rendered in such cases by the tribunals having authority to hold jurisdiction within the territory where they are committed.

Joseph Story, Commentaries on the Conflict of Laws, Sec. 620 (8<sup>th</sup> ed. 1883).

In the Comment following Sec. 117 of Restatement, 2d, Conflict of Laws, it states that because judgments rendered in foreign nations are not entitled to the protection of full faith and credit, a state of the United States is free to refuse enforcement to such a judgment on the ground that the original claim on which the judgment is based is contrary to its public policy where the enforcement of the original claim is repugnant to fundamental notions of what is decent and just in the state where enforcement is sought. See Bank Milli Iran v. Pahlave, 58 F3d 1406 (9<sup>th</sup> Cir. 1995), petition for certari filed, Chromalloy Aeroservices v. Arab Republic, 939 F. Supp. 907 (D.C. 1996).

**2. No reciprocity should be afforded to the English judgment.**

The notion that New Jersey should afford "comity" fails for another reason. Reciprocity is a ground for denying any conclusive effect. That is, if the United Kingdom afforded reciprocity to our laws, there might be grounds, assuming due process compliance, for affording discretionary comity to a foreign judgment. However, here, the United Kingdom actually refused to grant comity to United States accreditation of anesthesiology board certification. The United Kingdom specifically found, through the actions of the Royal College, that the United States' determination of Dr. Kaul as a Board certified anesthesiologist, was not the same standard as the United Kingdom



would lend credence to and thus, without in any way diminishing Dr. Kaul's creditation, refused to afford Dr. Kaul's United States' Board Certification comity.

It has been long held that where the courts of a particular foreign country would not, under similar circumstances, grant conclusive effect to a valid judgment of a United States decision, such a lack of reciprocity would certainly be grounds for a court's denial of conclusive effect to a judgment of a court of the foreign country. See Burnham v. Webster, 4F. Case No. 781, 1 Woodb.&M. 172, no. 2179 (1846) where it was recognized that judgments by courts of foreign countries were treated with respect on the basis of comity, but that comity would not be given to judgments of the courts of another country which paid no respect to the judgments of courts of the United States. See Hilton v. Guyot, 159 U.S. 113 (1895). See Recognition of Foreign Adjudications: A Survey and a Suggested Approach, 81 Harv. L. Rev 160 at pages 1610, 1636.

In essence, what the State requests from the Board is that, based upon Dr. Kaul's "conviction" of manslaughter in a foreign jurisdiction, this Board summarily find that Dr. Kaul should have his New Jersey license revoked. Put another way, but for the fact that there was a criminal proceeding in the United Kingdom, which proceeding would have no legal predicate in New Jersey, there would be no action upon which the Board could rely. However, the State asserts its "right" based upon a Provisional Order of Discipline to punish Dr. Kaul, independently licensed in New Jersey, Board Certified by the American Board of Anesthesiologists, for an act that occurred on foreign soil and the legal proceedings that emanated from that act in a foreign court. The British criminal conviction has no basis in New Jersey, does not comply with our constitutional requirements of a unanimous jury and the application of the standard of proof beyond a reasonable doubt for all elements of the alleged crime, and should not be afforded any comity. A state, rarely, if ever, takes the position that



the state can wield such power over the individual. [See Hoffman certification, supra.] Yet here the State insists that the Board accept the British conviction carte blanche without concern that the conviction is null and void in New Jersey because Dr. Kaul's Constitutional rights were violated and the concern that Dr. Kaul should be protected by New Jersey against the power of a foreign country.

Courts are generally reluctant to recognize foreign penal judgments and even when determining an appropriate sentence for a crime committed in the United States Courts, never just look at the mere fact of the foreign conviction. Rather, even where there is a criminal offense committed in the United States, courts look to whether the process by which the conviction was awarded in the foreign state, met minimal due process requirements. If the process in the foreign jurisdiction is constitutionally infirm, then the court refuses to rely upon it for any further action against the defendant. Burgett v. State of Texas, 289, U.S. 109 (1967).

**3. New Jersey would not extradite Dr. Kaul to be tried in England.**

There is yet another reason why the actions which took place in the United Kingdom have no parallel impact here. Had Dr. Kaul been in New Jersey at the time of the United Kingdom indictment, there would have been no ground for a New Jersey court to have extradited Dr. Kaul for prosecution in the United Kingdom. This is because in New Jersey, there are safeguards which would preclude our State, or the United States government from participating in an illegitimate prosecution. A state is not required to extradite an individual for an act which, if it had been committed in New Jersey, would not have constituted a crime. Therefore, New Jersey would have rightfully refused extradition if the act upon which the request was based was an action that New Jersey does not recognize as a crime. Certainly, if Dr. Kaul had been indicted in Iran for operating



on a woman without her husband's permission, New Jersey would not have extradited Dr. Kaul to Iran. Such acts are not crimes in New Jersey.

A person could only be extradited from the United States to a foreign country only as provided for in a specific treaty. Principles of international law recognize no right to extradition apart from treaty. Kolovrat v. Oregon, 366 U.S. 187, 194-95 (1961) (citing Factor v. Laubenheimer, 290 U.S. 276, 294-95 (1933)) (noting that the principles of international law recognize no right to extradition apart from a treaty). In the absence of such a treaty, there would be no ground for automatic extradition. Thus, had Dr. Kaul returned to New Jersey, during the pendency of the matter in England, there would be absolutely no ground upon which a New Jersey court would be obligated to extradite Dr. Kaul to the United Kingdom when, in fact, under the circumstances, what happened in the United Kingdom could never have been a "crime" in New Jersey.<sup>2</sup>

The State's use of "comity" as an offensive collateral estoppel weapon is outrageous, and inappropriate under the circumstances, and a total denial of Dr. Kaul's rights of due process and fundamental fairness. (Offensive collateral estoppel is used by a plaintiff such as the State to prevent litigation of issues previously lost against another plaintiff by a defendant such as Dr. Kaul).

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<sup>2</sup> In reviewing an order of extradition, the court must consider, whether the foreign country had jurisdiction, whether the offenses upon which extradition had been sought are within the terms of any applicable treaty between the United States and the foreign nation, and whether there was any evidence to support a finding that there was reasonable ground to believe that an offense was committed and to believe that the accused was guilty of the offense charges. Freedom v. United States, 437 F.Supp. 1252 (ND Ga. 1977). Here, there is no treaty, and the "crime" does not exist from a statutory perspective, in New Jersey. In fact, there is no state in the United States that would consider what occurred in the United Kingdom, a crime. A review of case law indicates no parallel circumstances in which a claim of malpractice would constitute a "crime" in the United States. See Brauch v. Raiche, 618 F2d 843 (1<sup>st</sup> Cir. 1980)); Shapiro v. Ferrandina, 478 F.2d 894 (2<sup>nd</sup> Cir. 1973).



Thus there is no basis to use "comity" to leapfrog into a position that the State can use a foreign conviction, which would be null and void in New Jersey, as offensive collateral estoppel to revoke Dr. Kaul's New Jersey medical license.

**B. Dr. Kaul's conviction in England is null and void because there was not a unanimous decision by the jury as required by both the United States Constitution and the New Jersey Constitution: There had been no conviction of a "crime" within the meaning of any Federal or New Jersey statute. Therefore the predicate upon which the board seeks and revoke Dr. Kaul's license is not applicable and not a basis for suspension or revocation of Dr. Kaul's New Jersey medical license.**

**1. There was no unanimous verdict in the jury trial in England.**

It is axiomatic that there is no conviction of a crime either in federal or state court unless there is unanimity among the jurors. "In an unbroken line of cases reaching back into the late 1800s, the Justices of [the Supreme] Court have recognized, virtually without dissent, that unanimity is one of the indispensable features of the federal jury trial." Johnson v. Louisiana, 406 U.S. 356, 369 (1972) (Powell, J., concurring). Most importantly, "unanimity...means more than a conclusory agreement that the defendant has violated the statute in question; there is a requirement of substantial agreement as to the principal factual element underlying a specified offense." See McKoy v. North Carolina, 494 U.S. 433, 449-50 (1990) (Blackmun, J., concurring).

A twelve (12) person unanimous jury verdict prior to a criminal conviction is a Constitutional requirement. The requirement is non-negotiable, sacrosanct and a cornerstone not only of federal law, but constitutionally guaranteed in criminal cases by the New Jersey Constitution. N.J. Const. (1947), Art. I, par. 9; U.S. Const. Amend VI. The New Jersey Supreme Court ruled in State v. Parker, 124 N.J. 628, 633 cert. denied, U.S. 1483 (1991):

Our Constitution presupposes a requirement of a unanimous jury verdict in criminal cases. N.J. Const. Art. I, para. 9. Our Rules



require that the "verdict shall be unanimous in all criminal actions."  
R. 1:8-9.

Id. at 633.

This guarantee is violated "unless the verdict is the product of 12 jurors who have heard all the evidence and arguments and who have deliberated together to reach a unanimous decision." State v. Lipsky, 164 N.J.Super. 39, 45 (App. Div. 1978). Unequivocally, "a conviction by any process short of this cannot stand." Id.

The humanitarian concept that is at the base of criminal prosecutions in Anglo-Saxon countries, and which distinguish them from those of most continental European nations, is the presumption of innocence which can only be overthrown by proof beyond a reasonable doubt. The unanimity of a verdict in a criminal case is inextricably interwoven with the required measure of proof. To sustain the validity of a verdict by less than all of the jurors is to destroy this test of proof for there cannot be a verdict supported by proof beyond a reasonable doubt as to guilt. It would be a contradiction in terms. We are of the view that the right to unanimous verdict cannot under any circumstances be waived, that it is of the very essence of our traditional concept of due process in criminal cases, and that the verdict in this case is a nullity because it is not the unanimous verdict of the jury as to guilt.

Hibdon v. United States, 204 F. 2d 834, 838 (6<sup>th</sup> Cir. 1953).

In New Jersey, it is the trial judge's responsibility not only to ensure that there is no conviction unless there is a unanimous decision, but, moreover, to use "utmost care" to prevent any influence upon "the integrity and sanctity of the deliberative and decision-making function of the jury." In the trial in England, not only was there no unanimity requirement, but the judge instructed the jury foreman to obtain only a majority of ten votes to reach a guilty verdict. [Tr. 2:2-22-01] The jurors were instructed, almost encouraged, that all they needed to do was to get 10 votes for a conviction. [Id. 3-4]. The laws also included the underlying elements of the offense. The only protection which would have been afforded to Dr. Kaul was the constitutional requirement that there be a conviction by a unanimous jury. Clearly, this did not occur in this instance. The verdict therefore was simply and unquestionably void. See Brown v. Louisiana, 447 U.S. 323 (1980);

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Thompson v. State of Utah, 170 U.S. 343 (1898); Hibdon v. United States, *supra.*; State v. Lipsky, *supra.* State v. Bzura, 261 N.J. Super. 602 (App. Div. 1993).

Before the jurors failed to return to a unanimous verdict, there was apparently tremendous angst on their part. [Tr. Feb. 21, 2001; Feb. 22, 2001] The jurors were clearly not in agreement and had a great deal of difficulty in reaching the guilty verdict and in understanding the judge's charge. After 13 hours of deliberation over two days, the jurors could not agree upon a verdict. In fact, the foreman of the jury returned to the judge "wondering about the length of time ...over and over and over and over again" worried that the jury might not really agree. *Id.* The jurors returned but after almost an additional three (3) hours, still could not reach a unanimous verdict and returned then but only with a "majority verdict." *Id.* Thus, under no circumstances would such a "conviction" withstand constitutional scrutiny in the United States and New Jersey. Therefore, the issues must, as a matter of law be determined by the Board. N.J.S.A. 45:9-16, Schireson v. State Board of Medical Examiners, 130 N.J.L. 570 (N.J. Err. App. 1943) Thus the British "conviction" is a nullity and does not provide a basis for disciplinary action by this Board.

2. **There was a failure to properly instruct the jury and therefore under New Jersey law, even had there been a unanimous verdict, the verdict would be overturned as a matter of law.**

While it is unquestionably tragic that Mrs. Bangura died after a routine dental extraction, under New Jersey law, and laws in the United States, Dr. Kaul could not be held criminally responsible for her death. First, and as set forth below, there is no such equivalent charge of manslaughter in New Jersey but rather the issue would be no more than malpractice in New Jersey. Indeed even were there a charge for a criminal action - the charge would be for reckless manslaughter<sup>3</sup>. Second, the New Jersey statute has never been applied to a physician in comparable

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<sup>3</sup> There is little jurisprudence on the boundary between manslaughter cases. However, usually manslaughter involves "reckless manslaughter" in the United States and is rarely, if ever, used with respect to physical gross negligence. "Gross negligence" is used in England "mainly to



circumstances. Third, even assuming arguendo that there would be a criminal charge, for a charge of manslaughter to be sustained, a court must charge the jury to find that the physician not only caused the death of a patient, but, critically, that the acts of the physician were so reckless and wanton as to show an "utter disregard for the safety of others under circumstances likely to cause death." State v. Weiner, 41 N.J. 21 (1963).

In Weiner, the Supreme Court certified the question to be heard by the appellate panel. The Court held:

But a criminal case is another matter. The injury to be vindicated is not the personal wrong suffered by the victim but rather an outrage to the State. And the question is not whether a defendant should absorb the dollar loss of his victim but whether his conduct justifies stamping him a criminal and sending him to State Prison. In that inquiry, the test is not ordinary negligence--behavior of which men of the highest character are capable. Rather, as phrased in 1 Warren, Homicide (perm. ed. 1938), s 86, p. 424:

'Negligence, to be criminal, must be reckless and wanton and of such character as shows an utter disregard for the safety of others under circumstances likely to cause death.'

See State v. Williams, 29 N.J. 27, 40, 148 A.2d 22 (1959); State v. Blaine, 104 N.J.L. 325, 327-328, 140 A. 566 (E. & A. 1928). And whereas a doctor is chargeable in a private suit for the negligence of his nurse-employee, he is not chargeable criminally on the basis of Respondeat superior. 1 Burdick, Law of Crimes s 179, p. 231; see State v. Pinto, 129 N.J.L. 255, 257, 29 A.2d 180 (Sup.Ct.1942); State v. Waxman, 93 N.J.L. 27, 107 A. 150 (Sup.Ct.1919). 'For it is of the very essence of our deep-rooted notions of criminal liability that guilt be personal and individual \* \* \*' Sayre, 'Criminal Responsibility for Acts of Another,' 43 Harv.L.Rev. 689, 717 (1930). Accordingly, if defendant is to be criminally liable with respect to an act or omission of his nurse, it could not be merely because he was her employer. He could be so liable only if he directed her conduct or assented to it or failed to act with respect to it in circumstances which indicate the same wantonness or recklessness to which we have referred. And finally, whereas in civil matters the plaintiff need prove his case only by a mere preponderance of the proof, yet in a prosecution for manslaughter based upon criminal negligence the State must prove guilt beyond a reasonable doubt, a test which, despite some

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cover breaches of professional duty, e.g. a physician gave an inappropriate prescription to a drug addict in police custody. Saha, 15 Cr. App. R. 342 (1993)



theoretical devaluations of it, does serve to tell the trier of the facts that a criminal trial is no guessing game.<sup>4</sup>

Id. at 470.

In Dr. Kaul's trial, the British judge's instructions to the jury fell constitutionally short of the standard required in New Jersey. In fact, not only did the judge's instructions fail to properly advise the jurors of the standards, but the judge's comments to the jury were so prejudicial that were they given in any court in New Jersey, the matter would be reversed and a new trial held. In State v. Concepcion, 111 N.J. 373, 380-381 (1988), our Supreme Court reversed the defendant's conviction of reckless manslaughter because the trial judge had selectively summarized only one aspect of the critical events and failed to explain that the jury must make a preliminary finding resolving contrasting factual accounts of events.

In New Jersey, as in almost every other state in the United States, involuntary manslaughter is a unique and commonly misunderstood criminal act. In England the judge's charge was anything but clear. His charges were clouded with prejudicial comments and blatant errors. For example, the British judge failed to instruct the jurors that in order for there to be "gross negligence" the jury must

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<sup>4</sup> The Weiner decision was cited with approval by the United States Navy-Marine Corps Court of Military Review in the case of United States v. Donal M. Billig, 26 M.J. 744 (1988). The Billig Court however went further and provided the following dissertation with regard to, not only Dr. Billig's criminal prosecution, but criminal prosecutions of health care providers in general for mistakes that occur in rendering care to patients: "In Dr. Billig's case, perhaps those making prosecutorial decisions lost sight of the fact that coronary artery bypass surgery is an inherently risky business, performed only within approximately the last thirty years, and that those patients who agree to this elective surgery are quite ill in the first place, many of them gravely so. Even when all goes well, there is a substantial risk of dying from nothing more than the traumatic ordeal the body is subjected to in this attempt to improve or sustain their life. People die from complicated surgeries, and the fact that there are complications and resultant death does not necessarily mean that any negligent act on the part of medical personnel occurred--or if some negligent act did occur, that anyone is criminally responsible therefor. Given the nature of the work and its complexity, these surgeons face a difficult enough task without having to worry about the specter of the criminal prosecutor-- waiting to reduce to a charge sheet honest mistakes which fall far short of the gross, wanton, and deliberate misconduct, with an accompanying mens rea, that truly deserves punishment." Id. at 760-61.



find Dr. Kaul acted with "reckless, wanton and callous disregard" for the welfare of the patient. Nor did the judge properly instruct the jury on the issue of causation. The judge improperly advised the jury that "but for" causation was not required. In State v. Concepcion, *supra* the New Jersey Supreme Court reversed the trial judge on this very issue and as a result in New Jersey the judge must tell the jury that to convict the defendant it must find that the victim would not have died but for defendant's's reckless conduct. N.J.S.A.2C:2-3(a)(1).

Additionally, causation itself is not simple. To prove causation the Prosecutor must prove two elements, each beyond a reasonable doubt. First, that *but for* the defendant's's conduct, the decedent would not have died and second, that the decedent's death must have been within the risk of which the defendant was aware. (See Hoffman Affidavit ; Jury Charges, Reckless Manslaughter, <http://home.aoc.judiciary.state.nj.us/criminal/charges/homicide>). If these two elements are not proven, the State must prove the same kind of injury or harm as the probable result of the defendant's conduct which must not be too remote, too accidental in its occurrence, or too dependant on another's volitional act to have a just bearing on the defendant's liability or on the gravity of his offense. In State v. Martin, 119 N.J. 2, 33 (1990) the New Jersey Supreme Court held that:

Because N.J.S.A. 2C:2-3e requires that an actual result must be the probable consequence of the defendant's conduct, a charge on causation is essential. The Trial court failed to instruct the jury that defendant would not be liable for the felony murder of the victim if her death was "too remote, accidental in its occurrence, or too dependent on another's volitional act to have a just bearing on the defendant's culpability."

Moreover, if there are contrasting factual theories of causation, a New Jersey judge must summarize for the jury each contrasting factual theory. In this instance, the British judge only summarized for the jury his theory of the case. State v. Martin, at 18 ; Tr. At 9-10. Correct charges are absolutely essential for a fair trial which Dr. Kaul did not receive in England. *Id.* The judge's

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instructions instead of clarifying the facts suffered from a selective recitation of the facts. (Hoffman Affidavit, supra.)

Significantly, the British judge never provided instructions to the jury regarding reasonable doubt. In New Jersey, there are two requirements the State must satisfy its burden beyond a reasonable doubt that the defendant acted recklessly and the judge must specifically instruct the jury that the State has this burden and that the jury must find this as well. It is required that the judge instruct the jury that after consideration of all the evidence, the jury must be convinced beyond a reasonable doubt that the defendant recklessly caused the death. Then, and only then, may the verdict be "guilty of reckless manslaughter". The State must prove that the defendant's action directly caused the death. The State's burden of proof as to causation is so strong that the State must show that there were no intervening causes of death and that the defendant's action could be expected to cause death. (Hoffman Affidavit, supra. State v. Martin, at 33.

In this instance, the British judge's substantive charge to the jury was so wanting, so prejudicial, and so erroneous as to render any verdict reversible by any court in the United States and, most certainly, the New Jersey Supreme Court. As a result, there is no predicate upon which the State may use the English manslaughter verdict, nor any acts flowing from it, upon which to sanction Dr. Kaul's license in New Jersey.

As set forth above, the Attorney General predicates its case on the fact that Dr. Kaul was "convicted" in the Crown Court of England. However, this conviction is a nullity because such a verdict—without the unanimous consent of a jury—cannot *ipso facto* be a determination within the meaning of either United States or New Jersey law. Nonetheless, the underlying charge brought in England is not the basis for a "crime" in the United States. In fact, in New Jersey, *there is no such equivalent crime for "involuntary manslaughter."*<sup>5</sup> Rather, the charge would hypothetically be only

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<sup>5</sup>There is no crime of "involuntary manslaughter" in New Jersey. N.J.S.A. 2c11-4(b) sets forth the various definitions which would constitute the crime of criminal homicide, none of which



in the instance of aggravated or non-aggravated manslaughter. N.J.S.A. 2C 11-4(b). To sustain a valid conviction under New Jersey law, the following would need to be proved beyond a reasonable doubt: The actor recklessly caused the death of another person. In order to prove the mental element of recklessness for manslaughter, the state must prove *beyond a reasonable doubt causative acts of recklessness*. Moreover, causation must establish that "but for" the acts of the defendant, there would be no death and that the injuries sustained by the victim were within the risk of which defendant was aware. State v. Pelham, 328 N.J. Super. 631 (App. Div. 1998). In New Jersey, a judge giving instructions to a jury for the deliberation of the crime of manslaughter must provide the following charge:

A person is guilty of reckless manslaughter if he recklessly causes the death of another person.

In order for you to find the defendant guilty of reckless manslaughter, the State is required to prove each of the following elements beyond a reasonable doubt:

- (1) that the defendant caused the death of [the victim], and
- (2) that the defendant did so recklessly.

One element that the State must prove beyond a reasonable doubt is that the defendant acted recklessly.

A person who causes another's death does so recklessly when he is aware of and consciously disregards a substantial and unjustifiable risk that death will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of defendant's conduct and the circumstances known to defendant, his disregard of that risk is a gross deviation from the standard of conduct that a reasonable person would follow in the same situation.

In other words, you must find that defendant was aware of and consciously disregarded the risk of causing death. If you find that defendant was aware of and disregarded the risk of causing death, you must determine whether that risk that he disregarded was substantial and unjustifiable. In doing so, you must consider the nature and purpose of defendant's conduct, and the circumstances known to defendant, and you must determine whether, in light of those factors, defendant's disregard of that risk was a gross deviation from the conduct a reasonable person would have observed in defendant's situation.

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is an equivalent crime to the crime charged against Dr. Kaul by the Crown in England.



Model Jury Charge for Reckless Manslaughter, N.J.S.A. 2C:11-4b(1). (Hoffman Affidavit, Jury Charges, Reckless Manslaughter, <http://home.aoc.judiciary.state.nj.us/criminal/charges/homicide>).

Assuming however, that there is parity of such a crime, the charges against Dr. Kaul were not "criminal charges".<sup>6</sup> There is obviously not a remote comparison between the "crime" of manslaughter in England and the "crime" in New Jersey jurisprudence. But even in England, the Crown must prove in a criminal case "such disregard for the life and safety of others as to amount to a crime against the State and conduct deserving of punishment." R. v. Bateman, 19 Crim. App. 8, 1925 All E.R. 45 (Crim. App.)(Engl.) For the purposes of criminal law, an extremely high degree of negligence is required to be proven before the felony of manslaughter is established. Andrews v. Director of Public Prosecutions, [1937] App.Cas. 576. In fact, it was necessary to establish not only a duty of care, a breach of the duty and that the actions created a risk of death, gross negligence, but, critically, that the defendant's breach of duty caused the death of the victim, R. Adomako, [1994] 3 All E.R. 79. No such instruction was given at Dr. Kaul's trial. In fact, the opposite instruction was given. The judge never instructed the jurors to consider whether in fact there was a causal relationship between the breach of duty and the resultant death. Instead, the judge advised the jury that it didn't matter if the defendant was not indeed the cause of death, only that his actions may have been a significant cause of death. Tr. P. 9 Thus, proof of Dr. Kaul's indifference, or callousness was not required at the British trial.

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<sup>6</sup>Crime is a law traditionally left to the states and each state has its own penal code and may define homicidal crimes slightly differently, however no state in the United States defines "crime" as a simple matter of "gross negligence" and no state would permit a person to be convicted for a crime unless there were a clear finding that the acts caused in fact the death of another person. The Model Penal Code requires stringent adherence to support a conviction. In section 2.02: General Requirements of Culpability, the Model Penal Code defines purposely, knowingly, recklessly and negligently separately as well as to establish a separate instruction for the definition of "causal relationship between conduct and resulting conduct:" "Section 2.03: Causal Relationship Between Conduct and Result Conduct is the cause of a result when: (a) it is an antecedent but for which the result in question would not have occurred; and (b) the relationship between the conduct and the result satisfies any additional causal requirements imposed by the Code....Model Penal Code Secs. 2.02(2), 2.03(1)(1962)



Even assuming that there had been a unanimous verdict, which of course there was not, the British judge failed to instruct the jurors as to the proper legal framework in England to reach a verdict of involuntary manslaughter. In fact, he told the jury that all that was needed to convict Dr. Kaul was that he behaved in a negligent manner. Apparently causal connection was never conclusively established. The judge led the jury to believe, by providing examples—literally 92 pages worth of examples, [Tr.7-99] that it would be permissible for the jury to assume that any cause, including Mrs. Bangura's unknown or pre-existing condition, resulting in her death was Dr. Kaul's fault. Tr. P. 10. In Regina v. Sinclair, 1998 WL 10 44437, a conviction for involuntary manslaughter was overturned because the trial court failed to properly instruct the jury on causation. (Hoffman certification, supra.)

The criminal prosecution of English doctors for alleged malpractice has risen dramatically in the last few years, but between 2000 and mid 2002 only one physician, Dr. Kaul, was found guilty. This includes a charge against a urologist who mistakenly removed a healthy kidney instead of the diseased kidney. The doctor was acquitted at the direction of the judge, after the jury found the actual cause of death was unclear. 2002 WL 12634856.

- C. In England Dr. Kaul was not convicted of the crime of gross negligence or manslaughter. There never existed an independent determination that Dr. Kaul engaged in "gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person" and therefore pursuant to N.J.S.A. 45:1-21(c), the POD and the Exhibits attached thereto must be stricken.

England's General Medicine Council, predicated its decision to erase Dr. Kaul's British medical license based upon Dr. Kaul's flawed "conviction". Thus there has been no independent finding that Dr. Kaul engaged in any act within the meaning of N.J.S.A. 45:1-21 (c). Therefore, Exhibit A, attached to the POD and any and all references and exhibits relating thereto, must be stricken from the record and the Provisional Order of Discipline dismissed as a matter of law.

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The Attorney General rests its case on the summary opinion that since there was a "conviction" in England and a subsequent license erasure based upon said conviction, there was a finding that Dr. Kaul engaged in any activity as defined in N.J.S.A. 45:1-21(c). However, since there was no "conviction" recognized in New Jersey, the license erasure based upon said void conviction must also fail. As a result, Exhibit A, the decision of England's General Medical Council dated May 30, 2002 must also be stricken from the record.

The standard of proof required to establish criminal "gross negligence" in England is far less than the standard required to establish the same criminal conduct in New Jersey. Even in England, the finding of "gross negligence" within the legal context of "reckless endangerment" was not satisfied. In New Jersey, there is no translation from what would otherwise be a civil context to a suspension of a license.<sup>7</sup>

None of these proofs took place. Accordingly, it is respectfully requested that the State's Exhibit A, the decision of England's General Medical Council, must be stricken from the record.

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<sup>7</sup> Despite a vigorous defense to the charge of manslaughter and the fact that Dr. Kaul's expert witnesses challenged the medical validity of the Queen's expert witnesses who alleged that Dr. Kaul gave the patient general anesthesia when, in fact, he administered conscious sedation, Dr. Kaul was found guilty of manslaughter by a majority verdict. Dr. Kaul's experts opined that the patient went into cardiac arrest based upon a pre-existing condition of a low potassium level that predisposed the patient to a cardiac problem that was triggered when she received the conscious sedation. On February, 2001, a jury found Dr. Kaul guilty by applying the standard of gross negligence, which standard is ordinarily applied at a civil trial for medical malpractice in the United States. Malpractice is defined as an unreasonable lack of skill. Similarly, negligence is the failure to use such care as a reasonably prudent and careful person (for medical malpractice, the standard is the average physician in like circumstances) would use under similar circumstances. Gross negligence is a manifestly smaller amount of watchfulness and circumspection than the circumstances require of a person of ordinary prudence. Ordinary and gross negligence differ in degree of inattention. At the trial in the U.K., Dr. Kaul was found to exhibit that degree of lack of attention to be grossly negligent. Both ordinary and gross negligence differ in kind from willful and intentional conduct which is, or ought to be known to have, a tendency to injury. In the United States, Dr. Kaul would have to exhibit conduct known to have a tendency to injure to be found guilty of manslaughter rather than lack of attention which was the standard in the U.K. Furthermore, in the United States, a unanimous verdict is required. In addition, in New Jersey there is a presumptive sentence of seven years of incarceration for manslaughter. The minimum requirement of seven years of incarceration comports with the stricter standard applied to manslaughter charges in New Jersey. In the U.K., the judge sentenced Dr. Kaul to probation with no restraints whatsoever.



The decision unquestionably relies in total upon the conviction of Dr. Kaul—a conviction which is not only void on its face in this country, but reversible as a matter of law. Since Dr. Kaul's "erasure" in England flowed from a conviction in a criminal proceeding that would not have withstood New Jersey constitutional scrutiny, the "erasure" itself is not valid and there is no predicate upon which to apply N.J.S.A. 45:1-21(c)

The application of N.J.S.A. 45:1-21(c) in the context of this case is discretionary. In essence, the Attorney General asks the Board to find, as a matter of law, that the conviction and foreign medical board decision to erase Dr. Kaul's British medical license based upon the foreign criminal conviction provides the sole grounds to use offensive collateral estoppel. However, in this instance, because neither procedural nor substantive safeguards were in place during the British criminal trial such an expansive finding cannot be made. Collateral estoppel is intended to promote judicial economy by preventing relitigation of the same issue from one jurisdiction to another. However, as has been established supra, Dr. Kaul never had a constitutionally protected fair trial in England and thus offensive collateral estoppel is inappropriate and illegal on its face. Restatement (Second) of Judgments Sec. 29 (1982).

Finally, as there are so many substantive issues that vary between English law and New Jersey law, Dr. Kaul never had a full and fair opportunity to vigorously litigate the status of his license in England, e.g there was already an outstanding conviction and this conviction was superimposed on the political maelstrom regarding his personal relationship with various members of the Royal College Board members. <sup>8</sup>

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<sup>8</sup> The Attorney General cannot rest upon the decision to revoke Dr. Kaul's license because Dr. Kaul did not appear at the hearing. As stated in our letter to this Board dated November 11, 2002, Dr. Kaul had challenged the decision that his board certification in the United States was not considered good enough for practicing anesthesiology in the U.K. To have appealed before a Board so prejudiced against Dr. Kaul would have been a fruitless act. The background is critical and cannot be ignored by this Board especially since Dr. Kaul was independently licensed in New Jersey and Board Certified in Anesthesiology. After almost ten years of training and postgraduate work, including completion of the E.C.F.M.G. examination, post-graduate training in the United States,



To the extent that the Attorney General proceeds in this matter under the provision cited, Dr. Kaul is entitled to a full, plenary hearing on the issues. The Attorney General has an obligation to satisfy its burden of proof initially, and Dr. Kaul should have the opportunity for a full, plenary hearing as required by Fanelli, supra. In other matters that have come before the Board recently, physicians have been provided the opportunity for a full hearing before an administrative law judge, yet, in this case, Dr. Kaul has been denied his requests for a full hearing, and, or, in the alternative for this matter to be heard by a North Jersey Committee of the Board. The charge of "gross malpractice" is a very serious allegation, and it deserves the time and attention necessary for the Attorney General to prove these allegations against Dr. Kaul.

- D. N.J.S.A. 45:1-21(g) is inapplicable because Dr. Kaul's authority to engage in the activity regulated by the board has not been revoked or suspended by any "other state, agency or authority"

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participation in surgical internship programs, surgical residency including five months training in Surgical ICU, completion of a three year anesthesiology residency at Albert Einstein-Montefiore Medical Center, completion of the Federation Licensing Examination (FLEX) and eventual Board Certification in Anesthesiology, Dr. Kaul returned to the United Kingdom. In the U.K., Dr. Kaul completed a pain management fellowship and he applied to the Royal College of Anaesthetists/Specialist Training Authority (RCA/STA) for inclusion on the Specialist Register of the General Medical Council (GMC). Inclusion on the GMC register would have enabled Dr. Kaul to obtain certain hospital privileges and participate in specific insurance plans, thereby allowing him greater employment opportunities as an anesthesiologist in the U.K. Although exclusion from the GMC register did not prevent Dr. Kaul from practicing as an anesthesiologist in the U.K., it severely limited his choice of medical positions.

Dr. Kaul's application was rejected by the RCA/STA because his three years of residency training in anesthesiology in the United States was deemed inadequate compared to the British training period of six years. Dr. Kaul appealed the RCA/STA decision on the basis that he was Board Certified in Anesthesiology in the United States following rigorous training at one of the largest anesthesiology residency programs in the United States, and was as equally qualified as any British physician and anesthesiologist who trained in the U.K. Because this was a landmark case and the first time any anesthesiologist had appealed a decision of the RCA/STA, it attracted a great deal of attention in the British press.

Dr. Kaul's appeal was heard on February 2, 1999 through February 3, 1999. Leo Strunin, M.D., the President of the RCA at that time, was greatly offended by Dr. Kaul's decision to appeal the RCA/STA's decision. The case became highly contentious. During the time Dr. Kaul was appealing the decision of the RCA/STA, he worked in London administering dental anesthesia and performing other private work, including administration of anesthesia at Highgate Hospital. It was during this same period of time that the incident giving rise to this matter took place. 000624



This appears to be a case of first impression in New Jersey e.g. the Attorney General is relying upon a foreign Medical Board's revocation of a physician's license as a mechanism to revoke a valid, otherwise unblemished independent license in New Jersey.<sup>9</sup> Rather, the Attorney General requests the Board to find that N.J.S.A. 45:1-21(g) is intended to cover any act, by any state, or authority anywhere in the world. There is simply no statutory authority for this broad sweep of police powers and to apply this statute in such an expansive manner sets a dangerous precedent.

However, assuming for the sake of this motion, that "authority" might include a "foreign" country's medical board, which it clearly does not, nonetheless, Exhibit A, and all references thereto must be stricken from the record. Exhibit A attached to the POD is predicated on the fact that Dr. Kaul was unconstitutionally convicted of a crime in a foreign country by a non-unanimous verdict. Thus, any and all references to Exhibit A, and the jurisdictional basis upon which the Attorney General bases the POD upon N.J.S.A. 45:1-21(g) must be dismissed.

Assuming arguendo, that "foreign countries and authorities" were contemplated within the meaning of the statute, for the Board to rely upon a foreign judgment the foreign authority and New Jersey must be equivalent. Here, for the reasons set forth at length herein, they are not.

First, there are major differences between the criminal laws in England and those in New Jersey. In England, as demonstrated above, the standard of proof is far less burdensome, and in fact, is more akin to what would be a charge of medical malpractice in the civil context here. As stated in Regina v. Adomako, 99 Cr. App. R. 362 (House of Lords 1994), 1994 WL 1062641:

...[I]n cases of manslaughter by criminal negligence involving a breach of duty the ordinary principles of the law of negligence applied

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<sup>9</sup> The State cites In the Matter of Cole as precedent upon which the State should rely. This case is not on point. In fact, the language in Cole would mandate that if the same facts here had been the facts in Cole, there would have been no decision to rely upon New York's decision. Cole involved a New York - a sister state. The United Kingdom is not, and has to been "related" to the U.S. for the past hundred years +. There is no law referring to the United Kingdom as a "sister state." But most important, there was no due process afforded to Dr. Kaul in the United Kingdom. Cole stated that due process had been afforded to Dr. Cole and the standard of proof was equivalent.



to ascertain whether or not the defendant had been in breach of a duty of care towards the victim who had died. If such a breach of duty is established the next question is whether it caused the death of the victim. If so, the jury must consider whether such a breach of duty should be characterized as gross negligence and therefore a crime.

Id. at 362.

In Adomako, during an eye operation, the patient was paralyzed by injection of a drug and a disconnection occurred at the endotracheal tube connection. As a result, the supply of oxygen to the patient ceased and led to cardiac arrest. Apparently, the charge was that the physician failed to notice that a disconnection had occurred. However, in Adomako, even with the lesser degree of proof to charge manslaughter, the oxygen supply was disconnected. Here Dr. Kaul attached the oxygen mask and it was working when Mrs. Bangura suffered a cardiac arrest. Nonetheless, the Attorney General requests the Board to apply a foreign law, with a lesser standard of proof, improper instructions by a judge, and a void verdict, to summarily rescind the license of an otherwise unblemished career of a Board Certified physician independently licensed in New Jersey.

It is simply fundamental that a statute that deprives a person of a constitutional right must be strictly construed. In this instance, the Attorney General seeks to deprive Dr. Kaul of his New Jersey license on the basis of a void conviction of a nontranslatable charge in a foreign country by a judge who was clearly prejudiced against Dr. Kaul in his charge to the jury. In fact, we are hard pressed to find any similar case to cite as a reference<sup>10</sup>. The reason is that the Attorney General's complaint is made of a house of cards—not one card would form the basis upon which to summarily deprive Dr. Kaul of his license to practice medicine. However, the Attorney General attempts to build a case with a stack of cards, none of which can support a cause of action alone. Such an attempt must fail.

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<sup>10</sup> New Jersey courts have stringently required, however, that in order to invoke summary action in a sister state, the charge must be the same. In Matter of Cole, *supra*. (finding the standard between New York and New Jersey the same).



There appear to be no cases directly on point. However, clearly, in matters involving the discipline of attorneys', courts have refused to revoke an attorney's license to practice law based upon a "conviction" in a sister state for an act based upon a different set of standards as a predicate.

In In Re Johnston, 75 NY2d 403, 554 NYS2d 88, 553 NE2d 566 (1990), the court refused to automatically disbar a New York attorney who had been convicted for involuntary manslaughter in another state resulting from his driving while intoxicated and causing a person's death. Applying NY CLS Jud. Law §90(4), a state statute providing for automatic disbarment based upon a conviction of a foreign felony that also constitutes a felony in New York, the court held that automatic disbarment was not warranted, where the attorney was convicted of involuntary manslaughter, a felony, under Texas Penal Code §19.05 [a][2], a Texas statute which the attorney violated when he operated a motor vehicle while intoxicated and, by "accident or mistake" caused the death of an individual by reason of the intoxication.

According to the New York court, felonies under the Texas and New York statutes *were not similar with regard to the level of intoxication necessary to commit the crime, or the culpable mental state required*. The New York court concluded that the New York standard for determining "intoxication" was significantly higher than the Texas standard, which was satisfied if the lawyer suffered a loss of the normal use of mental or physical faculties "to any degree." The Texas standard, stated the court, more nearly approximated the New York standard established by NY CLS Veh. and Traff. Law §1192(1), a statute proscribing the operation of a motor vehicle while one's ability was "impaired by the consumption of alcohol," a level of impairment which was not sufficient under New York law to support a felony conviction for vehicular manslaughter.

The New York court determined that the Texas statute did not require proof of a culpable mental state. Thus, the lawyer's intoxication and the fact that a death ensued established recklessness as a matter of law in Texas but not in New York. Observing that a conviction for vehicular manslaughter in New York required proof that the actor's intoxication caused a death "and" that the

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actor acted with criminal negligence, the court found that the Texas and New York felonies were significantly different as to the culpable mental state required.<sup>11</sup>

The key here is that the standards applied by the English court were "significantly different" as to the culpable mental state required. In England, there is no equivalent standard, to the New Jersey standard for criminal involuntary manslaughter which requires, at a minimum, specific clear instructions coupled with specific examples. The British jurors had no clear guidance, the British Judge's instructions were misguided and prejudicial. In fact, the Judge failed to give a clear jury charge on the issue of causal connection. Nor is there any proof or indication that any act performed—or not performed—by Dr. Kaul was performed so illegally and recklessly as to be "likely to cause death" to another. If anything, an examination by a lay person of the judge's own summation to the jury leads inescapably to the conclusion that it is a total mystery why the patient died. Perhaps she had an infection, perhaps she had a pre-existing condition, perhaps she died of sudden adult syndrome, perhaps it was her obesity, perhaps it was an act of God which no one can explain, and perhaps it was a tragic outcome that occurs in the absence of negligence, let alone a physician error.

There is nothing in New Jersey jurisprudence that supports importing a different standard, employed in a criminal case in a different country, that is null and void pursuant to the United States Constitution, to revoke a physician's license that had been heretofore unimpaired. There is no case

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<sup>11</sup> In instances in which courts in the legal disbarment process have permitted suspension in the United States based upon a "foreign" conviction, the courts were clear to establish that only in an instance in which the foreign country's conviction would be allowed as proof of the underlying facts were if the lawyer was afforded fundamental fairness and due process. Following his conviction in Canada for theft and for publishing and circulating a false prospectus, an attorney in Re Scallen, 269 NW2d 834 (Minn 1978) was suspended indefinitely from the practice of law in Minnesota, with the right to reapply for admission to practice in 5 years. The court held that a foreign country conviction would be admitted as proof of the underlying facts found by the foreign jury or tribunal, as long as the facts and circumstances surrounding the foreign conviction indicated that the lawyer involved was accorded fundamental fairness and due process.



history nor is there a parallel situation in another context. What the Attorney General attempts here is not only unfair to Dr. Kaul, but unfair as a matter of public policy.

Also, it must be noted that although Dr. Kaul was licensed to practice medicine in the United Kingdom, that status was not transferable to New Jersey, i.e. he was not eligible for a license to practice medicine by endorsement. Dr. Kaul is independently qualified for licensure in New Jersey by successfully completing six years of post-graduate medical training in the United States and passing the E.C.F.M.G. and FLEX examinations. Consequently, because Dr. Kaul's medical license in the United Kingdom was not endorsable, actions taken against his U.K. license cannot constitute a predicate for licensure sanctions in New Jersey.

One of the standards the Attorney General requests the Board to apply is the legal doctrine of collateral estoppel. Collateral estoppel, however, must be applied equitably, not mechanically. Azurak v. Corporate Property Investors, 347 N.J. Super 516 (App.Div. 2002), cert. granted, 172 N.J. 356. Thus the Board has an affirmative obligation to use its power only when circumstances warrant. (The doctrine of collateral estoppel is applied when there is a prior judgment between the same parties on a different cause of action when the current matter in issue was determined and a verdict was rendered). No such circumstances present themselves to the Board.

New Jersey, as well as other jurisdictions, will apply the doctrine, only in situations where the same rules apply. See Matter of Cole, *supra*; McKay v. Board of Medical Examiners of State of Or., 788 P.2d 476 (Or. App. 1990); Cf. Becker v. De Buono, 657 N.Y.S.2d 471 (N.Y.A.D. 3 1997). The collateral estoppel effect applied in Cole is discretionary with the Board and only applicable if the standards correspond to the sister state. New Jersey cannot predicate a revocation of a physician's license upon a criminal conviction void in New Jersey.

There is simply no precedent for the Attorney General's request. To the extent that the Board wishes to take action, it must be mindful that it is within its discretion to act and according to the recent Fanelli decision is required to examine and independently evaluate whether the revocation of

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a license in a foreign country would be based upon conduct and for reasons constant with N.J.S.A.

45:1-21. See Weinger and Cole, supra.

- E. Any and all statements the Attorney General has cited as grounds to sustain a complaint for revocation of license pursuant to N.J.S.A. 45:1-21(b) must be stricken; the Statement of Dr. Kaul in Response to a Void Demand for Statement in Writing Under Oath must be Stricken.**

Dr. Kaul's answers should be stricken because Dr. Kaul received no notice of his right to consult with an attorney; no notice that the answers could be used against him in a future proceeding; and no notice that he has a right to remain silent if his answers to the questions would incriminate him and could therefore leave Dr. Kaul exposed to possible criminal prosecution. Consequently when the Board compelled Dr. Kaul to disclose information in response to the Demand for Statement Under Oath, the Board was required to notify Dr. Kaul that he was entitled to assert the Fifth Amendment privilege against compelled self-incrimination. The Board, however, did not notify Dr. Kaul that he could assert that right, nor did the Board notify Dr. Kaul that he should consult with a lawyer who could advise him of his Fifth Amendment right before responding to the Demand for Statement Under Oath.

When the Board notifies a physician that he or she must testify before a Committee of the Board, the Board sends the physician a letter in which the Board warns the physician that "the matter may violate N.J.S.A. 45:1-21, and other pertinent laws or rules implemented by the Medical Board." In the letter to the physician, the Board also advises the physician that he or she may be accompanied by an attorney. When the physician arrives at the hearing, the Deputy Attorney General representing the members of the Committee further advises the physician that "The Board has asked you to appear here today for what is called an investigative inquiry. Following this inquiry the Board of Medical Examiners will make a decision regarding what, if any, further inquiry or action should be taken. The Board may find that there exists no cause for action; or they may suggest pursuing other resolutions to this matter, ranging from a private resolution to the filing of a formal administrative



complaint. Through your attorney you will be informed of the Board's position. This is an investigative inquiry. You should be aware that anything you say can be used either for you or against you at a later time."

The Medical Board requires all physicians to report to the Board if there has been a change in their status relating to their address or hospital privileges, or any other legal or financial relationship relating to the practice of medicine. The Board's regulation N.J.A.C. 13:35-6.19(e) entitled "Duty to Report Change in Status" notifies a physician of his or her right to assert the Fifth Amendment privilege against self-incrimination. The regulation states, as follows:

To the extent that a required disclosure may relate to the illegal use of controlled dangerous substances or other criminal activity which may give a licensee reasonable cause to believe he or she is exposed to the possibility of criminal prosecution, the licensee may assert, on the form provided by the Board, the Fifth Amendment privilege against self-incrimination. Any claim of Fifth Amendment privilege must be made in good faith, and does not relieve the licensee from making disclosures not implicating criminal liability. The Board may make follow-up inquiries and the licensee may later be directed by the Attorney General to make a disclosure of information previously withheld on the basis of the Fifth Amendment, provided that the Attorney General first grants immunity afforded by statutory law. N.J.S.A. 45:1-20.

This is another example of the Board properly notifying New Jersey physicians of their right to assert the Fifth Amendment privilege which was denied to Dr. Kaul before he responded to the Board's Demand for a Statement in Writing Under Oath.

Despite the fact that the purpose of a Demand for a Statement Under Oath is the same as a preliminary investigative inquiry, the Board never notified Dr. Kaul that the information he provided to the Board could be used against him by the Board or in a criminal or future proceeding. The Attorney General has attached copies to the POD of documents submitted by Dr. Kaul including three documents, each in Dr. Kaul's own handwriting. These documents should be stricken from the record and should not be considered by the Board because Dr. Kaul submitted these three documents



to the State without the advice of counsel. The Attorney General's attempt to use the very documents it obtained from Dr. Kaul violates Dr. Kaul's Fifth Amendment right. These documents should be stricken from the record and not considered by the Board.

It is axiomatic that the Fifth Amendment right against self-incrimination as applied to the states under the Fourteenth Amendment grants individuals the right to decline to answer questions in any proceeding "civil or criminal, formal or informal, where the answers might incriminate the individual in future criminal proceedings. Lefkowitz v. Turley, 414 U.S. 70 (1973); Banca v. Town of Phillipsburg, 181 N.J. Super. 109, 114-15 (App. Div. 1981); New Jersey Div. of Youth & Family Servs. v. S.S., 275 N.J. Super. 173 (App. Div. 1994). The touchstone of the Fifth Amendment is compulsion. The inquiry must, therefore, focus on whether an individual has been put in a position that by its very nature is so coercive, due to either physical or psychological factors, that it compels the individual to make an incriminatory statement involuntarily. Garrity v. State of New Jersey, 385 U.S. 493 (1967). Here, Dr. Kaul answered questions without understanding the seriousness of the State's inquiry and the fact that the State had every intention of taking disciplinary action against him. Dr. Kaul should have been advised that he had an absolute right to an attorney prior to submitting his answers. Thus, the Attorney General cannot use information obtained without so informing Dr. Kaul of his constitutional rights.

In the first document, an application for appointment to the Medical staff at Hackensack University Medical Center, dated April 23, 2001, Dr. Kaul responded that he had not "been convicted" of any crime because, *simply put, he had never been convicted of a crime in the United States*.<sup>12</sup> The remainder of the questions are not at issue since at the time of this application, there

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<sup>12</sup> There is no suggestion on the form regarding "foreign" jurisdiction, nor anything on the form to indicate any reference outside the United States. The form should be contrasted with the application for a license in New Jersey which specifically refers to disciplinary actions that may have been taken "in this state or any other state or jurisdiction, foreign or domestic. [Application for medical licenses #22(c)]. Even questions in the application relating to "crimes or offenses" refer to State, Federal #22(a). Additional, the Biennial Renewal Application Form required per N.J.S.A.



had been no action taken by the English General Medical Council. The second form, submitted April 27, 2001 also contains no answers or issues that are pertinent to this matter. When asked for a demand for statement in writing under oath, by the Board, Dr. Kaul returned an absolutely truthful account, without the benefit of legal counsel, advising the Board of his lay person's version of the events that transpired in England. It is this latter document that the Attorney General's office now uses to argue that Dr. Kaul has "engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense." Nothing could be further from the truth, and, in fact, had Dr. Kaul so intended to be dishonest, he certainly would not have handwritten answers without the benefit of counsel or other advice.

Any argument that the Fifth Amendment is not applicable to this type of proceeding must fail for the following reasons. Although there is no case on point with respect to a disciplinary proceeding against a physician, there is guidance from the New Jersey Supreme Court on the issue of disciplinary proceedings in general. In fact, New Jersey has not accepted the characterization that the disciplinary proceeding is strictly civil or criminal. Instead, the Supreme Court of New Jersey has consistently characterized a disciplinary proceeding as being in a class by itself, In re Logan, 70 N.J. 222 (1976) that is, sui generis. The constitutional protections Dr. Kaul is entitled to override any shortcuts the Attorney General attempts to take here. Certainly, it can be argued that Dr. Kaul have an absolute right to his Fifth Amendment privilege against self-incrimination.

Moreover, Dr. Kaul cannot legally be bound to have reached any "legal" conclusions in any statement provided. Dr. Kaul is not a lawyer. His statements were made to the Board without the advice of counsel and were not an admission that he had been at fault. Rather, Dr. Kaul made the statements to explain a tragic situation, and to apologize to his patient's family. An apology is not an admission. Even if Dr. Kaul had made such an admission, Dr. Kaul cannot bind himself to a fact



that did not occur. There was no negligence, and certainly no gross negligence, on Dr. Kaul's part when he delivered conscious sedation to Mrs. Bangura on March 9, 1999.

- II. Since the heart of this matter depends purely on an issue of law, it is inappropriate for the Attorney General's office to act as both investigator, prosecutor and advisor to the Board.

At some point, it should be noted that there has never been a matter of this kind before this Board. There is a simple reason why--this isn't just a matter of first impression, it's a matter where there should be no case. Dr. Kaul's constitutional right to a presumption of innocence until proven guilty should not be on trial before the Board of Medical Examiners. His otherwise flawless record as a practicing Board Certified Anesthesiologist should not be on trial because of a void criminal judgment and an ensuing license erasure conducted by a foreign jurisdiction. His rights to fundamental fairness and due process not take a backseat to the misguided investigatory and prosecutorial arm that would wrench his rights from him in an attempt to sway this Board to rely upon charges that would never have passed a paper review in a New Jersey court. No judge in New Jersey would have proceeded to a conviction without a unanimous jury verdict and any judge that did would have been summarily reversed by the Appellate Court and perhaps sanctioned. Yet the Attorney General continues to pursue this matter, at great expense to the State, with a Deputy Attorney General in the United Kingdom obtaining what is already known to be a void conviction.

What is most troubling in the entire course of the proceedings against Dr. Kaul, is the unwillingness or inability of the State to adhere to the mandates of the statutory restrictions on its powers and to the clear, unequivocal instructions by the Supreme Court of New Jersey. In this matter, the State has proceeded against Dr. Kaul for the past months, at great personal and financial expense, despite the fact that as a matter of law there is no basis for proceeding. The charges brought against Dr. Kaul in the United Kingdom are, as a matter of law, null and void ab initio. Given the legal nullity of the British criminal conviction, the erasure of Dr. Kaul's medical license that flowed



from those void charges has any evidentiary weight in any legal body in New Jersey--neither the documents evidencing the events that transpired, or any statements made by Dr. Kaul as to those proceedings.

If Dr. Kaul had been found guilty by a unanimous jury in New Jersey and his conviction was subsequently overturned by an Appellate Court, there would be absolutely no basis for the Attorney General to proceed with any Provisional Order of Discipline based upon such an appellate court finding. Since Dr. Kaul's British criminal conviction would be overturned by a New Jersey Appellate Court, the Board has no authority to revoke his New Jersey license. Yet the Attorney General has flooded the Board with documents that have no relevance and are prejudicial to Dr. Kaul, who is independently licensed by this State. Moreover, and just as inexplicably, the State has objected to Dr. Kaul's list of witness. The Attorney General has failed to provide Dr. Kaul with the due process he is entitled to under the mandates of the New Jersey statutes and New Jersey Supreme Court stare decisis on this very issue. In prior matters, New Jersey has prided itself as a bellwether state, affording due process to its litigants, insistent on fundamental fairness as its litmus test. But here, the State has failed to abide by these mandates. The Supreme Court has examined the issue--the "license to practice the profession of medicine ...[has been] long considered... to be in the nature of a property right, "always subject to reasonable regulation in the public interest." In the Matter of Polk, 90 N.J. 550 (1982).

In this case, although the State has a substantial interest in the regulation and supervision of the practice of medicine, it appears that the Attorney General is failing to perform its duty when it takes the role as investigator, prosecutor and advisor and thereby unfairly discharges its duty to the Board. In other instances, the Board has exercised its discretion and referred matters for full, plenary hearings to the OAL (Office of Administrative Law).

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Therefore, the Attorney General should instruct the Board that there is no material before it to consider, since Dr. Kaul was not found guilty of any crime which the State of New Jersey would



recognize, was not "convicted" in the constitutional framework which this State requires, and thus all proceedings that followed (including the British license erasure) were tainted, null and void and of no force and effect. The "State" has as much a duty to protect Dr. Kaul as it does to protect the other citizens of New Jersey. Dr. Kaul is a member of this public. Certainly it has a duty to protect Dr. Kaul when it has no evidence upon which to file a complaint against him. The State cannot proceed unless it has independent evidence that a physician has been found guilty of professional misconduct based on acts that are so egregious so as to constitute "gross misconduct." The Attorney General has no such evidence, but rather, has shifted the burden upon Dr. Kaul to prove that he did not cause the death of Mrs. Bangura. If the Board is to proceed, Dr. Kaul's due process rights have been denied because the charges cannot be examined in a fair and impartial manner by a "fair and impartial body" that has already erroneously decided it should hear this matter.

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### **CONCLUSION**

As a result of the above, it is respectfully requested that the Conclusions of Law set forth in the Preliminary Order of Discipline in paragraph 1 that refer to N.J.S.A. 45:1-21(b), N.J.S.A. 45:1-21(c), N.J.S.A. 45:1-21(f), and N.J.S.A. 45:1-21(g) be dismissed and the entire Provisional Order be dismissed with prejudice.

**DeCotiis, FitzPatrick, Cole and Wisler, LLP**

By:   
Susan E. Volkert

DATE: March 11, 2003

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**In the Matter of Richard Kaul, M.D.**

I, Barnett E. Hoffman hereby certify:

1. I have been asked by counsel representing Richard Kaul, M.D. to offer an opinion as to whether the criminal conviction of Dr. Kaul in England would be valid in New Jersey.

2. I have been involved in the criminal system as a prosecutor, defense counsel and judge since 1965 (except for two years in the Army). I recently retired from the New Jersey Superior Court as Presiding Judge, Criminal Part, Middlesex County. In over 35 years, I have never seen a prosecution in New Jersey, much less a conviction, for the facts upon which the conviction of Dr. Richard Kaul was based. I have spoken to others in the field and no one has ever heard of criminal charges premised on these facts.

3. I have had an opportunity to review portions of the record. I specifically, have read that part of the record furnished to me relating to the British court's charge to the jury. The charge provided by the English judge to the jury would have been fundamentally and fatally flawed in the State of New Jersey. The judge failed to provide the basic, critical charge addressing the requirements of (1) a unanimous verdict and (2) based on proof beyond a reasonable doubt. These requirements are inextricably interwoven into our system of justice and failure to properly charge these alone would result in a reversal if the matter were heard in this state. To rely upon this verdict as any predicate whatsoever is inconsistent with not only with our Constitution, or system of justice, but our basic notion of fundamental fairness. A criminal verdict absent a unanimous jury and proof beyond a reasonable doubt is null and void and of no effect in this State.

4. The court in England gave instructions to the jury which omitted instructions on the standard of proof being beyond a reasonable doubt. Prior to conviction of an offense, N.J.S.A. 2C:1-

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13 requires each element of the offense must be proved beyond a reasonable doubt. If there is no such proof, the presumption of innocence of the defendant must stand.

5. In the court's charge on page 9, the court charges the jury on the burden of proof. There is no mention of the standard of "beyond a reasonable doubt" only that the jurors must be sure. Moreover, there is no mention that the jurors must make a finding as to each element of the alleged crime "beyond a reasonable doubt." Failure to require such a finding violates the defendant's rights to a fair trial and due process. The court's charge failed to provide a proper explanation of reasonable doubt and this failure constitutes reversible error. Importantly, in this State, the prosecution must prove every element of the offense charged beyond a reasonable doubt, and the burden of proving each and every element cannot be shifted to the defendant.

6. More significantly, the court in England originally required a unanimous verdict. However, the jury, after significant deliberations could not reach a unanimous verdict. In England, apparently there is some mechanism to accept a less than unanimous verdict in criminal cases. So in the case at Bar, the court in England, after the jury reported their inability to reach a unanimous verdict, permitted the jury to reach a non-unanimous verdict of guilt. Such a criminal verdict in this state would be void ab initio. **No legal consequences can flow from such a void verdict.**

7. In addition to the fact that Dr. Kaul's conviction in England is void ab initio because there was not a unanimous verdict, there were numerous additional errors which deprived the defendant a fair trial and which, if the trial had occurred in New Jersey, would be grounds for reversal as a matter of law. Most significantly, there is no equivalent crime in New Jersey for the crime the defendant was charged with and convicted of in England.



a. In New Jersey, a person cannot be guilty of either aggravated or reckless manslaughter unless he acted recklessly as defined by New Jersey law.

In New Jersey, a person acts "recklessly" with respect to a material element of an offense only when he **consciously disregards** a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

In this regard, a key part of the transcript is found in paragraphs D and E on page 89. The court stated "If, on the other hand, you are sure that the cardiac arrest resulted from hypoxia, then you have to ask, **"why did the defendant fail to notice, that?"** This is very significant in that N.J.S.A. 2C:2-2 sets forth the definitions of the various levels of culpability. When dealing with **reckless** acts, our statute requires the actor to **consciously** disregard a substantial and unjustifiable risk. . . whereas, an actor acts **negligently** when **he should be aware** of substantial and unjustifiable risk.

With regard to aggravated manslaughter the government must prove additionally that he acted under circumstances manifesting extreme indifference to human life. That is, the risk level is elevated to a probability of death. No such instruction was given by the Judge to the jury.

b. Such an erroneous instruction in a manslaughter case in New Jersey would certainly be grounds for reversal.



c. The model jury charge for reckless conduct in this state defines that term as follows:

"A person who causes another's death does so recklessly when he/she is aware of and **consciously** disregards a substantial and unjustifiable risk that death will result from his/her conduct. The risk must be of such a nature and degree that considering the nature and purpose of defendant's conduct and the circumstances known to the defendant, (his/her) disregard of that risk is a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. In other words, you must find that defendant was aware of and consciously disregarded the risk of causing death. If you find that defendant was aware of and disregarded the risk of causing death, you must determine whether the risk that (he/she) disregarded was substantial and unjustifiable. In doing so, you must consider the nature and purpose of defendant's conduct, and the circumstances known to defendant, and you must determine whether, in light of those factors, defendant's disregard was a gross deviation from the conduct a reasonable person would have observed in defendant's situation." (Emphasis added).

d. The definition of negligence under the Criminal Code, on the other hand, states:

"A person acts negligently with respect to a material element of an offense when he **should be aware** of a substantial and unjustifiable risk that the material element exists or will result from this conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation. 'Negligently' or 'negligence' when used in this code, shall refer to the standard set forth in this section and not to the standard applied in civil cases." (Emphasis added)

e. In the comment to the definition of negligence under the Code, it states:

**"There does not appear to be any New Jersey case which would find criminal liability based upon negligence as defined by the Code. Our cases stress the fact of the defendant's consciousness or**



awareness as being the element giving culpability to his conduct."  
(Emphasis added)

f. An example of how the manslaughter charge in the U.K. differs from the crime of manslaughter in New Jersey is found on page 38 of the court's charge. There, the court allows a finding of inadvertence with regard to the issue of how far the patient was put under. In fact, on page 40, the court refers to the expert from the Crown who opined that what Dr. Kaul did was not deliberate. See also on page 51E. The court referred to the testimony of the Crown's experts in stating that Dr. Kaul departed from good practice. See page 68F. These are instructions based on civil negligence rather than reckless conduct.

g. In criminal cases in New Jersey, the jury must be given accurate and understandable jury instruction. The standard of recklessness should not be given in the context of an abstract definition; rather, it should be compared with other mental states such as purposely, knowingly and negligently. I have tried numerous manslaughter cases over the years. If applicable, I would also charge negligence or accident in contradistinction to reckless conduct. The significance was that reckless conduct was a crime and negligent conduct was not. Accordingly, even if Dr. Kaul had been careless or negligent (which has not been established in New Jersey), his actions would not rise to the criminally culpable level in New Jersey, even if it was the proximate cause of the accident.

h. Additionally, the recklessness must have proximately caused the death for the defendant to be held criminally beyond responsible doubt. Causation has a special



meaning under New Jersey law. To establish causation, the State must prove two elements, each beyond a reasonable doubt. First, that "but for" the defendant's conduct, Mrs. Bangura would not have died. Second, her death must have been within the risk of which defendant was aware. If not, it must involve the same kind of injury or harm as the probable result of the defendant's conduct, and must not be too remote, too accidental in its occurrence, or too dependent on another's volitional act to have a just bearing on the defendant's liability or the gravity of the offense.

i. In New Jersey, it is required that a judge clearly define other culpability requirements in accordance with the Code. A proper explanation of the elements of a crime is especially crucial to the satisfaction of a criminal defendant's due process rights. There is reversible error when the court fails, whether or not requested, to instruct fully, clearly and accurately as to the fundamental and essential issues before the jury including each of the elements of the offense and the standard of culpability.

j. The court in England did not provide a charge that would substantiate a conviction for manslaughter or any other crime in New Jersey.

k. Even if it is assumed that the conduct on part of Dr. Kaul might have been "reckless" so as to justify the court's instruction regarding this element of the offense, under New Jersey law, the "recklessness" must have proximately caused the death of Mrs. Bangura for the defendant to be held criminally responsible for her death. Error in failing to provide the jury in Dr. Kaul's prosecution with the proper, even though unrequested, instructions on causation, was prejudicial. The charge given by the court tracked the prosecution's theory of the case. Instructions that were consistent



with the defendant's and defendant's expert version of the facts were essential to the jury's proper consideration of that version. The trial court's failure to define the statutory element of causation in instruction to the jury would require reversal in the State of New Jersey.

8. The factual basis underpinning the United Kingdom conviction would not be a crime in New Jersey. If there were a proceeding instituted, it would at best be a medical malpractice suit. The court in the U.K. did not require a jury to find that Dr. Kaul acted recklessly, as N.J.S.A. 2C:2-2 requires. Rather, the court permitted a non-unanimous conviction based on what is our equivalent of civil negligence.

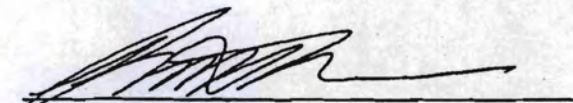
9. It is my opinion that to enforce this conviction would be against the public policy of New Jersey and would violate the doctrine of fundamental fairness. The Supreme Court of New Jersey, as recently as State v. Cruz, 171 N.J. 419, 430 (2002), has acknowledged the judiciary's inherent authority, based, in part, on principles of fundamental fairness, to create appropriate and just remedies. In the instant case, the lack of a unanimous verdict, and the lack of proof beyond a reasonable doubt, both of which are bedrock requirements in the American system of justice, render any decision of the United Kingdom court null and void. The erasure of the license in the United Kingdom was predicated on the conviction for manslaughter, which, in my opinion, was null and void ab initio. Certainly, New Jersey courts cannot give comity in a situation where the laws are so diametrically opposite to our notion of fair play, justice and due process requirements. Comity must "cut both ways." It is my opinion that comity would not be appropriate to a conviction that is so offensive to the public policy of this State as evinced by our Constitution and Criminal Code. To suggest that New Jersey courts subsume into our system of justice, a foreign conviction that would



be null and void ab initio, is contrary to our doctrine of fundamental fairness, and, indeed, against the public policy of New Jersey.

10. The proceeding before the General Medical Council was predicated upon a foreign conviction that in my opinion would be null and void in New Jersey.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
Barnett E. Hoffman, Esq





## THE ETHICS GROUP, LLC

www.EthicsGroup.org

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February 16, 2004

William V. Roeder  
Executive Director  
New Jersey State Board of Medical Examiners  
P.O. Box 183  
Trenton, NJ 08625-0183

Joseph C. d'Oronzio, PhD, MPH  
Health Policy and Management Division  
Joseph L. Mailman School of Public Health  
Columbia University  
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Edmund L. Erde, PhD  
Departments of Family Medicine and Psychiatry  
University of Medicine and Dentistry  
New Jersey School of Osteopathic Medicine

David M. Price, MDiv, PhD  
Departments of Medicine and Pediatrics  
University of Medicine and Dentistry  
New Jersey Medical School

Re: **Richard Kaul, MD**

Dear Mr. Roeder:

This letter provides the final report on the progress, assessment, and evaluation of Dr. Kaul, who enrolled in the ProBE Program held January 16-18, 2004. The faculty for this session of the ProBE Program was Edmund Erde and Joseph d'Oronzio.

Dr. Richard Kaul attended all the sessions of the ProBE Program, completed all the assignments, and showed evidence of having read the relevant assignments in the collection of readings. Dr. Kaul was an extremely thoughtful and sensitive participant in the processes of the seminar. He contributed careful analysis and constructive commentary on all aspects of the program, emerging as a helpful leader role within the group.

Dr. Kaul's final essay is a well written account of his understanding of both the charge of misrepresentation and the role of the licensing board in providing surveillance for such a violation. He utilizes some concepts and materials from the ProBE Program, and, ultimately depending on a virtue ethics approach - his own sense of honesty and a robust understanding of truthfulness to guide his moral compass. He might have referenced the case of the famous Michael Swango or other cases of rampant and dangerous fraud that we include in our materials. Rather, he emphasizes his violation of personal "moral precepts and principles, and ... lack of courage." This is a notable and important departure from his earlier approach, which he attested that he had failed to understand reciprocity between the USA and the UK. In thus taking responsibility for "mere" dishonest paperwork, he demonstrates a far deeper appreciation of its importance.

Our overall assessment of Dr. Kaul's capacities for ethical reasoning and insight as demonstrated over the course of the ProBE Program is unconditional.

Thank you for allowing us the opportunity to provide this intervention for Dr. Kaul on behalf of the New Jersey State Board of Medical Examiners. If you wish any further information, please do not hesitate to call on us.

Sincerely,

Joseph C. d'Oronzio

Enclosures  
cc: Richard Kaul, MD

The ProBE Program - Professional/Problem Based Ethics  
ProCEED - Professional Continuing Education for Ethical Development

A PROFESSIONAL COMPANY ORGANIZED UNDER THE LAWS OF THE STATE OF NEW JERSEY TO OFFER EDUCATIONAL SERVICES TO  
LICENSING BOARDS AND OTHER AGENCIES OF THE HEALTH PROFESSIONAL COMMUNITY OF THE UNITED STATES.



# The ProBE Program Professional Problem-Based Ethics

*Certificate of Completion*

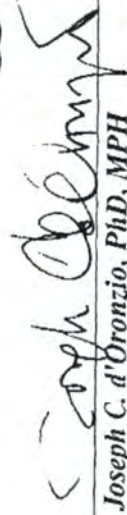
*Richard Kaul, MD*  
*Convent Station, NJ*

*Having completed the 22 hour curriculum, readings and seminar participation over the weekend of January 16<sup>th</sup>-18<sup>th</sup> 2004 and having written an essay which satisfactorily meets the requirements set forth, has demonstrated a capacity for ethical reasoning and insight into professionalism.*



**The Ethics Group LLC**

*Summit, New Jersey*

  
Joseph C. d'Oronzio, PhD, MPH

*Executive Director*

*date: February 16, 2004*

  
Edmund L. Erde, PhD

*David M. Price, MDiv, PhD*



## **CURRICULUM VITAE**

**RICHARD ARJUN KAUL, M.D.**

440c Somerset Drive  
Pearl River  
New York, 10965  
USA  
+ 1 201 989 2299  
drRichardkaul@gmail.com

Date of Birth: 5 November 1964

### **EDUCATION:**

**October 1983 - June 1988:** The Royal Free Hospital School of Medicine, London University, London, England. (Rowland Hill Street, Hampstead, London, NW3. Tel- 011442077940500).

**July 1988 - December 1989:** Surgical House Officer, Lister Hospital, Stevenage, Hertfordshire, England. (Preceptor: Keith Giles, M.D.) (Contact Clare Randall, Medical Staffing, Corey's Mill Lane, Stevenage, Hertfordshire, SG1 4AB. Tel- 011441438314333).

**January 1989 – June 1989:** Medical House Officer, Academic Unit of Medicine, Royal Free Hospital, London, England. (Preceptor: Professor Neil Macintyre M.D.) (Contact Kerry Dolan, Center for Hepatology, Upper 3<sup>rd</sup> floor, Rowland Hill Street, NW3 2PF. Tel- 011442077940500).

**December 1989 – April 1990:** Surgical Intern, Catholic Medical Center, Queens, New York. (Preceptor: Walter Pizzi, M.D.) (Contact Rita Raio, Department of Surgery, 88-25 153<sup>rd</sup> Street, Suite 1L, Jamaica, Queens, NY, 11432. Tel-718-558 7216).

**July 1990 – June 1991:** Surgical Intern, Nassau County Medical Center, East Meadow, New York. (Preceptor: James Evans, M.D.) (Contact Ann Marksteiner, 8<sup>th</sup> floor, Resident Resource Officer, 2201 Hempstead Turnpike, East Meadow, NY, 11554. Tel-516-572 6273).

**July 1991 – April 1992:** PGY-2 Surgery Resident, Booth Memorial Medical Center, Queens, New York. (Preceptor: Jameson Chassin, M.D.) (Contact Donna DeChirico, The New York Hospital of Queens, 5645 Main Street, Flushing, NY, 11355. Tel-718 670 1120).

**July 1992 – July 1995:** Anesthesiology Residency, Albert Einstein- Montefiore Medical Center, Bronx, New York. (Preceptor: Albert Saubermann, M.D.) (Contact Department of Anesthesiology, 4<sup>th</sup> floor. Tel 718-920 4316).



**September 1995 – September 1996:** Pain Fellowship, Department of Anesthetics, Bristol Royal Infirmary, Bristol, England. (Preceptor: Robert Johnson M.D.) (Contact Tel-011441179230000).

### **PROFESSIONAL + EMPLOYMENT APPOINTMENTS:**

**April 2014 – Present:** During this period, I have been unemployed, but have devoted my time to learning the law, in order to initiate and prosecute Kaul v Christie, et als. The matter was filed on February 22, 2016, and is pending in the United States District Court for the District of New Jersey.

**June 2012 – March 2014:** Administrator for New Jersey Spine and Rehabilitation, Pompton Lakes, New Jersey

**December 2008-Present:** President, The Spine Africa Project-[www.spineafricaproject.org](http://www.spineafricaproject.org) (inactive)

**March 2007 – June 2012:** Private Practitioner, New Jersey Spine & Rehabilitation, Pompton Lakes, New Jersey.

**April 2010 – February 2011:** Attending in Interventional Pain and Minimally Invasive Spine, North Jersey Surgery Center, Englewood Cliffs, New Jersey.

**April 2007 – October 2010:** Director of Outpatient Spine Surgery, The Bergen Passaic Ambulatory Surgery Center, Clifton, New Jersey.

**May 2007 – December 2007:** Attending in Interventional Pain and Minimally Invasive Spine, Pain & Surgery Ambulatory Center, Wyckoff, New Jersey.

**November 2006 – March 2007:** Medical Director of The North Jersey Center for Surgery, Newton, New Jersey.

**September 2004 – March 2007:** Medical Director of Market Street Surgical Center, Saddle Brook, New Jersey.

**June 2004 – May 2007:** Attending in Interventional Pain and Minimally Invasive Spine, The North Jersey Center for Surgery, Newton, New Jersey.

**June 2004 – March 2007:** Private Practitioner in Interventional Pain and Minimally Invasive Spine, Saddle Brook, New Jersey.

**January 2004 – June 2004:** Unemployed

**October 2002 – December 2003:** Attending, Pain Management Center, St. Clare's Hospital, Denville and Dover, New Jersey.

**February 2002 – August 2002:** Attending Anesthesiologist and Director of Pain Services, Columbus Hospital, Newark, New Jersey.



**October 2001 – December 2001:** Attending Anesthesiologist, Hackensack University Medical Center, Hackensack, New Jersey. (Contact Dr. Mark Schlesinger, Chairman Dept. of Anesthesiology. Tel 201 996 2419).

**February 2001 - October 2001:** Unemployed.

**January 1997 –February 2001:** Attending, The Regency Clinic, London, England. (Contact 27 Welbeck Street, London W1M 7PG, England. Tel-011448454583589)

**September 1996 – December 1996:** Attending in charge of pain clinic, Macclesfield General Hospital, Macclesfield, Cheshire, England. (Contact Tel-011441625421000).

### **CERTIFICATION/LICENSURE:**

**2006** Member of The American Society of Interventional Pain Physicians.

**2004** Completion of visiting fellowship in Minimally Invasive Spine Surgery, Wooridul Spine Hospital, Seoul, Korea.

**2004** Member of The American Academy of Minimally Invasive Spinal Medicine and Surgery.

**2004** Diplomate of the American Board of Interventional Pain Management.

**1993** F.L.E.X

**1989** E.C.F.M.G.

**1988** MB.BS (London University).

### **CREDENTIALS AND CERTIFICATES:**

North American Spine Society – Evaluation & Treatment of Adult Spinal Deformity: Hands-On Course. March 16 – 17, 2012. Burr Ridge, IL. Certificate of Participation.

Beckers ASC 18<sup>th</sup> Annual Ambulatory Surgery Centers Conference. Improving Profitability and Business and Legal Issues. Featured Speaker: Orthopedics and Spine in ASC's – Key Trends and Ideas. October 28, 2011. Chicago, IL.

The Philipino-American Medical Conference – The Future of Outpatient Spine Surgery. Featured Speaker. September 24, 2011. Atlantic City, NJ.

AOSpine Live Tissue Training – The Prevention and Management of Complications in Spine Access Surgery. September 17, 2011. Strasbourg, France. Certificate of Participation and Completion.

SI-Bone – iFuse Implant System Surgeon Training Program. May 21, 2011. Jamesburg, NJ. Certificate of Completion.

LDR – Anterior Stand-alone Clinical Solutions utilizing VerteBRIDGE Technology. A hands-on cadaver skills lab. May 13, 2011. Las Vegas, NV.

The 3<sup>rd</sup> Annual ASC Review Seminar. April 27, 2011. Somerset, NJ.

Utilizing Urine Drug Screens Appropriately sponsored by Avee Laboratories. March 15, 2011. East Hanover, NJ. Certificate of Attendance.



Spine Arthroplasty Society. The Second Annual Meeting of the International Society for the Advancement of Spine Surgery – Middle East Chapter (SASME). February 3 – 5, 2011. Movenpick Dead Sea, Jordan.

20<sup>th</sup> Annual Dr. Tom Lowe Spine Symposium: The Surgical Management of Spinal Disorders. January 14 – 17, 2011. Beaver Creek, CO. Certificate of Participation.

Weill Cornell Medical College. Indications and Controversies: Minimally Invasive Spinal Surgery and Navigation. Hands-on Symposium. December 2 – 4, 2010. New York, NY. Certificate of Participation.

2010 Annual Meeting of the Society for Minimally Invasive Spine Surgery. November 5 – 7, 2010. Miami, FL. Certificate of Participation.

Informed - Cultural Competency Update for the Physician. October 12, 2010. Certificate of Completion.

X-Spine - Advances in Interspinous and Transfacet Fixation: A Hands-On Cadaver Course. August 27, 2010. Henderson, NV.

American Society of Interventional Pain Physicians Webinar – Urine Drug Screen Testing Compliance conducted on July 15, 2010.

Columbia University College of Physicians & Surgeons – 19<sup>th</sup> Annual Course & Symposium, Basic & Advanced Techniques in Electrodiagnostic Medicine. June 16 – 17, 2010. New York, NY. Certificate of Participation.

Dubai Spine Masters: Interventional and Pain Management Techniques. May 26 – 27, 2010. Dubai, UAE. Certificate of Participation.

Dubai Spine Masters: Minimally Invasive Surgical Strategies. May 23 – 25, 2010. Dubai, UAE. Certificate of Participation.

10<sup>th</sup> Annual Global Symposium on Motion Preservation Technology. April 27 – 30, 2010. New Orleans, LA. Certificate of Participation.

American Society of Interventional Pain Physicians Webinar – Evidence-Based Interventional Techniques: An Algorithmic Approach To Keeping It Simple, Safe and Successful conducted on March 30, 2010. Certificate of Participation.

Spine Arthroplasty Society. February 18, 2010. Certificate of Membership.

North American Spine Society – 24<sup>th</sup> Annual Meeting. November 11 – 14, 2009. San Francisco, CA. Certificate of Completion.

North American Spine Society – 24<sup>th</sup> Annual Meeting Technique Workshop: Interbody Fusion Technologies. November 10, 2009. San Francisco, CA. Certificate of Completion.

2009 Annual Meeting of the Society for Minimally Invasive Spine Surgery. Oct. 9 – 12, 2009. Las Vegas, NV. Certificate of Participation.

North American Spine Society - Spine Across The Sea 2009. July 26 – 30, 2009. Maui, Hawaii. Certificate of Completion.



21<sup>st</sup> Annual International Bethesda Spine Workshop: Thoraco-Lumbar Course. April 19-20, 2009. Certificate of Participation.

13<sup>th</sup> Annual International Argospine Symposium. January 29-30, 2009. Paris, France. Certificate of Attendance.

SRH Klinikum Karlsbad-Langensteinbach gGmbH. Akademisches Lehrkrankenhaus der Universität Heidelberg. Guttmanstrasse 1, 76307 Karlsbad, Germany. January 26-28, 2009. Visiting doctor, rounds with Dr. Robert Melcher.

University of California, San Diego School of Medicine. 2008 Annual Meeting of the Society for Minimally Invasive Spine Surgery. November 13-15, 2008. Henderson, NV. Physician Certificate of Credit.

North American Spine Society – 23<sup>rd</sup> Annual Meeting. October 14-18, 2008. Toronto, Canada. Certificate of Completion.

North American Spine Society – 23<sup>rd</sup> Annual Meeting Technique Workshop: Interbody Fusion Technologies. October 14, 2008. Toronto, Canada. Certificate of Completion.

Cleveland Clinic Foundation Center for Continuing Education – Spine Review – July 16-22, 2008. Cleveland, OH. Certification of Participation.

Columbia University College of Physicians & Surgeons – Basic & Advanced Techniques in Electrodiagnostic Medicine. June 11-12, 2008. New York, NY. Certificate of Participation.

North American Spine Society – Minimally Invasive Spine Surgery: A Hands-on Course. June 6-7, 2008. Spine Masters Institute. Burr Ridge, IL. Certificate of Participation.

Interventional Spine. PERPOS Surgical Training Program. February 15, 2008. Clifton, NJ. Certificate of Recognition.

Spineology Physician Instructor at Bergen Passaic Ambulatory Surgery Center. Didactic and Hands-on Cadaver Implantation of OptiMesh Surgical Mesh System. February 15, 2008. Clifton, NJ.

Cedar-Sinai Institute for Spinal Disorders - 7<sup>th</sup> Annual Symposium on Current Concepts in Spinal Disorders. February 1-2, 2008. Las Vegas, NV. Certificate of Participation.

Saint Louis University School of Medicine – The 1<sup>st</sup> CSRS Hands-On Cadaver Course. Cervical Spine Decompression & Stabilization Techniques. January 18-19, 2008. Certificate of Participation.

Saint Louis University School of Medicine - The 1<sup>st</sup> CSRS Cervical Spine Decompression & Stabilization. January 18-19, 2008. Certificate of Attendance.

Medtronic Midas Rex Institute – Instruction in advanced high-speed instrumentation for surgeons. St. Louis, MO. January 17, 2008. Certificate of Attendance.

Spine Conference Case Presenter – Lenox Hill Hospital, NY. December 13, 2007.

Weill Cornell Medical College, NY – Minimally Invasive Spinal Surgery and Navigation. November 30 – December 1, 2007. Certificate of Attendance.



University of California, San Diego School of Medicine – Minimally Invasive Surgery of the Spine 2007. November 16-17, 2007. Physician Certificate of Credit.

North American Spine Society – 22<sup>nd</sup> Annual Meeting. Austin, TX. October 23-27, 2007. Certificate of Completion.

North American Spine Society – Interbody Fusion Technologies. Austin, TX. October 23, 2007. Certificate of Completion.

North American Spine Society - Motion Stabilization: A Hands-On Course. May 18-19, 2007. Spine Masters Institute. Burr Ridge, IL. Certificate of Participation.

19th Annual International Bethesda Spine Workshop: Thoraco-Lumbar Course. May 6-7, 2007. Certificate of Participation.

19th Annual International Bethesda Spine Workshop: Cervical Course. May 4-5, 2007. Certificate of Participation.

AOSpine North America Challenges and Complications in Complex Spine Surgery Symposium. San Francisco, CA. April 28-29, 2007. Certificate of Participation.

North American Spine Society – NASS Spring Break 2007: Back to the Future: Straight Spines, Straight Talk. March 14-17, 2007. Certificate of Attendance.

MinSurg Biomechanical Innovations – TruFUSE Surgical Training. February 17, 2007. Certificate of Completion.

Surgeon Training Program for Atavi Minimally Invasive Posterior Cervical & Upper Thoracic Surgery conducted by Endius, Inc. September 9, 2006. Certificate of Attendance.

Zimmer Spine – Dynesys Dynamic-Stabilization Workshop at St. John's Health Center – Santa Monica, CA. July 21-22, 2006. Certificate of Attendance.

Zimmer Spine – Center of Excellence Program at St. Mary's Hospital – West Palm Beach, FL. June 1-2, 2006. Certificate of Attendance.

University of South Florida – Preservation of Motion in the Spine. April 5-8, 2006. Certificate of Completion.

North American Spine Society – NASS Spring Break: Back to the Evidence. March 8-11, 2006. Certificate of Completion.

The Royal College of Physicians & Surgeons of the United States of America. 5th Global Congress of Minimally Invasive Spinal Specialists. Laser Assisted Spinal Endoscopy, Nucleoplasty & Coblation, Percutaneous Cervical Discectomy, Vertebral Augmentation, Foraminal Decompression, Laser Facet Rhizotomy, Laser Sympathectomy, Epiduroscopy. December 15-18, 2005. Certificate of Attendance.

18th Annual Meeting of the International Intradiscal Therapy Society (IITS). May 25-28, 2005. Certificate of Participation.

Spineology Physician Instructor at Market Street Surgical Center. Didactic and Hands-on Cadaver Implantation of OptiMesh Surgical Mesh System. Saddle Brook, NJ. May 7, 2005.



National University of Health Sciences – Lincoln College of Postprofessional, Graduate & Continuing Education. Manipulation Under Anesthesia. April 4, 2005. Certificate of Proficiency.

University of South Florida – Preservation of Motion in the Lumbar Spine. March 17-20, 2005. Certificate of Completion.

University of South Florida – Preservation of Motion in the Lumbar Spine Labs. March 18, 2005. Certificate of Completion.

North American Spine Society – Advanced Lumbar Spine Surgery: Minimally Invasive Surgery and Motion Preservation: A Hands-On Course. March 4-5, 2005. Certificate of Completion.

North American Spine Society – Cervical Fixation: A Hands-On Course. January 21-22, 2005. Certificate of Completion.

North American Spine Society – 19th Annual Meeting. October 27-30, 2004. Certificate of Attendance.

North American Spine Society – NASS 19th Annual Meeting Techniques Workshop: Minimally Invasive Spine Surgery: Decompression & Fusion/Implants. October 26, 2004. Certificate of Completion.

North American Spine Society – NASS 19th Annual Meeting Techniques Workshop: Percutaneous Vertebral Augmentation. October 26, 2004. Certificate of Completion.

The 11th Congress of the International Musculoskeletal Laser Society. May 12-15, 2004 in Seoul Korea. Certificate of Attendance.

Continuing Education, Inc. – Minimally Invasive Spine Update 2004. March 26-28, 2004. Certificate of Participation.

Continuing Education, Inc. – Fourth Global Congress: Minimally Invasive Spinal Surgery and Medicine. November 19-22, 2003. Certificate of Participation.

American Association of Medical Foot Specialists. Attended course: Problems in Wound Management. November 2, 2003.

American Society of Interventional Pain Physicians – Active Member since March 2002.

### **ABSTRACTS:**

Kaul R. Percutaneous Lumbar Fusions in the Outpatient Surgical Practice. 2<sup>nd</sup> Annual Meeting of the International Society for the Advancement of Spine Surgery Middle East Chapter (SASME). Feb. 4, 2011. Movenpick, Dead Sea, Jordan.

Datta S., Kaul R., Manchikanti L. Letter to Editor: Is there really a cause-effect relationship between steroid dose, pain management practices, joint injected (sacroiliac joint), and infection? Reg Anesth Pain Med. 2011 Jul-Aug; 36(4):410.

Datta S., Kaul R. Outpatient Thoracic Endoscopic Discectomy (PETD) for Herniated Thoracic Disc with Thecal Sac Adhesions: Case Report and Review of Literature.



### **PROCTORSHIPS:**

Amendia Education/Certification Proctorship. December 3, 2011. Pompton Lakes, NJ.

Amendia Education/Certification Proctorship. October 8, 2011. Pompton Lakes, NJ.

Disc-FX Education/Certification Proctorship. September 10, 2011. Baldwin, NY.

Disc-FX Education/Certification Proctorship. July 23, 2011. Newport Beach, CA.

Disc-FX Education/Certification Proctorship. June 11, 2011. Dallas, TX.

Disc-FX Education/Certification Proctorship. April 30, 2011. Pompton Lakes, NJ.

### **WEBINAR HOST/CASE PRESENTATIONS:**

Motion Sparing Devices as an Alternative to Fusion. Webinar Host. September 27, 2011.

Grade 1/2 Spondylolisthesis. Case Presentation. September 27, 2011.

Lumbar Herniated Disc and Junctional Syndrome. Case Presentation. September 27, 2011

Advanced Medical Techniques Designed to Compliment Chiropractic Care. Webinar Host. September 20, 2011.

Discography and the Silent MRI. Webinar Host. August 2, 2011.

### **PHILANTHROPY:**

The Spine Africa Project: [www.spineafricaproject.org](http://www.spineafricaproject.org)

Founded in August 2008.

The mission of The Spine Africa Project focuses on three objectives: (1) the treatment of those afflicted with spinal conditions; (2) the education of local medical personnel and; (3) social change.

- Jason Sendwe Hospital-Lubumbashi, Democratic Republic of Congo. December 1 – 5, 2008.
- MyungSung Christian Medical Center-Addis Ababa, Ethiopia. December 11 – 15, 2010.
- Panzi Hospital-Bukavu, Democratic Republic of Congo. August 20 – 25, 2011.
- Panzi Hospital-Bukavu, Democratic Republic of Congo. February 5 – 10, 2012



**In the Matter of Richard Kaul, M.D.**

I, Barnett E. Hoffman hereby certify:

1. I have been asked by counsel representing Richard Kaul, M.D. to offer an opinion as to whether the criminal conviction of Dr. Kaul in England would be valid in New Jersey.
2. I have been involved in the criminal system as a prosecutor, defense counsel and judge since 1965 (except for two years in the Army). I recently retired from the New Jersey Superior Court as Presiding Judge, Criminal Part, Middlesex County. In over 35 years, I have never seen a prosecution in New Jersey, much less a conviction, for the facts upon which the conviction of Dr. Richard Kaul was based. I have spoken to others in the field and no one has ever heard of criminal charges premised on these facts.
3. I have had an opportunity to review portions of the record. I specifically, have read that part of the record furnished to me relating to the British court's charge to the jury. The charge provided by the English judge to the jury would have been fundamentally and fatally flawed in the State of New Jersey. The judge failed to provide the basic, critical charge addressing the requirements of (1) a unanimous verdict and (2) based on proof beyond a reasonable doubt. These requirements are inextricably interwoven into our system of justice and failure to properly charge these alone would result in a reversal if the matter were heard in this state. To rely upon this verdict as any predicate whatsoever is inconsistent with not only with our Constitution, or system of justice, but our basic notion of fundamental fairness. A criminal verdict absent a unanimous jury and proof beyond a reasonable doubt is null and void and of no effect in this State.
4. The court in England gave instructions to the jury which omitted instructions on the standard of proof being beyond a reasonable doubt. Prior to conviction of an offense, N.J.S.A. 2C:1-

000643



13 requires each element of the offense must be proved beyond a reasonable doubt. If there is no such proof, the presumption of innocence of the defendant must stand.

5. In the court's charge on page 9, the court charges the jury on the burden of proof. There is no mention of the standard of "beyond a reasonable doubt" only that the jurors must be sure. Moreover, there is no mention that the jurors must make a finding as to each element of the alleged crime "beyond a reasonable doubt." Failure to require such a finding violates the defendant's rights to a fair trial and due process. The court's charge failed to provide a proper explanation of reasonable doubt and this failure constitutes reversible error. Importantly, in this State, the prosecution must prove every element of the offense charged beyond a reasonable doubt, and the burden of proving each and every element cannot be shifted to the defendant.

6. More significantly, the court in England originally required a unanimous verdict. However, the jury, after significant deliberations could not reach a unanimous verdict. In England, apparently there is some mechanism to accept a less than unanimous verdict in criminal cases. So in the case at Bar, the court in England, after the jury reported their inability to reach a unanimous verdict, permitted the jury to reach a non-unanimous verdict of guilt. Such a criminal verdict in this state would be void ab initio. **No legal consequences can flow from such a void verdict.**

7. In addition to the fact that Dr. Kaul's conviction in England is void ab initio because there was not a unanimous verdict, there were numerous additional errors which deprived the defendant a fair trial and which, if the trial had occurred in New Jersey, would be grounds for reversal as a matter of law. Most significantly, there is no equivalent crime in New Jersey for the crime the defendant was charged with and convicted of in England.



a. In New Jersey, a person cannot be guilty of either aggravated or reckless manslaughter unless he acted recklessly as defined by New Jersey law.

In New Jersey, a person acts "recklessly" with respect to a material element of an offense only when he **consciously disregards** a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

In this regard, a key part of the transcript is found in paragraphs D and E on page 89. The court stated "If, on the other hand, you are sure that the cardiac arrest resulted from hypoxia, then you have to ask, **"why did the defendant fail to notice that?"** This is very significant in that N.J.S.A. 2C:2-2 sets forth the definitions of the various levels of culpability. When dealing with **reckless** acts, our statute requires the actor to **consciously disregard** a substantial and unjustifiable risk. . . whereas, an actor acts **negligently** when **he should be aware** of substantial and unjustifiable risk.

With regard to aggravated manslaughter the government must prove additionally that he acted under circumstances manifesting extreme indifference to human life. That is, the risk level is elevated to a probability of death. No such instruction was given by the Judge to the jury.

b. Such an erroneous instruction in a manslaughter case in New Jersey would certainly be grounds for reversal.



c. The model jury charge for reckless conduct in this state defines that term as follows:

"A person who causes another's death does so recklessly when he/she is aware of and **consciously** disregards a substantial and unjustifiable risk that death will result from his/her conduct. The risk must be of such a nature and degree that considering the nature and purpose of defendant's conduct and the circumstances known to the defendant, (his/her) disregard of that risk is a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. In other words, you must find that defendant was aware of and consciously disregarded the risk of causing death. If you find that defendant was aware of and disregarded the risk of causing death, you must determine whether the risk that (he/she) disregarded was substantial and unjustifiable. In doing so, you must consider the nature and purpose of defendant's conduct, and the circumstances known to defendant, and you must determine whether, in light of those factors, defendant's disregard was a gross deviation from the conduct a reasonable person would have observed in defendant's situation." (Emphasis added).

d. The definition of negligence under the Criminal Code, on the other hand, states:

"A person acts negligently with respect to a material element of an offense when he **should be aware** of a substantial and unjustifiable risk that the material element exists or will result from this conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation. 'Negligently' or 'negligence' when used in this code, shall refer to the standard set forth in this section and not to the standard applied in civil cases." (Emphasis added)

e. In the comment to the definition of negligence under the Code, it states:

**"There does not appear to be any New Jersey case which would find criminal liability based upon negligence as defined by the Code. Our cases stress the fact of the defendant's consciousness or**



awareness as being the element giving culpability to his conduct."  
(Emphasis added)

f. An example of how the manslaughter charge in the U.K. differs from the crime of manslaughter in New Jersey is found on page 38 of the court's charge. There, the court allows a finding of inadvertence with regard to the issue of how far the patient was put under. In fact, on page 40, the court refers to the expert from the Crown who opined that what Dr. Kaul did was not deliberate. See also on page 51E. The court referred to the testimony of the Crown's experts in stating that Dr. Kaul departed from good practice. See page 68F. These are instructions based on civil negligence rather than reckless conduct.

g. In criminal cases in New Jersey, the jury must be given accurate and understandable jury instruction. The standard of recklessness should not be given in the context of an abstract definition; rather, it should be compared with other mental states such as purposely, knowingly and negligently. I have tried numerous manslaughter cases over the years. If applicable, I would also charge negligence or accident in contradistinction to reckless conduct. The significance was that reckless conduct was a crime and negligent conduct was not. Accordingly, even if Dr. Kaul had been careless or negligent (which has not been established in New Jersey), his actions would not rise to the criminally culpable level in New Jersey, even if it was the proximate cause of the accident.

h. Additionally, the recklessness must have proximately caused the death for the defendant to be held criminally beyond responsible doubt. Causation has a special



meaning under New Jersey law. To establish causation, the State must prove two elements, each beyond a reasonable doubt. First, that "but for" the defendant's conduct, Mrs. Bangura would not have died. Second, her death must have been within the risk of which defendant was aware. If not, it must involve the same kind of injury or harm as the probable result of the defendant's conduct, and must not be too remote, too accidental in its occurrence, or too dependent on another's volitional act to have a just bearing on the defendant's liability or the gravity of the offense.

i. In New Jersey, it is required that a judge clearly define other culpability requirements in accordance with the Code. A proper explanation of the elements of a crime is especially crucial to the satisfaction of a criminal defendant's due process rights. There is reversible error when the court fails, whether or not requested, to instruct fully, clearly and accurately as to the fundamental and essential issues before the jury including each of the elements of the offense and the standard of culpability.

j. The court in England did not provide a charge that would substantiate a conviction for manslaughter or any other crime in New Jersey.

k. Even if it is assumed that the conduct on part of Dr. Kaul might have been "reckless" so as to justify the court's instruction regarding this element of the offense, under New Jersey law, the "recklessness" must have proximately caused the death of Mrs. Bangura for the defendant to be held criminally responsible for her death. Error in failing to provide the jury in Dr. Kaul's prosecution with the proper, even though unrequested, instructions on causation, was prejudicial. The charge given by the court tracked the prosecution's theory of the case. Instructions that were consistent



with the defendant's and defendant's expert version of the facts were essential to the jury's proper consideration of that version. The trial court's failure to define the statutory element of causation in instruction to the jury would require reversal in the State of New Jersey.

8. The factual basis underpinning the United Kingdom conviction would not be a crime in New Jersey. If there were a proceeding instituted, it would at best be a medical malpractice suit. The court in the U.K. did not require a jury to find that Dr. Kaul acted recklessly, as N.J.S.A. 2C:2-2 requires. Rather, the court permitted a non-unanimous conviction based on what is our equivalent of civil negligence.


9. It is my opinion that to enforce this conviction would be against the public policy of New Jersey and would violate the doctrine of fundamental fairness. The Supreme Court of New Jersey, as recently as State v. Cruz, 171 N.J. 419, 430 (2002), has acknowledged the judiciary's inherent authority, based, in part, on principles of fundamental fairness, to create appropriate and just remedies. In the instant case, the lack of a unanimous verdict, and the lack of proof beyond a reasonable doubt, both of which are bedrock requirements in the American system of justice, render any decision of the United Kingdom court null and void. The erasure of the license in the United Kingdom was predicated on the conviction for manslaughter, which, in my opinion, was null and void ab initio. Certainly, New Jersey courts cannot give comity in a situation where the laws are so diametrically opposite to our notion of fair play, justice and due process requirements. Comity must "cut both ways." It is my opinion that comity would not be appropriate to a conviction that is so offensive to the public policy of this State as evinced by our Constitution and Criminal Code. To suggest that New Jersey courts subsume into our system of justice, a foreign conviction that would



be null and void ab initio, is contrary to our doctrine of fundamental fairness, and, indeed, against the public policy of New Jersey.

10. The proceeding before the General Medical Council was predicated upon a foreign conviction that in my opinion would be null and void in New Jersey.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
Barnett E. Hoffman, Esq





Department of Anesthesiology

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February 6, 2003

Susan Fruchtman, Esq.  
DeCotiis, Fitzpatrick, Gluck & Cole, LLP  
Glenpoint Centre West  
500 Frank W. Burr, Boulevard  
Teaneck, NJ 07666

Re: Mrs. Isato Bangura

Dear Ms. Fruchtman:

I have reviewed the records of the treatment of Mrs. Isato Bangura which took place during March, 1999, in London. These included the ambulance and hospital records. I have also interviewed Dr. Kaul as to the conscious sedation given to the patient for her dental procedure. I will first comment on the conscious sedation and then the subsequent care the patient received.

As both a dentist and a physician anesthesiologist, I am well acquainted with procedures done in the dental office under conscious sedation. For nine years I was the American Society of Anesthesiologists liaison with the American Dental Association and a member of the ADA's Committee on Anesthesia.

Mrs. Bangura was scheduled for an extraction under conscious sedation and received in divided doses 6 mg of midazolam and 100 mcg of Fentanyl. This dose is well within the accepted range required to sedate an adult of Mrs. Bangura's age and physical status. She was monitored with a pulse oximeter, blood pressure cuff, and EKG. Her oxygen saturation remained normal throughout the procedure, as did her blood pressure and pulse. At the conclusion of the procedure, she became asystolic and pulseless. Dr. Kaul promptly instituted CPR. The patient was intubated and given 1 mg of adrenaline, as well as ventilated with 100% oxygen. She was then shocked twice which resulted in sinus rhythm. The emergency ambulance transported the patient to Homerton Hospital. The ambulance transport sheet records a pulse of 122 and systolic blood pressure of 129.

I cannot definitely give a cause of the patient's sudden cardiac arrest. All vital signs were normal up to the time of the arrest. I can speculate that she had a severe Vaso-



Susan Fruchtmann, M.D.  
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vagal reflex perhaps due to deep suctioning by the dentist at the conclusion of the procedure. Another possible cause could be a pulmonary embolus. The patient had recently flown a long distance and had complained of leg pain. Despite not being able to definitively identify a cause for the cardiac incident, I can state that Dr. Kaul's treatment of the patient was well within the norm for this procedure and he was not negligent in his care of Mrs. Bangura.

I would like to now briefly comment on the care Mrs. Bangura received after her care was turned over to the emergency service and Homerton Hospital A&E.

Before leaving the dentist's office, Mrs. Bangura had recovered a sinus rhythm and a blood pressure, a successful result of CPR. It is well recognized that a period of cardiac arrest can result in acidosis which was borne out by the first blood gas drawn at Homerton hospital, a pH of 7.23 and a Base Excess of minus (-) 10. The patient sustained a second cardiac arrest at Homerton. Although she was again resuscitated, she sustained severe brain damage and subsequently died. At no time did she receive sodium bicarbonate to treat her acidosis, a very significant departure from accepted practice. I believe the failure to correct this severe acidosis was the cause of the second cardiac arrest which led to Mrs. Bangura's death.

In summary, I believe Dr. Kaul's treatment of Mrs. Bangura was appropriate and although I cannot definitively identify the cause of Mrs. Bangura's cardiac arrest, I am certain it was in no way caused by negligence on the part of Dr. Kaul. Mrs. Bangura was successfully resuscitated but suffered a second arrest and died. I believe the failure to treat the acidosis following the first cardiac event significantly contributed to the poor outcome.

Sincerely,

Paul L. Goldiner, M.D., D.D.S.

PLG:jec



I, Albert Saubermann, M.D. at Montefiore Medical Center, 111 East 210<sup>th</sup> Street, Bronx, New York, do certify and say:

1. Since July, 1, 1994 I have been Chairman of Anesthesiology at Albert Einstein College of Medicine/Montefiore Medical Center, and as such I am the Director of the Anesthesiology Residency Training Program for Albert Einstein College of Medicine.

2. In 1973, after I completed a residency in Anesthesiology at Beth Israel Hospital, Harvard Medical School in Boston, Massachusetts, I became an Associate at Clare Hall College at the University of Cambridge in Cambridge, England.

3. From 1973 to 1975, while I was affiliated with the University of Cambridge, I became familiar with the National Health Service ("NHS") in England, which is a governmental branch that oversees the entire healthcare system for the country. Unfortunately, when physicians, who for the most part, work directly for the NHS, make mistakes or have an adverse patient outcome, the NHS and by extension, the English government, may come under public scrutiny. This public scrutiny can become highly politicized. One outcome of this sort of public scrutiny has been the phenomenon wherein British physicians have been prosecuted for manslaughter demonstrating to the English public that the government takes very seriously the quality of physicians practicing in England.

4. Richard Kaul, M.D. was born in India and emigrated to England when he was a child. After completing medical school in England, Dr. Kaul pursued his post-graduate medical studies in the United States.



5. From 1992 to 1995, Richard Kaul, M.D. was an anesthesiology resident at Montefiore Medical Center. I met Dr. Kaul during his last year of anesthesiology residency and became familiar with his abilities and character at that time. During Dr. Kaul's last years of residency training in anesthesiology at Montefiore, because I knew that he planned to return to England, we discussed the full range of topics, including British medicine. Our discussions included the effects of discrimination because of his ethnic background, and possible effects within the NHS on his career options and personal goals. Dr. Kaul, who grew up in poverty in England, had emigrated from India to England when he was four years old, and therefore might experience some problems practicing medicine in England. In 1995, Dr. Kaul had to return to England because his J-1 visa expired. I encouraged Dr. Kaul to consider returning to work full-time in the United States.

6. I also encouraged Dr. Kaul to become Board Certified in Anesthesiology in the United States so that if he was not successful in establishing his credentials in England, he could eventually return to the United States. I did so knowing the difficulties he might encounter in England as a graduate of a foreign training program and as a member of a minority group. England maintains a special track for non-consultant career grade physicians who provide a substantial amount of medical care, but for whom prime positions are unavailable. Non-consultant career grade physicians are physicians who are not eligible to be consultants (i.e. Board Certified), but still rendered specialized medical care and are paid less than physicians who have qualified as



consultants. In England, these physicians are like Dr. Kaul in that they are frequently graduates of foreign training programs and members of a minority group.

7. In 1998, Dr. Kaul telephoned me to report that the British Royal College of Anaesthetists Training Authority (RCA/STA) had denied his application for inclusion on the Specialist Register of the General Medical Council (GMC) as a Consultant in Anaesthesiology. Dr. Kaul had, by this time, become Board Certified in Anesthesiology by the American Board of Anesthesiology. The RCA/STA, in denying Dr. Kaul's application, asserted that four years of anesthesiology training was not equivalent to the six year British anesthesiology residency. Further, the RCA/STA did not consider Dr. Kaul's American Board Certification as relevant. I was not surprised. Dr. Kaul informed me that he wished to appeal the RCA/STA denial and he requested that I write a letter in support. Basically, Dr. Kaul requested that I write a letter attesting to the areas of equivalency in training between the British system and the American system, point by point. As I had a copy of the current British requirements and knew the American requirements, I was able to comply with his request. I learned from Dr. Kaul that he had completed an additional year of training as a registrar in Bristol in the area of pain management. Unfortunately, the RCA/STA was requiring yet one more additional year of training. While I was prepared to comply with Dr. Kaul's request for a letter in support of his appeal, I did comment to him that the RCA, as part of the British medical establishment, was unlikely to find in his favor and that I thought he was unlikely to be



successful. I recommended that Dr. Kaul go through the additional year of training, rather than go through the appeal process.

8. The basis of Dr. Kaul's appeal was to show that his training was equivalent to that of a British trainee. This option was part of the process established through the European Union ("EU") that had negotiated an EU-wide treaty that would permit physicians of the member countries to move between the various EU member states and be able to practice their specialties with acceptance of their training provided the applicant could demonstrate equivalency of training. The arbiters of the equivalency in England were the Royal Colleges, and for anesthesiology, the Royal College of Anaesthetists ("RCA"). While the United States is clearly not a member of the EU, Dr. Kaul argued that his successful completion of an accredited anesthesiology residency in the U.S. and his subsequent passage of the American Board of Anesthesiology demonstrated equivalency of training and that by analogy, he should be eligible for inclusion on the Specialist Register.

9. Following the receipt of my letter to the RCA/STA in support of Dr. Kaul's appeal based on equivalency of training, Dr. Kaul subsequently learned that his appeal had been denied. Dr. Kaul telephoned me and informed me that he felt it was unfair, considering his Board Certification in the United States attested to his credentials as a specialist; and that he felt his training was equivalent to the British training, if not better. Dr. Kaul also informed me that he was going to continue his appeal rights by requesting a hearing before an independent review committee of the STA as part of his due process. I again questioned whether it was worth the effort, since I had



reservations about a positive outcome, knowing the system was not in Dr. Kaul's favor. However, it was clear to me from my conversation with Dr. Kaul, that he felt very deeply and strongly about this issue and saw the RCA's refusal to recognize his American residency training and Board Certification as a denigration of his abilities as a physician and a recognized (albeit in the United States) specialist in Anesthesiology.

10. In February, 1999, I went to London, England and testified on behalf of Dr. Kaul's appeal before the three member panel of the RCA. This was a somewhat formal, judicial-like hearing with two specialists (neither were anesthesiologists) and a judge who ran the proceeding. I testified that based on my experience of teaching anesthesiology residents in the United States, as well as my familiarity with English anesthesiologists, that I believed American anesthesiologists and British anesthesiologists are fundamentally similarly trained and basically equally qualified. I pointed out to the appeal panel that Dr. Kaul successfully completed a fully accredited anesthesiology residency training program at Albert Einstein School of Medicine in New York. I stressed that Dr. Kaul had successfully met the rigorous standards and examinations to become Board Certified in Anesthesiology in the United States.

11. Testifying for the RCA was Dr. Leo Strunin, President of the RCA, who argued that the American training was not equivalent to the British training, based on his experience while working in Canada. Dr. Strunin emphasized that the British system trained physicians specifically to take care of British citizens. Although not specifically stated, the implication was that the British



citizen is likely to obtain a higher, more rigorous level of care by a physician trained through the peculiarly British training system as opposed to the care American citizens would receive from anesthesiologists trained in the U.S. training system. I suspected from the beginning of the hearing that the appeal was not going to be successful.

12. Unfortunately, Dr. Kaul's appeal, by this time, reached the attention of the British public, press and national television. The Royal College of Anaesthetists, and in particular, Dr. Strunin, was getting press that was not desirable nor particularly favorable. In short, the public press viewed this matter as a litmus test for the quality of British trained anesthesiologists and Dr. Strunin was responsible for that training. In turn, the National Health Service ("NHS") and the Labor government was also watching these proceedings with interest.

13. If Dr. Kaul had won his appeal, Dr. Strunin and the RCA would have to admit that Board Certified American Anesthesiologists were equal to the British anesthesiologists despite the fact that the American anesthesiology residency training is three years, rather than the six year British anesthesiology residency program. There were also implications for NHS's efforts to keep other EU physicians from entering England and bypassing the British training system. If Dr. Kaul won the appeal, the NHS and the Royal Colleges would have been faced with the problem of what to do with the large number of non-consultant career grade physicians who the NHS and Royal Colleges would have to recognize and certify. Dr. Kaul's appeal, in fact, became an important test case for all foreign trained physicians in England.



Bangura's children would have sued both Dr. Zucchi and Dr. Kaul for malpractice. Having reviewed the records of the case and the depositions from those present, I would surmise that this case would most probably have resulted in an out of court settlement. Also, I would expect the hospital (St. Bartholomew's) to be sued in a malpractice case brought by the family, since, in my opinion, it was arguable as to what role the hospital physicians played in the ultimate clinical course and demise of Mrs. Bangura.

20. It is, however, less common for British citizens to pursue civil medical malpractice cases than American citizens. As British physicians are basically NHS employees, they are perceived as an extension of the British government. Thus, British civil malpractice suits against physicians would be seen as a fairly aggressive action against a much larger establishment, namely the NHS.

21. Thus, the British public relies upon the British government to oversee the NHS and through that body, to police its own. Physicians are held accountable through the NHS, and in the case of specialists, through the Royal College system as well. So, British citizens are more likely to criticize the NHS for the mistakes of its physicians than to file a civil malpractice action against the NHS physicians.

22. One way for the British government and the NHS to demonstrate public accountability without civil malpractice actions is to file criminal actions against NHS physicians. This shows the government is doing something to protect the public. It also allows the NHS to



deflect criticism of an internal disciplinary process and the perception of coverup. It is believed by some that criminal suits against NHS physicians act as a deterrent. Resorting to criminal prosecution, rather than encouraging civil action, seems to be occurring more frequently in England. It appears that the British government may have expanded its scope of disciplinary actions against physicians by filing criminal charges, rather than relying upon disciplinary actions against doctors' medical licenses through the NHS.

23. Thus, when the British government/the Queen pressed manslaughter charges against Dr. Kaul, I would be very surprised if Dr. Strunin, in his capacity as a major leader of British anesthesiologists, Chairman of the Department of Anesthesiology at St. Bartholomew's, President of the RCA responsible for the education of anesthesiologist consultants in the UK, and an already demonstrated champion of the quality of anesthesiologists admitted to the RCA, was not called upon for advice in this case. In fact, many anaesthetists on staff at the London hospitals Dr. Strunin heads, such as Patricia J. Flynn, M.D., who is Deputy Director of the Anaesthetics Unit at Royal London Hospital, served as expert witnesses against Dr. Kaul.

24. As the physician in charge of Dr. Kaul's residency training program and someone who has kept in touch with Dr. Kaul for the past seven years, Dr. Kaul has informed that he has successfully and safely delivered many anesthetics. To the best of my knowledge, Dr. Kaul has not been involved in any other cases like that of Mrs. Bangura, nor has he been sued for medical malpractice. Based upon my knowledge of Dr. Kaul's training and evaluations by our faculty, by the



experience that he has had, and the absence of major adverse outcomes, save for the one single case, I have no reason to believe that Dr. Kaul is anything other than a competent and professional anesthesiologist.

25. Therefore, I am comfortable in recommending to the New Jersey Board of Medical Examiners that Dr. Kaul is a competent and caring physician and that, in my opinion, the 1999 manslaughter charges in England arose: (1) as a political consequence of Dr. Kaul's appeal to the RCA prior to Mrs. Bangura's demise, and (2) due to the British political need for public accountability of the NHS physicians to demonstrate the British government's resolve to the British populace that the NHS will rid the profession of incompetent physicians.

26. According to a January 16, 2003 article in Medscape, an on-line medical journal, the British government's mistreatment of British doctors has prompted British medical school graduates to opt for more rewarding jobs abroad or in the financial sector. The article entitled "British Doctors Blame Government for Health Service Exodus" quotes anesthetist Michael McNeill, "Doctors are taking the blame for the failure of the government's health policies."

**I HEREBY CERTIFY** that all of the foregoing statements made by me are true. I am aware that if any of these statements are wilfully false, I shall be subject to punishment.

\_\_\_\_\_  
Albert J. Saubermann, M.D.

DATE: \_\_\_\_\_, 2003



July 4, 2019

Kerry E. Maloney  
Board Counsel  
2601 North 3<sup>rd</sup> Street  
P.O. Box 69523  
Harrisburg, PA 17106-9523

**Re: Application for License to Practice Medicine and Surgery**  
**Case No. 19-49-007483**  
**Appeal of Provisional Denial of Application**

Dear Mr. Maloney,

Please find submitted my written appeal to the provisional denial issued on May 21, 2019 by the State Board of Medicine, regarding my application for medical licensure in the State of Pennsylvania.

The documents are contained within three (3) folders entitled: (1) Response Brief + Appendices; (2) Response Brief; (3) Appendices, that are located on the enclosed flash drive (Kaul-PA).

The filed documents demonstrate the factual and legal error of the board's decision, an erroneous decision based on the constitutionally invalid 'conviction' in 1999 in the UK, and the illegal revocation on March 12, 2014 of my New Jersey medical license. Neither the law in Pennsylvania nor the United States Constitution recognize these events as lawful. One was the result of a non-unanimous verdict, and the other the progeny of a felony of 'Fraud on the Court'. In the latter, a crime was committed against me, of which the evidence leaves no question.

The legal error of the board's decision is apparent in its failure to refute/contest/rebut/address the conclusive evidence of 'The Solomon Critique' + 'The Solomon Critique 2', which prove that K2 defendant NJBME, committed the aforementioned felony. This evidence remains un-refuted in K1 + K2, and partially constitutes the evidential basis for twenty-two (22) motions for summary judgment, that I filed on May 29, 2019 against the K1 defendants.

In the final paragraph of your letter, you assert that if I elect to have the matter publicly adjudicated, that I shall bear the burden of proof, regarding qualifications and fitness to practice. I would respectfully request you provide the legal authority for this position. Similarly, and in keeping with the adversarial/prosecutorial nature of the appeal, the law confers on me



the right to cross examine the board, pursuant to my constitutionally protected right to due process. I would therefore respectfully request that by August 8, 2019, I be provided with the following information:

All communications, including but not limited to e-mails, texts, letters, memorialization of phone calls, face-to-face meetings and any conversations/discussions pertaining or referring to me in any manner, between the following entities and individuals:

1. The Pennsylvania State Board of Medicine and K2 defendant New Jersey Board of Medical Examiners.
2. Individual members of the Pennsylvania State Board of Medicine and individual members of K2 defendant New Jersey Board of Medical Examiners.
3. The Office of the New Jersey Attorney General and the Office of the Pennsylvania Attorney General.
4. Individual members of the Office of the New Jersey Attorney General and individual members of the Office of the Pennsylvania Attorney General.

Please forward this information and the authority regarding the above referenced burden of proof to [drRichardKaul@gmail.com](mailto:drRichardKaul@gmail.com).

Thank you in advance for your prompt attention to this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Kaul'.

Richard Arjun Kaul, MD  
cc: Suzanne M. Zerbe  
State Board of Medicine



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## Certification

I, Richard Arjun Kaul, do hereby certify that the foregoing statements are true and accurate to the best of my knowledge, and that if it is proved that I willfully and knowingly misrepresented the facts, then I will be subject to punishment.

Dated: July 4, 2019

A handwritten signature in black ink, appearing to be 'R. Kaul', written over a horizontal line.

Richard Arjun Kaul, MD



**22(b) (cited page 1 para. 2):**

“The board shall not issue a license or certificate to an applicant unless the applicant establishes with evidence, verified by an affidavit or affirmation of the applicant, that the applicant is of legal age, is of good moral character and is not addicted to the intemperate use of alcohol or the habitual use of narcotics or other habit-forming drugs and that the applicant has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for the license or certificate contained in or authorized by this act. The board shall not issue a license or certificate to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substances, Drug, Device and Cosmetic Acts, unless:

- (1) at least ten years have elapsed from the date of the conviction;
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations; and
- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

As used in this section the term “convicted” shall include a judgement, an admission of guilt or a plea of nolo contendere.”

**Evidence:** Not applicable

**Law:** This statute has no relevance to Kaul’s application.

**Argument:** Not applicable

**Conclusion:** 22(b) provides no legal basis for denial of licensure.



## **22(c) (cited page 1 para. 2):**

**“Refusal. – The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.”**

**Section 41 (cited page 1 para 2): “Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder. The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:**

**(1) Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.**

**(2) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)**

**(3) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.**

**(4) 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 of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating 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 is or 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 his 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.”**



- (5) Violating a lawful regulation promulgated by the board or violating a lawful order of the board previously entered by the board in a disciplinary proceeding.
- (6) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice a profession contrary to this act or regulations of the board.
- (7) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.
  - (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.
  - (ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.
- (8) Acting in such manner as to present an immediate and clear danger to public health or safety.
- (9) Acting outside the scope of a license or certificate.
- (10) Making a false or deceptive biennial registration with the board."

**Evidence:**

41(1) - Curriculum Vitae + Credentials + Qualifications demonstrate qualifications and standards for a license (**Appendix 1**).

41(3) – The following evidence proves that the suspension/revocation of Kaul’s license on April 2, 2012 and March 12, 2014 was a Fraud on the Court: (i) The Waldman E-mail (**Appendix 2**); (ii) The Sabo Certification (**Appendix 3**); (iii) The Zerbini Certification (**Appendix 4**); (iv) The Przybylski Disciplinary Notice (**Appendix 5**); (v) The Feldman Certification (**Appendix 6**); (vi) The Solomon Critique (**Appendix 7**); (vii) The Solomon Critique 2 (**Appendix 8**); (viii) The Calabrese Certification (**Appendix 9**). These pieces are evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants. In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the



assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN - AID IN THE COMMISSION OF TORT (**Appendix 10**).

None of this evidence has been refuted/contested/rebutted/contradicted by any of the K1/K2 defendants or the federal court

**Law + Argument:** Sections 22(c) and Section 41(1) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania. Section 22(c) and Section 41(3) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegal conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions,



with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** For the reasons set forth above Section 22(c) and Sections 41(1), 41(3), 41(4) and 41(8) provide no basis or bases on which to deny Kaul's application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**41(1) (cited page 1 para. 2):**

**“Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.”**

**Evidence:** Kaul’s Curriculum Vitae + Credentials + Qualifications demonstrate the required qualifications and standards for issuance of a license (**Appendix 1**).

**Law + Argument:** Sections 22(c) and Section 41(1) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania.

**Conclusion:** For the reasons set forth above Section 22(c) and Sections 41(1) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



### **41(3) (cited page 1 para. 2):**

**“Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2).”**

**Evidence:** The following evidence proves that the finding of a majority verdict of guilty on February 22, 2001, in a politically motivated prosecution initiated twenty (20) years ago in England by the Crown Prosecution Service, on the charge of medical manslaughter, has no legal authority, standing or relevance to American jurisprudence: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**).

**Law + Argument:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, and its standard of the preponderance of evidence. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public. In America civil litigation compensates patients, and state and federal governments, unlike the UK, rarely employ physicians. The criminalization in Britain of adverse medical outcomes is the government’s way of placating the ‘baying mob’.

The right to a unanimous jury verdict was firmly established when the Bill of Rights was framed. An Englishman, Sir William Blackstone, noted it as an essential feature of the right to trial by jury: “[T]he trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law ... [I]t is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbours and equals. A constitution, that I may venture to affirm has, under providence, secured the just liberties of this nation for a long succession of ages.” 2 Blackstone, Commentaries \*378-79. John Adams took the same view in America, writing that “it is the unanimity of the jury that preserves the rights of mankind.” 1 John Adams, A Defence of the Constitutions of Government of the United States 376 (Philadelphia, William Cobbett 1797). Kaul was denied these ancient protections to his life, liberty and property, when the British court, permitted the Crown’s politically motivated prosecution to permit the jury to find him ‘guilty’ on a non-unanimous verdict. There was obviously one person who had enough doubt that Kaul was innocent of the charges, and he happened to be the only juror with a university education.

While the Bill of Rights was being ratified, Justice James Wilson – “who was instrumental in framing the Constitution and who served as one of the original Members of this Court,”



Victor v. Nebraska, 511 U.S. 1, 10 (1994) – stressed the unanimity requirement in his 1790-91 lectures: “to the conviction of a crime, the undoubting and the unanimous sentiment of the twelve jurors is of indispensable necessity.” 2 James Wilson, Works of the Honorable James Wilson 350 (Philadelphia, Lorenzo Press 1804); see also 2 id. at 306, 311, 342, 351, 360 (further noting the unanimity requirement). As George Hay, the United States Attorney in the Aaron Burr trial, put it, **“The trial by jury is a technical phrase of the common law. By its insertion in the constitution, that part of the common law which prescribes the number, the unanimity of the jury and the right of challenge is adopted.”** United States v. Burr, 25 F. Cas. 55, 141 (C.C.D. Va 1807).

The British judge permitted the jury to enter a majority verdict because he was subject to political pressure from the British Government under Blair. From 1997 to 1999 Kaul had been involved in a very contentious and very public legal fight to have his American training and qualifications recognized in Britain. The British government and its agencies (Specialist Training Authority and Royal Colleges) denied Kaul’s application, as it deemed American training and qualifications to be inferior to those in Britain.

Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (**Appendix 11**), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January 11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.”** (**Appendix 15**).

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above Section 22(c) and Sections 41(3) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



#### **41(4) (cited page 1 para. 2):**

**“Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.”**

**Evidence:** The following evidence proves that the registration erasure in May 2002 by the General Medical Council, and the license revocation in March 2014 by K2 defendant NJBME are legal nullities, that provide no legally legitimate or constitutionally sound basis to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**); (v) The Waldman E-mail (**Appendix 2**); (vi) The Sabo Certification (**Appendix 3**); (vii) The Zerbini Certification (**Appendix 4**); (viii) The Przybylski Disciplinary Notice (**Appendix 5**); (ix) The Feldman Certification (**Appendix 6**); (x) The Solomon Critique (**Appendix 7**); (xi) The Solomon Critique 2 (**Appendix 8**); (xii) The Calabrese Certification (**Appendix 9**). These pieces of evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants; (xiii) In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN - AID IN THE COMMISSION OF TORT (**Appendix 10**).

#### **Law + Argument:**

**UK Case:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, and its standard of the preponderance of evidence. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public.



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While the Bill of Rights was being ratified, Justice James Wilson – "who was instrumental in framing the Constitution and who served as one of the original Members of this Court," Victor v. Nebraska, 511 U.S. 1, 10 (1994) – stressed the unanimity requirement in his 1790-91 lectures: "to the conviction of a crime, the undoubting and the unanimous sentiment of the twelve jurors is of indispensable necessity." 2 James Wilson, Works of the Honorable James Wilson 350 (Philadelphia, Lorenzo Press 1804); see also 2 id. at 306, 311, 342, 351, 360 (further noting the unanimity requirement). As George Hay, the United States Attorney in the Aaron Burr trial, put it, **"The trial by jury is a technical phrase of the common law. By its insertion in the constitution, that part of the common law which prescribes the number, the unanimity of the jury and the right of challenge is adopted."** United States v. Burr, 25 F. Cas. 55, 141 (C.C.D. Va 1807).

The British judge permitted the jury to enter a majority verdict because he was subject to political pressure from the British Government under Blair. From 1997 to 1999 Kaul had been involved in a very contentious and very public legal fight to have his American training and qualifications recognized in Britain. The British government and its agencies (Specialist Training Authority and Royal Colleges) denied Kaul's application, as it deemed American training and qualifications to be inferior to those in Britain.

Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (**Appendix 11**), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January



11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.” (Appendix 15).**

**US Case:** Sections 22(c) and Section 41(4) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegal conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above Section 22(c) and Sections 41(4) provide no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. The US case for the reasons set forth above, i.e. the revocation was an illegal consequence of a ‘Fraud on the Court’, Section 22(c) and Section 41(4) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued to Kaul as there exists no legal basis on which to deny his application.



Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**41(8) (cited page 1 para. 2):**

**“Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.**

- (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.**
- (ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.”**

**Evidence:** Kaul has not violated any standards of morality, professional conduct, ethics, standard of care, regulations or any other laws in **this Commonwealth** of Pennsylvania, and there exists no evidence to prove otherwise

**Law + Argument:** Kaul has not violated the laws or any provisions/clauses/ of the Pennsylvania Constitution. Kaul has not violated any federal laws or any provisions/clauses of the United States Constitution. In fact, it is Kaul whose legal rights under the constitutions of the State of New Jersey and the United States of America, have been flagrantly violated by private/state actors and agencies acting under the authority of the State of New Jersey, in a period that commenced on April 2, 2012.

**Conclusion:** For the reasons set forth above Section 22(c) and Section 41(8) provide no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.22(b) (cited page 1 para. 2):**

**“The board shall not issue a license or certificate to an applicant unless the applicant establishes with evidence, verified by an affidavit or affirmation of the applicant, that the applicant is of legal age, is of good moral character and is not addicted to the intemperate use of alcohol or the habitual use of narcotics or other habit-forming drugs and that the applicant has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for the license or certificate contained in or authorized by this act. The board shall not issue a license or certificate to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L. 233, No. 64), 1 known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless:**

- (1) at least ten years have elapsed from the date of conviction;**
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations; and**
- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.**

**As used in this section the term “convicted” shall include a judgment, an admission of guilt or a plea of nolo contendere.”**

**Evidence:** The following evidence proves that Kaul is of legal age, is of good moral character and is not addicted to the intemperate use of narcotics or other habit-forming drugs and that he has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for a license to practice medicine and surgery in the Commonwealth of Pennsylvania. P.L. 233, No. 64 is irrelevant to Kaul’s application, as he has never been convicted of this offense or an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act: (i) Kaul’s Curriculum Vitae (**Appendix 1**); (ii) Petition from patients to Christie (**Appendix 16**); (iii) UK patient testimonials (**Appendix 17**); (iv) Family Court Order (**Appendix 18**); (v) THE ETHICS GROUP report (**Appendix 19**); (vi) Gorrell e-mail (**Appendix 20**); (vii) Sica letter (**Appendix 21**); (viii) Patient letter to Christie (**Appendix 22**).

**Law + Argument:** The law in the Commonwealth of Pennsylvania contains no equivalent of the British medical manslaughter statute, of which there are four elements: (i) the defendant owed the victim a duty of care; (ii) the defendant breached that duty; (iii) the



breach caused (or significantly contributed) to the victim's death; (iv) the breach was grossly negligent (**Appendix 23**). The elements of a **civil** wrongful death claim in Pennsylvania are: (i) the defendant owed the victim a duty of care; (ii) the defendant breached the duty of care; (iii) the breach was a direct and proximate cause of the death; (iv) the death caused the damages that the plaintiff is trying to recover (**Appendix 24**). There are four hundred and forty thousand (440,000) deaths annually in American hospitals (**Appendix 25**). The population adjusted number for Pennsylvania is seventeen thousand, one hundred and sixty (17,160). The disciplinary section of the website for the Pennsylvania medical board does not indicate an equal number of actions against physicians licenses. The equal protection clause of the United States Constitution states: "**... nor deny to any person within its jurisdiction the equal protection of the laws.**". It is of significance that the statute applies term of ten years, as the point after which the conviction becomes non-reportable. The UK case, an equivalent of a civil wrongful death charge in Pennsylvania occurred in 1999, twenty (20) years ago. One of the defining principles of common law jurisprudence pertains to the finality of judgment and penalty. Kaul was judged, he was penalized and he has paid his debt to society many times over. The interests of justice are not served by the incessant rehashing of the UK case. From 2002 to 2012 Kaul performed six thousand (6000) spine cases, of which eight hundred (800) were spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and a complication rate of 0.1% (average 5-15%), with no mortalities.

**Conclusion:** For the reasons set forth above 63 P.S. § 422.22(b) provides no basis on which to deny Kaul's application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.22(c) (cited page 1 para. 2):**

**“The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.”**

**Section 41 (cited page 1 para 2): “Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder. The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:**

- (1) Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.**
- (2) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)**
- (3) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.**
- (4) 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 of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating 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 is or 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 his 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.”**



- (5) Violating a lawful regulation promulgated by the board or violating a lawful order of the board previously entered by the board in a disciplinary proceeding.
- (6) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice a profession contrary to this act or regulations of the board.
- (7) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.
  - (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.
  - (ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.
- (8) Acting in such manner as to present an immediate and clear danger to public health or safety.
- (9) Acting outside the scope of a license or certificate.
- (10) Making a false or deceptive biennial registration with the board."

**Evidence:**

41(1) - Curriculum Vitae + Credentials + Qualifications demonstrate qualifications and standards for a license (**Appendix 1**).

41(3) – The following evidence proves that the suspension/revocation of Kaul’s license on April 2, 2012 and March 12, 2014 was a Fraud on the Court: (i) The Waldman E-mail (**Appendix 2**); (ii) The Sabo Certification (**Appendix 3**); (iii) The Zerbini Certification (**Appendix 4**); (iv) The Przybylski Disciplinary Notice (**Appendix 5**); (v) The Feldman Certification (**Appendix 6**); (vi) The Solomon Critique (**Appendix 7**); (vii) The Solomon Critique 2 (**Appendix 8**); (viii) The Calabrese Certification (**Appendix 9**). These pieces are evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants. In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ +



COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN - AID IN THE COMMISSION OF TORT (Appendix 10).

**None of this evidence has been refuted/contested/rebutted/contradicted by any of the K1/K2 defendants or the federal court.**

**Law + Argument:** 63 P.S. § 422.22(c) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania. Section 22(c) and Section 41(3) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bullock v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegally conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability. This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of



care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** For the reasons set forth above 63 P.S. § 422.22(c) provides no basis or bases on which to deny Kaul's application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.41(1) (cited page 1 para. 2):**

**“Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.”**

**Evidence:** Kaul’s Curriculum Vitae + Credentials + Qualifications demonstrate the required qualifications and standards for issuance of a license (**Appendix 1**).

**Law + Argument:** 63 P.S. § 422.41(1) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania.

**Conclusion:** For the reasons set forth above 63 P.S. § 422.41(1) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.41(3) (cited page 1 para. 2):**

**“Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)”**

**Evidence:** The following evidence proves that the finding of a majority verdict of guilty on February 22, 2001, in a politically motivated prosecution initiated twenty (20) years ago in England by the Crown Prosecution Service, on the charge of medical manslaughter, has no legal authority, standing or relevance to American jurisprudence: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**).

**Law + Argument:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, and its standard of the preponderance of evidence. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public. In America civil litigation compensates patients, and state and federal governments, unlike the UK, rarely employ physicians. The criminalization in Britain of adverse medical outcomes is the government’s way of placating the ‘baying mob’.

The right to a unanimous jury verdict was firmly established when the Bill of Rights was framed. An Englishman, Sir William Blackstone, noted it as an essential feature of the right to trial by jury: **“[T]he trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law ... [I]t is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbours and equals. A constitution, that I may venture to affirm has, under providence, secured the just liberties of this nation for a long succession of ages.”** 2 Blackstone, Commentaries \*378-79. John Adams took the same view in America, writing that :it is the unanimity of the jury that preserves the rights of mankind.” 1 John Adams, A Defence of the Constitutions of Government of the United States 376 (Philadelphia, William Cobbett 1797). Kaul was denied these ancient protections to his life, liberty and property, when he the British court, permitted the Crown’s politically motivated prosecution to permit the jury to find him ‘guilty’ on a non-unanimous verdict. There was obviously one person who had enough doubt that was Kaul was innocent of the charges, and he happened to be the only juror with a university education.

While the Bill of Rights was being ratified, Justice James Wilson – “who was instrumental in framing the Constitution and who served as one of the original Members of this Court,”



Victor v. Nebraska, 511 U.S. 1, 10 (1994) – stressed the unanimity requirement in his 1790-91 lectures: “to the conviction of a crime, the undoubting and the unanimous sentiment of the twelve jurors is of indispensable necessity.” 2 James Wilson, Works of the Honorable James Wilson 350 (Philadelphia, Lorenzo Press 1804); see also 2 id. at 306, 311, 342, 351, 360 (further noting the unanimity requirement). As George Hay, the United States Attorney in the Aaron Burr trial, put it, **“The trial by jury is a technical phrase of the common law. By its insertion in the constitution, that part of the common law which prescribes the number, the unanimity of the jury and the right of challenge is adopted.”** United States v. Burr, 25 F. Cas. 55, 141 (C.C.D. Va 1807).

The British judge permitted the jury to enter a majority verdict because he was subject to political pressure from the British Government under Blair. From 1997 to 1999 Kaul had been involved in a very contentious and very public legal fight to have his American training and qualifications recognized in Britain. The British government and its agencies (Specialist Training Authority and Royal Colleges) denied Kaul’s application, as it deemed American training and qualifications to be inferior to those in Britain.

Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (Appendix 11), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January 11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.”** (Appendix 15).

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above 63 P.S. § 422.41(3) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.41(4) (cited page 1 para. 2):**

**“Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.”**

**Evidence:** The following evidence proves that the registration erasure in May 2002 by the General Medical Council, and the license revocation in March 2014 by K2 defendant NJBME are legal nullities, that provide no legally legitimate or constitutionally sound basis to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**); (v) The Waldman E-mail (**Appendix 2**); (vi) The Sabo Certification (**Appendix 3**); (vii) The Zerbini Certification (**Appendix 4**); (viii) The Przybylski Disciplinary Notice (**Appendix 5**); (ix) The Feldman Certification (**Appendix 6**); (x) The Solomon Critique (**Appendix 7**); (xi) The Solomon Critique 2 (**Appendix 8**); (xii) The Calabrese Certification (**Appendix 9**). These pieces of evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants; (xiii) In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT (**Appendix 10**).

**Law + Argument:**

**UK Case:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, and its standard of the preponderance of evidence. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public.



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While the Bill of Rights was being ratified, Justice James Wilson – "who was instrumental in framing the Constitution and who served as one of the original Members of this Court," Victor v. Nebraska, 511 U.S. 1, 10 (1994) – stressed the unanimity requirement in his 1790-91 lectures: "to the conviction of a crime, the undoubting and the unanimous sentiment of the twelve jurors is of indispensable necessity." 2 James Wilson, Works of the Honorable James Wilson 350 (Philadelphia, Lorenzo Press 1804); see also 2 id. at 306, 311, 342, 351, 360 (further noting the unanimity requirement). As George Hay, the United States Attorney in the Aaron Burr trial, put it, **"The trial by jury is a technical phrase of the common law. By its insertion in the constitution, that part of the common law which prescribes the number, the unanimity of the jury and the right of challenge is adopted."** United States v. Burr, 25 F. Cas. 55, 141 (C.C.D. Va 1807).

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Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (**Appendix 11**), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January



11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.” (Appendix 15).**

**US Case:** Sections 22(c) and Section 41(4) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegal conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above Section 22(c) and Sections 41(4) provide no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. The US case for the reasons set forth above, i.e. the revocation was an illegal consequence of a ‘Fraud on the Court’, Section 22(c) and Section 41(4) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued to Kaul as there exists no legal basis on which to deny his application.



Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.41(8) (cited page 1 para. 2):**

**“Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.**

- (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.**
- (iii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.”**

**Evidence:** Kaul has not violated any standards of morality, professional conduct, ethics, standard of care, regulations or any other laws in **this Commonwealth** of Pennsylvania, and there exists no evidence to prove otherwise

**Law + Argument:** Kaul has not violated the laws or any provisions/clauses/ of the Pennsylvania Constitution. Kaul has not violated any federal laws or any provisions/clauses of the United States Constitution. In fact, it is Kaul whose legal rights under the constitutions of the State of New Jersey and the United States of America, have been flagrantly violated by private/state actors and agencies acting under the authority of the State of New Jersey, in a period that commenced on April 2, 2012.

**Conclusion:** For the reasons set forth above Section 22(c) and Section 41(8) provide no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



## **18 Pa. Code § 9124(c) (cited page 1 para. 2):**

**“State Action Authorized- Boards, commissions or departments of the Commonwealth authorized to license, certify, register or permit the practice of trades, occupations or professions may refuse to grant or renew, or may suspend or revoke any license, certificate, registration or permit for the following causes:**

**(1) Where the applicant has been convicted of a felony.**

**(2) Where the applicant has been convicted of a misdemeanor which relates to the trade, occupation or profession for which the license, certificate, registration or permit is sought.”**

**Evidence:** The following evidence proves that the finding of a majority verdict of guilty on February 22, 2001, in a politically motivated prosecution initiated twenty (20) years ago in England by the Crown Prosecution Service, on the charge of medical manslaughter, has no legal authority, standing or relevance to American jurisprudence: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**).

**Law + Argument:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, with a preponderance of evidence standard. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public. In America civil litigation compensates patients, and state and federal governments, unlike the UK, rarely employ physicians. The criminalization in Britain of adverse medical outcomes is the government’s way of placating the ‘baying mob’.

The right to a unanimous jury verdict was firmly established when the Bill of Rights was framed. An Englishman, Sir William Blackstone, noted it as an essential feature of the right to trial by jury: “[T]he trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law ... [I]t is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbours and equals. A constitution, that I may venture to affirm has, under providence, secured the just liberties of this nation for a long succession of ages.” 2 Blackstone, Commentaries \*378-79. John Adams took the same view in America, writing that “it is the unanimity of the jury that preserves the rights of mankind.” 1 John Adams, A Defense of the Constitutions of Government of the United States 376 (Philadelphia, William Cobbett 1797). Kaul was denied these ancient protections to his life, liberty and property, when he the British court, permitted the Crown’s politically motivated prosecution to permit the jury to find him ‘guilty’ on a non-unanimous verdict. There was obviously one person who



had enough doubt that was Kaul was innocent of the charges, and he happened to be the only juror with a university education.

While the Bill of Rights was being ratified, Justice James Wilson – “who was instrumental in framing the Constitution and who served as one of the original Members of this Court,” *Victor v. Nebraska*, 511 U.S. 1, 10 (1994) – stressed the unanimity requirement in his 1790-91 lectures: “to the conviction of a crime, the undoubting and the unanimous sentiment of the twelve jurors is of indispensable necessity.” 2 James Wilson, *Works of the Honorable James Wilson* 350 (Philadelphia, Lorenzo Press 1804); see also 2 *id.* at 306, 311, 342, 351, 360 (further noting the unanimity requirement). As George Hay, the United States Attorney in the Aaron Burr trial, put it, **“The trial by jury is a technical phrase of the common law. By its insertion in the constitution, that part of the common law which prescribes the number, the unanimity of the jury and the right of challenge is adopted.”** *United States v. Burr*, 25 F. Cas. 55, 141 (C.C.D. Va 1807).

The British judge permitted the jury to enter a majority verdict because he was subject to political pressure from the British Government under Tony Blair. From 1997 to 1999 Kaul had been involved in a very contentious and very public legal fight to have his American training and qualifications recognized in Britain. The British government and its agencies (Specialist Training Authority and Royal Colleges) denied Kaul’s application, as it deemed American training and qualifications to be inferior to those in Britain.

Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (Appendix 11), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January 11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.”** (Appendix 15).

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above Section 22(c) and Sections 41(3) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.22(b) (cited page 1 para. 3):**

**“Qualifications.--The board shall not issue a license or certificate to an applicant unless the applicant establishes with evidence, verified by an affidavit or affirmation of the applicant, that the applicant is of legal age, is of good moral character and is not addicted to the intemperate use of alcohol or the habitual use of narcotics or other habit-forming drugs and that the applicant has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for the license or certificate contained in or authorized by this act. The board shall not issue a license or certificate to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L. 233, No. 64), 1 known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless:**

- (1) at least ten years have elapsed from the date of conviction;**
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations; and**
- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.”**

**Evidence:** The following evidence proves that Kaul is of legal age, is of good moral character and is not addicted to the intemperate use of narcotics or other habit-forming drugs and that he has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for a license to practice medicine and surgery in the Commonwealth of Pennsylvania. P.L. 233, No. 64 is irrelevant to Kaul’s application, as he has never been convicted of this offense or an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act: (i) Kaul’s Curriculum Vitae (**Appendix 1**); (ii) Petition from patients to Christie (**Appendix 16**); (iii) UK patient testimonials (**Appendix 17**); (iv) Family Court Order (**Appendix 18**); (v) THE ETHICS GROUP report (**Appendix 19**); (vi) Gorrell e-mail (**Appendix 20**); (vii) Sica letter (**Appendix 21**); (viii) Patient letter to Christie (**Appendix 22**).

**Law + Argument:** The law in the Commonwealth of Pennsylvania contains no equivalent of the British medical manslaughter statute, of which there are four elements: (i) the defendant owed the victim a duty of care; (ii) the defendant breached that duty; (iii) the breach caused (or significantly contributed) to the victim’s death; (iv) the breach was grossly negligent (**Appendix 23**). The elements of a **civil** wrongful death claim in Pennsylvania are: (i) the defendant owed the victim a duty of care; (ii) the defendant



breached the duty of care; (iii) the breach was a direct and proximate cause of the death; (iv) the death caused the damages that the plaintiff is trying to recover (**Appendix 24**). There are four hundred and forty thousand (440,000) deaths annually in American hospitals (**Appendix 25**). The population adjusted number for Pennsylvania is seventeen thousand, one hundred and sixty (17,160). The disciplinary section of the website for the Pennsylvania medical board does not indicate an equal number of actions against physicians licenses. The equal protection clause of the United States Constitution states: “... **nor deny to any person within its jurisdiction the equal protection of the laws.**”. It is of significance that the statute applies term of ten years, as the point after which the conviction becomes non-reportable. The UK case, an equivalent of a civil wrongful death charge in Pennsylvania occurred in 1999, twenty (20) years ago. One of the defining principles of common law jurisprudence pertains to the finality of judgment and penalty. Kaul was judged, he was penalized and he has paid his debt to society many times over. The interests of justice are not served by the incessant rehashing of the UK case. From 2002 to 2012 Kaul performed six thousand (6000) spine cases, of which eight hundred (800) were spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and a complication rate of 0.1% (average 5-15%), with no mortalities.

**Conclusion:** For the reasons set forth above 63 P.S. § 422.22(b) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.22(c) (cited page 1 para. 3):**

**“Refusal.- The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.”**

**Section 41 (cited page 1 para 2): “Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder. The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:**

- (1) Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.**
- (2) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)**
- (3) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.**
- (4) 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 of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating 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 is or 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 his 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.”

- (5) Violating a lawful regulation promulgated by the board or violating a lawful order of the board previously entered by the board in a disciplinary proceeding.
- (6) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice a profession contrary to this act or regulations of the board.
- (7) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.
  - (iv) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.
  - (v) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.
- (8) Acting in such manner as to present an immediate and clear danger to public health or safety.
- (9) Acting outside the scope of a license or certificate.
- (10) Making a false or deceptive biennial registration with the board.”

**Evidence:**

41(1) - Curriculum Vitae + Credentials + Qualifications demonstrate qualifications and standards for a license ([Appendix 1](#)).

41(3) – The following evidence proves that the suspension/revocation of Kaul’s license on April 2, 2012 and March 12, 2014 was a Fraud on the Court: (i) The Waldman E-mail ([Appendix 2](#)); (ii) The Sabo Certification ([Appendix 3](#)); (iii) The Zerbini Certification ([Appendix 4](#)); (iv) The Przybylski Disciplinary Notice ([Appendix 5](#)); (v) The Feldman Certification ([Appendix 6](#)); (vi) The Solomon Critique ([Appendix 7](#)); (vii) The Solomon



Critique 2 ([Appendix 8](#)); (viii) The Calabrese Certification ([Appendix 9](#)). These pieces of evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants. In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN - AID IN THE COMMISSION OF TORT ([Appendix 10](#)).

None of this evidence has been refuted/contested/rebutted/contradicted by any of the K1/K2 defendants or the federal court

**Law + Argument:** Sections 22(c) and Section 41(1) provides no legal basis to deny Kaul's application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania. Section 22(c) and Section 41(3) provide no legal basis to deny Kaul's application for licensure, because the revocation in New Jersey was a product of a 'Fraud on the Court', which the law defines as: **"Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court."** In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **"... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."** The illegal conducted administrative board proceedings make null and void the revocation of Kaul's license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME's crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul's application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul's application as Kaul is not **"acting in such a manner as to present an immediate and clear danger to the public health or safety."** The patient



records submitted in Kaul's application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** For the reasons set forth above Section 22(c) and Sections 41(1), 41(3), 41(4) and 41(8) provide no basis or bases on which to deny Kaul's application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure



**63 P.S. § 422.41(1) (cited page 1 para. 3):**

**“Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.”**

**Evidence:** Kaul’s Curriculum Vitae + Credentials + Qualifications demonstrate the required qualifications and standards for issuance of a license (**Appendix 1**).

**Law + Argument:** Sections 22(c) and Section 41(1) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania.

**Conclusion:** For the reasons set forth above Section 22(c) and Sections 41(1) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**49 Pa. Code § 16.15 (j) (cited page 1 para. 3):**

**“If the person has not been practicing in this Commonwealth for longer than 4 years, the Board may require that a personal interview be conducted by a designated Board member or representative to ascertain the physical and mental fitness of the applicant to practice in this Commonwealth.”**

No objection.



**63 P.S. § 422.22(c) (cited page 2 para. 1):**

**“Refusal.—The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.”**

**Section 41 (cited page 1 para 2): “Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder. The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:**

- (1) Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.**
- (2) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)**
- (3) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.**
- (4) 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 of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating 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 is or 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 his 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.”**



- (5) Violating a lawful regulation promulgated by the board or violating a lawful order of the board previously entered by the board in a disciplinary proceeding.
- (6) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice a profession contrary to this act or regulations of the board.
- (7) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.
  - (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.
  - (ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.
- (8) Acting in such manner as to present an immediate and clear danger to public health or safety.
- (9) Acting outside the scope of a license or certificate.
- (10) Making a false or deceptive biennial registration with the board."

**Evidence:**

41(1) - Curriculum Vitae + Credentials + Qualifications demonstrate qualifications and standards for a license ([Appendix 1](#)).

41(3) – The following evidence proves that the suspension/revocation of Kaul’s license on April 2, 2012 and March 12, 2014 was a Fraud on the Court: (i) The Waldman E-mail ([Appendix 2](#)); (ii) The Sabo Certification ([Appendix 3](#)); (iii) The Zerbini Certification ([Appendix 4](#)); (iv) The Przybylski Disciplinary Notice ([Appendix 5](#)); (v) The Feldman Certification ([Appendix 6](#)); (vi) The Solomon Critique ([Appendix 7](#)); (vii) The Solomon Critique 2 ([Appendix 8](#)); (viii) The Calabrese Certification ([Appendix 9](#)). These pieces of evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants. In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ +



COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN - AID IN THE COMMISSION OF TORT (**Appendix 10**).

None of this evidence has been refuted/contested/rebutted/contradicted by any of the K1/K2 defendants or the federal court

**Law + Argument:** Sections 22(c) and Section 41(1) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania. Section 22(c) and Section 41(3) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegal conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a



danger to the public, and that his standard of care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** For the reasons set forth above Section 22(c) and Sections 41(1), 41(3), 41(4) and 41(8) provide no basis or bases on which to deny Kaul's application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



### **63 P.S. § 422.41(4) (cited page 2 para. 1):**

**“Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.”**

**Evidence:** The following evidence proves that the registration erasure in May 2002 by the General Medical Council, and the license revocation in March 2014 by K2 defendant NJBME are legal nullities, that provide no legally legitimate or constitutionally sound basis to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**); (v) The Waldman E-mail (**Appendix 2**); (vi) The Sabo Certification (**Appendix 3**); (vii) The Zerbini Certification (**Appendix 4**); (viii) The Przybylski Disciplinary Notice (**Appendix 5**); (ix) The Feldman Certification (**Appendix 6**); (x) The Solomon Critique (**Appendix 7**); (xi) The Solomon Critique 2 (**Appendix 8**); (xii) The Calabrese Certification (**Appendix 9**). These pieces of evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants; (xiii) In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT (**Appendix 10**).

### **Law + Argument:**

**UK Case:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, and its standard of the preponderance of evidence. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public.



In America civil litigation compensates patients, and state and federal governments, unlike the UK, rarely employ physicians. The criminalization in Britain of adverse medical outcomes is the government's way of placating the 'baying mob'.

The right to a unanimous jury verdict was firmly established when the Bill of Rights was framed. An Englishman, Sir William Blackstone, noted it as an essential feature of the right to trial by jury: **"[T]he trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law ... [I]t is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbours and equals. A constitution, that I may venture to affirm has, under providence, secured the just liberties of this nation for a long succession of ages."** 2 Blackstone, Commentaries \*378-79. John Adams took the same view in America, writing that "it is the unanimity of the jury that preserves the rights of mankind." 1 John Adams, A Defence of the Constitutions of Government of the United States 376 (Philadelphia, William Cobbett 1797). Kaul was denied these ancient protections to his life, liberty and property, when he the British court, permitted the Crown's politically motivated prosecution to permit the jury to find him 'guilty' on a non-unanimous verdict. There was obviously one person who had enough doubt that Kaul was innocent of the charges, and he happened to be the only juror with a university education.

While the Bill of Rights was being ratified, Justice James Wilson – "who was instrumental in framing the Constitution and who served as one of the original Members of this Court," Victor v. Nebraska, 511 U.S. 1, 10 (1994) – stressed the unanimity requirement in his 1790-91 lectures: "to the conviction of a crime, the undoubting and the unanimous sentiment of the twelve jurors is of indispensable necessity." 2 James Wilson, Works of the Honorable James Wilson 350 (Philadelphia, Lorenzo Press 1804); see also 2 id. at 306, 311, 342, 351, 360 (further noting the unanimity requirement). As George Hay, the United States Attorney in the Aaron Burr trial, put it, **"The trial by jury is a technical phrase of the common law. By its insertion in the constitution, that part of the common law which prescribes the number, the unanimity of the jury and the right of challenge is adopted."** United States v. Burr, 25 F. Cas. 55, 141 (C.C.D. Va 1807).

The British judge permitted the jury to enter a majority verdict because he was subject to political pressure from the British Government under Blair. From 1997 to 1999 Kaul had been involved in a very contentious and very public legal fight to have his American training and qualifications recognized in Britain. The British government and its agencies (Specialist Training Authority and Royal Colleges) denied Kaul's application, as it deemed American training and qualifications to be inferior to those in Britain.

Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (**Appendix 11**), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January



11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.” (Appendix 15).**

**US Case:** Sections 22(c) and Section 41(4) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegal conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above Section 22(c) and Sections 41(4) provide no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. The US case for the reasons set forth above, i.e. the revocation was an illegal consequence of a ‘Fraud on the Court’, Section 22(c) and Section 41(4) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued to Kaul as there exists no legal basis on which to deny his application.



Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



### **63 P.S. § 422.22(c) (cited page 2 para. 2):**

**“The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.”**

**Section 41 (cited page 1 para 2): “Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder. The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:**

- (1) Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.**
- (2) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)**
- (3) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.**
- (4) 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 of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating 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 is or 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 his 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.”**



- (5) Violating a lawful regulation promulgated by the board or violating a lawful order of the board previously entered by the board in a disciplinary proceeding.
- (6) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice a profession contrary to this act or regulations of the board.
- (7) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.
  - (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.
  - (ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.
- (8) Acting in such manner as to present an immediate and clear danger to public health or safety.
- (9) Acting outside the scope of a license or certificate.
- (10) Making a false or deceptive biennial registration with the board.”

**Evidence:**

41(1) - Curriculum Vitae + Credentials + Qualifications demonstrate qualifications and standards for a license (**Appendix 1**).

41(3) – The following evidence proves that the suspension/revocation of Kaul’s license on April 2, 2012 and March 12, 2014 was a Fraud on the Court: (i) The Waldman E-mail (**Appendix 2**); (ii) The Sabo Certification (**Appendix 3**); (iii) The Zerbini Certification (**Appendix 4**); (iv) The Przybylski Disciplinary Notice (**Appendix 5**); (v) The Feldman Certification (**Appendix 6**); (vi) The Solomon Critique (**Appendix 7**); (vii) The Solomon Critique 2 (**Appendix 8**); (viii) The Calabrese Certification (**Appendix 9**). These pieces are evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the defendants. In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN –



AID IN THE COMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN - AID IN THE COMMISSION OF TORT (Appendix 10).

None of this evidence has been refuted/contested/rebutted/contradicted by any of the K1/K2 defendants or the federal court

**Law + Argument:** Sections 22(c) and Section 41(1) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania. Section 22(c) and Section 41(3) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegal conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of care far exceeds the normal. Every year in



American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** For the reasons set forth above Section 22(c) and Sections 41(1), 41(3), 41(4) and 41(8) provide no basis or bases on which to deny Kaul's application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure



### **63 P.S. § 422.41(3) (cited page 1 para. 2):**

**“Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)”**

**Evidence:** The following evidence proves that the finding of a majority verdict of guilty on February 22, 2001, in a politically motivated prosecution initiated twenty (20) years ago in England by the Crown Prosecution Service, on the charge of medical manslaughter, has no legal authority, standing or relevance to American jurisprudence: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**).

**Law + Argument:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, and its standard of the preponderance of evidence. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public. In America civil litigation compensates patients, and state and federal governments, unlike the UK, rarely employ physicians. The criminalization in Britain of adverse medical outcomes is the government’s way of placating the ‘baying mob’.

The right to a unanimous jury verdict was firmly established when the Bill of Rights was framed. An Englishman, Sir William Blackstone, noted it as an essential feature of the right to trial by jury: “[T]he trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law ... [I]t is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbours and equals. A constitution, that I may venture to affirm has, under providence, secured the just liberties of this nation for a long succession of ages.” 2 Blackstone, Commentaries \*378-79. John Adams took the same view in America, writing that :it is the unanimity of the jury that preserves the rights of mankind.” 1 John Adams, A Defence of the Constitutions of Government of the United States 376 (Philadelphia, William Cobbett 1797). Kaul was denied these ancient protections to his life, liberty and property, when he the British court, permitted the Crown’s politically motivated prosecution to permit the jury to find him ‘guilty’ on a non-unanimous verdict. There was obviously one person who had enough doubt that was Kaul was innocent of the charges, and he happened to be the only juror with a university education.



While the Bill of Rights was being ratified, Justice James Wilson – “who was instrumental in framing the Constitution and who served as one of the original Members of this Court,” *Victor v. Nebraska*, 511 U.S. 1, 10 (1994) – stressed the unanimity requirement in his 1790-91 lectures: “to the conviction of a crime, the undoubting and the unanimous sentiment of the twelve jurors is of indispensable necessity.” 2 James Wilson, *Works of the Honorable James Wilson* 350 (Philadelphia, Lorenzo Press 1804); see also 2 *id.* at 306, 311, 342, 351, 360 (further noting the unanimity requirement). As George Hay, the United States Attorney in the Aaron Burr trial, put it, **“The trial by jury is a technical phrase of the common law. By its insertion in the constitution, that part of the common law which prescribes the number, the unanimity of the jury and the right of challenge is adopted.”** *United States v. Burr*, 25 F. Cas. 55, 141 (C.C.D. Va 1807).

The British judge permitted the jury to enter a majority verdict because he was subject to political pressure from the British Government under Blair. From 1997 to 1999 Kaul had been involved in a very contentious and very public legal fight to have his American training and qualifications recognized in Britain. The British government and its agencies (Specialist Training Authority and Royal Colleges) denied Kaul’s application, as it deemed American training and qualifications to be inferior to those in Britain.

Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (**Appendix 11**), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January 11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.”** (**Appendix 15**).

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above 63 P.S. § 422.41(3) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



## **18 Pa. C.S. § 9124(c) (cited page 2 para. 2):**

**“State Action Authorized – Boards, commissions or departments of the Commonwealth authorized to license, certify, register or permit the practice of trades, occupations or professions may refuse to grant or renew, or may suspend or revoke any license, certificate, registration or permit for the following causes:**

**(1) Where the applicant has been convicted of a felony.**

**(2) Where the applicant has been convicted of a misdemeanor which relates to the trade, occupation or profession for which the license, certificate, registration or permit is sought.”**

**Evidence:** The following evidence proves that the finding of a majority verdict of guilty on February 22, 2001, in a politically motivated prosecution initiated twenty (20) years ago in England by the Crown Prosecution Service, on the charge of medical manslaughter, has no legal authority, standing or relevance to American jurisprudence: (i) The Hoffman Analysis (**Appendix 11**); (ii) The Saubermann Certification (**Appendix 12**); (iii) The Sellinger Motion (**Appendix 13**); (iv) The Gorrell Letter (**Appendix 14**).

**Law + Argument:** There exists no legal equivalent in the body of American law, of the peculiarly British statute of medical manslaughter. The standards of proof of the charge of manslaughter in the United States are far higher than those required in the British medical manslaughter statute, which is in actuality more akin to the civil claim of wrongful death, and its standard of the preponderance of evidence. The British have criminalized civil matters, for political purposes. Parties injured in the National Health Service cannot sue the government, and so the government sends doctors to jail to appease the public. In America civil litigation compensates patients, and state and federal governments, unlike the UK, rarely employ physicians. The criminalization in Britain of adverse medical outcomes is the government’s way of placating the ‘baying mob’.

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enough doubt that was Kaul was innocent of the charges, and he happened to be the only juror with a university education.

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The British judge permitted the jury to enter a majority verdict because he was subject to political pressure from the British Government under Tony Blair. From 1997 to 1999 Kaul had been involved in a very contentious and very public legal fight to have his American training and qualifications recognized in Britain. The British government and its agencies (Specialist Training Authority and Royal Colleges) denied Kaul’s application, as it deemed American training and qualifications to be inferior to those in Britain.

Other than the lack of a constitutionally mandated unanimous verdict, the substantially reduced civil like preponderance burden of proof, the dissimilarity of charge elements (Appendix 11), the case in the UK did not result in Kaul spending a moment in jail. The maximum sentence for manslaughter in Britain is life. The judge, Lord Neil Dennison, permitted Kaul to leave the court the moment he concluded his sentencing remarks, a point that was raised by the General Medical Council at its post-trial hearing on January 11, 2002: **“THE CHAIRMAN: You can see why there are all these various questions. It is not just a matter of this Committee saying. “Oh, he was convicted of manslaughter; off with his head.” Clearly the judge took the view that it was not such a serious case that he clapped the doctor in gaol forthwith. He was sentenced for six months suspended for twelve, which gives a flavour that the judge modified his sentencing for reasons of which we are not really aware.”** (Appendix 15).

**Conclusion:** The UK case has no legal standing, authority or relevance to American jurisprudence, and thus for the reasons set forth above Section 22(c) and Sections 41(3) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.22(b) (cited page 2 para. 3):**

**“Qualifications.--The board shall not issue a license or certificate to an applicant unless the applicant establishes with evidence, verified by an affidavit or affirmation of the applicant, that the applicant is of legal age, is of good moral character and is not addicted to the intemperate use of alcohol or the habitual use of narcotics or other habit-forming drugs and that the applicant has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for the license or certificate contained in or authorized by this act. The board shall not issue a license or certificate to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L. 233, No. 64), 1 known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless:**

- (1) at least ten years have elapsed from the date of conviction;**
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations; and**
- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.”**

**Evidence:** The following evidence proves that Kaul is of legal age, is of good moral character and is not addicted to the intemperate use of narcotics or other habit-forming drugs and that he has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for a license to practice medicine and surgery in the Commonwealth of Pennsylvania. P.L. 233, No. 64 is irrelevant to Kaul’s application, as he has never been convicted of this offense or an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act: (i) Kaul’s Curriculum Vitae (**Appendix 1**); (ii) Petition from patients to Christie (**Appendix 16**); (iii) UK patient testimonials (**Appendix 17**); (iv) Family Court Order (**Appendix 18**); (v) THE ETHICS GROUP report (**Appendix 19**); (vi) Gorrell e-mail (**Appendix 20**); (vii) Sica letter (**Appendix 21**); (viii) Patient letter to Christie (**Appendix 22**).

**Law + Argument:** The law in the Commonwealth of Pennsylvania contains no equivalent of the British medical manslaughter statute, of which there are four elements: (i) the defendant owed the victim a duty of care; (ii) the defendant breached that duty; (iii) the breach caused (or significantly contributed) to the victim’s death; (iv) the breach was grossly negligent (**Appendix 23**). The elements of a **civil** wrongful death claim in Pennsylvania are: (i) the defendant owed the victim a duty of care; (ii) the defendant breached the duty of care; (iii) the breach was a direct and proximate cause of the death; (iv) the death caused the damages that the plaintiff is trying to recover (**Appendix 24**). There are four hundred and forty thousand (440,000) deaths annually in American hospitals (**Appendix 25**). The population adjusted number for



Pennsylvania is seventeen thousand, one hundred and sixty (17,160). The disciplinary section of the website for the Pennsylvania medical board does not indicate an equal number of actions against physicians licenses. The equal protection clause of the United States Constitution states: **“... nor deny to any person within its jurisdiction the equal protection of the laws.”** It is of significance that the statute applies term of ten years, as the point after which the conviction becomes non-reportable. The UK case, an equivalent of a civil wrongful death charge in Pennsylvania occurred in 1999, twenty (20) years ago. One of the defining principles of common law jurisprudence pertains to the finality of judgment and penalty. Kaul was judged, he was penalized and he has paid his debt to society many times over. The interests of justice are not served by the incessant rehashing of the UK case. From 2002 to 2012 Kaul performed six thousand (6000) spine cases, of which eight hundred (800) were spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and a complication rate of 0.1% (average 5-15%), with no mortalities.

**Conclusion:** For the reasons set forth above 63 P.S. § 422.22(b) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure.



**63 P.S. § 422.22(c) (cited page 2 para. 4):**

**“Refusal.- The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.”**

**Section 41 (cited page 1 para 2):** “Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder. The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:

- (1) Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.**
- (2) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country. ((3) amended May 6, 1987, P.L.8, No.2)**
- (3) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.**
- (4) 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 of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating 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 is or 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 his 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.”

- (5) Violating a lawful regulation promulgated by the board or violating a lawful order of the board previously entered by the board in a disciplinary proceeding.
- (6) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice a profession contrary to this act or regulations of the board.
- (7) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.
  - (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.
  - (ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.
- (8) Acting in such manner as to present an immediate and clear danger to public health or safety.
- (9) Acting outside the scope of a license or certificate.
- (10) Making a false or deceptive biennial registration with the board.”

**Evidence:**

41(1) - Curriculum Vitae + Credentials + Qualifications demonstrate qualifications and standards for a license (Appendix 1).

41(3) – The following evidence proves that the suspension/revocation of Kaul’s license on April 2, 2012 and March 12, 2014 was a Fraud on the Court: (i) The Waldman E-mail (Appendix 2); (ii) The Sabo Certification (Appendix 3); (iii) The Zerbini Certification (Appendix 4); (iv) The Przybylski Disciplinary Notice (Appendix 5); (v) The Feldman Certification (Appendix 6); (vi) The Solomon Critique (Appendix 7); (vii) The Solomon Critique 2 (Appendix 8); (viii) The Calabrese Certification (Appendix 9). These pieces of evidence have been submitted into K1 in support of twenty-two (22) motions for summary judgment, filed on May 29, 2019 by Kaul against the



defendants. In K2 Kaul has plausibly pled claims against Defendant NJBME, which under the federal law have the assumption of truth. These claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has also plausibly pled claims against the administrative law judge, Jay Howard Solomon, which have the assumption of truth. These claims are: COUNT TWO - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN – AID IN THE COMMISSION OF TORT. Kaul has plausibly pled claims against Defendant Doreen Hafner, a lawyer and state employee who performed the functions of the deputy attorney general in the prosecution of the case against Kaul that caused the illegal revocation of his license. The claims are: COUNT THREE - VIOLATIONS OF 18 U.S.C. § 1962(C)-(D) THE RACKETEER INFLUENCED AND CORRUPT ACT. 18 U.S.C. § 1961, ET SEQ + COUNT ELEVEN – DEPRIVATION OF RIGHT UNDER COLOR OF LAW + COUNT FOURTEEN - AID IN THE COMMISSION OF TORT (**Appendix 10**).

None of this evidence has been refuted/contested/rebutted/contradicted by any of the K1/K2 defendants or the federal court.

Kaul has not violated any standards of morality, professional conduct, ethics, standard of care, regulations or any other laws in **this Commonwealth** of Pennsylvania, and there exists no evidence to prove otherwise.

**Law + Argument:** Sections 22(c) and Section 41(1) provides no legal basis to deny Kaul’s application for licensure, because he has submitted evidence (CV + Credentials) that prove he meets the standards for licensure in Pennsylvania. Section 22(c) and Section 41(3) provide no legal basis to deny Kaul’s application for licensure, because the revocation in New Jersey was a product of a ‘Fraud on the Court’, which the law defines as: **“Fraud on the court occurs when the judicial machinery itself has been tainted, such as when an attorney or judge (Hafner/Solomon), who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.”** In *Bullock v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985), the court stated, **“... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.”** The illegal conducted administrative board proceedings make null and void the revocation of Kaul’s license, and thus provide no basis for the Pennsylvania Medical Board or indeed any medical board in the United States to deny Kaul a license. A massive state orchestrated crime was committed against Kaul, that has exposed K2 defendant NJBME to immense legal liability, This liability will through the doctrine of vicarious liability expose any medical board that bases its actions on K2 defendant NJBME’s crime of Fraud on the Court. Section 22(c) and Section 41(4) have no relevance to Kaul’s application. Kaul is not addicted to drugs or alcohol and has never been convicted of any drug related offense. Section 22(c) and 41(8) has no relevance to Kaul’s application as Kaul is not **“acting in such a manner as to present an immediate and clear danger to the public health**



**or safety.”** The patient records submitted in Kaul’s application evidence the clinical improvement of the majority of patients to whom he provided care, to a level significantly above the average clinical outcome. From 2002 to 2012 Kaul performed six-thousand (6000) spinal procedures, of which there were eight hundred (800) minimally invasive spinal discectomies and fusions, with good to very good outcomes in 90-95% of cases (average 65-70%) and complication rate of 0.1% (average 5-15%). The evidence proves that Kaul is not and never has been a danger to the public, and that his standard of care far exceeds the normal. Every year in American hospitals, approximately four hundred and forty thousand (440,000) patients die from medical mistakes.

**Conclusion:** For the reasons set forth above Section 22(c) and Sections 41(1), 41(3), 41(4) and 41(8) provide no basis or bases on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure. In **this Commonwealth** Kaul has not violated any standards of professional conduct, has not been found guilty of unprofessional conduct, which includes the departure or failure to conform to a quality standard of the profession. However, with all due respect to the Pennsylvania Medical Board the statement, **“As these payouts suggest that you have been guilty of unprofessional conduct, which includes the departure from or failure to conform to a quality standard of the profession ...”** Page 2 Para. 4 is a statement that willfully ignores the conclusive evidence submitted in K1 + K2 and to the PMB i.e. ‘The Solomon Critique’ (D.E. 225) + ‘The Solomon Critique 2’ (D.E. 299) that irrefutably proves with the evidence of K2 defendant NJBME, that in the New Jersey administrative law proceedings (April 19, 2013 to June 28, 2013), K1/K2 defendants Przybylski + Kaufman + Solomon + Hafner **collectively committed almost three hundred separate instances of perjury + evidential fabrication + falsification + omission + misrepresentations.** The defendants have not contested/rebutted/refuted/contradicted this evidence, that is now an element of the evidential foundation for a series of twenty-two (22) summary judgment motions filed on May 29, 2019 in K1.

The K1/K2 defendants committed the felonies of Evidence Tampering + Obstruction of Justice. Kaul respectfully asserts that for the PMB to give any credence to the illegal license revocation and consequent frivolous lawsuits, and to suggest that they provide a basis for license denial, is evidence of collusion and conspiracy with K2 defendant NJBME. The denial of Kaul’s application is a **“new”** racketeering injury, the liability of which extends from the K1/K2 defendants to the PMB.



**63 P.S. § 422.41(8) (cited page 2 para. 4):**

**“Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.**

- (i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.**
- (ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.”**

**Evidence:** The following evidence proves that the patients to whom claims were illegally paid on August 13, 2015 + June 10, 2015 + November 2014 + July 2014 + July 2014 + June 2014, all improved after the care provided by Kaul. These individuals and their lawyers committed felonies of insurance fraud, that were facilitated by states actors who are now defendants in K1 + K2. A percentage of these monies were funneled to K2 defendant Christie as kickbacks: **(i)** The NPDB Explanation (**Appendix 26**); **(ii)** The Caitlin Letter (**Appendix 27**); **(iii)** The Justice Albin Letter (**Appendix 28**); **(iv)** The Murphy Letter (**Appendix 29**); **(v)** The Yale Letter (**Appendix 30**); **(vi)** The Lomurro Law Retreat (**Appendix 31**); **(vii)** The Christie Kickbacks (**Appendix 32**); **(viii)** The McLean Motion (**Appendix 33**); **(ix)** The Sica Critique (**Appendix 34**);

**Law + Argument:** Kaul has not violated any standards of morality, professional conduct, ethics, standard of care, regulations or any other laws in **this Commonwealth** of Pennsylvania, and there exists no evidence to prove otherwise. Kaul has not violated the laws or any provisions/clauses/ of the Pennsylvania Constitution. Kaul has not violated any federal laws or any provisions/clauses of the United States Constitution. In fact, it is Kaul whose legal rights under the constitutions of the State of New Jersey and the United States of America, have been flagrantly violated by private/state actors and agencies acting under the authority of the State of New Jersey, in a period that commenced on April 2, 2012.

**Conclusion:** For the reasons set forth above 63 P.S. § 422.41(8) provides no basis on which to deny Kaul’s application for medical licensure in the Commonwealth of Pennsylvania. Accordingly the law mandates a license must be issued as Kaul meets the legal requirements and standards for licensure. In **this Commonwealth** Kaul has not violated any standards of professional conduct, has not been found guilty of unprofessional conduct, which includes the



departure or failure to conform to a quality standard of the profession. However, with all due respect to the Pennsylvania Medical Board the statement, **“As these payouts suggest that you have been guilty of unprofessional conduct, which includes the departure from or failure to conform to a quality standard of the profession ...”** Page 2 Para. 4 is a statement that willfully ignores the conclusive evidence submitted in K1 + K2 and to the PMB i.e. ‘The Solomon Critique’ (D.E. 225) + ‘The Solomon Critique 2’ (D.E. 299) that irrefutably proves with the evidence of K2 defendant NJBME, that in the New Jersey administrative law proceedings (April 19, 2013 to June 28, 2013), K1/K2 defendants Przybylski + Kaufman + Solomon + Hafner **collectively committed almost three hundred separate instances of perjury + evidential fabrication + falsification + omission + misrepresentations.** The defendants have not contested/rebutted/refuted/contradicted this evidence. This evidence is now an element of the evidential foundation for a series of twenty-two (22) summary judgment motions filed on May 29, 2019 in K1.

The K1/K2 defendants committed a series of crimes against Kaul, that resulted in the illegal revocation of his license on March 12, 2014. These crimes include fabrication/falsification of evidence + perjury + bribery + kickbacks + obstruction of justice + subornation of perjury + public corruption. The product and consequences of these crimes i.e. the illegal revocation and fraudulent malpractice lawsuits, provide no legal basis for the PMB to deny Kaul’s application for licensure.



\* \* \* \* \*

\* \* \* \* \*

\* \* \* \* \*

Reporter: Patrick Troy

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WITNESSES: Doreen Bettens; John Zerbini; George  
Gongora; Victor Katz, M.D.; Kingsley R. Chin, M.D.;  
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## P R O C E E D I N G S

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HEARING EXAMINER: This is time and place for the hearing in the case of - in the Matter of the Application for a License to Practice as a Medical Physical and - Physician and Surgeon of Richard Arjun Kaul, K-A-U-L -

Doctor, as I pronouncing that correctly?

DR. KAUL: You are, Your Honor, yes.

HEARING EXAMINER: - M.D. File Number 19-49-007483. My name is David Green, I'm the Hearing Examiner to whom this matter's been delegated.

The parties are present. Dr. Kaul is here with his Counsel, Miss Chavis.

Would you identify yourself for the record, please?

ATTORNEY CHAVIS: Yes, Your Honor. Jenni Chavis, attorney for the Petitioner, Dr. Richard Kaul.

HEARING EXAMINER: Thank you. Mr. Morris.

ATTORNEY MORRIS: Adam Morris, on behalf of the Commonwealth.



1                   HEARING EXAMINER:   Okay.   Thank you.

2                   The filings in this case are 1,900  
3 some pages and the Board has made an attempt to  
4 distill these down to a DVD or a DVD-ROM, or CD-ROM,  
5 whatever it's called, and provided a copy to me for  
6 purposes of this hearing.

7                   Are we going to use the computer disc  
8 in lieu of paper, Miss Chavis?

9                   ATTORNEY CHAVIS:   I wasn't sure how  
10 Your Honor wished to proceed with that.   I'm open to  
11 do whatever you decide.   We understand the documents  
12 are there.   I'm not sure if you really want to do the  
13 paper limited to application, provisional denial  
14 letter.   And that the volume may come in the response  
15 or the request for the appeal.

16                  But whether it's the admission of the  
17 disc or just those items as the Board exhibits I  
18 think would be fine.

19                  HEARING EXAMINER:   Do you have the  
20 disc?

21                  ATTORNEY CHAVIS:   No.   Mine stays with  
22 the Prothonotary's Office.   When I came to review the  
23 file, there was a disc in the Prothonotary's file.   I  
24 did not take it.   It was -.

25                  HEARING EXAMINER:   I didn't know



1 whether - I got it and I didn't know whether the  
2 Board had sent it.

3 How do you want to do this, because I  
4 have a disc here? I have two discs here. Do you  
5 have any or - you need one of mine.

6 Right?

7 ATTORNEY CHAVIS: Yeah, -.

8 HEARING EXAMINER: Mr. Galough is here  
9 to work this disc, to project it onto the screen, so  
10 that we all can see it. And with his help, we'll be  
11 able to call upon any particular page among the  
12 1,900.

13 ATTORNEY CHAVIS: Understood.

14 HEARING EXAMINER: So does that help  
15 you?

16 ATTORNEY CHAVIS: Certainly. I don't  
17 believe that I would actually need to pull up  
18 documents from the disc. I don't believe that that  
19 will be necessary for our presentation today. I'm  
20 not - obviously, I can't speak for the Commonwealth.  
21 As far as what is incorporated into the record, we  
22 would ask that, of course, the application  
23 provisional denial and the request for appeal be made  
24 as part of the Board record.

25 Now because - I was under the



1 impression that it would just be included as a part  
2 of the Prothonotary's Office. If Your Honor is  
3 willing to keep the record open so we can supply an  
4 official exhibit to the Commonwealth and also to the  
5 Court.

6 HEARING EXAMINER: Why don't we do  
7 this. You have a computer here.

8 Right, Miss Chavis?

9 ATTORNEY CHAVIS: Yes, Your Honor.

10 HEARING EXAMINER: I'm going to give  
11 you the disc, so that you can follow along.

12 Mr. Morris, do you have a copy of the  
13 disc?

14 ATTORNEY MORRIS: I don't have a copy  
15 of the disc, but I do have access to the PDFs. I was  
16 able to get copies of -.

17 HEARING EXAMINER: Copies of the PDFs?  
18 Right.

19 Do you need them today or is what we  
20 have sufficient?

21 ATTORNEY MORRIS: I don't think I need  
22 them right now. Everything that I need is printed  
23 out, marked as exhibits, in exhibit format, so that I  
24 can approach as needed.

25 HEARING EXAMINER: Okay.



1 Miss Chavis, were you going to  
2 introduce any evidence? And before I get - I mean,  
3 any documents. Before I get further in that, I want  
4 to make sure we have a complete record.

5 My concerns are the same as yours. If  
6 it's electronic, so much the better. But I want to  
7 make sure that we can do this on the screen.

8 How do you propose that we do this? I  
9 mean I can take official notice.

10 ATTORNEY CHAVIS: I think that would  
11 be the best route, Your Honor. So this is our  
12 intention.

13 The bulk of our presentation is going  
14 to be through testimony. We know that whatever is a  
15 part of the Board record is part of the  
16 Prothonotary's file. That is what it is. We're  
17 going to ask for official notice of say the date of  
18 the provisional denial, the day of the application.

19 HEARING EXAMINER: Right.

20 ATTORNEY CHAVIS: We believe that  
21 those issues are not going to be at issue in this  
22 particular proceeding.

23 HEARING EXAMINER: Right.

24 ATTORNEY CHAVIS: So if Your Honor's  
25 willing to make - take official notice of what is in



1 the Board records or part of the Prothonotary file, I  
2 think that'll be sufficient for today's purposes.

3 HEARING EXAMINER: I'll take - any  
4 objection?

5 ATTORNEY MORRIS: No objection. I  
6 think that's an excellent solution.

7 HEARING EXAMINER: Okay.

8 So let's break this down into  
9 precisely what we're doing. There's an application  
10 and the documents that were submitted in support of  
11 the application, and the documents that were received  
12 by the Board from let's say other states,  
13 jurisdictions or databank reports or that sort of  
14 thing.

15 Everything that the - in other  
16 words, everything that the Board considered in  
17 deciding to provisionally deny the license. So we'll  
18 take official notice of that. And I believe that  
19 there are - within the documents on the disc, they're  
20 numbered in some sequential fashion.

21 And so, I'll take official notice of  
22 that. I'll take official notice of the provisional  
23 denial letter itself. And then there is the appeal  
24 from the provisional denial submitted by Dr. Kaul,  
25 that is - it appears to be a July 4th, 2019 document.



1 And it's a letter to Mr. Maloney, who was the prior  
2 Board Counsel, July 4, 2019, and it references three  
3 folders, number one, the response brief plus  
4 appendices. Number two, there was another response  
5 brief, and number three, the appendices. And they're  
6 located on a flash drive that was provided by Dr.  
7 Kaul to the Board as part of his appeal.

8 Have I described that correctly, Miss  
9 Chavis?

10 ATTORNEY CHAVIS: Yes, Your Honor.

11 HEARING EXAMINER: Okay.

12 So Mr. Morris, based on that, can I  
13 take official notice of those groups of documents?

14 ATTORNEY MORRIS: You can, no  
15 objection.

16 HEARING EXAMINER: Okay.

17 Application materials, Exhibit B-1.

18 ---

19 (Whereupon, Exhibit B-1, Application Materials,  
20 was marked for identification.)

21 ---

22 HEARING EXAMINER: Provisional denial  
23 letter, Exhibit B-2.

24 ---

25 (Whereupon, Exhibit B-2, Provisional Denial



1 Letter, was marked for identification.)

2 ---

3 HEARING EXAMINER: Material submitted  
4 by Dr. Kaul, as part of his appeal of the provisional  
5 denial, including the appendices, Board Exhibit B-3.

6 ---

7 (Whereupon, Exhibit B-3, Material Submitted by  
8 Dr. Kaul, was marked for identification.)

9 ---

10 HEARING EXAMINER: Mr. Morris, is that  
11 okay?

12 ATTORNEY MORRIS: It is okay.

13 HEARING EXAMINER: Okay, Miss Chavis?

14 ATTORNEY CHAVIS: Yes, Your Honor, it  
15 is.

16 HEARING EXAMINER: Okay.

17 And so we have access - Mr. Galough,  
18 we have access to all these documents on this  
19 computer disc that was provided by the Board, with  
20 the materials. And so what's going to happen is Mr.  
21 Galough, through his computer, is going to - at any  
22 time when we want a particular page or a particular  
23 document, to the extent you can describe it, Mr.  
24 Galough is going to help us find it. And if it turns  
25 out that it's more easily found by Dr. Kaul telling



1 us where it might be within the drive he submitted,  
2 we'll avail ourselves of that.

3 Is that okay, Miss Chavis?

4 ATTORNEY CHAVIS: Yes, Your Honor.

5 HEARING EXAMINER: Mr. Morris, all  
6 right with you?

7 ATTORNEY MORRIS: It is.

8 HEARING EXAMINER: Okay.

9 Now, the party with the burden of  
10 proof is the Applicant. So before we move to opening  
11 statements, there was some - there were two requests  
12 for telephone testimony?

13 ATTORNEY CHAVIS: Yes, Your Honor. So  
14 we have one individual, Mr. Zerbini, who is so going  
15 to appear telephonically.

16 Mr. Gongora is present. He's actually  
17 going to have - we'll have live testimony from him  
18 today.

19 HEARING EXAMINER: Good.

20 ATTORNEY CHAVIS: Logistically there  
21 are two issues regarding the two doctors who  
22 indicated the witnesses for the Applicant. Logistics  
23 as far as, you have one individual who is flying to  
24 Arizona and will be available once his flight lands.  
25 And the other individual is available between two



1 patients.

2                   So I know it's going to be very  
3 difficult to nail down a time. However, we have  
4 enough witnesses to start the proceeding and then  
5 we'll probably ask to approach, if we need to ask -  
6 with the Court's - with some indulgence.

7                   HEARING EXAMINER: Yes.

8                   I don't think that's going to be a  
9 problem.

10                  Mr. Morris, do you?

11                  ATTORNEY MORRIS: I don't have any say  
12 in how the Respondent or I guess the Applicant  
13 presents their case.

14                  HEARING EXAMINER: Right.

15                  But what I'm saying - I think what I'm  
16 hearing from Miss Chavis is that, in the course of  
17 presenting her case, we might have to go out of order  
18 a little bit or we might have to interrupt the  
19 testimony of, let's say Dr. Kaul, in order to make a  
20 telephonic testimony of whichever witness is either  
21 between patients or arriving in Arizona by plane.

22                  And I don't see that is going to be a  
23 problem, as far - from my perspective, as far as  
24 making the record. And we'll make pretty sure there  
25 are definite lines of demarcation within the record,



1 so that we know what was happening at any given time  
2 when we review the record.

3 Any objection, Mr. Morris?

4 ATTORNEY MORRIS: No objection.

5 HEARING EXAMINER: Okay. All right.

6 So with that in mind, are there any -  
7 do we need to exchange any documents or are we all  
8 good and ready to start opening statements?

9 Miss Chavis?

10 ATTORNEY CHAVIS: We're ready to  
11 begin, Your Honor.

12 HEARING EXAMINER: Mr. Morris?

13 ATTORNEY MORRIS: Not at this time,  
14 Your Honor.

15 HEARING EXAMINER: Okay.

16 So opening statement, Miss Chavis.

17 ATTORNEY CHAVIS: Thank you.

18 May it please the Court and Mr.  
19 Morris, Your Honor, this opening will be very, very  
20 short. I believe the issues that we're going to  
21 address today have been laid out within the  
22 provisional denial letter. I don't believe there's a  
23 question specifically regarding Dr. Kaul's  
24 qualification, but addressing certain events that  
25 happened after he received his education, training



1 and experience.

2 And I believe, as a result of those  
3 issues, it called into question, at least from the  
4 Board's perspective, whether or not he is able to  
5 practice safely, whether or not he has the moral  
6 standards to be a physician licensed in Pennsylvania.  
7 And it is our intent today, through our witnesses, to  
8 establish that he is and that the license should be  
9 granted to Dr. Kaul.

10 Thank you.

11 HEARING EXAMINER: Mr. Morris.

12 ATTORNEY MORRIS: May it please the  
13 Court - good morning, Miss Chavis.

14 Our role today here as a Prosecutor  
15 and I speak to you, to Dr. Kaul, is to flush out as  
16 many facts as I possibly can for the record, so the  
17 Board has a full and complete record to review in  
18 determining whether to grant or deny Dr. Kaul a  
19 license to practice here in Pennsylvania.

20 Thank you.

21 HEARING EXAMINER: Okay.

22 And to the extent, I - we haven't done  
23 Exhibits B-1, B-2 and B-3. Those are all Board  
24 Exhibits, and as described earlier, they're admitted.

25 ---



1 (Whereupon, Exhibit B-1, Application Materials,  
2 was admitted.)

3 (Whereupon, Exhibit B-2, Provisional Denial  
4 Letter, was admitted.)

5 (Whereupon, Exhibit B-3, Material Submitted by  
6 Dr. Kaul, was admitted.)

7 ---

8 HEARING EXAMINER: Miss Chavis.

9 ATTORNEY CHAVIS: Thank you. I call  
10 Doreen Bettens at this time. Please go to the  
11 witness stand. Stand here, please.

12 HEARING EXAMINER: Ma'am, the court  
13 reporter's going to swear you in.

14 COURT REPORTER: Please raise your  
15 right hand.

16 ---

17 DOREEN BETTENS,  
18 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
19 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
20 FOLLOWS:

21 ---

22 HEARING EXAMINER: Ma'am, could you  
23 give us your name and spell each - first and last  
24 name, please?

25 THE WITNESS:



1 Doreen Bettens. It's D-O-R-E-E-N,  
2 B-E-T-T-E-N-S.

3 HEARING EXAMINER: Thank you. Miss  
4 Chavis.

5 ATTORNEY CHAVIS: Thank you very much.

6 ---

7 DIRECT EXAMINATION

8 ---

9 BY ATTORNEY CHAVIS:

10 Q. You may be seated.

11 A. Thank you.

12 Q. Could you please describe to the Hearing  
13 Examiner how you know Dr. Kaul?

14 A. I know him - my mother worked with him at  
15 Dover Hospital, back in the early 2000s. And she was  
16 also a back patient of his and -.

17 Q. So she worked with him and she was also a  
18 patient?

19 A. She had worked for him, she had worked  
20 with him. She was an operating room nurse. And I  
21 had met him when I used to go out at the hospital.  
22 She introduced me to him. And then I had brought her  
23 for her follow-up visits after she had laparoscopic  
24 surgery.

25 Q. Okay.



1           A.       She had a fusion on her back and I took  
2 her to her follow up and I met him in his office when  
3 I brought her there.

4           Q.       Can you describe what happened when you  
5 met him, at the time?

6           A.       I had a CAM walker on my leg. I've had  
7 issues with my feet of having a lot of pain. And  
8 they - I was going to see a podiatrist at the time.  
9 And he had no idea what was going on with my feet. A  
10 long time actually it had been going on for.

11           It started in 2003 and it was around 2005, that's  
12 how I met him. They had no idea what was going on.  
13 They kept - they were taking x-rays, they were doing  
14 injections of cortisone. They had no idea.

15           I had all kinds of tests done. And Dr.  
16 Kaul asked me what was going on, why I was limping  
17 and, you know, what was going on with my feet. And I  
18 said I have no idea. They keep trying the different  
19 tests and they keep telling me they have no idea  
20 what's wrong, that everything's coming back negative.  
21 So he asked me to make an appointment in his office  
22 at that time.

23           Q.       And what happened then?

24           A.       So I made the appointment with the girls.  
25 I went in and he examined me. And he told me I had



1 third-stage RSD, which is reflex sympathetic  
2 dystrophy.

3 Q. What happened then?

4 A. He said that the best he could do at that  
5 point was try to keep me out of pain and try to keep  
6 me out of a wheelchair. And he set me up for a  
7 series of what's called sympathetic nerve blocks,  
8 where they put it in -. They give you shots in your  
9 back on the sympathetic nerve system chain and that  
10 sort of - which actually helped me quite a bit.

11 Q. When you say it helped you quite a bit,  
12 can you quantify that for us at all?

13 A. What it is, is I could hardly walk  
14 without - you know, it was hard to walk at all,  
15 because the pain was so bad. I was wearing a CAM  
16 walker, which is a big black boot that you walk with.  
17 And it was very painful.

18 The pain I had, it was kind of like - it  
19 felt like my foot was crushed, that's how bad the  
20 pain was. I thought it was broken. But they  
21 couldn't find anything. And with those shots, I was  
22 able to put my shoe back on and I didn't have to wear  
23 a slipper anymore.

24 Q. How about the pain? Was there any  
25 change?



1           A.       I still had pain, but not - I didn't feel  
2 - it didn't feel broken. It went from like feeling  
3 maybe like it was bruised.

4                    So it was a significant difference.

5           Q.       And so did you treat with him otherwise,  
6 Dr. Kaul, after that?

7           A.       Yes. Because RSD does not go away.  
8 There's no cure.

9           Q.       And how long did you see him for - were  
10 those treatments for pain management?

11          A.       Yes.

12          Q.       Okay.

13          A.       They were for pain management. I also  
14 have degenerative disc disease, so he also treated me  
15 for that.

16          Q.       How did that go?

17          A.       Oh, wonderful. I have - he did a lumbar  
18 fusion. He ended up doing that for me. And it was  
19 like I could barely move. So I ended up - that was  
20 further on, I mean, he had been seeing me for the  
21 RSD.

22                   And my back pain eventually got to the  
23 point where I couldn't move. The pain was going -  
24 radiating down my legs. It was just horrific.

25          Q.       And as a result of treating with him, did



1 you see improvement?

2 A. I'm sorry?

3 Q. Did you see improvement, as a result of  
4 treatment, with the degenerative -?

5 A. Oh, my God, yes. I went in - well, back  
6 up a bit. I spoke too fast.

7 Q. Take your time.

8 A. I went in to have a - I don't remember  
9 the name of the test -

10 Q. Okay.

11 A. - that he had done. But he went in to do  
12 a test where they build in - is it a discogram, when  
13 they go in? But anyhow, when we did it, the hole  
14 didn't close and he had - and the hospital insisted  
15 that it should close.

16 So I was having severe headaches. Like I  
17 couldn't do things with my head. It was - you know,  
18 couldn't eat. My head was killing me. They said oh,  
19 no, you had it done several days ago. You know,  
20 within 24 to 48 hours, that they should've closed.  
21 You know, there's no way that's what it's from.

22 So my mother was calling Dr. Kaul and  
23 telling him, you know, something's going on, you  
24 know, leaving messages. He had been away at a  
25 training seminar that weekend, which we didn't know.



1 And so when she finally got him on the phone, he was  
2 boarding a plane to come back. And she explained  
3 what was going on.

4 Q. Just to be clear for the record - the  
5 particular thing you just described, that was not  
6 closed -?

7 A. It's the needle.

8 Q. Oh.

9 A. It's a needle. If the needle is thick  
10 and it sometimes happens and this is a common effect.  
11 It's not anything you know, where they cut you open  
12 or anything. It's a regular procedure and sometimes  
13 it happens.

14 And he actually came back in, went and  
15 opened up his surgical center, so he could do what's  
16 called a blood patch, where they thin the blood and  
17 then they just go back in. So your blood would close  
18 you back up yourself.

19 But he opened the surgical center to do  
20 that for, because the hospital would not do it for  
21 me. They insisted that that can't be what happened.

22 Q. And as a result of him making these  
23 efforts, what happened then?

24 A. That was it. My - everything  
25 repressurized and I was fine. The headache was gone,



1 the nauseousness was gone.

2 It was over, yes.

3 Q. Any other treatments you had after that?

4 A. Oh, yes. So they - he found out that I  
5 was L - wait, I don't want to say this wrong. L4,  
6 wait a minute, it was L4-5. No.

7 Q. In your lumbar?

8 A. In my lumbar spine, yes. I had two  
9 discs. I always say the wrong ones. But I was bone  
10 on bone. Okay? That's what it turned out, from the  
11 test. We found out.

12 And it was completely bone on bone.  
13 That's why the pain was so bad. It was through both  
14 hips down my legs and it was excruciating, the pain.  
15 And I did not have insurance, also, through all of  
16 this.

17 I did have Workman's Comp for the RSD. I  
18 had Workman's Comp going on for that. But I did not  
19 have - nothing but Medicaid at the time. I was a  
20 single mother with four children.

21 And Dr. Kaul, because of the pain I was  
22 in, went ahead and did the lumbar fusion for me, to  
23 relieve the pain I was in. I could not even step  
24 like a normal person, you know, one foot over the  
25 other, to go up the stairs. I couldn't do that. I



1 had a - you know one and then like this (indicating),  
2 to go upstairs.

3 Q. With both feet?

4 A. Yes. And probably for at least a year,  
5 prior to the procedure. I went into the surgical  
6 center to have it done -.

7 ---

8 (WHEREUPON, THERE WAS A BRIEF INTERRUPTION IN THE  
9 HEARING.)

10 ---

11 HEARING EXAMINER: Is there a phone.

12 ATTORNEY CHAVIS: I believe someone's  
13 phone's ringing.

14 HEARING EXAMINER: All phones, shut  
15 off.

16 And I would ask respectfully that -.

17 THE WITNESS: I'm sorry. That was  
18 mine.

19 HEARING EXAMINER: No. That's okay.  
20 It happens occasionally, ma'am, but it's not a  
21 problem.

22 But it just reminds me to remind folks  
23 to shut off their phones. And I would also ask that  
24 they not be put on vibrate. There's nothing louder  
25 in a courtroom, than a phone on vibrate.



1                   So much appreciated. Thank you.

2                   THE WITNESS: I had mine on so I could  
3 figure out where I was going.

4                   HEARING EXAMINER: Ma'am, it's okay.  
5 Continue.

6 BY ATTORNEY CHAVIS:

7                   Q. And after the procedure?

8                   A. After the procedure - it was same-day  
9 surgery, I came home early evening. And I was able  
10 to, that day of the surgery, to walk one foot over  
11 the other, up the stairs.

12                   Other than surgery pain, the actual pain  
13 down the legs and all was gone. I mean, I felt  
14 better coming home from the surgery than I did going.

15                   Q. Other than -?

16                   A. It was amazing.

17                   Q. Other than the issue that you reported to  
18 Dr. Kaul about the pain, at that time, did he have  
19 concerns about you being bone on bone and any safety  
20 issues that you might have?

21                   A. Yes. He was concerned because of the  
22 state that my spine was in, he said with a small  
23 fender bender, I could end up paralyzed.

24                   Q. With small -?

25                   A. Like a car accident, anything. He said,



1 yes. And he said it was so bad that it would've been  
2 very easily - with a small car accident, could have -  
3 I would've ended up paralyzed, just about.

4 Q. So you mentioned about three significant  
5 times in which you treated with Dr. Kaul.

6 A. Uh-huh (yes).

7 Q. Do you recall the approximate timeline  
8 that that happened? Not months and dates, but from  
9 what year to what year?

10 A. I was an ongoing patient when I started  
11 with Dr. Kaul. But because I have RSD, I - well, I  
12 had that all my life. Because they didn't - RSD is -  
13 if you don't - RSD does not go away. There's no cure  
14 for RSD.

15 And because the doctors did not catch it  
16 in the first six months, it continued, it started in  
17 my feet.

18 Q. But when you started, was that - you  
19 mentioned 2005, was that around the time that you  
20 started treating with Dr. Kaul?

21 A. Right.

22 Q. Okay.

23 Until - when was the last time that you  
24 saw Dr. Kaul as a patient?

25 A. When - right around 2012, when they took



1 his license.

2 Q. And I know that the -.

3 A. Or you know, right before, but he stopped  
4 seeing patients, but I was one.

5 Q. And then it is my very obvious question,  
6 but what state did all of this happen in, when you  
7 were treating with him?

8 A. New Jersey.

9 Q. So you mentioned that in 2012 you stopped  
10 treating with him.

11 So are you aware of issues that he had  
12 with his license in New Jersey?

13 A. Yes.

14 Q. Okay.

15 And did - you were aware there was a  
16 revocation, that his license was taken?

17 A. Yes.

18 Q Does that change whether or not you would  
19 want to have him as your physician?

20 A. Oh, I'm waiting for him to be my  
21 physician.

22 Q. Can you explain that?

23 A. Yeah?

24 Q. Yes.

25 A. Yeah. He's the best doctor. He is the



1 best doctor at what he does.

2 Q. And what leads you to that conclusion?

3 A. Because of the fact that with the RSD, I  
4 totally believe that if it wasn't for him, I wouldn't  
5 be walking today. I could barely walk then and I  
6 couldn't find a doctor that would tell me what was  
7 wrong with me, until him.

8 Q. Are you aware of the issues that he had  
9 as a physician when he lived in England?

10 A. Yes.

11 Q. Okay.

12 A. Fully aware. He had no problem  
13 explaining it to any of his patients.

14 Q. So he disclosed that to you?

15 A. Yes, he did.

16 Q. And was this during that 2005, 2012 time  
17 period?

18 A. Oh, yeah, right in the beginning I knew.

19 Q. And -?

20 A. And if anybody asks him, he'll tell you  
21 it was online. It was never a secret.

22 Q. And that didn't impact whether or not you  
23 wanted him to be your physician?

24 A. No, not at all.

25 TESTIMONY STRICKEN



1 BY ATTORNEY MORRIS:

2 Q. When you were - did you have the  
3 opportunity to see his practice grow, between 2005  
4 and 2012?

5 A. Definitely, yes. Actually, I saw - I was  
6 in the process of being - starting down in Pompton  
7 Lakes.

8 Q. In, I'm sorry, where?

9 A. Pompton Lakes.

10 Q. Pompton Lakes?

11 A. Yes.

12 Q. Would you please describe what your  
13 observations were during the growth of his practice?

14 A. How I started with him - well, first he  
15 was down in the Dover General practice back in the  
16 day. Then it turned into St. Clare's in Dover. And  
17 I started seeing him for the sympathetic nerve blocks  
18 when he was out in Newton.

19 And then I saw him in Clifton, on Main  
20 Ave. in Clifton and well, all over the place. I went  
21 to several different locations and then in his  
22 Pompton Lakes - Pompton, when he had his own  
23 location.

24 Q. With the different moves, did you see  
25 that the business or see that the practice was



1 growing at the time?

2 A. Oh, definitely.

3 Q. And in what ways did you see it growing,  
4 other than moving the patients?

5 A. The people that were waiting to see him  
6 was - it got busier and busier. The patients - I  
7 mean, just a lot of people. Yeah, so many people  
8 waiting to get in.

9 Q. With the business, did you ever feel that  
10 it impacted the length of time he spent with you, as  
11 a patient?

12 A. No. He took his time with everybody and  
13 listened.

14 Q. How would you describe him as a  
15 physician, as a person?

16 A. Which one, as a physician or a person?

17 Q. Both.

18 HEARING EXAMINER: You can take them  
19 one at a time, if you want.

20 THE WITNESS: Okay. First can I get a  
21 drink? I'm sorry. I'm like dry. As a physician  
22 first, I'll talk to him on that way first. As a  
23 physician, I mean, I just totally have trust and  
24 faith in him. I mean, I just - I have degenerative  
25 disc disease. I just had an MRI done last week. I



1 have three slipped discs in my neck and one  
2 herniated.

3                   And I have - my surgery site is the  
4 only thing, basically, that's good in my spine, that  
5 he did. I've had three technicians now tell me and  
6 ask me, you know, who did your surgery in your back?  
7 And I said Dr. Kaul. And they said, oh, it's  
8 beautiful.

9                   But above and below the surgery site,  
10 I have herniations now, too. So I have six discs now  
11 that - six, yeah, six that are bad. And I don't want  
12 anybody touching me that way, unless he is going to  
13 do it.

14                   I also - my daughter, who's a medical  
15 assistant has herniated - I think it is ruptured now  
16 actually from a patient lift. And I told her, please  
17 don't let them open your back. I want him to look at  
18 - at least look at the reports. And you know,  
19 confirm that what they're telling you is correct.  
20

21                   Because that's - you know, 26 years  
22 old, that's scary, to even let anything happen  
23 without a - you know, a second opinion and third  
24 opinion. Because you know, once they touch you, it's  
25 over. You know, it's not like you can go back and



1 redo it again.

2                   You know, I have a total faith in his  
3 knowledge, you know. And he always is training and  
4 going to seminars, and learning the latest, and you  
5 know, always striving for more knowledge. He never  
6 just was happy with what he knew. You know, if  
7 something else came out, he wanted to know about it.  
8 If he found out other - something else new, he wanted  
9 to find out what they were talking about.

10                   So that's what - why I was so  
11 comfortable with him. Because it was never like, oh,  
12 I've learned it in medical school, I'm good. You  
13 know, he always was striving for what else - what are  
14 they doing now. Oh, I got to find out what that is.  
15 You know, so that's why I wanted to be with him. He  
16 always wanted to know what the latest was.

17                   As a person, I was very angry with  
18 what happened in New Jersey, because there was no  
19 reason for it. It was so far out there. So it made  
20 me angry. So I have been helping him because of what  
21 they did. And we became the best of friends. So I -  
22 also, as a person, I think he's wonderful, too.

23 BY ATTORNEY CHAVIS:

24                   Q. Any questions about his moral character?

25                   A. He's great. There's no question about



1 his moral character for me.

2 Q. Did you have any concerns with if he  
3 isn't licensed, about your health, about what's going  
4 to happen with you in the future?

5 A. Yes.

6 Q. And what concerns you?

7 A. I don't know who I'm going to trust to do  
8 surgery on my spine again, you know. And you know, I  
9 got to go through all the - all the credentials and  
10 everything. You know, I'm on Medicaid, fighting for  
11 disability.

12 I have more than just the degenerative  
13 disease, you know, I have this disc and a few other  
14 things. Everything's been a fight. And I don't  
15 know, yeah, who to trust anymore.

16 You know, my mother's since deceased, so  
17 you don't have that person telling you, oh, this guy  
18 is wonderful, try this doctor. So you know, you  
19 don't know where to turn. It's scary and, you know,  
20 with him, my mom said wait until you see this guy and  
21 see what he can do. And I saw what he can do and  
22 he's absolutely wonderful.

23 And you know, when I would say you know,  
24 to my daughter, you know, this guy here, let him look  
25 at your reports, don't let anybody touch you until



1 this guy looks at it. And with any kind of luck,  
2 this guy is the guy can do surgery, he's going to do  
3 it. That's my baby.

4 ATTORNEY CHAVIS: Thank you.

5 The Court's indulgence?

6 HEARING EXAMINER: Sure.

7 ATTORNEY CHAVIS: No other questions  
8 for this witness, Your Honor.

9 HEARING EXAMINER: Mr. Morris, cross  
10 examine.

11 ATTORNEY MORRIS: Thank you.

12 ---

13 CROSS EXAMINATION

14 ---

15 BY ATTORNEY MORRIS:

16 Q. Good morning, Miss Bettens.

17 A. Hi.

18 Q. I understand you live in New Jersey now.  
19 Correct?

20 A. Yes.

21 Q. And so if Dr. Kaul were licensed in  
22 Pennsylvania, would you come over to Pennsylvania to  
23 be treated or would you continue to treat in your own  
24 state of New Jersey?

25 A. Well, if he's here in Pennsylvania, I'd



1 come to Pennsylvania.

2 Q. And are you being treated by New Jersey  
3 doctors right now?

4 A. Yes.

5 Q. How many doctors in New Jersey are  
6 treating you right now, for your various type of  
7 conditions?

8 A. I'd probably say maybe - I think seven,  
9 at least.

10 Q. And you're not satisfied with any of the  
11 treatment of any of the seven providers?

12 A. Well, the seven that I - all but the - my  
13 pain management I'm not thrilled with. I have a new  
14 pain management that's not thrilling me to death.  
15 You know, to another - not thrilled yet.

16 But the others, I mean, I have different,  
17 you know -. I have a rheumatologist for the - you  
18 know, I have different, for different aspects of  
19 things that are wrong with me. So -.

20 Q. You said, you know, him -

21 A. Dr. Kaul?

22 Q. - Dr. Kaul, as a physician and as a  
23 person.

24 How do you know him as a person?

25 A. As a person, I said I started helping him



1 with everything that happened because of that they  
2 took everything from him.

3 Q. I'm not sure what you mean by everything.

4 A. Everything, like everything, like -.

5 Q. What is everything?

6 A. Everything means, your home, your money,  
7 bank account. They like stripped him basically of  
8 everything but the clothes on his back. So with  
9 that, he couldn't pay child support, so that made him  
10 not be allowed to see his children.

11 And his driver's license, then, they took  
12 away, because of not being able to pay child support.

13 So I became the wheel that would drive for him and  
14 help him out with what's happening with him right  
15 now. So I was doing quite a bit for Dr. Kaul, you  
16 know.

17 Q. Do you still drive him?

18 A. When he needs me, yes. If he needs me, -

19 Q. Okay.

20 A. - he calls me and I'll help him out,  
21 because you know what, I feel bad for, you know, what  
22 happened.

23 He helped me when I was down and out.  
24 And in turn, you know, if you need my help, if you  
25 need to go the store or whatever, give me a call.



1 Yeah. Sure.

2 And we talk. We became good friends.

3 He's a great guy.

4 Q. How long ago did you become sort of a  
5 personal friend to him?

6 A. About three and a half, four years ago.

7 Q. So we're in 2020 now, so that would be  
8 about 2016, roughly?

9 A. Exactly.

10 Q. And you said you stopped treating with  
11 him in 2012.

12 Correct?

13 A. Correct.

14 Q. So what was the relationship with like  
15 him between 2012 and 2016?

16 A. We would talk, you know, here and there.  
17 We - I mean, we were friendly, but I was still  
18 working at that time. I became sick -.

19 Q. Where did you work?

20 A. I worked for Nissan.

21 Q. What did you do there?

22 A. I was a Service Advisor.

23 Q. So he wasn't your doctor between 2012 and  
24 2016.

25 Correct?



1           A.       Correct.

2           Q.       But you guys talked frequently.

3                    Correct?

4           A.       Fairly, not all the time, but fairly.

5 Enough that I knew some of what was going on with,  
6 you know, the license. Like, you know, calling here  
7 and there and ask him. You know, have you heard  
8 anything new, you know, things like that.

9           Q.       I'm just trying to figure out sort of how  
10 you became close suddenly in 2016, after the passage  
11 of about four years?

12          A.       My mother passed away.

13          Q.       So you reached out to him first?

14          A.       I called to let him know my mother passed  
15 away. And I also knew his girlfriend. My mother was  
16 a registered nurse, so was his girlfriend, you know.

17  
18                    You know, just all the medical community  
19 and I called him up and let him know my mother  
20 passed. And when I got - I ended up getting  
21 diagnosed with lupus, so I called him up and told  
22 about that, you know. Still considered him, you  
23 know, part of my medical team, even though he  
24 couldn't see me medically.

25                    I just would call him and let him know,



1 you're not going to believe this, you know. He still  
2 cares. He's a very caring person and he still cared  
3 what was going on. So I let him know what was going  
4 on.

5 Q. And I'm guessing you wouldn't want to see  
6 anything bad to him - bad to happen to him.

7 Correct?

8 A. Correct.

9 Q. You guys have been good friends for about  
10 four years.

11 Right?

12 A. Right.

13 Q. Did you drive him here today?

14 A. No.

15 Q. And when you were testifying earlier, you  
16 said - you were talking about the manslaughter  
17 conviction that he was convicted of in England?

18 A. Correct.

19 QUESTION STRICKEN

20 THE WITNESS: Well, the patient had  
21 hypokalemia. Okay? Do you know what that is at all?  
22 I do. Because I have it.

23 Do you know what that is at all?

24 BY ATTORNEY MORRIS:

25 Q. I'm asking the questions and -



1           A.       Okay.

2           Q.       - you're answering the questions. So  
3 that's how it works, ma'am. Go ahead and -.

4           A.       Yeah, I know that. The patient had  
5 hypokalemia. I read it - about it online. And  
6 hypokalemia is a drop of potassium. It's like when  
7 it's dangerously low, your heart stops, like  
8 flatlines; twice for myself, because I do have it and  
9 that's why she died.

10                    So blaming an anesthesiologist for that,  
11 which is what he was administering at the time, is  
12 lunacy, you know. He just happened to be the  
13 anesthesiologist at the time. Then she died from it.

14                    And it takes - I flatlined twice from  
15 that myself. It took 24 hours for them to get my  
16 potassium back up to the right level and all. So I  
17 was in intensive care twice and in the hospital for  
18 four days straight. It's very dangerous.

19           Q.       Did you sit in on the trial in England?

20           A.       No, I did not.

21           Q.       Okay.

22                    Did you read the transcripts from the  
23 trial in England?

24           A.       No.

25           Q.       Are you concerned about the 11 to 1 jury



1 verdict, the guilty at trial in England?

2 ATTORNEY CHAVIS: Objection, Your  
3 Honor. I'm going to object to the relevance.

4 At this point, there's no - what the  
5 jury - how it places its verdict has zero relevance  
6 for the provisional denial.

7 ATTORNEY MORRIS: If I may respond,  
8 Your Honor?

9 HEARING EXAMINER: Yes.

10 ATTORNEY MORRIS: We've had a half an  
11 hour of Direct Examination about her background and  
12 how she is capable of evaluating Dr. Kaul as a  
13 practicing physician. If she doesn't have a full  
14 understanding of the background, that absolutely  
15 speaks to the bias and credibility of this witness.

16 ATTORNEY CHAVIS: However, Counsel's  
17 question dealt with the breakdown of a jury. The  
18 breakdown of jury, the criminal trial in England, has  
19 zero relevance to what this witness believes is his  
20 safety to practice, his ability to practice or his  
21 moral standing.

22 So again, our objection is to the  
23 relevance to that line of questioning.

24 HEARING EXAMINER: What was the  
25 outcome? Does she know what the outcome of the case



1 was?

2 ATTORNEY MORRIS: I'm trying to  
3 think -.

4 HEARING EXAMINER: I'm not - because I  
5 get the point she's making - that Counsel is making  
6 about the breakdown of the jury.

7 But what was the end result? Does she  
8 know that?

9 ATTORNEY MORRIS: I'm about to ask  
10 her -.

11 HEARING EXAMINER: Ask her that.

12 And as to the breakdown of the jury,  
13 that's - that objection is sustained.

14 BY ATTORNEY MORRIS:

15 Q. Did you know the end result of the trial  
16 in England?

17 A. Yes, I did.

18 Q. Okay.

19 And did you know that he - Dr. Kaul, was  
20 convicted.

21 Correct?

22 A. Yes.

23 Q. And that he was convicted of, what they  
24 call there, negligent manslaughter.

25 Correct?



1           A.       Yes, I do.

2           Q.       In fact, you actually said on Direct that  
3 he told you, when you went to treat with him, that he  
4 told you about that incident.

5                    Correct?

6           A.       Correct.

7           Q.       He told you about the incident in 2005,  
8 when you began treating with him.

9                    Is that right? Or is that -?

10          A.       Uh-huh (yes).

11                    HEARING EXAMINER: You have to answer  
12 verbally.

13                    THE WITNESS: Correct.

14                    HEARING EXAMINER: Thank you.

15 BY ATTORNEY MORRIS:

16          Q.       And so did you know what the jury outcome  
17 was in that trial

18          A.       Yes, I did.

19          Q.       Did you know it was 11 to 1?

20          A.       I didn't know the exact 11 to 1.

21          Q.       Okay.

22          A.       But, yes.

23          Q.       And when you were treating with Dr. Kaul,  
24 was it in New Jersey, throughout the duration of your  
25 relationship?



1           A.     Yes.

2           Q.     Okay.

3                   So it wasn't like it bounced to another  
4 state, and he practiced in another state? It was  
5 always -

6           A.     No.

7           Q.     New Jersey?

8           A.     Yes.

9           Q.     When did you last speak with Dr. Kaul?

10          A.     Yesterday, I believe.

11          Q.     Did you talk about this hearing at all?

12          A.     Just to get the address.

13          Q.     You didn't talk about what you were going  
14 to say at all?

15          A.     No, I did not.

16          Q.     How many times have you spoken with him  
17 about this hearing?

18          A.     A few times - he asked me a couple times  
19 if I had spoken to Jenni. I - and you know, when I  
20 hadn't and played phone tag a few times. And then I  
21 finally did talk to her and I said, yes, I got a hold  
22 of her. You know, and we spoke then. That's about  
23 it.

24          Q.     You said you were helping him because of  
25 what they did. I'm not exactly sure what that means.



1                   What do you mean by, because of what they  
2 did?

3           A.       It's very broad. Did you want to -? Or  
4 do you want me to - it's a broad question - that's  
5 why I'm asking.

6                   ATTORNEY CHAVIS: Your Honor, if I  
7 may? May Counsel approach, please?

8                   HEARING EXAMINER: Both of you, yes.  
9 Wait a minute, let's go off the record.

10   ---

11 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

12   ---

13                   HEARING EXAMINER: Okay.

14                   We're back on the record. There was a  
15 conference among Counsel and the Hearing Examiner  
16 regarding the objection.

17                   And why don't we address that, as you  
18 understand it, Mr. Morris?

19                   ATTORNEY MORRIS: Sure.

20                   The line of questioning on Cross  
21 Examination was about to explore the witness's  
22 perception of New Jersey's legal process. We had a  
23 sidebar; we discussed the New Jersey's legal process.  
24 We agreed there wouldn't be any collateral attacks  
25 on the New Jersey process or the sanctity of the New



1 Jersey process.

2                   Therefore, the additional questioning  
3 that I need to explore with Miss Bettens, I don't  
4 need to ask her any more questions about that.

5                   HEARING EXAMINER: Okay.

6                   Then you're asking for an assurance on  
7 the record, from the Respondent, as to - what kind of  
8 assurance are you looking for?

9                   ATTORNEY MORRIS: That's correct. I'm  
10 asking for an assurance that there will not be a  
11 collateral attack. Because once I have taken my bite  
12 of the apple, so to speak, with this witness, that  
13 ship has sailed and she can walk out of the courtroom  
14 and I can't go back to that.

15                   HEARING EXAMINER: Right.

16                   But what's the - what is the specific  
17 assurance you're looking for from the Respondent, in  
18 terms of not collaterally attacking the New Jersey  
19 proceeding?

20                   ATTORNEY MORRIS: Precisely that, Your  
21 Honor. And I do not want to hear that the New Jersey  
22 Board process was illegal. I don't want to hear the  
23 sanctity of that process questioned.

24                   That has been litigated. It is a  
25 final adjudication and Order, period, end of story.



1                   HEARING EXAMINER: So are you saying  
2 you don't want - I'm still trying to get - and I  
3 apologize for this -. Are you saying that you don't  
4 want to hear any questioning of any witness,  
5 including Dr. Kaul, about what's in the New Jersey  
6 Order or what happened in the New Jersey Order, or a  
7 comment on whether or not it was fair?

8                   ATTORNEY MORRIS: It's more the latter  
9 phrase of the sentence that you just said, which is  
10 whether or not it was fair. I think he should  
11 explain what happened in New Jersey.

12                   I just don't think that attacking the  
13 process, attacking the Judges, attacking the Attorney  
14 General's Office, attacking -.

15                   HEARING EXAMINER: Well, we're not  
16 there. That's not what the issue is on the  
17 questioning. That may be an objection, down the  
18 road.

19                   Miss Chavis?

20                   ATTORNEY CHAVIS: Yes, Your Honor. To  
21 clarify, so not only for my client, but also for the  
22 witnesses, that there was a specific discussion, in  
23 witness preparation, to not dive into personal  
24 feelings on the proceedings in New Jersey.

25                   So each witness has been told by me to



1 not do that. So I'm also the Court the assurance  
2 that that is not the route that we intended to take  
3 once the Petitioner takes the stand.

4 But I want to clarify something that  
5 Mr. Morris just said. That he doesn't want  
6 discussions about the fairness, but he wants the  
7 Petitioner to discuss the actual process of it. I  
8 think that that's unfair of a request.

9 So what we - this is what we plan to  
10 do, just so that we're no longer -.

11 We're going to acknowledge what  
12 happened. We're not pretending that it is not out  
13 there, but acknowledging it and then moving forward  
14 from there.

15 And I think getting into discussions  
16 about what specifically happened in New Jersey, by  
17 the Commonwealth, opens up the door for the  
18 Petitioner to then give opinion to describe basically  
19 his perception what happened in New Jersey.

20 That is not our intent. That is not  
21 our game plan for today.

22 HEARING EXAMINER: Right.

23 But of course, as I understand it,  
24 it's in the Order and you can't sit here in today's  
25 hearing and say they were wrong or that's not how it



1 happened.

2 Am I correct?

3 ATTORNEY CHAVIS: That's correct.

4 Because of case law in Pennsylvania - we know the  
5 Order is what the Order is.

6 HEARING EXAMINER: Okay.

7 Mr. Morris?

8 ATTORNEY MORRIS: Well, here's what's  
9 happened. So we've had a witness come up and poo-poo  
10 the UK, jury verdict. We've had a witness begin to  
11 poo-poo the New Jersey verdict.

12 And I anticipate that, based on  
13 information that is in the public realm, some of  
14 which is on the Applicant's website, that we are  
15 going to get an attack on the fairness of that  
16 process. We're going to -.

17 HEARING EXAMINER: Isn't that what she  
18 just said? That she's not going to.

19 Am I correct?

20 ATTORNEY CHAVIS: You absolutely are  
21 correct, Your Honor. And also, the Petitioner did  
22 not elicit from any witness their opinion of the  
23 verdict in England or the decision in Jersey. It  
24 was, were you aware, and did it impact whether or not  
25 you want to treat with a physician?



1                   Whatever the Commonwealth read into  
2 that, from part of questioning has gone beyond what  
3 was explicitly stated. We have no intention by - at  
4 all, with any witness, to say, well, tell us your  
5 opinion of what happened in England. Tell us your  
6 opinion.

7                   But just the fact that these are  
8 individuals who knew about it and then continued to  
9 treat with the Petitioner. That's the sole reason  
10 why those questions were asked.

11                   ATTORNEY MORRIS: But one of the other  
12 things that's important, then, is, if the conclusion  
13 is, he must be a good doctor because they knew about  
14 it and they continued to treat with him -. That if  
15 in that, what did they know about is important.

16                   Right?

17                   Because if you - if your perception as  
18 the witness is, it was a close call, it never  
19 would've happened in America, therefore, I'm okay  
20 with it. That gives the witness's testimony  
21 different weight than, this was absolutely egregious,  
22 I knew absolutely everything that happened, I read  
23 the transcript and I came to the conclusion that, it  
24 is safe or it isn't safe, to treat with him.

25                   HEARING EXAMINER: I think she said



1 the first part, didn't she? I recognized those words  
2 from the first part of what you said.

3 ATTORNEY MORRIS: Correct.

4 But the next step, then, is to  
5 evaluate the facts in which she forms her perception.

6 HEARING EXAMINER: But if she - if we  
7 were, for example, -

8 ATTORNEY MORRIS: Uh-huh (yes).

9 HEARING EXAMINER: - to strike that  
10 reference, would that be would that - and you have  
11 the assurances of Miss Chavis, is that sufficient  
12 with the Commonwealth?

13 ATTORNEY MORRIS: That is sufficient.

14 HEARING EXAMINER: Okay.

15 Miss Chavis, is that sufficient?

16 ATTORNEY CHAVIS: I'm not sure.

17 Which part will be stricken, Your  
18 Honor?

19 HEARING EXAMINER: The part where she  
20 said it would've never happened in the United States.

21 ATTORNEY CHAVIS: Certainly.

22 HEARING EXAMINER: Okay.

23 So that's been stricken out.

24 And with that, Mr. Morris, I'm trying  
25 to make sure that all your concerns are addressed to



1 the best that I can.

2 But does that - does the retraction of  
3 that statement, plus the assurances of Counsel,  
4 address the concerns of the Commonwealth?

5 ATTORNEY MORRIS: It does. It does.

6 There is one other statement that the  
7 witness made that I should point out. And - because  
8 this sort of delved - because I understand that the  
9 witness is a layperson. She is not an attorney. She  
10 is not a doctor.

11 And so I want to give her the courtesy  
12 of, to some degree, being able to testify without  
13 being interrupted. But at one point, she did say -  
14 she testified to some hearsay about other surgeons  
15 evaluating her surgery that had been done. She said  
16 oh, they looked at it and it looks good.

17 HEARING EXAMINER: But that's not -  
18 that's not where we're going - I'm sorry, I didn't  
19 mean to interrupt.

20 Go ahead.

21 ATTORNEY MORRIS: Well, you had asked  
22 me to -.

23 HEARING EXAMINER: Yeah, I - go ahead.

24 ATTORNEY MORRIS: Putting that on the  
25 record. I'm just pointing out that that's hearsay.



1 I'd ask it not to be the basis for a finding a fact.

2 HEARING EXAMINER: It's not going to  
3 be.

4 ATTORNEY MORRIS: All right. Thank  
5 you.

6 HEARING EXAMINER: That particular -  
7 those particular comments about other doctors to this  
8 witness are not going to - it's understood, it's  
9 hearsay. It's not going to be a part of the finding  
10 of fact.

11 Do you understand that?

12 ATTORNEY MORRIS: Yes, sir.

13 HEARING EXAMINER: Is that acceptable?

14 ATTORNEY MORRIS: Yes, sir.

15 HEARING EXAMINER: Okay.

16 Miss Chavis, do you understand that?

17 ATTORNEY CHAVIS: We understand you'll  
18 waive the testimony and come to the proper  
19 conclusion.

20 HEARING EXAMINER: Okay. All right.

21 Then we're back - thank you, both.

22 These are important issues, that I appreciate Counsel  
23 arguing on behalf of their respective clients. We'll  
24 try to - so they are resolved.

25 Mr. Morris, you had - you are on



1 cross.

2 ATTORNEY MORRIS: Thank you. Miss  
3 Bettens, you've been very patient. I don't have any  
4 more questions for you.

5 HEARING EXAMINER: Redirect?

6 ATTORNEY CHAVIS: Just very briefly.

7 ---

8 REDIRECT EXAMINATION

9 ---

10 BY ATTORNEY CHAVIS:

11 Q. Miss Bettens, there was some questionings  
12 on Cross Examination regarding a time period between  
13 approximately 2012 to 2016 and then 2016 to 2020. At  
14 any point, during the course of knowing Dr. Kaul, was  
15 there ever any type of - it's the best way I can  
16 describe it, any type of untoward, inappropriate  
17 relationship between you and Dr. Kaul?

18 A. No.

19 Q. All right.

20 ATTORNEY CHAVIS: No other questions.

21 HEARING EXAMINER: Okay.

22 I have a question that Mr. Morris  
23 directed to Miss Chavis, because my recollection of  
24 what's in the materials that Dr. Kaul submitted,  
25 which is this.



1                   In my brief overview of the records, I  
2 saw something that looked like medical records. And  
3 my question is going to be, if that's the case, do -  
4 are there records of this particular witness, that  
5 are part of that?

6                   ATTORNEY CHAVIS: Just with the  
7 Court's indulgence.

8                   No. Miss Bettens' were not included  
9 in those records.

10                  HEARING EXAMINER: Okay.

11                  And that was just my question. Any  
12 further based on my question, Mr. Morris?

13   ---

14   RE CROSS EXAMINATION

15   ---

16 BY ATTORNEY MORRIS:

17                  Q. Miss Bettens, did you bring any medical  
18 records here today?

19                  A. No.

20                  ATTORNEY MORRIS: Okay.

21                  HEARING EXAMINER: Miss Chavis,  
22 anything further?

23                  ATTORNEY CHAVIS: No, Your Honor.

24                  HEARING EXAMINER: Okay. Thank you,  
25 ma'am. You may be excused.



1                   Or well, if any - you know, we can  
2 have her step down.

3                   Is there any reason we can't excuse  
4 her?

5                   ATTORNEY MORRIS: No. She can be  
6 excused.

7                   ATTORNEY CHAVIS: If she needs to be  
8 excused, certainly, Your Honor.

9                   THE WITNESS: Your Honor, I'd like to  
10 stay.

11                   HEARING EXAMINER: Okay.

12                   ATTORNEY CHAVIS: I figured that she  
13 would not be leaving, but -.

14                   HEARING EXAMINER: That's fine. All  
15 right. Thank you. Next witness.

16                   ATTORNEY CHAVIS: Yes, Your Honor,  
17 next witness is Mr. Zerbini. I have a phone number  
18 here. You may call to him.

19                   HEARING EXAMINER: I would ask both  
20 Counsel to come to the bench.

21                   ---

22 (WHEREUPON, A TELEPHONE CALL WAS PLACED.)

23                   ---

24                   MR. ZERBINI: Hello.

25                   HEARING EXAMINER: Mr. Zerbini?



1                   MR. ZERBINI:   Yes.

2                   HEARING EXAMINER:   My name is David  
3   Green, I'm the Hearing Examiner in Dr. Kaul's case.  
4   Jenni Chavis is here representing Dr. Kaul.   Adam  
5   Morris is here representing the Commonwealth.

6                   We have a court reporter present.   And  
7   we're here to take your testimony.

8                   MR. ZERBINI:   Okay.

9                   HEARING EXAMINER:   Are you in a room  
10   where no one else is?

11                  MR. ZERBINI:   Yes, I am.

12                  HEARING EXAMINER:   Okay.   Thank you.

13                  And as I mentioned, a court reporter  
14   will be taking down everything you say, as part of  
15   the transcript.   Miss Chavis will be asking you  
16   questions first.   Mr. Morris will then ask you some  
17   what we call Cross Examination questions.   And then I  
18   might have one or two questions, just to clarify the  
19   record.

20                  Do you understand that?

21                  MR. ZERBINI:   Yes, I do.

22                  HEARING EXAMINER:   Okay.

23                  I'm going to swear you in now.   Please  
24   raise your right hand.

25   ---



1 JOHN ZERBINI,  
2 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
3 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
4 FOLLOWS:

5 ---

6 HEARING EXAMINER: Miss Chavis?

7 ATTORNEY CHAVIS: Thanks, Your Honor.

8 ---

9 DIRECT EXAMINATION

10 ---

11 BY ATTORNEY CHAVIS:

12 Q. Good morning, Mr. Zerbin.

13 A. Good morning, Miss Chavis.

14 Q. So we started the proceeding a little  
15 while ago. We had a witness on. And before I start  
16 Direct Examination, I just want to clarify a ruling  
17 that the Hearing Examiner has given us this morning.  
18 It's something you and I spoke about, but I want to  
19 be very clear before we proceed.

20 I'm going to be asking you questions  
21 about how you know Dr. Kaul and treating with him and  
22 such. However, it is very important that you do not  
23 go into - let's say, opinions of yours, regarding,  
24 the proceeding in New Jersey.

25 Do you understand that?



1           A.     Yes, I do.

2           Q.     Okay.

3                   And I believe you and I had a discussion  
4 about that and about how to steer clear of that  
5 particular area.

6                   Do you recall that?

7           A.     Yes.

8           Q.     Okay.

9           A.     I do.

10          Q.     Thank you so much.

11                   Sir, just starting off with something  
12 very easy, do you recall when you met Dr. Kaul?

13          A.     Yes, in the summer of 2011.

14          Q.     And do you recall the circumstances under  
15 which you met him?

16          A.     Yes, I do.

17          Q.     Could you - please tell us.

18          A.     Yes. I had gone through several failed  
19 open-heart surgeries and I was getting a heart  
20 transplant and they told me to get on pain  
21 management. I'd seen pain-management doctors and  
22 they had me all doped up to where I was falling  
23 asleep in my dinner and I don't like to be like that.

24

25                   Just so happens my wife had an associate



1 that was - I think it was her husband was being  
2 treated by Dr. Kaul, and was doing - he was doing  
3 miraculous things for her husband and healed her  
4 husband. So my wife's friend, Sherry, actually  
5 recommended Dr. Kaul and that's how I came about to  
6 know of Dr. Kaul.

7 Q. Okay.

8 And was this in New Jersey, where you  
9 started treating with him, back in 2011?

10 A. Correct. I first saw him - I met him one  
11 evening in a - and I believe the same office with my  
12 father-in-law, before any treatments. And was  
13 extremely impressed by what he had to say and that I  
14 wouldn't be as doped up as these doctors had me. I  
15 would be in full control of my facilities and would  
16 have some relief of my constant angina - my angina.

17 Q. Did you experience the relief that he  
18 described, after treating with him?

19 A. Yes, I did. Dr. Kaul - I didn't even  
20 have insurance. I didn't have any money, anything.  
21 Dr. Kaul knew of this and took it upon himself to -  
22 he didn't know me from anyone. But took it upon  
23 himself to treat me out of the kindness of his heart  
24 and started by giving me epidural injections. And  
25 yes, they at first started to give me some relief.



1 Q. Okay.

2 And how would you describe him as far as,  
3 once you were in the treating room, did he take the  
4 time with you?

5 How would you describe those experiences?

6 A. I was really very surprised with Dr.  
7 Kaul, very taken with Dr. Kaul. As I had previously  
8 said, I've had 24 cardiac catheterizations, three  
9 open-heart surgeries - angio - surgeries, with some  
10 of the top surgeons in the country and even in the  
11 world. And he - I mean, you know, they basically did  
12 their job and that was it.

13 When I met Dr. Kaul, and it wasn't even  
14 as serious as open-heart surgery, Dr. Kaul actually -  
15 before even anything began, he came and met me when I  
16 was downstairs. When they were prepping me  
17 downstairs, getting me changed and relaxed -.  
18 Because I was very anxious, because of everything  
19 that I had been through from my previous surgeries  
20 and then again, before the surgeries, when I was  
21 upstairs in the holding room, Dr. Kaul would come in  
22 and, again, check on me, make sure that I was calm,  
23 that I was relaxed, that I was comfortable. That I  
24 wasn't in any sort of - you know, having any sort of  
25 chest pain, at the time. And again, in the operating



1 room, which I again, I wasn't used to.

2           Again, Dr. Kaul was waiting to receive me  
3 in the operating room. He wasn't like the other  
4 world-class surgeons, that they said they were. Dr.  
5 Kaul was above them, in my opinion. He was waiting  
6 for me, to receive me, again, to make sure that I was  
7 secure that he was there. And that it was actually -  
8 it was wonderful. It was really wonderful.

9           Q.     I'm not sure if you elaborated on, but  
10 when you were saying that you were doped up. You  
11 know, before going to Dr. Kaul, did you still find a  
12 need to use the same level of medication for pain or  
13 feeling doped up, while treating with him or after  
14 treating with him?

15          A.     After treating with Dr. Kaul?

16          Q.     Yes.

17          A.     No. Actually, I was able to come down on  
18 that medication.

19          Q.     And so currently, are you back on, you  
20 know, the similar treatment that you had prior to Dr.  
21 Kaul?

22          A.     Yes. Yes. I'm on the very serious  
23 medication.

24          Q.     All right.

25                 Were you able to have access to Dr. Kaul,



1 when you needed him, when you were treating with him?

2 A. That is something that - yes. Actually,  
3 also really blew my mind. I would - I wouldn't even  
4 come home from the hospital. I'd be constantly being  
5 rushed to the hospital, every week or two, with my  
6 heart. And my heart was in very bad condition and  
7 even back then, I would be crying when I came home,  
8 because I would be in such bad - having such bad  
9 angina.

10 There would be - I remember, I was  
11 staying at my in-laws and it was 1:00 - I remember  
12 and never forget. It was one o'clock in the morning  
13 and I e-mailed Dr. Kaul and I was crying. I was just  
14 in so much pain, so much suffering. I couldn't take  
15 it anymore.

16 I just didn't want to go on anymore. I  
17 wanted to you know, go home. I just wanted to go  
18 home. And I e-mailed Dr. Kaul. And to my surprise,  
19 my e-mail went back off like bing, like in ten  
20 minutes. And it was Dr. Kaul answering me and  
21 reassuring me that - you know, that he would do  
22 whatever it took to stop - you know, whatever he  
23 could do to try and stop my suffering, to make me  
24 comfortable, to make it where I would have a better  
25 quality of life.



1 Q. Now I'll be very careful with how I  
2 phrase this question. But despite any life-  
3 threatening issues you've had, would you still treat  
4 with Dr. Kaul, if you were able to do so?

5 A. Absolutely.

6 Q. And why is that?

7 A. Besides his level of skill, the  
8 compassion that he has for patients and the passion  
9 that he has for people, even in general, just  
10 supersedes anything that I've ever experienced. And  
11 as I've said, I've had world-class surgeons. I mean,  
12 you know, I don't want to throw the names, but they  
13 are - you know, they're well-known. And I can trust  
14 Dr. Kaul more than I would trust them.

15 I currently do have a problem with my  
16 spine and - which needs to be fixed. And if Dr. Kaul  
17 should receive his license in Pennsylvania, I have no  
18 - I would definitely have Dr. Kaul treat me for my  
19 spine.

20 Q. Thank you.

21 ATTORNEY CHAVIS: With the Court's  
22 indulgence -.

23 BY ATTORNEY CHAVIS:

24 Q. Mr. Zerbini, I have no other questions,  
25 but the Commonwealth is going to ask you some



1 questions at this time.

2 Okay?

3 A. Yes.

4 HEARING EXAMINER: Mr. Morris.

5 ---

6 CROSS EXAMINATION

7 ---

8 BY ATTORNEY MORRIS:

9 Q. Good morning, Mr. Zerbini. I just have a  
10 few questions for you.

11 A. Uh-huh (yes). Go ahead.

12 Q. It sounds like you met Dr. Kaul in the  
13 summer of 2011.

14 Correct?

15 A. Correct.

16 Q. And that was after you had had several  
17 failed surgeries.

18 Is that what you said?

19 A. Right.

20 Q. Correct?

21 A. Yes.

22 Q. And Dr. Kaul said that he promised relief  
23 of your angina.

24 Is that correct?

25 A. Well, he wouldn't promise. He said he



1 would do whatever he could to relieve my suffering.  
2 I was suffering -. I'm still suffering tremendously.

3 Q Okay.

4 You said you were very taken with Dr.  
5 Kaul?

6 A. Yes.

7 Q. Why?

8 A. Like I said, his level of expertise, the  
9 way that he explained everything that was going to go  
10 on. The level of compassion that he had, the - I've  
11 also been in the medical profession, earlier in my  
12 life. And like I said, I've been treated by other  
13 world-class physicians.

14 And it was like night and day. Dr. Kaul  
15 wasn't in it for the fame, as these other doctors  
16 were. These other doctors that I was - that I was  
17 being treated by were all about writing journals and  
18 asking me if they could have permission to - my  
19 permission to write a journal about my case. And  
20 like I was a number, and where Dr. Kaul never asked  
21 that.

22 Dr. Kaul was more concerned about me, as  
23 the patient. And like I said, relieving my suffering  
24 and improving my quality of life. So that really  
25 took me -. And like I said, that his level of



1 compassion - the way that you would even interact  
2 with a patient - when he interacts with a patient, to  
3 calm a patient, there are simple things that a  
4 physician can do, to calm a patient. And Dr. Kaul  
5 did all of those things, calmed all of my fears.

6 I have great PTSD. I woke up during my  
7 first open-heart surgery and they did nothing about  
8 it. I had to suffer through it. So you can imagine  
9 my great trepidation with all this, any - any  
10 procedure. And like I said, Dr. Kaul quelled all of  
11 those fears with me. I was very comfortable in his  
12 hands.

13 Q. And do you have any medical records to  
14 submit today?

15 A. Do I have any medical records of which  
16 - which event?

17 Q. Do you have any medical records at all to  
18 evaluate your health?

19 A. Oh, absolutely. I have -

20 Q. Have you -?

21 A. - tremendous records.

22 Q. Are you submitting any today?

23 A. No, I was not asked.

24 Q. When did you last speak with Dr. Kaul?

25 A. I actually spoke to him yesterday.



1 Q. Did you guys talk about this hearing?

2 A. Yes.

3 Q. Is he a friend of yours?

4 A. Yes, I would call him a friend.

5 Q. How often do you talk to him?

6 A. Maybe twice a month, three times a month,  
7 maybe.

8 Q. What do you guys talk about?

9 ATTORNEY CHAVIS: Objection,  
10 relevance.

11 HEARING EXAMINER: Other than, I'm not  
12 sure the relevance of what they talked about.

13 Can you explain?

14 ATTORNEY MORRIS: Two things, number  
15 one, I'd like to know if they talk about medical  
16 issues.

17 Number two, I'd like to know the  
18 extent of - and closeness of their relationship, such  
19 that he would be biased against him here today - or  
20 for him.

21 HEARING EXAMINER: By him - well,  
22 what?

23 ATTORNEY MORRIS: Excuse me.

24 HEARING EXAMINER: Handle the medical  
25 question first and then we'll see where we go.



1                    ATTORNEY MORRIS:    Sure.

2   BY ATTORNEY MORRIS:

3            Q.        Mr. Zerbini, -

4            A.        Yes.

5            Q.        - do you and Dr. Kaul talk about your  
6 medical conditions at all?

7            A.        No, not - not really.

8            Q.        So you've had 24 of surgeries, several  
9 open-heart surgeries, you know he's a doctor.

10          A.        Right.

11          Q.        And you never have conversations about  
12 your medical history with him?

13          A.        He's not a heart surgeon.

14          Q.        Okay.

15                    Do you have conversations about your  
16 spinal issues with him?

17          A.        Actually last month when I got my CT back  
18 - CT scan back and I saw a neurosurgeon, that I was  
19 not impressed with at all, I did say to Dr. Kaul, if  
20 you do get your license in Pennsylvania, I asked him,  
21 would he be willing to -? I have a compression - I  
22 have several compression fractures in my spine, if he  
23 would be able to do that.

24          Q.        Did you know his medical license was  
25 revoked in England in 2001?



1           A.       I did not know that until that was  
2 brought up to me while I was being treated. During  
3 the treatment, by New Jersey's expert on pain  
4 management, Dr. Kaufman, threw that up in my face,  
5 during the treatment, which was in front of other  
6 people, very unprofessional. I did not know of it  
7 before that.

8           Q.       Did you know that he applied for a  
9 license in Kansas and was denied in 2002?

10          A.       No, I had no knowledge of that.

11          Q.       Did you know that New Jersey suspended  
12 his license in 2003?

13          A.       No. I had no knowledge of that, again  
14 before Dr. Kaufman, during this intervention, when he  
15 was filling my intrathecal pain pump, brought this  
16 whole -

17          Q.       Okay.

18                   I understand.

19          A.       - procedure thing up -.

20          Q.       I understand.

21          A.       And told me to look on the internet -

22          Q.       Sir, -.

23          A.       - him and the doctors -

24          Q.       Sir, -.

25          A.       - have placed these things against him.



1                    ATTORNEY CHAVIS: I'm sorry, could you  
2 repeat the last part that you said? You were cut  
3 off.

4                    THE WITNESS: Yes. I said I did not  
5 know of any of that until, like I said, I was in the  
6 middle - I was being prepped for this treatment,  
7 filling my intrathecal pain pump that was put in.

8                    And Dr. Kaul came in out of his mouth,  
9 very angrily, just started telling me, when you get  
10 home, why don't you look up - then he gave me the  
11 link to of this such-and-such website, where Dr. Kaul  
12 had been - something in England.

13                   And then Dr. Kaul had these other  
14 problems - or man, these other doctors are going to  
15 make sure that Dr. Kaul is ruined for life. That he  
16 could never practice medicine again. And had given  
17 me a certain link to look it up.

18                   And which was very inappropriate and I  
19 was very shaken at the time. This was, like I said,  
20 during a procedure that, out of the blue, this - that  
21 was - totally took me by surprise.

22                   BY ATTORNEY MORRIS:

23                   Q. Did you know that New Jersey suspended  
24 his license in 2012 because he was an immediate  
25 threat to the health and safety of the public?

                  A. I actually, would - no, 2012. No. No, I



1 did not know that. Again, I didn't have my pump  
2 placed in until March of 2012. So after that is when  
3 Dr. Kaufman had made me aware of these situations  
4 during - like I said, a procedure, in front of other  
5 patients, had made me aware of this.

6 Q. And you know that New Jersey revoked his  
7 license in 2014.

8 Correct?

9 A. Yes, I am aware of that.

10 Q. Did you know that there were seven  
11 medical malpractice payments made on his behalf?

12 A. No, I was not aware of that.

13 Q. Okay.

14 Have you seen Dr. Kaul's website?

15 A. No. Actually, no, I have not.

16 Q. Describe your level of concern with  
17 respect to his negligence conviction in England, in  
18 about 2001?

19 A. I - there's no way that I can comment on  
20 that, because I don't know what is true and what is  
21 not true. I just know what Dr. Kaufman and Doreen  
22 Hafner, the Assistant Prosecutor, or whatever she is,  
23 for New Jersey, had told me. That's all I'm aware  
24 of.

25 So I would not be able to comment on



1 that. I don't know the facts. I know what they  
2 skewed and how they just tried to tore him - tear him  
3 apart. But I do not know the facts.

4 Q. Okay.

5 So obviously you would not want someone  
6 to operate on you that did not have the proper  
7 training.

8 Correct?

9 A. Again, that - if it's documented that  
10 they don't have the proper training, correct. But if  
11 it's said or if it's an opinion, that's a different  
12 story.

13 Q. Okay.

14 I don't have any more questions for you,  
15 Mr. Zerbini.

16 HEARING EXAMINER: Any Redirect?

17 ATTORNEY CHAVIS: Just very briefly.

18 ---

19 REDIRECT EXAMINATION

20 ---

21 BY ATTORNEY CHAVIS:

22 Q. Mr. Zerbini, just one or two questions.  
23 From the point of the life-threatening issue in New  
24 Jersey and the issue in England, you would still  
25 treat with Dr. Kaul.



1                   Is that correct?

2           A.       Absolutely.

3           Q.       And knowing now that there was a  
4 revocation of his license in 2014, would you still  
5 treat with him?

6           A.       Absolutely.

7           Q.       It has not changed the opinion of you -  
8 what you stated as far as being affectionate,  
9 knowledgeable, taking the time with you and not  
10 feeling like a number -?

11                   ATTORNEY MORRIS:   Asked and answered.

12                   ATTORNEY CHAVIS:   That was not asked  
13 by Counsel.

14 BY ATTORNEY CHAVIS:

15           Q.       Would that change your opinion?

16                   HEARING EXAMINER:   Finish the  
17 question.   Go ahead.   Overruled and -.

18                   ATTORNEY MORRIS:   Asked and answered.

19                   HEARING EXAMINER:   If that's an  
20 objection, it's overruled.

21                   Go ahead.

22 BY ATTORNEY CHAVIS:

23           Q.       Would that change the opinion that you  
24 stated here throughout this proceeding?

25           A.       Not one bit.   I am - I would be begging



1 him to help me with my spine.

2 HEARING EXAMINER: I'm sorry, Miss  
3 Chavis. Are there -?

4 ATTORNEY CHAVIS: Oh, I'm sorry.

5 HEARING EXAMINER: Are we still going  
6 or -?

7 ATTORNEY CHAVIS: No other questions.

8 HEARING EXAMINER: That's the part I  
9 didn't hear.

10 ATTORNEY CHAVIS: I'm sorry.

11 HEARING EXAMINER: Thank you. Okay.  
12 Any Recross?

13 ATTORNEY MORRIS: None, Your Honor.  
14 Thank you.

15 HEARING EXAMINER: Okay.

16 Sir, I have - Mr. Zerbini, I have a  
17 couple questions just to clarify the record. And  
18 then of course if either side had some questions,  
19 based on that, they'll ask you.

20 I want to make sure I'm clear on what  
21 service - medical service, if any Dr. Kaul provided  
22 to you?

23 THE WITNESS: I'm sorry, can you  
24 repeat the question?

25 HEARING EXAMINER: Sure.



1                   THE WITNESS: I didn't hear that.

2                   HEARING EXAMINER: Sure. What medical  
3 service, specific medical service, if any, did Dr.  
4 Kaul provide to you?

5                   THE WITNESS: Understand my memory is  
6 - because of the condition that I have and because of  
7 all of the procedures that I underwent, my memory is  
8 - is pretty shot. But I do remember, I believe,  
9 numerous epidural injections and an implantation of a  
10 spinal-cord stimulator.

11                  HEARING EXAMINER: My next question  
12 is, if you can recall the specific year that - or  
13 years, that he provided these services?

14                  THE WITNESS: I believe it was just in  
15 2011.

16                  HEARING EXAMINER: Give me a minute,  
17 sir. I might have asked all my questions.

18                  THE WITNESS: Sure.

19                  HEARING EXAMINER: Those are all my  
20 questions.

21                               Anything from the Commonwealth?

22                  ATTORNEY MORRIS: Nothing, Your Honor.

23                  HEARING EXAMINER: Miss Chavis?

24                  ATTORNEY CHAVIS: No, Your Honor.

25 Thank you.



1                   HEARING EXAMINER: Thank you for your  
2 testimony. We're going to disconnect the call.

3                   Okay?

4                   THE WITNESS: Okay. Thank you.

5                   HEARING EXAMINER: Thank you. Bye.  
6 Okay.

7                   Counsel, do we have any more phone  
8 call witnesses?

9                   ATTORNEY CHAVIS: Not at this time,  
10 Your Honor. I was going to ask for a brief recess,  
11 to check the messages to see if anyone had called  
12 while we were doing -.

13                   HEARING EXAMINER: Any objection?

14                   ATTORNEY MORRIS: No objection. And  
15 I'm not sure if A.J. needed to -.

16                   HEARING EXAMINER: Okay. Ten minutes.

17                   ATTORNEY MORRIS: Thank you, Your  
18 Honor.

19                   HEARING EXAMINER: Ten minutes, we'll  
20 meet back at 11:20. Thank you. Oh, yeah, you'll  
21 have to come back. We're still working on this.

22                   MS. BETTENS: Okay.

23                   HEARING EXAMINER: But you can take a  
24 break.

25                   MS. BETTENS: Okay.



1                   HEARING EXAMINER: If you want to pull  
2 a chair over there, so you're not standing the whole  
3 time, that would be great. Ten minutes.

4                   ---

5 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

6                   ---

7                   HEARING EXAMINER: We're back on the  
8 record.

9                   Miss Chavis?

10                  ATTORNEY CHAVIS: Yes, Your Honor.  
11 First, I'm going to call Mr. George Gongora.

12                  ---

13                               GEORGE GONGORA,  
14 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
15 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
16 FOLLOWS:

17                  ---

18                  HEARING EXAMINER: Please spell - give  
19 me your -.

20                  THE WITNESS: George, G-E-O-R-G-E.

21                  HEARING EXAMINER: Uh-huh (yes).

22                  THE WITNESS: Gongora, G-O-N-G-O-R-A.

23                  HEARING EXAMINER: G-O-N-G-O-R-A.

24                  THE WITNESS: Yes.

25                  HEARING EXAMINER: Do I have that



1 right?

2 THE WITNESS: Yes, sir.

3 HEARING EXAMINER: Okay. Thank you.

4 Miss Chavis.

5 ATTORNEY CHAVIS: Thank you very much,

6 Your Honor.

7 ---

8 DIRECT EXAMINATION

9 ---

10 BY ATTORNEY CHAVIS:

11 Q. Mr. Gongora, do you know Dr. Kaul?

12 A. Yes, I do.

13 Q. And how do you know him?

14 A. I'm one of Jehovah's Witnesses, and in  
15 October of 2015, we were doing door to door. At that  
16 time, I was doing Chinese. And we were looking for  
17 Chinese-speaking people in the community. This was  
18 in Richfield Park.

19 And a colleague and I went to the door.  
20 We basically rang the doorbell and Dr. Kaul, Richard,  
21 came to the door. We had a nice conversation.

22 Normally we don't get nice conversations,  
23 but in this case, he was - wanted to know what  
24 Jehovah's Witnesses - what they're about. So I asked  
25 him if had a Bible? He said, no. So I said, I'll be



1 more than happy to bring you one. And that's how we  
2 started, we basically had Bible conversations,  
3 discussions every Sunday morning. Sometimes we  
4 missed it, but we had it there for quite a while and  
5 we developed a friendship.

6 But more to it than the spiritual level,  
7 about conversations regarding questions that he had,  
8 regarding the Bible, that - it was a lot of things  
9 that he was aware of, his background, being a  
10 Catholic and going to a Catholic school. And so  
11 forth, he had some knowledge of the scripture and we  
12 had some nice conversations regarding, you know, the  
13 future, about what the kingdom of God is going to do  
14 and things of that nature.

15 Q. So these weekly meetings or almost weekly  
16 meetings, on Sundays, would they be in person over  
17 the phone, how would you talk?

18 A. My wife and I actually came and we met  
19 his wife. She had sat down for a little bit. So  
20 eventually it was Richard and I, you know, we had  
21 those weekly conversations.

22 Q. About how long would these meetings last?

23 A. About an hour. Sometimes when it got  
24 really a heavy subject, more than an hour, two hours,  
25 two and a half.



1           Q.     And you went to it kind of quickly with  
2 him having these nice conversations at the door with  
3 you, you initially met.

4                     Did that strike you as something that was  
5 different or memorable?

6           A.     Well, the situation that you know, when  
7 you go there, honestly speaking, other people who  
8 know that you're there and they will not answer the  
9 door. A lot of the people now have videos to look at  
10 the video, so they don't open the door.

11                    In this case, Richard was not really like  
12 a - I learned later that he would not just open the  
13 door to anyone. But somehow, today he did.

14                    And so it was a situation where he  
15 normally would not open the door, but in this case,  
16 to our -. And then, but the bottom line is that he  
17 gave us the time and the hour.

18           Q.     And how would you describe Dr. Kaul?

19           A.     Well, as I got to know him, a very  
20 genuine person. I mean, humble, honest and hungry.  
21 These are the criteria that we normally use to just  
22 monitor people's personalities. Especially in  
23 regards to the Bible, to see whether there's a  
24 sincerity.

25                    Because a lot of people don't really give



1 you the time or the hour to really speak to Jehovah's  
2 Witnesses. But in this case, Richard did, you know,  
3 and we look forward to it. Matter of fact, you know,  
4 when sometimes I wanted to let him know that I'm  
5 running a little bit late or sometimes I'm not going  
6 to even make it because it was snowing and things of  
7 that nature. But it was something that we  
8 consistently looked forward to, to really, you know,  
9 engage in our conversation.

10 So to have that humility, you know, in  
11 regards to - and not really that knowing that later  
12 on the type of person that he was, a doctor. You  
13 know, I felt a little bit kind of apprehensive,  
14 because here I am speaking with a doctor and  
15 knowledgeable.

16 But the final line is that humility that  
17 he had and the conversations that we had, it was  
18 mutual and so there was a sense of comfort to all  
19 that, in speaking with him.

20 Q. And so eventually this friendship  
21 developed.

22 Is that right?

23 A. Yes. Yes, it did.

24 Q. So you have - you no longer live in New  
25 Jersey?



1           A.       Yes. No longer live in New Jersey, I  
2 live in Austin, Texas. We moved last year in  
3 October.

4           Q.       So do you still remain in contact with  
5 Dr. Kaul?

6           A.       Well, not as much as I used to have the  
7 contact. Because actually, he moved around. He left  
8 Richfield, he moved to a different area. So with a  
9 little bit of remoteness. And also, you know, I  
10 could get ready to move and things like that.

11                   Sometimes I think it kind of got the best  
12 of us. But in regards to, you know, having this  
13 friendship, is loyal. So the distance or the time,  
14 it does not separate that, the loyalty, friendship is  
15 there.

16           Q.       You indicated you are now living in the  
17 Austin, Texas area?

18           A.       Yes.

19           Q.       I'm assuming that you weren't just in  
20 Harrisburg today and you happened to stop by?

21           A.       Well, the thing is like, you know, he  
22 basically asked if I could be able to come here, you  
23 know. And I definitely did, because I know Richard,  
24 you know. I got to hear about things that happened  
25 to him.



1                   But in regards to being here, it was on  
2 my own. I wanted, on my own accord, to do - you  
3 know, be here and be able to have something to say in  
4 regards to Richard Kaul.

5           Q.       And why would you want to do that?

6           A.       Well, one of the things that I found in  
7 Richard is, just the way that he is, is like a normal  
8 person, but at the same time, he's genuine. There's  
9 nothing fake about him.

10                   And just realizing that - the things that  
11 he has gone through, you know, in regards to what has  
12 been in his professional field, you know. It kind of  
13 like you know, puts me in a situation where, you  
14 know, just a little compassion.

15                   I think here, too, is about justice, you  
16 know, and things of that nature. And one of the  
17 things that we're basically looking for, too, is  
18 justice in regards to the vindication of Jehovah's  
19 name. Because a lot people don't have that name  
20 there and they pick it up from the Bible. And so the  
21 justice is not there for our creator. And so,  
22 applicable, too, in regards to what transpired in the  
23 case of Richard Kaul.

24           Q.       And so would you say that in the course  
25 of your interaction with him that he was open to



1 guidance, open to learning?

2 A. Definitely so. Definitely. That's one  
3 of the things that was unique about the humbleness.  
4 Not only that he gave of his time, but the fact that  
5 we had these conversations for a long period of time,  
6 it shows that he was humble enough to really go back  
7 and forth and, you know, have these conversations  
8 that were elevated in the spiritual sense.

9 ATTORNEY CHAVIS: With the Court's  
10 indulgence.

11 I have no other questions for this  
12 witness.

13 HEARING EXAMINER: Thank you.

14 Cross examine?

15 ATTORNEY MORRIS: Yeah.

16 ---

17 CROSS EXAMINATION

18 ---

19 BY ATTORNEY MORRIS:

20 Q. Good morning, Mr. Gongora.

21 A. Good morning, Mr. Morris.

22 Q. You've been here the whole hearing.

23 Correct?

24 A. Yes, I have.

25 Q. In fact, you've heard me cross examine



1 the other two witnesses.

2 A. Uh-huh (yes).

3 Q. Correct?

4 A. Yes.

5 Q. And you actually beat Dr. Kaul to court  
6 here today.

7 Correct?

8 A. I was here before he was, yes.

9 Q. So you probably have an idea of some of  
10 the questions I'm going to ask.

11 Did you know that his medical license was  
12 revoked in England in 2001?

13 A. Well, to be honest with you, he - in our  
14 conversations that we had, I mean, we had a little  
15 bit of - you know, he gave me some background, in  
16 regard to what he was going through. Because it was  
17 a proceeding that he was doing. You know, so he was  
18 really busy with that.

19 So yes, we had some conversations  
20 regarding that. Uh-huh (yes).

21 Q. So yes, you do know that his medical  
22 license was revoked in England in 2001?

23 A. Yes.

24 Q. Did you know that he applied for a  
25 license in Kansas and was denied in 2002?



1           A.     No, I did not know that.

2           Q.     Did you know that New Jersey suspended  
3 his license in 2003, for a fraud, deceit or material  
4 omission of obtaining a license or credentials?

5           A.     He mentioned it to me, yes.

6           Q.     Did you know that he had a medical  
7 malpractice payment on his behalf in August of 2011,  
8 for failure to recognize a complication?

9           A.     No, I did not know that.

10          Q.     Did you know that he had his New Jersey  
11 license suspended in 2012, because he was an  
12 immediate threat to the health or safety of the  
13 public?

14          A.     No, I was not aware of that particular  
15 year, 2012, no.

16          Q.     Did you know that New Jersey revoked his  
17 license in 2014?

18          A.     Yes, I did.

19          Q.     Did you know that there was a medical  
20 malpractice payment made on his behalf in June of  
21 2014, for improper technique?

22          A.     No, I was not aware of that.

23          Q.     Did you know that there was a medical  
24 malpractice payment made on his behalf for improper  
25 technique on July 17th, 2014, from a different



1 insurer?

2 A. No.

3 Q. Did you know that there was another  
4 medical malpractice payment from another insurer made  
5 on July 22nd, 2014?

6 A. No, I was not aware of that.

7 Q. Did you know that the Medicaid Fraud  
8 Division excluded him or revoked his license from the  
9 Federal Healthcare Program in August of 2014?

10 A. No.

11 Q. Did you know that there was another  
12 medical malpractice settlement made on his behalf on  
13 November 11th, 2014, for improper technique?

14 A. No, I did not.

15 Q. Did you know that there was a medical  
16 malpractice payment on his behalf for improper  
17 technique on June 10, 2015?

18 A. (Indicating no).

19 HEARING EXAMINER: You have to answer  
20 verbally.

21 THE WITNESS: No. I did not. No.

22 BY ATTORNEY MORRIS:

23 Q. Did you know there was a medical  
24 malpractice made on his behalf for improper technique  
25 on August 13th, 2015?



1           A.       No.

2           Q.       Did you know that the Department of  
3 Health and Human Services Office Inspector General  
4 excluded him from Medicare and Medicaid and all other  
5 federal healthcare programs on January 20th, 2016?

6           A.       No.

7           Q.       And did you know that the Pennsylvania  
8 Board of Medicine denied his license application  
9 request in October 2018?

10          A.       I think he mentioned it to me, one time,  
11 yes.

12          Q.       Have you seen Dr. Kaul's website?

13          A.       He basically will send me some  
14 information regarding what was taking place, so yes,  
15 I have.

16          Q.       Okay.

17                    Have you actually gotten on his website  
18 and clicked around a little bit and -?

19          A.       No, not really. I didn't really see it  
20 that much.

21          Q.       Okay.

22                    Are you aware that Dr. Kaul has a lawsuit  
23 against the Governor of New Jersey, the New Jersey  
24 State Board of Medical Examiners?

25                    ATTORNEY CHAVIS: Objection,



1 relevance.

2 HEARING EXAMINER: Overruled.

3 BY ATTORNEY MORRIS:

4 Q. Are you aware that Dr. Kaul has a lawsuit  
5 against the Governor of New Jersey, the New Jersey  
6 State Board of Medical Examiners, Warren Buffett,  
7 fellow doctor, the North American Spine Society, the  
8 AMA - which is the American Medical Association -  
9 various insurance companies, educational  
10 institutions, health systems and journalists?

11 A. Yes.

12 Q. Are you aware he's seeking 28 quadrillion  
13 (sic) dollars as a result of that lawsuit?

14 A. I was not aware of that much money. No,  
15 I was not aware of that.

16 Q. How would you describe a surgeon - in  
17 your own words, how would you describe a surgeon who  
18 performs surgeries on someone without the proper  
19 training?

20 ATTORNEY CHAVIS: Objection,  
21 relevance.

22 HEARING EXAMINER: What's the  
23 relevance?

24 ATTORNEY MORRIS: Yeah. So we've had  
25 some glowing testimony about the Respondent here.



1 And we also had some unassailable facts from the New  
2 Jersey adjudication. And so, I'm trying to marry the  
3 two and get this witness's opinion, so that Your  
4 Honor can sort of make a credibility determination as  
5 to some of the opinions that he's stated.

6 ATTORNEY CHAVIS: Your Honor, this  
7 individual - Mr. Gongora has testified in the context  
8 of knowing Dr. Kaul on a personal level, discussing  
9 spiritual issues.

10 The question that the Commonwealth  
11 posed to him about his opinion regarding surgeons or  
12 doctors who perform procedures outside of their  
13 expertise is beyond the scope of Direct. It has zero  
14 relevance to what he testified to.

15 And in addition, I don't believe he's  
16 laid a proper foundation, legal within the context of  
17 that question. It's so broad and so vague. I think  
18 it's an unfair question to be asking this witness.

19 HEARING EXAMINER: Is there any way  
20 you can rephrase, because I - as raised, the  
21 objection is sustained.

22 ATTORNEY MORRIS: So I want to hear  
23 from this witness how he would classified a surgeon,  
24 just any surgeon, anybody, who performs surgeries  
25 without the proper training, period, end of story.



1                   HEARING EXAMINER:   You're not asking  
2 for an expert opinion, are you?

3                   ATTORNEY MORRIS:   No.   I want to hear  
4 this gentleman just say what's his opinion of  
5 somebody that doesn't have the proper training to  
6 perform surgery.

7                   HEARING EXAMINER:   He testified - he  
8 has - he's not a patient is he, at all?

9                   THE WITNESS:   No.

10                  ATTORNEY CHAVIS:   Let me answer.  
11 No, he is not a patient.

12                  HEARING EXAMINER:   Has there been any  
13 testimony on Direct about Dr. Kaul - about this  
14 patient's firsthand knowledge or experience with Dr.  
15 Kaul, as a physician?

16                  ATTORNEY CHAVIS:   As a physician?   No.

17                  HEARING EXAMINER:   This is being  
18 offered purely for what purpose?

19                  ATTORNEY CHAVIS:   He - for character  
20 issues, as well as there's a statement within the  
21 provisional denial letter about him not having the  
22 moral standards of a physician.   That is why Mr.  
23 Gongora has been offered here as a witness today.

24                  HEARING EXAMINER:   Yeah.   All right.  
25   Objection's still sustained.



1 BY ATTORNEY MORRIS:

2 Q. Let me ask you this, would you want  
3 someone who is convicted of killing a patient, to  
4 operate on you?

5 ATTORNEY CHAVIS: Objection, again  
6 relevance for the exact same reasons as stated.  
7 And -.

8 HEARING EXAMINER: Go ahead.

9 ATTORNEY CHAVIS: And it's also an  
10 unfair question, in the sense that the way in which  
11 Counsel has stated, that a physician could kill  
12 someone else.

13 I'm not sure, again, if he's trying to  
14 state what happened in 2001. I don't think that has  
15 been put into evidence the way it was stated by  
16 Counsel. It is completely beyond the scope of Direct  
17 of this witness. And it's not relevant.

18 HEARING EXAMINER: Well, his opinion  
19 as to something that's - that - sustained.

20 I'm trying to figure out whether the  
21 description that's contained within the question is  
22 even something that this witness is even aware of.  
23 It's - otherwise, it's just a hypothetical and that's  
24 - you know, that's why I'm having trouble. And you  
25 know and that's why I'm sustaining the objection.



1                   Again, if there's a foundation or if  
2 there's any way to rephrase the question, I'm not  
3 trying to lock you out. I'm just trying to  
4 understand what the question is that you're asking  
5 and what you're seeking -

6                   ATTORNEY MORRIS:   Yeah.

7                   HEARING EXAMINER:   - in the way of an  
8 opinion from the witness.

9                   ATTORNEY MORRIS:   Okay.

10 BY ATTORNEY MORRIS:

11               Q.     All right.

12                   Mr. Gongora, -

13               A.     Yes.

14               Q.     - how long have you lived in Texas?

15               A.     About six months now.

16               Q.     Okay.

17                   And before that you lived in New Jersey.

18                   Right?

19               A.     Yes, sir.

20               Q.     How long did you live in New Jersey?

21               A.     Over - close to 50 years.

22               Q.     Wow.   Okay.

23               A.     More than a -.

24               Q.     Okay.

25                   So I'm guessing you've gone to a few



1 doctors in your 50-plus years, on planet Earth.

2 Correct?

3 A. Yes.

4 Q. So you know that you want to have a  
5 doctor that's going to have the correct background.

6 A. I would ask for the credentials, of  
7 course.

8 Q. You want a doctor that's been trained  
9 properly.

10 Correct?

11 ATTORNEY CHAVIS: Your Honor -. I'm  
12 going to cut you off, sir, - but I'm going to object  
13 again.

14 Now yet the question was, the people  
15 whose door that you went to as a Jehovah's Witness,  
16 individuals who didn't want to receive spiritual  
17 guidance. If that was the context of the question,  
18 that would have to be relevant as to, you know,  
19 criteria or basis, of this witness's opinion of Dr.  
20 Kaul.

21 But going into whether or not he's had  
22 doctors, ones that - good doctors, credentials. It's  
23 absolutely irrelevant and improper for this  
24 particular witness.

25 HEARING EXAMINER: I'm trying to



1 figure out if the purpose of the witness is for the  
2 moral character portion of the provisional denial -.  
3 And that's what he's testified to, in terms of what  
4 kind of individual the doctor is, then how does that  
5 question fall within the scope of Cross, Mr. Morris?

6 ATTORNEY MORRIS: It's hard for me to  
7 understand how somebody who's been a citizen for over  
8 50 years can't come into court here for a licensure  
9 proceeding and say, these are the types of folks that  
10 I want to see licensed.

11 In the abstract, as a citizen and due  
12 - as the folks that I don't want to see licensed.  
13 This doesn't even have anything to do with the  
14 doctor. The idea is, he's going to say, yeah of  
15 course, I want my doctor to be licensed. I want him  
16 to be properly trained to perform whatever surgeries  
17 he's being - are being performed.

18 HEARING EXAMINER: Well - but as it  
19 relates to this particular case, I'm still having  
20 trouble seeing the relevance of it with all this. I  
21 think as a matter to the Board, in the sense that  
22 you're asking him a question in a vacuum. That's not  
23 - that's what I understand to be the nature of the  
24 objection.

25 And it's too broad. I'm not trying to



1 be argumentative, but, you know -.

2 ATTORNEY CHAVIS: Sure.

3 HEARING EXAMINER: We're going off the  
4 record. We're going to discuss this and talk at the  
5 bench.

6 ---

7 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

8 ---

9 HEARING EXAMINER: Okay.

10 We're back on the record. It's now  
11 11:45. We had a - the parties expressed their  
12 respective positions to me at the bench. And the  
13 ruling to sustain the objection remains in effect.

14 Continue with Cross, please.

15 ATTORNEY MORRIS: Sure.

16 BY ATTORNEY MORRIS:

17 Q. Mr. Gongora, I think one of the words  
18 that you brought up earlier was humility.

19 Right?

20 A. Yes.

21 Q. And you said that you admired somebody  
22 who is humble.

23 Correct?

24 A. Correct.

25 Q. Would you describe somebody that's suing



1 for 28 quadrillion dollars as humble?

2 A. From my understanding, some percentage of  
3 that is not going to be - it's going to be going to  
4 some type of a benefit, something that he's going to  
5 be using for other means. And so it's not all that  
6 he's taking in, you know.

7 I don't really know, but that's - looking  
8 at it that way, you know, it's not really 100  
9 percent profit, but some of it is going to charity.  
10 So in that sense, you know, it's not that he's being  
11 greedy, but he's giving out.

12 And that's one of the things that I  
13 appreciate about Dr. Kaul, the fact that he is a  
14 cheerful giver.

15 Q. Okay.

16 I don't have any more questions for you.  
17 Thank you.

18 HEARING EXAMINER: Anything further?

19 --

20 REDIRECT EXAMINATION

21 ---

22 BY ATTORNEY CHAVIS:

23 Q. Just to clarify, Mr. Morris asked you  
24 some questions about between 2012, 2014, I'm not  
25 going to go over - or 2017. I'm not going to go over



1   them individually, but now that you know the day,  
2   would it change the opinion that you expressed in,  
3   during - on Direct Examination?

4           A.     Yeah.  Some of these things I was not  
5   fully aware of, -

6           Q.     Uh-huh (yes).

7           A.     - until just now but, no, that does not  
8   change my feelings towards Dr. Kaul.

9           Q.     Thank you.  No other questions.

10                   HEARING EXAMINER:  Any Recross?

11                   ATTORNEY MORRIS:  None.

12                   HEARING EXAMINER:  Thank you.

13                   THE WITNESS:  You're welcome.

14                   HEARING EXAMINER:  You may step down.

15                   ATTORNEY CHAVIS:  We wish to call Dr.  
16   Kaul at this time, please.

17                   HEARING EXAMINER:  The court  
18   reporter's going to swear you in.

19   ---

20                                   RICHARD A. KAUL, M.D.,  
21   CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
22   HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
23   FOLLOWS:

24   ---

25                   HEARING EXAMINER:  Dr. Kaul, before



1 your attorney asks you questions, I know that you  
2 submitted the response brief and appendices to that  
3 electronically. And we have a computer disc with  
4 that information on it. So if you want to refer to  
5 something specifically, you let us know. We should  
6 be able to locate that and project it, if necessary.

7 THE WITNESS: Okay. Thank you.

8 ATTORNEY CHAVIS: Thank you, Your  
9 Honor.

10 HEARING EXAMINER: Miss Chavis.

11 ATTORNEY CHAVIS: All right.

12 ---

13 EXAMINATION ON QUALIFICATIONS

14 ---

15 BY ATTORNEY CHAVIS:

16 Q. So let's talk a little about all this  
17 preliminary information.

18 Where do you currently live, what state?

19 A. New Jersey.

20 Q. And how long have you lived there?

21 A. One and off since 2003.

22 Q. Can you please describe to the Hearing  
23 Examiner about your education?

24 A. Yes. Well, I grew up in England and I  
25 went to high school from up - until 1993. Then I



1 went to medical school in London, the Royal Free  
2 Hospital, School of Medicine, which is part of London  
3 University.

4 And from 1988 to 1989, I did the  
5 equivalent called a house job in England. It's an  
6 internship. So I did six months of medicine and six  
7 months of surgery. The six months of surgery would  
8 be at the Lister Hospital, in Stevenage, and the six  
9 months medicine, I worked on the Academic Unit of the  
10 Royal Free Hospital in London.

11 Then in September of 1989, I came to the  
12 U.S. And from September 1989 to July 1995, I did my  
13 post-graduate residency training -.

14 ATTORNEY CHAVIS: Your Honor, I'm  
15 sorry. I think this might be the doctor calling in.

16 May I answer this phone call briefly?

17 HEARING EXAMINER: Sure. We're in  
18 recess.

19 ---  
20 (WHEREUPON A SHORT BREAK WAS TAKEN.)  
21 (TELEPHONE CALL WAS PLACED.)

22 ---  
23 HEARING EXAMINER: Okay.

24 We're back on the record, the time is  
25 12:07. Dr. -



1                   ATTORNEY CHAVIS:   Katz.

2                   HEARING EXAMINER:   - K-A-T-Z?

3                   ATTORNEY CHAVIS:   Yes.

4                   HEARING EXAMINER:   Okay.

5                   First name?

6                   ATTORNEY CHAVIS:   Victor.

7                   HEARING EXAMINER:   Okay.

8                   Dr. Katz, my name is David Green.   I'm  
9 the Hearing Examiner.

10                  DR. KATZ:   Yes.   I'm going to kick  
11 everybody out.

12                  Okay?

13                  HEARING EXAMINER:   Okay.

14                  Because I hear them.

15                  DR. KATZ:   All right.   Yes.

16                  HEARING EXAMINER:   All right.

17                  Would you raise your right hand?

18                  DR. KATZ:   Yes.

19                                 ---

20                                 VICTOR KATZ, M.D.,  
21 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
22 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
23 FOLLOWS:

24                                 ---

25                   HEARING EXAMINER:   Thank you.



1 Miss Chavis?

2 ATTORNEY CHAVIS: Thank you.

3 ---

4 EXAMINATION ON QUALIFICATIONS

5 ---

6 BY ATTORNEY CHAVIS:

7 Q. Dr. Katz, could you please describe what  
8 your profession is?

9 A. I'm an orthopedic spine surgeon.

10 Q. How long have you been an orthopedic  
11 spine surgeon?

12 A. Since 2002.

13 Q. Where are you licensed to practice?

14 A. New York, New Jersey and California.

15 Q. And just generally speaking, can you tell  
16 us a little bit about your educational background?

17 A. Sure. I did - I went to a seven year  
18 medical program at City College, with Dr. Davis.  
19 When I graduated, I went to Stony Brook for my  
20 clinical orientation and got my M.D. from Stony  
21 Brook.

22 Then I did two residencies. I did are  
23 residency in Physical Medicine and Rehabilitation  
24 from 1990 to 1995. Then I did one year of general  
25 surgery at the Cabrini Medical Center. And then I



1 did the four years of orthopedics at St. Vincent  
2 Medical Center of Brooklyn and Queens or Catholic  
3 Medical Center of Brooklyn and Queens. And then I  
4 did my fellowship in Spine Surgery in California at  
5 Seton Medical Center.

6 ---

7 DIRECT EXAMINATION

8 ---

9 BY ATTORNEY CHAVIS:

10 Q. Do you know Dr. Richard Kaul?

11 A. Yes.

12 Q. How do you know him?

13 A. We briefly worked together from 2005 to  
14 2006, for about nine months.

15 Q. Can you describe your professional  
16 relationship with him?

17 A. We assisted each other on cases in the  
18 surgical center in New Jersey.

19 Q. Okay.

20 And could you explain how - or the  
21 evolution of that relationship? Do you guys remain  
22 professional colleagues? Did you remain in business  
23 together?

24 A. No. We had no business relationship, to  
25 the extent that we would scrub on cases together and



1 we would bill separately. But we would cooperate on  
2 the surgical case.

3 Q. Okay.

4 And can you explain what happened after  
5 that?

6 A. I don't understand the question. What do  
7 you mean?

8 Q. Did you remain in contact with him after  
9 2005?

10 A. Yes. So at some point I opened up my own  
11 practice in Brooklyn and Long Island. And I stopped  
12 coming to New Jersey. And I think Richard wanted to  
13 continue to practice in New Jersey.

14 Q. Okay.

15 How would you describe him as a doctor?

16 A. I think he is a very good doctor.

17 Q. Okay.

18 And how would you describe him as a  
19 person?

20 A. I think he's a honest person. He's a  
21 friend. He's a good person.

22 Q. Okay.

23 And not to get into the details of the  
24 proceeding, but you're aware that his license was  
25 revoked in New Jersey.



1                   Is that right?

2           A.       Yes, I'm aware of that.

3           Q.       Were you - did you have the opportunity  
4 to observe him, as he applied his education, training  
5 and expertise to treat patients?

6           A.       Yes.

7           Q.       And what was your opinion? What was your  
8 perception of that?

9           A.       In what he was trained to do, he was very  
10 good at it.

11          Q.       Okay.

12                   And as far as your opinion about him  
13 continuing to practice or being licensed to practice,  
14 say in Pennsylvania, what is your belief regarding  
15 that?

16          A.       I think he would be - I would recommend  
17 that he continue to practice as an anesthesiologist  
18 and pain-management specialist, in Pennsylvania. I  
19 think he would be an asset to the patients there.

20          Q.       Okay.

21                   And can you just describe why you would  
22 say an anesthesiologist as a - and work in pain  
23 management?

24                   Why specifically in those areas?

25          A.       Well, my understanding is that this is



1 his area of expertise, this is his specialty.

2 Q. And do you believe, as long as he  
3 pertains - or to the - as long as he remains within  
4 that specialty, do you believe that he would do fine,  
5 as a physician?

6 A. Absolutely.

7 ATTORNEY CHAVIS: With the Court's  
8 indulgence.

9 ---  
10 (WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)

11 ---  
12 THE WITNESS: Hello?

13 HEARING EXAMINER: We're still here.  
14 We're taking - Miss Chavis is taking a moment to  
15 confer with Dr. Kaul.

16 BY ATTORNEY CHAVIS:

17 Q. Did you also perform any procedures  
18 together, such as fusions or anything of that nature?

19 A. Yes.

20 Q. And about how many did you work together  
21 with him?

22 A. We worked for about nine months. And we  
23 - I have observed him do percutaneous discectomies,  
24 both lumbar and cervical. We did some cases more  
25 complicated, where we did percutaneous fusions. But



1 understand, this was just the start of this whole  
2 field, when this first started.

3 But we - me and him did the first  
4 percutaneous lumbar fusion in - in New Jersey. And I  
5 don't remember exactly how many cases we did, but  
6 around maybe 20.

7 Q. Okay.

8 So -? And this procedure that you just  
9 described on working together, that was started about  
10 2005?

11 A. Yes.

12 Q. Okay.

13 ATTORNEY CHAVIS: All right. I have  
14 nothing further.

15 Mr. Morris, from the Commonwealth, is  
16 going to ask you some questions, Doctor.

17 ---

18 CROSS EXAMINATION

19 ---

20 BY ATTORNEY MORRIS:

21 Q. Hi, Doctor.

22 When you would perform surgeries together  
23 in 2005, would Dr. Kaul serve as the anesthesiologist  
24 and you would serve as the surgeon?

25 A. No. He was a proceduralist. He was not



1 then the anesthesiologist. We would combine to do  
2 the actual spine case together.

3 Q. Okay.

4 And you said you worked with him for  
5 about nine months, back in 2005.

6 Correct?

7 A. 2005, 2006, around that time.

8 Q. Okay.

9 But you haven't worked with him for the  
10 last approximately 15 years.

11 Correct?

12 A. That's correct. No.

13 Q. Did you read the Order that the New  
14 Jersey Board of Medicine issued that revoked his  
15 license?

16 A. I don't remember reading the actual  
17 Order, but I did testify in the case as a witness.

18 Q. Okay.

19 Did you testify on behalf of Dr. Kaul?

20 A. Yes.

21 Q. And are you aware that there were  
22 approximately seven medical malpractice payments made  
23 on his behalf between 2011 and 2015?

24 A. I was not aware of any set number. I  
25 know he had some issues when he was doing the more



1 complex fusions on his own, which - when he ran into  
2 some trouble. I think that as long as he sticks to  
3 anesthesiology and pain management, he will be just  
4 fine. When it comes to more complex cases, I think  
5 he should ask assistance, either a new surgeon or a  
6 Board-certified spine surgeon.

7 Q. What about his training in other areas is  
8 lacking that you think he needs to stick to  
9 anesthesiology and pain management?

10 A. Oh, I don't think he's lacking anything.  
11 I think he's excellent in those - in that area.

12 Q. No. I'm saying about the other areas.  
13 Like outside of anesthesiology and pain management,  
14 in what areas is he lacking?

15 A. I'm not saying he's lacking. I'm saying  
16 that there are certain complexity cases which should  
17 be done in the hospital and certain cases should be  
18 done in the - in the surgical center. And that  
19 should be, you know, the decision of the - of the  
20 surgeon.

21 Q. So your concern is for the complexity of  
22 case that he's involved in.

23 Correct?

24 A. That's correct.

25 Q. Is that partly based in the medical



1 malpractice payments that have made on his behalf or  
2 not?

3 A. I'm sorry, what's the question?

4 Q. Yeah. Is your concern about in part,  
5 based on the medical malpractice payments that have  
6 been made on Dr. Kaul's behalf?

7 A. Not so much payments, just on the fact  
8 that some cases we have more risk. And if there's  
9 certain complications arise as the result of the  
10 case, they should be in a hospital setting, versus an  
11 outpatient setting.

12 Q. All right.

13 Did you know that the Department of  
14 Health and Human Services excluded him from Medicare,  
15 Medicaid and all other federal healthcare programs in  
16 January 2016?

17 A. I was not aware of that. But I guess  
18 that's stemming from his case in New Jersey.

19 Q. Okay.

20 Have you ever practiced in Pennsylvania?

21 A. I'm sorry. What's the -?

22 Q. Have you ever practiced in Pennsylvania?

23 A. No, I have not. I have never practiced  
24 in Pennsylvania.

25 Q. Okay.



1                   And you don't live in Pennsylvania, I'm  
2     guessing, as well?

3           A.       No, I do not. I live in New York.

4           Q.       Okay.

5                   So you have, in fact, seen Dr. Kaul  
6     perform spinal surgery.

7                   Correct?

8           A.       Yes. Mostly minimally-invasive  
9     procedures, not so much open procedures.

10          Q.       Okay.

11                   So it's fair to say, then, that you've  
12     never seen him perform an open procedure?

13          A.       I think I was involved in one cervical  
14     procedure. But I think I did - I kind of did most of  
15     the work in that one.

16          Q.       Okay.

17          A.       We did an ACDF. But the percutaneous  
18     procedures involving percutaneous discs, percutaneous  
19     screws, I did observe him perform those.

20                   HEARING EXAMINER: You used a four  
21     letter - A-C-D, what?

22                   THE WITNESS: F.

23                   HEARING EXAMINER: F. What does that  
24     stand for?

25                   THE WITNESS: Anterior cervical



1 discectomy and fusion.

2 HEARING EXAMINER: Thank you.

3 BY ATTORNEY MORRIS:

4 Q. Okay.

5 What is the ongoing nature of your  
6 relationship with Dr. Kaul?

7 A. We are friends.

8 Q. How often do you speak?

9 A. Maybe once a month.

10 Q. Did you speak about this hearing here  
11 today?

12 A Yes. He asked me to testify on his  
13 behalf.

14 Q. Okay.

15 Did he tell you what it was about?

16 A. Yes.

17 Q. Okay.

18 All right.

19 I don't have any more questions for you.

20 HEARING EXAMINER: Miss Chavis, any  
21 Redirect?

22 ATTORNEY CHAVIS: No Redirect, Your  
23 Honor.

24 HEARING EXAMINER: Doctor, thank you  
25 for testifying. We're going to disconnect the call



1 now.

2 ATTORNEY CHAVIS: Thank you.

3 THE WITNESS: My pleasure. Thank you.

4 Bye-bye.

5 HEARING EXAMINER: Are you recalling

6 Dr. Kaul?

7 ATTORNEY CHAVIS: Yes, we are, Your

8 Honor.

9 HEARING EXAMINER: Do you have any -  
10 does he have any objection if we just start? It was  
11 so short. That - we could just start from the  
12 beginning?

13 ATTORNEY CHAVIS: Yes, Your Honor.

14 HEARING EXAMINER: That'll make for a  
15 more coherent - it'll enable me to read the  
16 transcript better.

17 Let's put it that way. Thank you.

18 ATTORNEY CHAVIS: He's still under

19 oath.

20 Is that correct?

21 HEARING EXAMINER: Yes. He is under

22 oath.

23 Do you understand that, Doctor?

24 THE WITNESS: I do.

25

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1 RICHARD A. KAUL, M.D.,  
2 RECALLED AS A WITNESS IN THE FOLLOWING PROCEEDING,  
3 AND HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AND SAID  
4 AS FOLLOWS:

5 ---

6 EXAMINATION ON QUALIFICATIONS

7 ---

8 BY ATTORNEY CHAVIS:

9 Q. All right, sir.

10 We're going to start back from the  
11 beginning, if you would please begin with where you  
12 live?

13 A. I live in New Jersey.

14 Q. How long have you lived there?

15 A. Since about approximately 2003.

16 Q. Okay.

17 Where'd you live prior to that?

18 A. Well, when I came back from England in  
19 2001, I was in New York.

20 Q. Okay.

21 And so you said, you were living in  
22 England, is that where you are from?

23 A. Yes, that's where I grew up.

24 Q. Can you explain your education?

25 A. Yes. As I said earlier, I went to



1 medical school in England, from 1983 to 1988. I went  
2 to the Royal Free, which is part of London  
3 University. After I graduated, I did six months as a  
4 house officer, at the Academic Unit of the Royal Free  
5 Hospital in London. And then six months as a  
6 Surgical Health Officer, at the Lister Hospital, in  
7 Stevenage,

8 Q. And for the record, a Health Officer is  
9 the same as an intern, I believe?

10 A. Yeah. It's an internship, exactly,  
11 equivalent.

12 In September of 1989, I came to the  
13 United States. And I was here from 1989 to August  
14 1995. And then I underwent my post-graduate  
15 residency training in general surgery, anesthesiology  
16 and some interventional pain.

17 I returned to the U.K. because I was on a  
18 what's called a J-1 Visa. And so I went back to  
19 England and I did a fellowship in interventional pain  
20 at the Crystal Ward infirmary. And then I remained  
21 in the United Kingdom up until September 2001.

22 Then I returned to the United States in  
23 September 2001. And I developed a practice in  
24 interventional pain and minimally-invasive spine  
25 surgery from that date up until 2012, April 2012.



1 Q. What was the part - from when until 2012?

2 A. Sorry?

3 Q. You said you that you were practicing  
4 upon that date until 2012.

5 From which date?

6 A. From September 2001 -

7 Q. Thank you.

8 A. - to April 2012. I practiced and built a  
9 practice in interventional pain and minimally-  
10 invasive spine surgery.

11 And in March 2011, I opened my own  
12 surgical center in Pompton Lakes, New Jersey. And  
13 then in April 2012, my medical license was suspended  
14 in New Jersey.

15 Q. And eventually it was revoked.

16 Is that correct?

17 A. Correct. It was revoked on March the  
18 12th, 2014.

19 Q. So prior to going into some of those  
20 issues there - your Curriculum Vitae is a part of the  
21 Board exhibit. I believe B-1 is the application.

22 Does that list all the training that you  
23 have undergone throughout your career as a physician?

24 A. Yes, it does.

25 Q. Okay.



1                   Can you just give us just generally the  
2 training that you've undergone?

3           A.       Well, in my residency training from 1989  
4 to 1992, it was general surgery. And so I trained at  
5 the Catholic Medical Center and Nassau County Medical  
6 Center and Booth Memorial Medical Center, up in New  
7 York, general surgery.

8                   And that training involved the general  
9 surgical techniques. So opening up and dissecting  
10 various parts of the body between the abdomen and the  
11 neck. We did, you know, vascular injuries, nerve  
12 injuries and particularly lots of gunshot trauma, was  
13 dealt with when I was at the Catholic Medical Center.

14                  And then my training after that was in  
15 anesthesiology. And that was at Montefiore Medical  
16 Center and - which is in the Bronx. So the last six  
17 months of that, I specialized in interventional pain,  
18 which is a part of medicine that involves the use of  
19 needles placed into the spine, under what's called  
20 fluoroscopic control, to both diagnose where the pain  
21 is coming from and then to treat the painful areas of  
22 the spine.

23                  So the technique essentially is - it  
24 involves looking at the screen and inserting needles  
25 and probes into areas around the spine. So it's



1 taking two-dimensional information and converting it  
2 in your mind, into a three-dimensional form, and  
3 placing it into and around painful parts of the  
4 spine.

5               So then after I finished my residency at  
6 Montefiore, I went back to England and I did a  
7 further year's training in interventional pain, and  
8 further developed my techniques and skills in the  
9 ability to place these probe and scopes into and  
10 around the spine, for the diagnosis and treatment of  
11 patients with those conditions.

12              And then, when I came back to the states  
13 in September of 2001, the field of minimally-invasive  
14 spine surgery was just beginning to evolve. The  
15 technology with the, what's called the C-arm, which  
16 is the mobile x-ray unit. And those instruments were  
17 being developed so that people who had bad backs  
18 didn't need someone to go very aggressive in back  
19 procedures, which involved the movement of muscles  
20 and bone and generally associated with very poor  
21 outcomes.

22              So instruments were being developed that  
23 enables these procedures, the fusions, discectomies,  
24 to be carried out through much smaller incisions.  
25 And I started to attend a lot of continuing medical



1 education courses, in the period from 2002 to 2012.

2 I attended about 80 hands-on cadaver  
3 training courses. And in this field, again, I  
4 performed 800 minimally-invasive spinal fusions and  
5 discectomies. And in my practice, it was my practice  
6 to keep a very close track of my outcomes.

7 And in this time period, my outcomes were  
8 90 to 95 percent good to very good, with an average  
9 being 65 to 70 percent. And my complication rate in  
10 this period of time of these 800 patients, was 0.1  
11 percent. And the average in the literature is 5 to  
12 15 percent.

13 And the procedures that I performed, were  
14 both cervical, thoracic and lumbar discectomies  
15 fusions.

16 ---

17 DIRECT EXAMINATION

18 ---

19 BY ATTORNEY CHAVIS:

20 Q. So I think now is a good place to segue.  
21 You were talking about the complication rate and some  
22 of the numbers of procedures. So there's some  
23 difficult and unfortunate things we need to discuss.

24 So in 2001, while you were in England as  
25 a physician, an individual passed away.



1                   Is that correct?

2           A.     Yes.   Correct.   Well, if I could step  
3 back just a bit.

4                   When I went back to England in 1995, so  
5 that I could finish my fellowship, part of my Visa  
6 requirement was that I had, you know, before I could  
7 come back to the states, was that I had to spend two  
8 years in my country of residence, which was England.

9                   So I decided to stay on a little bit  
10 longer.   And one of my consultants, at Crystal Ward  
11 Infirmary suggested that if I was going to stay, I  
12 should have my American training, my Board  
13 Certification, recognized in the U.K.

14                  So I submitted an application to the  
15 Royal College for the - to have the training  
16 recognized.   And they refused to recognize my  
17 American training, calling it not equivalent to  
18 British training.   Saying that I would have to  
19 undergo a further 18 months of training in a British  
20 hospital, to come up to British standards.

21                  I disagreed with their opinion and I  
22 appealed the decision to a panel of the Royal College  
23 and one of the Circuit Judges.   And it caused, to say  
24 the least, some thought, that I was challenging their  
25 decision.   And I didn't make too many friends in that



1 process.

2           So the appeal took place in February 1999  
3 and my chairman at Montefiore, Professor Albert  
4 Salomon decided not support me in the appeal, because  
5 the appeal had the potential to change the structure  
6 of the national health service in the U.K. So it was  
7 a very high-profile battle, I suppose.

8           That appeal took place February the 2nd  
9 and 3rd, at the Royal College. And the appeal  
10 decision came back a month later. They upheld the  
11 decision of the Royal College.

12           And Professor Salomon suggested I come  
13 back to the states. So I started to reactivate my  
14 paperwork to come back to the United States on  
15 March the 9th, 1999. I had been working in a dental  
16 clinic in London, in one of the government-run dental  
17 clinics. And in the government-run dental clinics,  
18 they're not very well-funded in the U.K. So there's  
19 no way to do preoperative blood testing and the stuff  
20 that's routinely done here.

21           And a lady came in for some wisdom teeth  
22 to be extracted. And the procedure was carried out.  
23 It lasted 17 minutes. And at the end of the  
24 procedure, she went into what's called ventricular  
25 tachycardia, which is a form of cardiac arrest. I



1 resuscitated the lady. And she was transferred to a  
2 local hospital. Which happened to be unfortunate.  
3 The guy who's the president of the Royal College was  
4 the head.

5 And in England, you know, when a patient  
6 has an adverse outcome and dies, doctors can and are  
7 charged with what's called medical manslaughter.

8 It's the government's way of saying to  
9 the public, this is how we deal with doctors.

10 Q. And that happened in your facility?

11 A. Yes. Correct.

12 Q. So the patient was in the hospital for  
13 six days. And very sadly, on March the 15th she  
14 passed away. And a police investigation was  
15 commenced by Scotland Yard. And it went on for about  
16 eight months.

17 And in October of 2000 - of 1999, I was  
18 charged with medical manslaughter.

19 The case came to trial in January,  
20 January the 20th, 2001, at the Central Queen  
21 Courts, which I always refer to as the old lady. And  
22 it lasted four weeks and there was - I mean, on the  
23 other side there were, I think, six to seven experts  
24 who testified for and against me. The lead expert  
25 for the prosecution was Professor Strudent's deputy,



1 Dr. Flynn. And the lead expert for my case was  
2 Professor of Medicine at Oxford, Professor John  
3 Mattingly.

4 And the case itself, there were two  
5 competing theories, one that the lady had been  
6 deprived of oxygen and that caused hypoxic cardiac  
7 arrest. And the other theory was that she had a very  
8 low potassium, which was 2.3, and that was a  
9 potassium that they measured when she was taken to  
10 the hospital.

11 And the experts for my case said that it  
12 was a hypokalemic arrest. But the experts in the  
13 prosecution say it's a hypoxic arrest.

14 So the case was tried by the secondary  
15 sitting Judge. In the United Kingdom, they call them  
16 sergeants. And it lasted four weeks, and at the end  
17 of the trial, the jury could not reach a unanimous  
18 verdict.

19 And in England, criminal convictions can  
20 be secured on majority. And that was the instruction  
21 that the Judge gave to the jury and I was found  
22 guilty on February the 22nd, 2001, of this charge.

23 And on that particular day, after the  
24 Judge had finished his - stated his closing  
25 statement, he said I was free to go. And there was



1 no fines, no probation, no penalty. There was  
2 nothing imposed on me. But I was free to leave the  
3 court, and I did. And then I came to the United  
4 States.

5 Now, when I was completing the paperwork  
6 to come back to the United States, there were  
7 questions on the application forms for the hospitals  
8 and for the state, that asked about criminal  
9 convictions.

10 Q. Uh-huh (yes).

11 A. Now, and I had testified before the  
12 Board, at that time, it was my understanding, based  
13 upon the fact that there was a lack of reciprocity in  
14 training between the U.K. and the United States, that  
15 I -. And the question itself asked, any convictions  
16 in the state or federal jurisdiction? So I said no  
17 to that question.

18 But I came back, when I commenced  
19 practice and the Royal College found out that I'd  
20 returned to the United States, they called the  
21 Medical Board. And the Medical Board began  
22 proceedings against me.

23 This was in August 2002. And there was a  
24 hearing in front of the Board in April 2003, and the  
25 Board suspended my license for six months, based upon



1 misrepresentations.

2           And in that six-month period, I spent a  
3 number of that - a period of that time beginning to  
4 get trained in minimally-invasive spine surgery. So  
5 there were - I went to Korea and I did a mini  
6 fellowship there, because the doctors there are  
7 developing some very innovative techniques in this  
8 particular area. And I spent time with other  
9 physicians in the states, who were also innovative in  
10 this area.

11           So I came back to practice in June 2004.  
12 And in June 2004, I was operating in a number of  
13 surgical centers in New Jersey, performing these  
14 procedures.

15           And in 2005, myself and Dr. Katz,  
16 performed the first minimally invasive outpatient  
17 fusion, whereby we inserted a graft - it's called the  
18 OptiMesh Graft. And we inserted it into an  
19 intervertebral space, and we placed percutaneous  
20 cannulated pedicle screws.

21           And then at that point in time, as Dr.  
22 Katz testified earlier, we performed about 20 cases  
23 together. And then I continued to go on to practice.

24           Q.     All right.

25           I just want to fast-forward a little bit.



1                   You know, we have a Judge's ruling and  
2 we're not going to go into the specifics about it.  
3 We'll just go through the chronology.

4                   So after 2004, you were practicing. At  
5 some point in 2012, New Jersey initiated additional  
6 proceedings against your license.

7                   Is that right?

8           A.       Correct.

9           Q.       And there was a suspension at that point?

10          A.       Correct.

11          Q.       Then fast-forward a little bit more.

12                   In 2014, that's when your license was  
13 revoked?

14          A.       Correct.

15          Q.       Okay.

16                   Some other incidents we've already heard  
17 about it so far was that there were some medical  
18 malpractice suits that were filed and eventually that  
19 were settled, starting from - there's one in August  
20 of 2011.

21                   Is that correct?

22          A.       Correct.

23          Q.       There were - let's see approximately four  
24 that were in 2014.

25                   Is that correct?



1 A. Correct.

2 Q. And it looks as though there were at  
3 least two in 2015, approximately?

4 A. Yes.

5 Q. Okay.

6 In additions to the medical malpractice  
7 suits that were filed against you and eventually  
8 settled, at one point the - Medicare, Medicaid  
9 indicated they revoked your privileges to receive  
10 benefits through their insurances.

11 Is that correct?

12 A. That's correct.

13 Q. All right.

14 And despite - and also, I'm sorry, 2002,  
15 you petitioned or applied for a license in Kansas and  
16 it was denied.

17 Is that correct?

18 A. Yes. The application in Kansas, actually  
19 was submitted, I think, in 2001.

20 Q. Oh.

21 A. Yes.

22 Q. And I believe there might've been a  
23 previous application in Pennsylvania.

24 Is that correct?

25 A. Yes. That initial application was



1 submitted in September 2017.

2 Q. Was that also, just like in this case,  
3 was it pro se?

4 Did you do it on your own?

5 A. Yes.

6 Q. Okay. All right.

7 So now we have these - we've put that on  
8 the record, in spite of the issues that you had - I  
9 guess this would probably predate the things that you  
10 just spoke of.

11 Why did you want to go into medicine?  
12 Why this profession?

13 A. Well, medicine, because - well, because  
14 my brother died when I was 14. He had cancer and  
15 then my father died when I was 16.

16 And I mean, initially, I wanted to  
17 actually - before those two events had occurred, I  
18 wanted to go into law school. And then after those  
19 two events took place, I started wanting to do  
20 medicine.

21 Q. Do you believe that those two incidents  
22 impacted the way which you approach your care of  
23 patients?

24 A. Yes. Yes. It does. It did. It does.

25 And yeah, I mean and particularly with



1 the - you know, with the dental case. Because the  
2 patient was somebody's mother. So I understood very  
3 personally, from experience, of the loss of -.

4 So yes, it did. And with regards to the  
5 issue of why - and why it was that I chose that  
6 particular course. You know I, myself, when I was  
7 growing up, I suffered with kidney stones. I didn't  
8 ignore them, thank goodness.

9 And so I had personally experienced pain.  
10 And that was, I think, personally what drew me to  
11 wanting to treat pain.

12 And then one very specific incident when  
13 I was in my surgical residency, one night when I was  
14 doing my E.R. rotation. There was a guy that came  
15 in, the middle of the night, and he had the most  
16 severe pain in his mouth, from a really bad decayed  
17 tooth.

18 And I had to call an oral surgeon. But  
19 in the meantime, while I was waiting, he was swerving  
20 around the bed, and I injected some local anesthetics  
21 and lidocaine to the gums. And in a matter of 15 to  
22 20 seconds, his whole - everything changed. And he  
23 just had to be - my parent's death and that  
24 particular incident had an impact on me.

25 Q. So how long has it been that you actually



1 treated a patient, approximately? When was the last  
2 time you actually treated a patient?

3 A. Well, April of - March 21st, 2012. Yeah.

4 Q. And I'm sure you're aware that  
5 Pennsylvania requires that if you haven't practiced  
6 for four years, that you go to a reentry course.

7 Is that something that you've done?

8 A. I have not done that, no.

9 Q. And was there something that precluded  
10 you from being able to do that prior to your  
11 application?

12 A. To be honest with you, I was not - I  
13 wasn't aware of that requirement, but had I been,  
14 then I would have undertaken that course.

15 Q. And since that time, how have you been  
16 able to support yourself, since you do not have a  
17 license?

18 A. Very difficult. I mean, I've been  
19 fortunate in that every time I've had nowhere to  
20 live, somebody or something happens to your life and  
21 you know. There were times in 2019, where I didn't  
22 even have enough money for food. But you know, I  
23 just managed to keep on going, you know, day by day,  
24 and you know, working towards getting some  
25 resolution, you know, to the situation that has



1 arisen.

2 Q. And we've heard earlier that you have  
3 children?

4 A. I do.

5 Q. How old are they?

6 A. They are now 17 and 15.

7 Q. You're able to see them on a regular  
8 basis.

9 Is that right?

10 A. I am now, but for a period of time -  
11 well, it's actually two years I've been seeing them.

12 Q. And I believe there is - from testimony  
13 earlier today, another witness said there was an  
14 issue just with you having enough resources to pay  
15 child support.

16 Is that right?

17 A. Correct.

18 Q. That there was a challenge there?

19 A. Yes. Yeah. After the issue happened  
20 with the license in 2012, I mean, I did, I lost  
21 everything, maybe except for a few clothes. I lost  
22 my houses, my ability to pay child support.

23 And you know, of course the consequence  
24 of that, I was arrested and thrown in jail. And you  
25 know, ended up having to fight those proceedings, in



1 addition to everything else that was going on.

2 Q. And so if you were able - if you were  
3 granted a license, would you be willing to practice  
4 in a specific area of anesthesiology and pain  
5 management?

6 A. Yes.

7 Q. And you have no objection to being  
8 monitored by the Board?

9 A. Oh, no. And in fact, when the New Jersey  
10 Medical Board first commenced the proceedings in  
11 2012, I actually suggested to them - to the Board and  
12 to the Attorney General's Office, that if they did  
13 have genuine concerns about my competency, that I had  
14 no issue of having my practice independently  
15 verified, monitored, set. I was most completely  
16 transparent.

17 Q. And you're going to continue on with that  
18 transparency.

19 Is that right?

20 A. Oh, yes. Absolutely.

21 Q. Speaking of competency, since 2012 have  
22 you done anything to - to the best of your resources  
23 and the best of your ability, to maintain competency,  
24 to remain up on medical advances?

25 A. Yes. I've done a lot of reading on - you



1 know, there's a journal that comes out in the world  
2 of spine, pain spine. And you know, every month of  
3 publication I read that. And I speak regularly to  
4 many of my colleague physicians, who are in the field  
5 of spine, and they inform me what's been going on in  
6 the world of spine.

7           And you know, one of the most interesting  
8 things is that the expandable interbody device that  
9 myself and Dr. Katz inserted, in February of 2005  
10 now, every major spine company in America has  
11 developed a similar device and a similar technique.

12           And a number of the companies over the  
13 last couple of months have actually asked me to start  
14 training other interventional-pain doctors that are  
15 now performing these fusions.

16           And a few days ago I had a conversation  
17 with one of the representatives and he said that  
18 there's now about 400 interventional-pain doctors in  
19 America that are performing outpatient percutaneous  
20 fusions.

21           Q.     How do you know or what have - well, what  
22 do to say to the Board to convince them that you're  
23 able to practice safely?

24           A.     Well, I would say to them, send a  
25 monitor, have somebody observe me, have somebody



1 watch me. Regularly have me submit or have somebody  
2 submit reports on my behalf.

3 And you know, I've - you know, I'm open  
4 to being, you know, randomly inspected at any time.  
5 And open to, you know, having any of the physicians  
6 on the Board asking me questions about the field of  
7 the spine.

8 Q. So you're living in New Jersey now and  
9 you want to move to Pennsylvania to practice in  
10 Pennsylvania.

11 Do you have any Pennsylvania connections,  
12 like patients that you once treated years ago who  
13 live in Pennsylvania?

14 A. Yes. In fact, a good number - I'd say  
15 about 20 percent of my practice were patients from  
16 Pennsylvania. And many of them still live here and I  
17 get relatively frequent calls from them asking me  
18 when I'm coming back.

19 Q. You were involved in the Spine Africa  
20 Project.

21 What - when were you involved with that?

22 A. Well, you know, the Spine Africa Project,  
23 it was a 501(c)(3) charity. In 2008, a friend of  
24 mine invited me to go with him to Ethiopia. He was  
25 performing some free spine care. So I went out



1 there.

2           And then the following year I met a  
3 doctor, he was from the Democratic Republic of the  
4 Congo. But he asked me if I would be willing to  
5 start providing free care in the DRC. And I was and  
6 I did.

7           And so I thought the best way to do it  
8 would be to set up a 501(c)(3) charity, which I did,  
9 called the Spine Africa Project. And that was a  
10 charity that provided for four years, five years,  
11 free care to people in the DRC, yeah.

12           Q.     And when you would go to visit, it was  
13 like a clinic that was set up?

14           A.     It was a hospital. At that time it was  
15 called the Panzi Hospital. And it was run by a  
16 doctor called, Dr. Denis Mukwege, who's very well -  
17 he actually won a Nobel Peace Prize for the work that  
18 he'd done with women, who, unfortunately, are  
19 attacked in that part of the world. And so the  
20 charity was established in this particular hospital,  
21 which is the Panzi -.

22           Q.     And when you would go, you would go - you  
23 would pay for yourself to go. You wouldn't be paid  
24 by the hospital. You'd go on your own dime and -?

25           A.     Yes. Yes. Well, when I set up the



1 charity, I took approximately \$100,000 of my money to  
2 set up a charity to buy equipment and to fund the  
3 trips of various doctors that were going over there.  
4 And the charity was expanding and more and more  
5 doctors in America wanted to and did become a part of  
6 it.

7           And then after the license - well, when  
8 the license was suspended, you know, the charity  
9 itself, unfortunately, was also attacked, I should  
10 say, by the people.

11           Q.     Is there anything else regarding -? I  
12 know we have some general parameters. Anything else  
13 you'd want the Board to know regarding the chronology  
14 of events, your motivations for going into practice,  
15 your ability to practice safely?

16           A.     Yes. Well, I would say that, you know,  
17 I've always had the - you know, because of very  
18 personal professional events in my life that are  
19 designed to want to help people. Because, you know,  
20 I - yeah, I mean, I - my journey, my personal  
21 journey, happened because lots of people helped me.

22                   And so, you know, my way of helping  
23 people is through medicine. And so I believe that I  
24 could, if I were given a license, could and would be  
25 able to help a lot of people who are living with and



1 are suffering with pain.

2 Q. So just to give the dates on the record,  
3 approximately March of 2019 is when you submitted  
4 your most recent application to Pennsylvania for  
5 licensure.

6 Correct?

7 A. Correct.

8 Q. And you received a provisional denial  
9 letter from the Board. And that application, you did  
10 on your own, as a pro-se applicant?

11 A. Yes, I did.

12 Q. And you received a provisional denial  
13 letter from the Board June 18th of 2019.

14 Is that correct?

15 A. Correct.

16 Q. And you then submitted your appeal. And  
17 I believe that was on July 4th - on or about July 4th  
18 of 1999 - excuse me, geesh, 2019?

19 A. Correct.

20 Q. Okay.

21 I wanted to mention that. I have no  
22 other questions.

23 ATTORNEY CHAVIS: Your Honor, prior to  
24 Cross, if - I know this has been an inconvenience. I  
25 just saw that the last doctor called in. I just need



1 to step out to get a message to him to hold on, we're  
2 finishing with Cross. If I may have just one moment  
3 to do so?

4 HEARING EXAMINER: Mr. Morris?

5 ATTORNEY MORRIS: I'm fine with that.  
6 And if we could take maybe a five-minute recess, that  
7 would be excellent.

8 HEARING EXAMINER: Let's do ten.  
9 Let's be back at one o'clock. Before we go, however,  
10 does anybody, either side, anticipate using any of  
11 the materials that were on the disc during Cross or  
12 during Direct?

13 ATTORNEY CHAVIS: I don't anticipate  
14 using them, Your Honor.

15 HEARING EXAMINER: Okay.

16 Mr. Morris?

17 ATTORNEY MORRIS: I do not, Your  
18 Honor.

19 HEARING EXAMINER: Okay.

20 Well, we'll keep our technological  
21 assistant available. But it's probably his lunch  
22 hour and I don't want to intervene on that if I can  
23 help it.

24 All right. So we're back at one  
25 o'clock. If either party does need it, let me know.



1                   ATTORNEY CHAVIS:   Okay.

2                                       ---

3   (WHEREUPON, A SHORT BREAK WAS TAKEN.)

4                                       ---

5                   HEARING EXAMINER:   Miss Chavis, do you  
6 have a witness that's on the telephone?

7                   ATTORNEY CHAVIS:   Not at this time,  
8 Your Honor.

9                   HEARING EXAMINER:   Okay.  
10                   Are you anticipating after Dr. Kaul's  
11 testimony?

12                   ATTORNEY CHAVIS:   There's a  
13 possibility that - I thought it was Dr. Chira  
14 calling, but it was actually Dr. Katz calling me  
15 back.   So I'm not quite sure what was going on there.

16                   But I think we go to Dr. Kaul's Cross  
17 Examination, I do have one more witness here,  
18 present, who can testify.

19                   HEARING EXAMINER:   Okay.

20                   ATTORNEY CHAVIS:   Thanks, Your Honor.

21                   HEARING EXAMINER:   So we're at Cross.

22                   ATTORNEY MORRIS:   Yes.

23                   HEARING EXAMINER:   Mr. Morris

24                                       ---

25                                       CROSS EXAMINATION



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BY ATTORNEY MORRIS:

Q. You understand my job here is to ask you questions. Some of them might be difficult, but I'm just doing my job.

Do you understand that?

A. Okay.

Q. You said when your attorney was asking you some questions, that you were willing to go into a monitoring program, if that's the route the Board chooses here in Pennsylvania.

Correct?

A. Yes.

Q. Do you own a house in Pennsylvania or an apartment or anything like that?

A. No.

Q. Okay.

So is your primary Pennsylvania connection nowadays just that you had some patients that used to live here in the past?

A. Yes.

Q. Are you licensed in any other states currently?

A. No.

Q. Are you licensed in any other countries



1 currently?

2 A. No.

3 Q. You had said you did some work at the - I  
4 think you called it the Ponzi Hospital, if I'm not  
5 mistaken, in Africa?

6 A. Panzi (corrects pronunciation).

7 Q. Panzi. I'm sorry.

8 A. Which - P-A-N-Z-I.

9 Q. Thank you.

10 You'll have to get used to a Western  
11 Pennsylvania accent.

12 Do they license doctors in the Congo?

13 A. No. No, they do not.

14 Q. And do they license doctors in Ethiopia?

15 A. No.

16 Q. I just want to make sure that I - you  
17 submitted some documents earlier and there were a lot  
18 of documents.

19 Right?

20 So I just want to make sure that the  
21 Curriculum Vitae that I have for you is a current  
22 one.

23 ATTORNEY MORRIS: If I may approach,  
24 Your Honor?

25 HEARING EXAMINER: Sure. Just for my



1 benefit, is there a C-1 through C-3?

2 ATTORNEY MORRIS: There are, but I'm  
3 doing them out of order.

4 HEARING EXAMINER: That's fine. We'll  
5 see them when we get them. Thank you.

6 ---

7 (Whereupon, Exhibit C-4, Curriculum Vitae, was  
8 marked for identification.)

9 ---

10 BY ATTORNEY MORRIS:

11 Q. And just for the record, I've handed you  
12 a copy of what's been premarked for identification  
13 purposes as Exhibit C-4, Doctor. This is, at the  
14 title at the top, Curriculum Vitae.

15 It's eight pages long. It has your name  
16 up there, Richard Kaul, M.D.

17 Is this your current CV?

18 A. Yes, it is. But the address and phone  
19 number have changed.

20 Q. Oh, okay.

21 I'm guessing that you gave the  
22 Pennsylvania Medical Board your updated license and  
23 phone number.

24 Is that correct?

25 A. The updated address, not phone number.



1 Q. Okay.

2 Might want to do that now. What's your  
3 current phone number?

4 A. It's (862) 881-9703.

5 Q. Okay.

6 And other than that, is this your CV?

7 A. Yes, it is.

8 ATTORNEY MORRIS: Your Honor, we move  
9 C-4 into the record.

10 HEARING EXAMINER: Miss Chavis?

11 ATTORNEY CHAVIS: No objection, Your  
12 Honor.

13 HEARING EXAMINER: C-4 is admitted.

14 ---

15 (Whereupon, Exhibit C-4, Curriculum Vitae, was  
16 admitted.)

17 ---

18 BY ATTORNEY MORRIS:

19 Q. And it looks like you have not practiced  
20 since 2014.

21 Is that correct?

22 A. Well, the last time I physically  
23 practiced was - as I said, it was March the 21st,  
24 2012. After I was prevented from clinically  
25 practicing, the business continued with other doctors



1 who were working in providing clinical services.

2 Q. Okay. Very good.

3 ATTORNEY MORRIS: If I can just have a  
4 moment, Your Honor?

5 HEARING EXAMINER: Sure.

6 ATTORNEY MORRIS: If I may approach?

7 HEARING EXAMINER: Sure.

8 ATTORNEY MORRIS: And let the record  
9 reflect, I'm handing you a copy of what's going to be  
10 marked as - identified as C-5 and C-6.

11 -

12 (Whereupon, Exhibit C-5, Website Printout, was  
13 marked for identification.)

14 (Whereupon, Exhibit C-6, Website Printout, was  
15 marked for identification.)

16 -

17 HEARING EXAMINER: Okay.

18 Give me a little explanation of what  
19 this is.

20 ATTORNEY MORRIS: That's where I'm  
21 headed.

22 HEARING EXAMINER: Okay.

23 BY ATTORNEY MORRIS:

24 Q. Do you recognize C-5 there, Dr. Kaul?

25 A. Yes, I do.



1 Q. And is that a printout from your website?

2 A. It appears to be.

3 Q. Okay.

4 And you keep a website.

5 Correct?

6 A. I do.

7 Q. Okay.

8 And on the website, you say the official  
9 site of Dr. Richard Arjun Kaul.

10 Correct?

11 A. Correct.

12 Q. And then Exhibit C-6, turn your attention  
13 to that.

14 Does that also appear to be a printout  
15 from your website?

16 A. Yes, it is.

17 Q. Okay.

18 And that's your picture up there at the  
19 top.

20 Correct?

21 A. Yes. When I was younger.

22 HEARING EXAMINER: Well, there's two  
23 of them at the top, on this one.

24 ATTORNEY CHAVIS: C-6.

25 HEARING EXAMINER: I'm looking at 6.



1 BY ATTORNEY MORRIS:

2 Q. You're at the most top of the page?

3 A. Yes.

4 Q. Okay.

5 And does C-5 accurately reflect some of  
6 the - I guess legal proceedings that you posted on  
7 your website?

8 A. Yes. I would say so.

9 Q. Okay.

10 And does C-6 accurately reflect some of  
11 the letters that you've written and you've also  
12 posted on your website?

13 A. Yes.

14 Q. Okay.

15 ATTORNEY MORRIS: Move for C-5 and C-6  
16 into the record.

17 ATTORNEY CHAVIS: No objection, Your  
18 Honor.

19 HEARING EXAMINER: C-5 and C-6 are  
20 admitted.

21 ---

22 (Whereupon, Exhibit C-5, Website Printout, was  
23 admitted.)

24 (Whereupon, Exhibit C-6, Website Printout, was  
25 admitted.)



1 ---

2 BY ATTORNEY MORRIS:

3 Q. Dr. Kaul, before the hearing, I did a  
4 quick search on your name on the internet and this  
5 article came up. It says Kaul seeks \$28,000 trillion  
6 in damages.

7 Is that you?

8 A. You mean picture matching the case?

9 Q. Is this article about you?

10 A. It's about a lawsuit, correct. \$28,000  
11 trillion, not quadrillion.

12 Q. Okay.

13 ATTORNEY CHAVIS: Your Honor, I'm  
14 going to object. At this point I'm assuming that  
15 Counsel's about to ask for a submission.

16 And the one basis for objection I'm  
17 looking at, is that it's written by a person by the  
18 name of Walter Eisner. I don't believe that there  
19 has been any dispute that Dr. Kaul had filed a  
20 lawsuit.

21 If Counsel wishes to establish that,  
22 the witness is here to establish it. This article  
23 was written by some person not here, I believe that's  
24 relevant to this proceeding.

25 HEARING EXAMINER: Mr. Morris, your



1 response.

2 ATTORNEY MORRIS: Yes. That's fine.  
3 I'll just ask him directly.

4 HEARING EXAMINER: I'm sorry?

5 ATTORNEY MORRIS: I'll just ask him  
6 directly about what - what this is.

7 BY ATTORNEY MORRIS:

8 Q. Have you filed a lawsuit against several  
9 parties, including Chris Christie and the New Jersey  
10 Medical Board and other various defendants?

11 A. Yes.

12 Q. And are you seeking approximately \$28,000  
13 trillion dollars in damages in that suit?

14 A. Yes.

15 Q. Do you know the name Alex Hannaford?

16 A. Yes. Alex is a British journalist who  
17 works for The Guardian, one of the newspapers.

18 Q. Did he write an article about you a few  
19 years back?

20 A. He did.

21 Q. Did you interview with him for the  
22 article?

23 A. Yes, I did.

24 ATTORNEY CHAVIS: Your Honor, same  
25 objection. This article is written by an individual



1 who that is not here. If he wishes to ask the  
2 witness about, perhaps, issues in here, that's  
3 probably the better route than getting an article  
4 in -.

5 HEARING EXAMINER: Mr. Morris.

6 ATTORNEY MORRIS: Well, all the  
7 statements in this article aren't necessarily  
8 hearsay. So if there are parts to this article that  
9 are, in fact, admissible -.

10 ATTORNEY CHAVIS: Then he can ask the  
11 witness, did you say the car was green? And the  
12 witness can say whether or not that is what he said.

13 But entering an article where he has  
14 not testified -. There's no indicia of reliability,  
15 that is, in fact, hearsay. And also, just the issue  
16 of being relevant for today's proceedings, I don't  
17 believe that evidence should be admitted.

18 HEARING EXAMINER: Well, the article  
19 itself - if I'm understanding it correctly, you're  
20 putting this in for the purpose of the statements  
21 that he apparently made to the writer of the article.

22 Am I correct?

23 ATTORNEY MORRIS: That's correct.

24 HEARING EXAMINER: So presumably  
25 you're going to ask him if that is, in fact, his



1 statement.

2 Right?

3 ATTORNEY MORRIS: That's correct.

4 HEARING EXAMINER: Okay.

5 So let's start there, but - because I  
6 know usually for Cross Examination purposes and  
7 perhaps for inconsistent statements, but we don't  
8 know if they're statements of his yet.

9 ATTORNEY MORRIS: That much is true.  
10 And also, you know, I would ask that my evidence be  
11 viewed in the same way as opposing Counsel's  
12 evidence, that was earlier presented, in that there  
13 are certain things in here that are relevant. But we  
14 can limit this entity - this vehicle as a grounds for  
15 finding of fact.

16 HEARING EXAMINER: Well, I don't under  
17 - say that to me again.

18 ATTORNEY MORRIS: Sure.

19 So this could come into evidence, you  
20 don't necessarily need to make a finding of fact  
21 about every single sentence that's in this article.  
22 That's not necessarily what I'm seeking to do here.

23 I'm just saying, this should be in the  
24 record. I should be allowed to ask some questions  
25 about it. And then if there are salient facts that



1 come out of it, based on his statements that he's  
2 made, then we can base findings of fact on that.

3 HEARING EXAMINER: Is what you're  
4 saying that you're not meaning - much like Miss  
5 Chavis, you're not meaning to collaterally attack  
6 certain Orders or judicial outcomes.

7 Am I correct?

8 ATTORNEY MORRIS: Exactly.

9 HEARING EXAMINER: Okay.

10 So now the question is, you're using  
11 this for some purpose in turn and you haven't offered  
12 it yet.

13 So I anticipate you're going to be  
14 asking questions about this to the witness?

15 ATTORNEY MORRIS: Yes.

16 HEARING EXAMINER: Okay.

17 It's not offered into evidence yet?

18 ATTORNEY MORRIS: Not yet.

19 HEARING EXAMINER: Okay.

20 So let's start there and see how -  
21 where we go.

22 ATTORNEY MORRIS: Okay.

23 BY ATTORNEY MORRIS:

24 Q. Doctor, I just want to turn to page five  
25 of the - it's not numbered but, I don't think it'll



1 take you that long to get to page five.

2 A. Yeah.

3 Q. Just a real quick question about the  
4 first paragraph up there. It says in March this  
5 year, the New Jersey Board revoked your license -.

6 ATTORNEY CHAVIS: I'm sorry, which  
7 page are you on?

8 ATTORNEY MORRIS: I'll help you out.  
9 The fifth page, the paragraph starts, for  
10 claiming -.

11 ATTORNEY CHAVIS: I don't have that.

12 HEARING EXAMINER: Wait, yes, I do.  
13 It's where the statement was, you go all the way up  
14 to the top of the fifth page and it says, quote, for  
15 claiming he was a - end quote.

16 Is that where you are?

17 ATTORNEY MORRIS: That is correct.

18 ATTORNEY CHAVIS: May I see the page  
19 you have? I don't -.

20 Oh, okay, got it.

21 HEARING EXAMINER: Okay.

22 Are we all literally on the same page?

23 ATTORNEY CHAVIS: Literally on the  
24 same page.

25 HEARING EXAMINER: Okay.



1                   Go ahead, Mr. Morris.

2                   ATTORNEY MORRIS:    Sure.

3 BY ATTORNEY MORRIS:

4           Q.       I just want to make sure that it's clear,  
5 you agree New Jersey also fined you \$300,000.

6                   Correct?

7           A.       They did, yes.

8           Q.       Did you pay it?

9           A.       No.

10          Q.       It also says that you - I guess we'll  
11 skip down a little bit, in the fourth paragraph here.

12          A.       Yeah.

13          Q.       It says you wrote an autobiography.

14                  Correct?

15          A.       Correct.

16          Q.       And it talks about - in the  
17 autobiography, you talk about how you became addicted  
18 to recreational and prescription drugs and a period  
19 in rehab.

20                  Correct?

21          A.       Correct.

22          Q.       And did you tell that to Alex Hannaford?

23          A.       Yes, I did.

24          Q.       I'm going to ask you about your current  
25 recreational and prescription drug use.



1 A. Yes.

2 Q. Do you use any recreational drugs  
3 nowadays?

4 A. No.

5 Q. Do you use any prescription drugs  
6 nowadays?

7 A. I have blood pressure pills.

8 Q. Okay.

9 Do you have any prescriptions that you're  
10 on that may affect your ability to think clearly?

11 A. No.

12 Q. It also says that you spent some time in  
13 a rehab.

14 When did you spend time in rehab?

15 A. That was in 2002. Yeah.

16 Q. What drug were you in rehab for, or  
17 series of drugs?

18 A. Well, after the sentences, after the case  
19 in England, that was a very traumatic experience and  
20 I had difficulty sleeping. And I became dependent on  
21 sedatives.

22 HEARING EXAMINER: Bangura,  
23 B-A-N-G-U-R-A?

24 THE WITNESS: Correct.

25 HEARING EXAMINER: Thank you.



1 She was the patient?

2 THE WITNESS: Yes. And since October.

3 HEARING EXAMINER: Thank you.

4 Continue.

5 ATTORNEY MORRIS: Okay.

6 I move for C-7 into the record, Your  
7 Honor.

8 ATTORNEY CHAVIS: Again, Your Honor,  
9 he asked two questions about the payment of \$300,  
10 about the use of drugs, which he admitted to, to  
11 both.

12 If this comes in, are you saying, oh,  
13 don't give it a whole lot of weight? This becomes  
14 substantive evidence. This is information from a  
15 person who's not here that quotes to a book, that is  
16 not here. That quotes to article that are not here.

17 There are so many layers of hearsay,  
18 that there is zero indicia of reliability. He was  
19 able to elicit information from the witness and it is  
20 absolutely unfair and prejudicial for the admission  
21 of C-7.

22 HEARING EXAMINER: Is this a document  
23 that the Doctor submitted as part of his application  
24 or his appeal?

25 ATTORNEY CHAVIS: I don't recall. I



1 don't believe so.

2 HEARING EXAMINER: Okay.

3 Doctor, I ask - Doctor, is this part  
4 of the materials that you submitted, with your  
5 application or with your appeal?

6 THE WITNESS: It is not, Your Honor.

7 HEARING EXAMINER: At all?

8 THE WITNESS: At all.

9 HEARING EXAMINER: Thank you.

10 Mr. Morris, I don't see how this is  
11 admissible. I understand that you're taking the  
12 approach of asking him if these statements of his or  
13 statements that are attributable to him are true.  
14 And I presume that you can continue to do that, but  
15 in and of itself, I'm not sure how it comes in.

16 ATTORNEY MORRIS: Well, the witness  
17 testified that, indeed, he spoke with Alex Hannaford  
18 in the authoring of this article. It has some  
19 evidentiary value, because it, indeed, backs up what  
20 the witness and I were just talking about.

21 Therefore, for that alone, it should  
22 be not only admitted, but also part of the record.

23 ATTORNEY CHAVIS: And no disrespect to  
24 the British press, but they are notorious for being  
25 tabloid in nature. And although he admitted to being



1 interviewed by the person, that does not mean that  
2 every word, just flipping back and forth, every word  
3 in this article, which he admitted as substantive  
4 evidence -. There's no indication that foundation  
5 has been laid, has been laid or that is reliable.

6 HEARING EXAMINER: I'm having a  
7 problem with that, because there are certain specific  
8 statements that you want him to admit that he made  
9 under oath, this is the time to do it.

10 But other than that, I'm not - I'm  
11 having a difficult time seeing how it's admissible.

12 ATTORNEY MORRIS: Well, I can see the  
13 way this is going. And I can tell you're inclined to  
14 not admit it.

15 But it should be admitted for at least  
16 the two - in my copy, the highlighted statements that  
17 I talked about with the witness and confirmed.

18 HEARING EXAMINER: If you've asked him  
19 about specific statements in this article and he's  
20 confirmed that he's made them, you can read them  
21 verbatim into the record. I don't see that there  
22 would be a problem with that.

23 I thought you might've done that  
24 during your questioning, but if not, you can surely  
25 read them into the record, so we know what he is



1 admitting to having said.

2 And if there's anything else within  
3 C-7 that you'd like to take the same approach with, I  
4 don't think that's a problem. I think the problem is  
5 bringing in this entire article.

6 ATTORNEY MORRIS: Right.

7 HEARING EXAMINER: To which, you know,  
8 with a lot of information beyond those quotes  
9 attributable to the Doctor.

10 ATTORNEY MORRIS: Sure.

11 May I please have a moment?

12 HEARING EXAMINER: Sure.

13 ---

14 (WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)

15 ---

16 ATTORNEY MORRIS: I'll move on from  
17 C-7, Your Honor.

18 I have a quick housekeeping matter. I  
19 think that the New Jersey State Board of Medical  
20 Examiners Order -.

21 ---

22 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

23 ---

24 HEARING EXAMINER: I'll check.

25 ATTORNEY MORRIS: Your Honor, if I may



1 approach?

2 HEARING EXAMINER: Sure.

3 ATTORNEY MORRIS: I'm just going to  
4 hand you a copy of what's been premarked on  
5 application as Exhibit C-2.

6 ---

7 (Whereupon, Exhibit C-2, New Jersey Final  
8 Decision was marked for identification.)

9 ---

10 BY ATTORNEY MORRIS:

11 Q. Just real quick, Doctor, take a look at  
12 this and familiarize yourself with the first page  
13 here.

14 Is it fair to say that this is the State  
15 of New Jersey Department of Law and Public Safety  
16 Division of Consumer Affairs' report of medical  
17 examiner, correct and final decision and Order that  
18 was issued in your case in New Jersey?

19 A. It is.

20 Q. And it was filed, I guess, March 24th,  
21 2014 and that coincides with the date that you told  
22 us earlier.

23 Right?

24 A. Yes.

25 Q. Okay.







1 of databank reports, that's goes all the way up to -.  
2 And I know we're going back to forward. It goes all  
3 the way up to about halfway through the packet.

4 So for example, the - if you look at  
5 the first of the series, you'll see a processed date  
6 under the top in the right-hand corner of 3/26/2019.  
7 And the pages in front of that are - they're matters  
8 written, apparently, by the Doctor as part of his  
9 application.

10 Does everybody see the first - what  
11 they call the MMPR, meaning Medical Malpractice  
12 Payment Report, from the databank?

13 Does everybody see that?

14 ATTORNEY CHAVIS: I see the one that's  
15 attached to the back of the appeal request. It jumps  
16 right into the MPDB, then it looks like to the -.

17 ATTORNEY MORRIS: I have it, too.

18 HEARING EXAMINER: Okay.

19 ATTORNEY MORRIS: Why don't I submit  
20 this copy that is clean, that isn't front to back  
21 with anything else and it isn't submitted with  
22 anything else. Just so it is clear for the record  
23 that this is a unique exhibit unto itself, and you  
24 all have literally the same pages.

25 HEARING EXAMINER: That's fine by me.



1 I'll - this document, says application  
2 and - application for medical licensure. I don't see  
3 it in this document, but I do see it in the materials  
4 from the Board that begin with his application right  
5 on top.

6 If you have a self-standing exhibit of  
7 these databanks, that would be helpful and we'll  
8 admit it as a separate exhibit.

9 ATTORNEY MORRIS: I'll see what I've  
10 got.

11 ATTORNEY CHAVIS: I think we can keep  
12 it.

13 ATTORNEY MORRIS: I will just say  
14 this, too. I think that these are supposed to be  
15 kept confidential, just because of some of the, you  
16 know, private patient information among them,  
17 et cetera.

18 So I would ask that this C-1 exhibit  
19 be filed under seal, so the public does not -.

20 HEARING EXAMINER: And this isn't C-1,  
21 or is it?

22 ATTORNEY CHAVIS: Yes. That's my -.

23 ATTORNEY MORRIS: I don't think I did  
24 take it. I'm sorry.

25 HEARING EXAMINER: All right.



1 I have another proposal on this. I  
2 can - the Board redacted certain private information,  
3 it appears, from the -.

4 ATTORNEY MORRIS: Oh, sorry.

5 HEARING EXAMINER: Yeah, I'm going to  
6 try to save us all some time.

7 ATTORNEY CHAVIS: Yes. I think - the  
8 Board, it was redacted -.

9 HEARING EXAMINER: Okay.

10 So what my proposal would be, is since  
11 it's preredacted by the Board, that I extract those  
12 pages from what is Exhibit B-1. And I'll just copy  
13 them onto paper and bring them in as C-1.

14 Does that make any sense?

15 ---

16 (Whereupon, Exhibit C-1, Malpractice Payments,  
17 was marked for identification.)

18 ---

19 ATTORNEY CHAVIS: Yes, it does, Your  
20 Honor. Thank you.

21 HEARING EXAMINER: How about to you?

22 ATTORNEY MORRIS: That's fine, as long  
23 as, you know, everything is there, obviously.

24 HEARING EXAMINER: Give me a moment  
25 here.



1                   Yeah. That's what I'm going to have  
2 to do. We're going to take a short break. I'm going  
3 to have copies made from the beginning of the Board's  
4 - I'm going to come back to C-1.

5                   ATTORNEY MORRIS: Okay.

6                   HEARING EXAMINER: From within the  
7 Board's exhibit. And we'll enter those as you want,  
8 as C-1.

9                   ATTORNEY MORRIS: Okay. Very good.  
10 Thank you.

11                   HEARING EXAMINER: Yeah. We're taking  
12 a recess. It's 1:30.

13                   ATTORNEY CHAVIS: Thanks, Your Honor.

14                   HEARING EXAMINER: We're off the  
15 record.

16                   ---  
17 (WHEREUPON A SHORT BREAK WAS TAKEN.)

18                   ---  
19                   HEARING EXAMINER: Okay. We're back  
20 on the record.

21                   It's 1:50 and we have paginated copies  
22 of Exhibit C-1 available for the witness and Counsel  
23 and myself. And then the copy has been given to the  
24 court reporter.

25                   Mr. Morris.



1                    ATTORNEY MORRIS: Thank you. And can  
2 we to admit C-1 to the record then?

3                    ATTORNEY CHAVIS: No objection, Your  
4 Honor.

5                    HEARING EXAMINER: C-1 is admitted.

6                    ---

7                    (Whereupon, Exhibit C-1, Malpractice Payments,  
8 was admitted.)

9                    ---

10 BY ATTORNEY MORRIS:

11                    Q. Doctor, thanks for the wait.

12                    Just some real quick questions about some  
13 of the malpractice payments that have been made on  
14 your behalf.

15                    You agree that you had a medical  
16 malpractice payment made on your behalf in August  
17 2011, for failure to recognize complication.

18                    Correct?

19                    A. Do you mean what they paid for, right?

20                    Q. I'm just asking generally, I'm asking you  
21 kind of trying to deal without the document, but if  
22 you want to look at the document, we can certainly do  
23 that.

24                    A. Yeah. I can't quite - if you could just  
25 point me to the document, it would be easier.



1                   HEARING EXAMINER:   What's the date the  
2 action was taken?

3                   ATTORNEY MORRIS:   August 2011, the - I  
4 found it.

5                   ATTORNEY CHAVIS:   Was it page 47?

6                   HEARING EXAMINER:   Correct.

7                   ATTORNEY MORRIS:   Yeah, and then  
8 it -

9                   ATTORNEY CHAVIS:   Do you see -?

10                  HEARING EXAMINER:   All good.   Yes,  
11 continue.

12                  ATTORNEY MORRIS:   So the copy that I  
13 had originally - I'll back up, so you understand why  
14 I'm sort of stumbling over this.   So there's a  
15 summary that these reports due on the first page.  
16 Sort of a table of contents type summary.

17                  HEARING EXAMINER:   Uh-huh (yes).

18                  ATTORNEY MORRIS:   And on that summary,  
19 they usually put the date of the action on that  
20 first -.

21                  HEARING EXAMINER:   All right.   So  
22 you're back in the first page of this document?

23                  ATTORNEY MORRIS:   Right.

24                               So the copy that I had back when the  
25 Doctor redacted.   And then it looks like the copy



1 that is going to go into evidence, that is redacted.

2 HEARING EXAMINER: Right.

3 ATTORNEY MORRIS: So generally  
4 speaking, I just wanted the witness to confirm that,  
5 in fact, he had a malpractice settlement payment on  
6 his behalf in August of 2011.

7 For my purposes, I don't necessarily  
8 need the details of the DCN, control number.

9 HEARING EXAMINER: What do you need in  
10 order to do it the way you want it?

11 ATTORNEY MORRIS: I just want to ask  
12 him -

13 HEARING EXAMINER: Okay.

14 ATTORNEY MORRIS: - if he had a  
15 medical malpractice -.

16 HEARING EXAMINER: All right.

17 And you had - let's see how far we get  
18 with that.

19 ATTORNEY MORRIS: Okay.

20 HEARING EXAMINER: Okay.

21 BY ATTORNEY MORRIS:

22 Q. Did you have a medical malpractice  
23 payment made on your behalf in August of 2011?

24 A. I can say there were medical malpractice  
25 payments made.



1 Q. Okay.

2 A. I can't specifically recollect that date,  
3 but there were.

4 Q. Okay.

5 HEARING EXAMINER: Do these correlate  
6 with the provisional denial letter?

7 ATTORNEY CHAVIS: It appears as though  
8 they do. I did see - yes. But the bottom of the  
9 provisional - the bottom of page two, the last very  
10 large paragraph, if you go about four lines up, it  
11 mentions August 2011, \$2,000 - \$200,000 payout made,  
12 on this date.

13 And so it actually, it outlines it in  
14 the provisional denial. I don't know if Counsel - if  
15 that's a position for Counsel, because it's in - I  
16 believe, Your Honor, parts of Exhibit B-2, it gives a  
17 summary of dates, amounts and a general summary - a  
18 very high level summary of the reasons for the  
19 payout.

20 It's already been admitted, we're not  
21 contesting the date that it was in the provisional  
22 denial letter.

23 HEARING EXAMINER: Okay.

24 ATTORNEY CHAVIS: Is that, in  
25 essence -?



1                   HEARING EXAMINER:   Yeah.

2                   ATTORNEY MORRIS:   If we could just  
3 stipulate that those pay amounts - payments were made  
4 in those amounts on those dates. That's basically  
5 what I'm getting at.

6                   HEARING EXAMINER:   Okay. Can we  
7 stipulate?

8                   ATTORNEY CHAVIS:   I believe so. I  
9 don't believe we have an objection to it, as it's  
10 written in the provisional denial letter, in the  
11 summary.

12                   HEARING EXAMINER:   Correct. Correct.

13                   ATTORNEY CHAVIS:   But we'll stipulate  
14 it then.

15                   HEARING EXAMINER:   Okay.

16                   ATTORNEY CHAVIS:   Thank you.

17                   HEARING EXAMINER:   Fine. Go ahead.

18 All right. Next question.

19                   ATTORNEY MORRIS:   All right.

20                   HEARING EXAMINER:   By the way, it's  
21 important that we had that in the record and probably  
22 - no, we don't need another copy.

23                   Go ahead.

24                   ATTORNEY MORRIS:   Don't message me on  
25 a Friday afternoon.



1                   HEARING EXAMINER:   Okay.

2   BY ATTORNEY MORRIS:

3           Q.       The jury verdict in England, right, it  
4 was 11 to one.

5           A.       Correct.

6           Q.       Isn't that correct?

7                    Okay.

8                    And you agree that the Department of  
9 Health and Human Services Office, Inspector General,  
10 excluded you from the Medicare and Medicaid programs,  
11 in January of 2016.

12                   Correct?

13          A.       Yes. Based on the suspension, revocation  
14 of the license.

15          Q.       All right.

16                    I don't think I have any more questions  
17 for you, Dr. Kaul.

18                    Thank you.

19                    HEARING EXAMINER:   Okay.   Redirect?

20                    ATTORNEY CHAVIS:    Yes.

21   ---

22                                   REDIRECT EXAMINATION

23   ---

24   BY ATTORNEY CHAVIS:

25          Q.       There was briefly a mention about a stint



1 that you had in 2002 in rehab, regarding when you  
2 sought treatment and care for substance abuse.

3 Is that correct?

4 A. That is correct.

5 Q. And you had subsequent monitoring with  
6 the New Jersey Board, after 2002?

7 A. Yes, it was.

8 Q. So they were aware of that stint in  
9 rehab.

10 Is that correct?

11 A. Yes.

12 Q. Okay.

13 ATTORNEY CHAVIS: I have no other  
14 questions.

15 HEARING EXAMINER: Any Recross?

16 ATTORNEY MORRIS: No Recross.

17 HEARING EXAMINER: Thank you, Doctor.  
18 You may step down.

19 ATTORNEY CHAVIS: All right.

20 Your Honor, we would like to reach out  
21 to Dr. Chin, if we may, by telephone.

22 HEARING EXAMINER: Okay.

23 I'll activate it and then you can dial  
24 the number, nine then one.

25 ATTORNEY CHAVIS: Okay. One moment,



1 I'll get the number. Okay. Thank you.

2 ---

3 (WHEREUPON, A TELEPHONE CALL WAS MADE.)

4 ---

5 DR. CHIN: Hi, it's Dr. Chin.

6 HEARING EXAMINER: Doctor, my name is  
7 David Green. I'm the Hearing Examiner for the  
8 Department of State here in Harrisburg. This is the  
9 hearing involving Dr. Kaul.

10 With me is the Commonwealth's  
11 attorney, Adam Morris and the Doctor's attorney,  
12 Jenni Chavis. We have a court reporter here, taking  
13 down everything that we say.

14 Are you in a room where there are no  
15 other people, Doctor?

16 DR. CHIN: Yes, sir, I am.

17 HEARING EXAMINER: Okay.

18 I'm going to swear you in now. Would  
19 you please raise your right hand?

20 DR. CHIN: Yes.

21 ---

22 KINGSLEY R. CHIN, M.D.,  
23 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
24 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
25 FOLLOWS:



1 ---

2 HEARING EXAMINER: Thank you.

3 Would you give us your first and last  
4 name?

5 THE WITNESS: Hi. My name is Kingsley  
6 Chin.

7 HEARING EXAMINER: Okay.

8 C-H-I-N or C-H-E-N?

9 THE WITNESS: C-H-I-N.

10 HEARING EXAMINER: Thank you. Okay,  
11 Doctor, Miss Chavis will have some  
12 questions for you, then Mr. Morris may have some  
13 Cross Examination questions. And then I may have one  
14 or two questions as well.

15 Miss Chavis.

16 ---

17 EXAMINATION ON QUALIFICATIONS

18 ---

19 ATTORNEY CHAVIS: Thanks, Your Honor.

20 BY ATTORNEY CHAVIS:

21 Q. Good afternoon, Dr. Chin. Could you  
22 please state -?

23 A. Good afternoon, Your Honor. I'm sorry,  
24 Good afternoon, Counsel.

25 Q. Could you please state for the record



1 your occupation - or your profession, rather?

2 A. Sure. Yes. I'm a professor of  
3 orthopedic spine and spine surgery.

4 Q. How long have you been an orthopedic  
5 spine surgeon?

6 A. Since 2003.

7 Q. Where did you receive your education? If  
8 you could please briefly describe that for the  
9 record?

10 A. Sure, my undergraduate spent at Columbia  
11 College, Columbia Engineering in a five-year program.  
12 And then Harvard Medical School, graduated with  
13 honors in 1996. Then spent six years as an  
14 orthopedic resident at Harvard, including a  
15 fellowship in orthopedic reconstructive surgery.

16 Then I went down to Cleveland at the  
17 University Hospital of Case Western for a fellowship  
18 in spinal surgery, that's an extra year of training.

19 ---

20 DIRECT EXAMINATION

21 ---

22 BY ATTORNEY CHAVIS:

23 Q. And when did you meet Dr. Kaul?

24 A. I think towards the end of 2008.

25 Q. Do you recall -?



1           A.       Or - yes.

2           Q.       I'm sorry. Do you recall how you met  
3 him?

4           A.       Yes. I was at a meeting at - I believe  
5 in LA, at a conference of spine surgeons. And I met  
6 someone who was discussing the devices that I was  
7 developing for less invasive surgery or minimally-  
8 invasive surgery. And Dr. Kaul's name came up as  
9 someone he thought I should meet. And so he then  
10 arranged a meeting in New York City, in which I went  
11 there and met with Dr. Kaul.

12          Q.       And tell us about that meeting that you  
13 had with Dr. Kaul.

14                   What was that like?

15          A.       Yes. I think it was at Columbus Circle,  
16 one of the Trump hotels. I think that's the only  
17 time I've ever been there.

18                   And I remember walking in and meeting  
19 him. I think we had drinks or dinner, but it was  
20 fairly - fairly nice, with a nice setting. And we  
21 started to discuss what turned out to be a mutual  
22 interest in minimally-invasive surgery, outpatient  
23 surgery. And then this was something I was  
24 passionate about and I realized - I recognized he  
25 also felt the same.



1 Q. So you were -?

2 A. I then disclosed to him that I was not  
3 only practicing minimally-invasive surgery, but I was  
4 helping devices that I think will benefit the  
5 physicians who are trying to do minimally-invasive  
6 surgery. I felt that you need to develop the right  
7 instruments, the right devices, to - to allow these  
8 surgeries to be done.

9 At that point he became interested in one  
10 of the devices. It was a device for fusing facets.  
11 And the facets are the joints in the spine. And so  
12 he showed an interest in that. And I believe the  
13 next step was for me to educate him on that.

14 I'm trying to remember how that happened,  
15 but it - I think we did - we talked about it - that,  
16 right there on the spot, discussed the technique. I  
17 may have had some training material, including maybe  
18 a presentation. It's a long time ago.

19 But I remember him being aware of it. It  
20 seemed to make sense. And so he said, all right, the  
21 next surgery he has, he think he'd like to try it.  
22 So I said, all right, I'll make sure I am there to -  
23 to help you with that.

24 Q. And so did you have an opportunity to  
25 work with him?



1           A.       Well, unfortunately, at the time, I was  
2 busy on the road traveling around and covering  
3 surgery and teaching other surgeons. And then - and  
4 so I had - I had a conflict. So I asked one chief  
5 engineer, I think there may have been two of them, to  
6 go to the surgery of Dr. Kaul.

7                   And I felt - they felt confident that I  
8 could - they could assist with surgery. But I think  
9 it didn't work out that well. and I think the - I  
10 don't think Dr. Kaul used the device. I don't - I  
11 really don't recall, I wasn't there.

12                   But I think that because of that  
13 experience, we didn't proceed further. And that's -  
14 that's fairly common, when - when you try to adopt a  
15 new device. And you know, they're your first  
16 experience with it, if it's not great, you tend to  
17 - to not follow up with it for a while.

18           Q.       How would you describe him as a doctor,  
19 based upon your observations?

20           A.       Yeah, well, and so, after that I actually  
21 you know, I decided what I needed to do was be more  
22 personal with Dr. Kaul. You know in a - because I  
23 was very interested in what he was trying to do. The  
24 idea of this surgery, his passion about that was  
25 something I felt would be a good alignment.



1           So I backed off and started to be - to  
2 try and understand more of who he was, what he's  
3 trying to do, and what similarities we had. So I got  
4 to actually spend personal time with him, as well as  
5 professional time.

6           And so I think you know, when you have a  
7 passion for your outcomes, which is what are you  
8 trying to achieve, what happened between there  
9 becomes just a learning experience. I felt that he  
10 was trying to learn how to do it better. And I  
11 thought he was very compassionate to everybody, not  
12 just to a patient. He and I became really good  
13 friends.

14           He made me stay at his house many times,  
15 and so - despite the fact that I could afford a motel  
16 room, which is - I think he was very personal. What  
17 I left off was, he then wanted to take it to the next  
18 step. And he wanted to invest in a surgicenter and  
19 be able to - because he felt that he wanted to have  
20 his own surgicenter. And so I think that's probably  
21 where - the last time I - I interacted with Dr. Kaul.

22           Q.     And did you have an opportunity to  
23 observe his work ethic, during that time period?

24           A.     Absolutely, yes. Well, I'll tell you  
25 what - a story about that, you know. I would come to



1 visit. I would call him out of the blue and I'd say,  
2 I'm coming to New York City on business. At the time  
3 I was still single, so I was dating my now wife. And  
4 I'd say, I'm bringing my - my girlfriend. And he  
5 said, all right. You know what, why don't you come  
6 and stay with me?

7                   And usually he's very busy. And so being  
8 in Jersey - and I would have to coordinate when I  
9 going to meet up with him. And then so I would meet  
10 with him. And he was dating someone else at the  
11 time, who was about the same age as my current wife.  
12 So we get - he was - well and we would go out on the  
13 town and have a great time. I'd come back and I'm  
14 ready to go to sleep.

15                   And I would see Rich, trying to finish  
16 you know, dictating these charts and - these things  
17 that I do as well. But you know, I wake up in the  
18 morning and he's either still working before - before  
19 we would you know, go out again.

20                   So that's just my personal - the personal  
21 side, you know. So he just seemed like he always had  
22 some stuff that he was working on.

23           Q.       And you're aware of the difficulties that  
24 he had with licensure in New Jersey, as well as in  
25 England.



1                   Were you aware of those things?

2           A.       I think. Yeah, it came up later on when  
3 - when this became an issue. That's the only time I  
4 knew about the issues around license.

5           Q.       And does that change your opinion that  
6 you stated here today at all?

7           A.       What happened in the past or what  
8 currently is happening?

9           Q.       What happened in the past, does that  
10 impact the opinion that you stated about him today.  
11                   Does it change what you think about him?

12          A.       No, it doesn't. Those were before the  
13 license issues. So it doesn't change any of that.

14          Q.       So as a - as a physician and I know we  
15 haven't called you as an expert, but as his friend,  
16 as a person who has observed him treating  
17 individuals, do you believe that he has the  
18 competency and skills to do so?

19          A.       Well, yeah, he had it, you know. As of  
20 today, he's not practicing, but I know as a fact that  
21 he did. And my - where I was at a time with - when  
22 he and I had a spirited discussion, because bear in  
23 mind, I'm an orthopedic spine surgeon and he's  
24 anesthesia with pain.

25                   So we treat the same type of patients,



1 but I felt that as an orthopedic spine surgeon, I was  
2 more on the tertiary end, where I'm the one putting  
3 in the screws and stuff like that. So he was a  
4 pioneer and in moving towards what I did. And so we  
5 had discussion about that, saying what and if I was  
6 fully supportive of what he was trying to do.  
7 Because he was on the cutting edge of it.

8               So my opinion was - back then was also I  
9 wasn't sure if he, you know, would - if what he was  
10 doing was going to be well-accepted. But he was  
11 confident in doing it, he was - I went in and watched  
12 him do surgery. It was not a problem to watch him do  
13 it. It was more philosophical imaginary line and  
14 that - so I think that's the problem.

15           Q.     And you did not have any questions in the  
16 specific area of an incompetency in skill as an  
17 anesthesiologist and in pain management.

18                     Is that right?

19           A.     Absolutely not. That - he was an expert  
20 on that.

21           Q.     Okay.

22           A.     I think I said, it was really more of an  
23 imaginary line, that I wasn't sure that was ready to  
24 be crossed. Today that's now not no longer there, or  
25 at least it's a lot different.



1                   Today you know, Dr. Kaul's specialties  
2 are now doing the things that he was doing back then.  
3 They're different devices, but fusing the spine is  
4 now being done by his colleagues. So I would say he  
5 was a pioneer in that area.

6           Q.       If I understand what you're saying, that  
7 there are now doctors today, in 2020, who are doing  
8 the procedures that were really unheard of that Dr.  
9 Kaul - the procedures that he was doing.

10                   Is that correct?

11           A.       No. No. Well, it was unheard of. What  
12 he was doing are well-established procedures.

13           Q.       Okay.

14           A.       But they were not being done by pain  
15 physicians.

16           Q.       Understood.

17           A.       They were done exclusively by orthopedic  
18 surgeons. They actually weren't even being done by  
19 most newer surgeons. So newer surgeons, over time,  
20 adopted more of these techniques, that orthopedic  
21 spine surgeons were - tend to be the ones that were  
22 doing it.

23                   Now, what is happening is what the  
24 anesthesia pain physicians are now adopting also. So  
25 it's - everyone has been - neurosurgeons and pain



1 physicians are progressively doing more fusions.  
2 Whereby it used to be almost exclusively orthopedic  
3 spine surgeons did that.

4 Q. And those individuals are the  
5 interventional-pain doctors?

6 A. Yes. They're now doing more. They're  
7 doing fusions as well as putting in more implants.  
8 Whereas before they were doing mostly injections.

9 Q. Okay.

10 ATTORNEY CHAVIS: With the Court's  
11 indulgence. Nothing further.

12 HEARING EXAMINER: Cross?

13 ---

14 CROSS EXAMINATION

15 ---

16 BY ATTORNEY MORRIS:

17 Q. Good afternoon, Doctor. I'm just going  
18 to try to figure out the timeline a little bit. I  
19 was a little confused about that.

20 When was the last that you worked with  
21 Dr. Kaul?

22 A. Probably 2009.

23 Q. Okay.

24 And you haven't worked with him at all,  
25 in any capacity, since 2009.



1 Correct?

2 A. Correct.

3 Q. Okay.

4 And you said at one point you guys were  
5 sort of buddies, and you had even stayed at his house  
6 in New Jersey.

7 Is that correct?

8 A. No. No. No. In New York. He had a  
9 place downtown, an apartment and then he moved uptown  
10 around the Columbus area. So those are just two  
11 different locations in New York City.

12 Q. What time frame would you sort of  
13 associate socially?

14 A. 2009.

15 Q. Okay.

16 And you haven't sort of hung out with him  
17 socially since about 2009.

18 Is that correct?

19 A. That's correct.

20 Q. Okay.

21 And you knew that New Jersey revoked his  
22 license in 2014.

23 Is that correct?

24 A. Actually, I wasn't aware of the time, -

25 Q. Okay.



1 A. - the date.

2 Q. Okay.

3 But you know now.

4 Correct?

5 A. Correct.

6 Q. Okay.

7 Are you aware that there's been  
8 approximately seven or so medical malpractice  
9 payments made on his behalf over the last decade or  
10 so?

11 A. No, I'm not.

12 Q. Okay.

13 Does that change your opinion about his  
14 professional abilities at all?

15 A. No, it does not.

16 Q. Okay.

17 All right, Doctor, I don't have any more  
18 questions for you. Thank you.

19 HEARING EXAMINER: Any Redirect?

20 ATTORNEY CHAVIS: No, Your Honor.

21 HEARING EXAMINER: Okay, Doctor, thank  
22 you for testifying. We're going to disconnect the  
23 call.

24 THE WITNESS: Thank you very much.

25 ATTORNEY CHAVIS: Thank you, Doctor.



1                   Your Honor, our next witness is going  
2 to be Key Darrow.

3                                   ---

4                   KEY DARROW,  
5 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
6 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
7 FOLLOWS:

8                                   ---

9                   HEARING EXAMINER: Miss Chavis.

10                  ATTORNEY CHAVIS: Thank you, Your  
11 Honor.

12                                   ---

13                   DIRECT EXAMINATION

14                                   ---

15 BY ATTORNEY CHAVIS:

16           Q.     Sir, you've already stated your name for  
17 the record.

18                   Where do you live?

19           A.     Ledgewood, New Jersey.

20           Q.     And do you know Dr. Kaul?

21           A.     Yes, I do.

22           Q.     How do you know him?

23           A.     He was a treating physician of mine since  
24 about 2001, 2002 and later became a friend.

25           Q.     What caused you to begin treating with



1 Dr. Kaul?

2 A. Actually, I was referred to him by my  
3 orthopedist at the time. Just to give you a little  
4 background, in 1978, I suffered a back injury. I was  
5 a police officer for the Borough of Wharton in Morris  
6 County and herniated L4-5, L5-S1. That was in '78.

7 In '79 the attending orthopedist at that  
8 time said, they could operate on me, but 50/50 chance  
9 of me walking again. I said, well, what's my other  
10 choices?

11 He said, well, you can't be a police  
12 officer anymore. So I put my disposing papers in,  
13 I'm no longer a police officer. Did all various  
14 sorts of physical therapy, lower-back school. You  
15 name it, I tried it, as far as pain relief.

16 And over the years, actually lime and  
17 vodka worked better than anything else for a while.

18 Q. Okay.

19 A. Until such time, I was being treated by  
20 Dr. Robert Petrucelli for knee ailments. And I told  
21 him about my lower-back problem. And he referred me  
22 to a pain-management doctor, Richard Kaul, who at the  
23 time, he was on staff at Dover General Hospital in  
24 Dover.

25 Q. What happened then?



1           A.       I made an appointment. I was first seen  
2 in his office in - in Dover, I believe it was. And  
3 after examining me and explained to me, you've got  
4 trigger points, facet joints. Explained that there  
5 were injections that we try to eliminate my pain.

6                   And we began a course of treatment, some  
7 injections. They brought - and they brought relief,  
8 but not a long-lasting relief. It could be 18  
9 months, could've been two years later. I ultimately  
10 wound up with a laminectomy or discectomy, which I  
11 think was the same thing, performed by Dr. Kaul - Dr.  
12 Kaul - which gave me very on-point relief.

13                   And progressing with a treatment, I think  
14 it was - 2008 is when they performed the lower fusion  
15 L4-L5, L5-S1, lower-lumbar fusion, at a medical  
16 center in Clifton.

17           Q.       What was your initial impression of Dr.  
18 Kaul, back in 2001?

19           A.       I was quite taken by his approach to  
20 patients, specifically me. Here I was being treated  
21 in a little surgical center up in Andover, my first  
22 time there. The staff was very nice. And my first  
23 time with the procedure.

24                   And the doctor came into the recovery  
25 area afterwards, asked me how I was doing and



1 everything else. And said that if I have any  
2 problems, here's my cell phone number, call me if you  
3 have any problems.

4 And I had a lot of experience with a lot  
5 of doctors. And side note, my brother's an  
6 orthopedic surgeon, so I know what he's like. Don't  
7 go there.

8 But I was really surprised and impressed  
9 that he cared that much about me as a patient to give  
10 me his cell phone number. And I wound up calling him  
11 and he actually answered. So it wasn't like anything  
12 else I've ever experienced before.

13 Q. So were you made aware, whether it was  
14 today, throughout this proceeding, or while you were  
15 treating with Dr. Kaul or after treating with Dr.  
16 Kaul, about the issues he had in England in 2001,  
17 with his licensure in New Jersey?

18 Did you know about those things?

19 A. In the very beginning, no. When it came  
20 time closer for me to have the fusion done, my -  
21 again, my brother asked me, was he a Board-Certified  
22 Spine Surgeon? And I said, well, what would that  
23 mean?

24 And he proceeded to tell me. And I  
25 interpreted it to be more or less, if he had joined



1 the good old boys club and do the scrub work for some  
2 dentists for a while. But he did do training in  
3 Korea. And I got online and looked him up, of  
4 course. And some more dealing with cadavers, and  
5 some other treatment of spine.

6 I said, well, that's good enough for me.  
7 I was very optimistic about getting it done. And I  
8 don't know if my brother said to me - somebody told  
9 me what happened in England. And I didn't know that  
10 much about it that time, but I just knew it happened.  
11 I said, well, things happen in life.

12 Q. And though, as far as the results that  
13 you received from treating with Dr. Kaul, how would  
14 you classify them?

15 A. Very positive results. That - well, I  
16 don't know if it would've lasted longer if I'd had  
17 heeded the advice of, you know, take it easy. But  
18 I'd get told, act my age. Then I always think that -  
19 and not necessarily do yard work or anything else.  
20 But being a homeowner and hauling barrels of cut  
21 grass and other things to the landfill, recycling, I  
22 tend to abuse myself in that area.

23 So I did wind up with a lumbar fusion and  
24 that gave me pain-free relief approximately five  
25 years.



1 Q. How would you describe Dr. Kaul's bedside  
2 manner when you were treating with him?

3 A. Fantastic. Inasmuch as - almost  
4 instantly feel confidence in his mannerisms, in his  
5 knowledge, as he spoke to me. And what really sewed  
6 it up for me was when he offered his cell phone  
7 number, you know, should I have any problems.

8 Because I've had surgeries before and  
9 they'd say, well, if you have any problems, call my  
10 office. I called their office and you get an  
11 answering service, if you're lucky, or you get an  
12 answering machine, and you might get an answer back  
13 from the doctor. I've never had any difficulty  
14 reaching the doctor.

15 Q. So your - you said about five years of  
16 relief.

17 So around what time did you stop treating  
18 with Dr. Kaul?

19 A. I was actually treating with Dr. Kaul  
20 right up until his suspension license in 2012. As a  
21 result of my injury in 1978, I wound up with a  
22 chronic neck condition. I had a herniated disc from  
23 C-2 down to C-6.

24 And the doctors treated me for pain  
25 there, but then the headaches I had were just unreal,



1 because of the injury. And I so I took pain-  
2 management injections, none that brought relief. And  
3 we were actually scheduled to do a cervical fusion,  
4 when all these troubles -.

5 Q. And you mentioned that you stayed in  
6 contact with him throughout the years.

7 Is that correct?

8 A. Yes.

9 Q. I mean after 2012?

10 A. Yes.

11 Q. Now, we know that we're going to get into  
12 any of the particulars about what happened in New  
13 Jersey, so I'm going to try to couch this question as  
14 best that I can.

15 But throughout the course of your  
16 remaining contact with him, have you also remained in  
17 contact with other patients of Dr. Kaul?

18 A. Yes. I was able to meet with a number of  
19 patients. We had a patient group that met to discuss  
20 what was going on, and to see what level of patient  
21 support we had to back the doctor.

22 Q. Because of -?

23 A. I'm trying to be very careful how I  
24 choose my words.

25 Q. It was a group in favor of Dr. Kaul?



1           A.       That's correct.

2           Q.       And about how many people showed up?  
3 Well, did you have a meeting?

4           A.       Well, yeah, we actually called it the  
5 GRPS Care. It was an acronym, but I can't remember  
6 what it stood for now. But where it was passed along  
7 to 15 patients, not through myself or anybody else  
8 involved, because of HIPPA, but it also to  
9 disseminate the information -. A local theater in  
10 Pompton Lakes offered up its theater for us to host a  
11 meeting then. And I'd say we had, on that day, 150  
12 or so or more interested patients who were willing to  
13 come and discuss and see what they could do to help.

14          Q.       Okay.

15                   ATTORNEY CHAVIS: No other questions.

16                   HEARING EXAMINER: Mr. Morris.

17                   ATTORNEY MORRIS: How does it feel to  
18 be back on the stand?

19                   THE WITNESS: It never leaves you.

20                   ATTORNEY MORRIS: I don't have any  
21 questions for you. Thank you.

22                   HEARING EXAMINER: Sir, you may step  
23 down.

24                   ATTORNEY CHAVIS: Your Honor, with  
25 that, the Petitioner will rest.



1                   HEARING EXAMINER: Mr. Morris.

2                   ATTORNEY MORRIS: We don't have any  
3 witnesses for our case in chief, Your Honor. Out of  
4 an abundance of caution, I want to make sure that our  
5 exhibits are admitted. I think I moved for C-1 into  
6 the record. I think that was admitted.

7                   HEARING EXAMINER: I have C-1 as being  
8 admitted.

9                   ATTORNEY MORRIS: Okay. I think we  
10 also have the Board records. I think that was B-1,  
11 B-2 and B-3.

12                   HEARING EXAMINER: Right. And I  
13 wanted to talk about that very briefly.

14                   ATTORNEY MORRIS: Oh, okay.

15                   HEARING EXAMINER: Thank you for the  
16 opportunity. Most of the - B-1, B-2 and B-3 are on  
17 the computer disc.

18                   ATTORNEY MORRIS: Okay.

19                   HEARING EXAMINER: But I do have paper  
20 copies of B-2, which I'm going to offer the court  
21 reporter and also to the parties. Since it's only a  
22 two or three page letter and it - for ease of  
23 reference when comparing it to, for example, one of  
24 the other exhibits that might've been the C-1.

25                   So B-3 is already - or B-2, rather, is



1 already admitted. We have a paper copy for that to  
2 attach to the transcript. I have B-1, B-2 and B-3  
3 are in. I've got C-1 in.

4 ATTORNEY MORRIS: We also I think have  
5 additional - we have C-2 -.

6 HEARING EXAMINER: C-2, I have in.  
7 C-3, there's no C-3 that's been offered.

8 Am I correct?

9 ATTORNEY MORRIS: That is correct.

10 HEARING EXAMINER: Okay. So we'll  
11 move to C-4 as the Curriculum Vitae. And that's in.

12 Am I correct?

13 ATTORNEY MORRIS: Correct, yes.

14 HEARING EXAMINER: C-5 and C-6 are  
15 extracts from the Doctor's website.

16 ATTORNEY MORRIS: Correct.

17 HEARING EXAMINER: Okay.

18 And C-7, what -?

19 ATTORNEY MORRIS: C-7, we had the  
20 debate about.

21 HEARING EXAMINER: Right, and it's not  
22 in.

23 And C-8 is the article that's not even  
24 been moved into evidence.

25 Am I correct?



1                    ATTORNEY CHAVIS:    That's my  
2 understanding, Your Honor.

3                    ATTORNEY MORRIS:    Right.

4                    There isn't a necessity for C-8 to be  
5 moved into evidence.    I think the Doctor testified as  
6 a salient point -.

7                    HEARING EXAMINER:    Okay.

8                    So then C-8 is not offered at this  
9 time.

10                   Okay.

11                   Which brings us now to the question of  
12 briefs or closing arguments.

13                   I begin with you, Miss Chavis.

14                   ATTORNEY CHAVIS:    Your Honor, I  
15 believe that the issues are very clear.    We're able  
16 to go to closing argument at this time.    And I think  
17 we can forego writing a brief.

18                   HEARING EXAMINER:    Mr. Morris, do you  
19 agree?

20                   ATTORNEY MORRIS:    I would be happy to  
21 do whatever the Court decides.    I'd be happy to write  
22 a brief.

23                   HEARING EXAMINER:    Well, you get the  
24 choice.    It doesn't - and what I mean by that is,  
25 Miss Chavis is waiving the right to file a post-trial



1 brief.

2 Is the Commonwealth doing the same?

3 I'm not asking for an -.

4 ATTORNEY MORRIS: Yeah.

5 HEARING EXAMINER: If that's your  
6 question - and it's a good question. If you're  
7 asking - because the Hearing Examiner can ask for  
8 briefs.

9 And I'm just saying, I'm not asking  
10 for it. So now the question is, are you going to  
11 waive your post-hearing brief and close by oral  
12 argument on the record today?

13 ATTORNEY MORRIS: We can go ahead and  
14 do that, Your Honor.

15 HEARING EXAMINER: Okay. So Applicant  
16 has the burden of proof. So the Commonwealth goes  
17 first and the Applicant gets the last word in the  
18 closing arguments.

19 ATTORNEY MORRIS: If I may remain  
20 seated, Your Honor?

21 HEARING EXAMINER: That's fine. Sure.

22 ATTORNEY MORRIS: So this is an  
23 application case, so the burden of proof in this case  
24 lies on the Respondent, as you just happily pointed  
25 out. There are a lot of documents in this case,



1 considering I think there's somewhere in the nature  
2 of about 2,000 pages of documents. And then of  
3 course we have documents that were submitted here  
4 today. And I think we have so many - we had about  
5 eight to ten exhibits between both parties.

6                   Some of those facts are unquestioned,  
7 unchangeable. One of those things that the New  
8 Jersey Medical Board ordered that revoked the  
9 Applicant - if I slip and call him the Respondent, I  
10 mean to say Applicant.

11                   HEARING EXAMINER: Right.

12                   ATTORNEY MORRIS: In 2014, that was  
13 done after about 14 or 15 years of intermittent  
14 trouble with the Licensing Boards, which started in  
15 the U.K. in 2001, with the gross negligent  
16 conviction, based on the patient that we heard about,  
17 that passed away, who came in for the tooth  
18 extraction.

19                   When Dr. Kaul moved to the United  
20 States, shortly thereafter, as he pointed out, he did  
21 not disclose that to the New Jersey Board, because  
22 the application required him to disclose federal and  
23 state charges.

24                   I haven't seen that. I haven't  
25 actually seen the application that New Jersey asked



1 him to disclose on in 2003. I think that would be  
2 helpful in remembering they have the burden of proof.

3 Then in 2003, New Jersey issued a  
4 brief suspension. I think it was two years, with six  
5 months active, regarding a license or fraud deceit in  
6 the practice, based on that nondisclosure.

7 Fast-forward to 2012, and the  
8 Respondent's license, again, suspended by, I think  
9 Consent Interim Order in '12. That interim consent  
10 remains in effect for approximately two years, when  
11 they issue a Final Adjudication and Order in New  
12 Jersey, revoking his license altogether.

13 We also have about seven or so  
14 different malpractice payments that are reflected in  
15 the National Practitioner Database that you were so  
16 kind to copy. So I think it's more than enough  
17 evidence for the Board to decide to do with what they  
18 so choose with this case.

19 I would defer to the Board and to Your  
20 Honor in the ultimate decision in this case. It does  
21 not come from me and, therefore, we rest.

22 HEARING EXAMINER: Wait, I didn't get  
23 the last part.

24 It is not what?

25 ATTORNEY MORRIS: Yes. The ultimate



1 decision does not come from me -

2 HEARING EXAMINER: Right.

3 ATTORNEY MORRIS: - in this case. And  
4 we rest.

5 HEARING EXAMINER: Oh, what you're  
6 saying is - and I want to make sure I have the  
7 Commonwealth's position clearly on the record.

8 That the Commonwealth takes no  
9 position or does the Commonwealth oppose granting of  
10 the license or what? Explain that to me.

11 ATTORNEY MORRIS: Sure. We oppose the  
12 granting of the license, but obviously we understand  
13 it's up to the Board.

14 HEARING EXAMINER: Okay.

15 Miss Chavis?

16 ATTORNEY CHAVIS: Thank you.

17 And may it please the Court, Mr.  
18 Morris. Your Honor, just initially, I have the notes  
19 here that were taken throughout the day. So if I'm  
20 jumping, I apologize from the outset. But I think it  
21 is really important to look at the timeline, what  
22 happened chronologically throughout the course of Dr.  
23 Kaul's professional career.

24 You heard the testimony that there was  
25 a very unfortunate incident that happened in England



1 in 2001. But what is interesting is that New Jersey  
2 did grant him a license, even after understanding the  
3 details of that particular case. So whether it was  
4 in 2003 or 2004, he then continues, with the blessing  
5 of the New Jersey Board, to practice for several  
6 years during the course of that time.

7                   The incident that then led to his  
8 ultimate revocation in 2014, almost six years from  
9 today, we believe it's from patients who might've  
10 been involved in these malpractice suits. This B-2,  
11 the exhibit that was entered, if you look at the  
12 nature of those complaints, they're based upon the  
13 spinal fusion. And not based upon any issues with  
14 his as an anesthesiologist or him as a physician  
15 working in pain management.

16                   I asked Dr. Kaul the specific  
17 questions, if granted a license, if he's willing to  
18 restrict his practice to those areas. Because  
19 there's no question about his qualifications, his  
20 expertise or his ability to practice safely in his  
21 specialty.

22                   I asked those questions both of Dr.  
23 Chin and Dr. Katz, individuals who work as orthopedic  
24 spine surgeons, who without question said that his  
25 expertise in the area as an anesthesiologist or in



1 pain management are without reproach.

2 We believe that a license would be  
3 appropriate to Dr. Kaul in the Commonwealth of  
4 Pennsylvania because of the nature and quality of  
5 care that he has given to his patients.

6 Mr. Darrow testified that once this  
7 support group rallied in support of Dr. Kaul, it was  
8 almost 100, 150 patients who showed up. These are  
9 individuals who are desperate for care, who are in  
10 desperate need of pain management, individuals who go  
11 throughout their day and sometimes are unable to  
12 function at a higher quality of life, because of the  
13 pain that they're in.

14 And these individuals were seeking  
15 treatment from Dr. Kaul. And as you heard from the  
16 witnesses today, actually were able to find some  
17 relief.

18 His ability to treat a patient does  
19 not only help the individuals, but the community  
20 within - that were in it, actually by these patients,  
21 who sought care from him as well.

22 Miss Bettens testified that she had  
23 extraordinary relief based upon the treatment given  
24 by Dr. Kaul, even to the point where she is hoping he  
25 is licensed, so that she could send her daughter



1 there. No mother would send her child to a physician  
2 if she had one ounce of doubt about his or her  
3 ability to treat their child safely. No person would  
4 be that reckless.

5                   You had the ability to assess Miss  
6 Bettens' testimony, not only her credibility, if  
7 there was a bias, but certainly in that realm, she  
8 never would put her child in harms way to receive  
9 treatment from an individual that was not competent  
10 and safe to do so.

11                   The words heard throughout today's  
12 proceedings are that Dr. Kaul is compassionate,  
13 knowledgeable, humble. That he's an expert. That he  
14 takes time with his patients. He exhibits a quality,  
15 both on a moral level, as well as competency as a  
16 physician, that every doctor would aspire to.

17                   We said in the outset that we weren't  
18 trying to relitigate any of the issues that happened  
19 in England or in New Jersey. They are what they are.  
20 The Orders speak for themselves. But New Jersey had  
21 no problem with him practicing after hearing about  
22 what happened in England, even with the issue with  
23 him receiving treatment from substance abuse in 2002.  
24 He was practicing for many years with the Board's  
25 blessing.



1                   In Pennsylvania, when a physician's  
2   revoked, they have the opportunity to seek licensure,  
3   after five years. More than five years has passed.  
4   He continues to keep himself abreast of current  
5   innovation within the medical field. If his  
6   resources were in a better position, he would be able  
7   to attend more CEs or greater training.

8                   But you heard his testimony that his  
9   resources have certainly been restricted. With a  
10   word regarding the use of his - or the depletion of  
11   his resources, Dr. Kaul is fighting for his license  
12   and his ability to make a living. And just because  
13   he has filed a lawsuit in New Jersey, although his  
14   attorneys are people who are familiar with the court  
15   system, might think it's absolutely farfetched if you  
16   would name those individuals as plaintiffs. That  
17   does not mean that he has violated any Board  
18   regulation.

19                  That does not mean he has a lack of  
20   credibility. We live in a system that allows  
21   individuals who believe that they have a grievance to  
22   address it in a court of law. And that's what he's  
23   done, in a civil realm. And he should not be  
24   punished because he is willing to use the law of our  
25   United States and of the Commonwealth or the State of



1 New Jersey to have his day in court.

2 We believe that evidence is  
3 sufficient, that Dr. Kaul is competent. He is able  
4 to practice safely. And that under proper monitoring  
5 and oversight by the Board, that he would be an  
6 absolute asset to Pennsylvania. And he has  
7 Pennsylvania patients who are waiting for him to get  
8 licensed, so they can seek relief through his  
9 treatment.

10 We thank you very much for your  
11 attention, Your Honor.

12 HEARING EXAMINER: I have one question  
13 and it's just an error in reception not in  
14 transmission. You mentioned the medical malpractice  
15 payments and you said some of them are the same or  
16 the same type of surgery.

17 Did I hear that correctly?

18 ATTORNEY CHAVIS: Yes. They're  
19 stemming from - and I think the summary in B-2 that I  
20 believe most of them I saw were for spine fusions.

21 HEARING EXAMINER: Okay.

22 ATTORNEY CHAVIS: And so if his  
23 practice was restricted to, he would not do spine  
24 fusions in Pennsylvania, but it was specifically  
25 within anesthesia and pain management, I think that



1 that -. I don't think it's - I think that is a  
2 pathways for him to practice, -

3 HEARING EXAMINER: Okay.

4 ATTORNEY CHAVIS: - a person who's  
5 qualified and is otherwise competent and able to be a  
6 contribution to the Commonwealth.

7 HEARING EXAMINER: Okay.

8 So to alleviate my confusion then,  
9 he's not saying he didn't do the spinal fusions. He  
10 did?

11 ATTORNEY CHAVIS: Correct.

12 HEARING EXAMINER: Just that he's not  
13 going to do them in the future?

14 ATTORNEY CHAVIS: Correct. That's  
15 what -.

16 HEARING EXAMINER: Do I understand it  
17 correctly?

18 ATTORNEY CHAVIS: That is correct.

19 HEARING EXAMINER: Okay. Thank you.

20 Where we proceed from here, as Miss  
21 Chavis - as Miss Chavis well knows, if you would like  
22 a copy of the transcript, you make the financial  
23 arrangements directly with the court reporter. The  
24 transcripts typically come in, in about three weeks,  
25 maybe four weeks sometimes. After which I have 60



1 days to write a proposed adjudication and order,  
2 which will then go up to the Board for review. The  
3 Board, of course, gets the final word.

4 And there will be instructions for  
5 either party, if one or the other disagrees with my  
6 recommendation and desires to file objections to the  
7 recommendation. Those always go out when the  
8 proposed adjudication and order is mailed out.

9 Any questions before we adjourn? Miss  
10 Chavis?

11 ATTORNEY CHAVIS: Nothing, Your Honor.

12 HEARING EXAMINER: Mr. Morris?

13 ATTORNEY MORRIS: None, Your Honor.

14 HEARING EXAMINER: Thank you for your  
15 endurance. It's now 2:35 and I appreciate the  
16 presentation from both sides. We are adjourned.

17 \* \* \* \* \*

18 HEARING CONCLUDED AT 2:35 P.M.

19 \* \* \* \* \*

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## CERTIFICATE

I hereby certify that the foregoing proceeding was reported by me on 02/07/2020 and that I, Patrick Troy, read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.

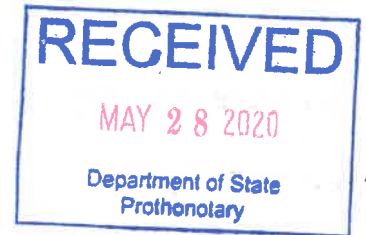
Dated the 26<sup>th</sup> day of February, 2020

  
Patrick Troy,

Court Reporter



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



**In the matter of the Application  
For a License to Practice as a  
Medical Physician and Surgeon of  
Richard Arjun Kaul, M.D.,  
Applicant**

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**File No. 19-49-007483**

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**PROPOSED ADJUDICATION AND ORDER**

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**David M. Green  
Hearing Examiner**

**COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF STATE  
OFFICE OF HEARING EXAMINERS  
P.O. Box 2649  
Harrisburg, PA 17105-2649**



## **HISTORY**

This matter comes before the hearing examiner on the appeal of Richard Arjun Kaul, M.D. (“Applicant”) from the provisional denial by the State Board of Medicine (“Board”) of his application for a license to practice medicine and surgery in the Commonwealth of Pennsylvania.

On June 18, 2019, the Board, by letter of its counsel, Kerry E. Maloney, Esquire, issued its provisional denial, which was based on sections 22(b) and (c), and 41(1), (3), (4) and (8) of the Medical Practice Act (“the Act”)<sup>1</sup>, 63 P.S. §§ 422.22(b) and (c), and 422.41(1), (3), (4), (8); section 9124(c) of the Criminal History Record Act (“the CHRIA”)<sup>2</sup>, 18 Pa. C.S. § 9124(c)(1), (2); and the Board’s regulations at 49 Pa. Code § 16.15(j).

The cited provisions authorize the Board to refuse to issue a license when an applicant has failed to demonstrate the qualifications or standards for licensure; when an applicant has failed to establish that he is of good moral character; when an applicant has been convicted of a felony or a misdemeanor related to a health profession; when another jurisdiction has denied or disciplined an applicant’s license; or when an application indicates that the applicant has been guilty of unprofessional conduct, which includes the departure from or failure to conform to a quality standard of the profession. In addition, the CHRIA authorizes the Board to refuse to grant a license to an applicant convicted of a felony or a misdemeanor related to the profession for which the license is sought.

On July 4, 2019, Applicant submitted a timely appeal of the provisional denial and requested a hearing.

By order dated October 11, 2019, the Board delegated this matter to a hearing examiner

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<sup>1</sup> Act of December 20, 1985, P.L. 457, No. 112, *as amended*.

<sup>2</sup> Act of July 16, 1979, P.L. 116, No. 47, *as amended*



for the purpose of conducting a hearing and issuing a proposed adjudication and order to be reviewed by the Board.

On October 22, 2019, the Prothonotary of the Department of State issued a Notice of Hearing, scheduling this matter to be heard on November 20, 2019.

On November 15, 2019, Applicant retained Jenni H. Chavis, Esquire as his legal counsel in this matter.

On November 18, 2019, Applicant filed a Motion for Continuance of the November 20, 2019 hearing on account of his recent retention of counsel, to which the Commonwealth indicated it had no objection. The Motion was granted by order of the undersigned hearing examiner.

On November 19, 2019, the Prothonotary of the Department of State issued a Notice of Rescheduled Hearing, setting this matter to be heard on February 7, 2020.

By Orders dated January 22 and February 3, 2020, the undersigned hearing examiner granted Applicant's unopposed motions to allow certain of his witnesses to participate at the hearing via telephone.

On February 7, 2020, the hearing took place before the undersigned hearing examiner. Adam L. Morris, Esquire, was present on behalf of the Commonwealth. Jenni H. Chavis, Esquire appeared at the hearing on behalf of Applicant. Applicant testified on his own behalf and presented the testimony of six other witnesses. At the conclusion of the hearing, the parties waived the filing of post-hearing briefs, and presented closing arguments on the record in lieu of filing post-hearing briefs.

The Notes of Testimony were filed on February 28, 2020, thereby closing the record.



## FINDINGS OF FACT

### Procedural History

1. On March 26, 2019, Applicant submitted an online application for a license to practice medicine (“application”) to the Board. (Exhibit B-1, part 1 at pp. 1-118/118, see, pp. 1-5; Exhibit B-1, part 2 at pp. 1-152/152)<sup>3</sup>.

2. In his application, Applicant answered “yes” in response to the question that asked, “Have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?” (Exhibit B-1, part 1 at p. 3).

3. In his application, Applicant answered “yes” to the question that asked, “Have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction? (Exhibit B-1, part 1 at p. 3).

4. In his application, Applicant answered “yes” to the question that asked, “Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?” (*Id*).

5. In his application, Applicant answered “yes” to the question that asked, “Do you

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<sup>3</sup> A computer disk of Applicant’s application and related documents filed with the Board has been accepted into the record as Exhibit B-1, which primarily contains three parts, each being a separate PDF document. “Part 1” of the application contains 118 pages referenced by an “Exhibit B-1, part 1 at p. \_\_\_/118” citation. “Part 2” of the application contains 152 pages referenced by an “Exhibit B-1, part 2 at p. \_\_\_/152” citation. “Part 3” contains 66 pages, including Applicant’s July 4, 2019 appeal of the provisional denial (“Exhibit B-1, part 3 at pp. 1-2/66”) and a table of contents and Applicant’s brief in support of his appeal (“Exhibit B-1, part 3, at pp. 3-66/66”). Page numbers referenced herein are based upon each document’s PDF page counter, as opposed to any pagination appearing on the PDF pages themselves.



currently engage in or have you ever engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination? (*Id.*, p. 4).<sup>4</sup>

6. In his application, Applicant answered “yes” to the question that asked, “Since May 19, 2002, have any malpractice complaints been filed against you? If yes, the Board requires that you submit a copy of the **entire Civil Complaint** which must include the **docket number, filing date, and the date you were served**. Submit a statement which includes complete details of the complaints that have been filed against you.” (*Id.*). (emphasis in original).

7. As part of his application, Applicant submitted a National Practitioner Data Bank (“NPDB”) Self-Query Report, dated July 25, 2016, comprised of the following:

- a. A summary of the Self-Query Response (Exhibit C-1, pp. 1-3);
- b. A State Licensure Action Report of the Kansas State Board of Healing Arts dated January 11, 2002 regarding its denial of licensure to Applicant. (*Id.*, pp. 58-59);
- c. State Licensure Action Reports of the New Jersey Board of Medical Examiners (“New Jersey Board”) dated May 13 and 14, 2003 regarding the suspension of Applicant’s license to practice medicine in New Jersey, stayed pending appeal. (*Id.*, pp. 49-54);
- d. A State Licensure Action Report of the New Jersey Board dated December 10, 2004 regarding the New Jersey Superior Court’s December 5, 2003 affirmance of the New Jersey Board’s May 14, 2003 suspension of Applicant’s

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<sup>4</sup> Notwithstanding this response, and cross-examination at the hearing by the Commonwealth’s attorney regarding it, the provisional denial (Exhibit B-2) was not based upon Applicant’s answer to this question, and it will not be considered herein. The evidence does not indicate current intemperate or habitual use. (N.T. pp. 159-165, 176-177).



license to practice medicine in New Jersey, which had been served from December 10, 2003 through June 10, 2004, was followed by an 18-month probation, and included the imposition of a penalty and costs. (*Id.*, pp. 55-57);

e. Seven Medical Malpractice Payment reports relating to patient care that took place during 2005-2012. (N.T., p. 174, Exhibit B-2, p. 2, Exhibit C-1, pp. 10-18, 22-30, 46-48).

f. A State Licensure Action Report of the New Jersey Board dated April 10, 2012 regarding the limitation or restriction of Applicant's license to practice medicine in New Jersey. (Exhibit C-1, pp. 35-37);

g. A State Licensure Action Report of the New Jersey Board dated May 9, 2012 regarding the limitation or restriction of Applicant's license to practice medicine in New Jersey. (*Id.*, pp. 31-34);

h. A State Licensure Action Report of the New Jersey Board dated June 13, 2012 regarding an Order of Temporary Suspension of Applicant's license to practice medicine in New Jersey. (*Id.*, pp. 38-41);

i. A State Licensure Action Report of the New Jersey Board dated February 12, 2014 regarding the revocation of Applicant's license to practice medicine in New Jersey. (*Id.*, pp. 42-45);

j. A report of the Medicaid Fraud Division of the State of New Jersey dated August 6, 2014 indicating that Applicant had been indefinitely excluded/debarred from a Federal healthcare program based upon the revocation of Applicant's license to practice medicine in New Jersey. (*Id.*, pp. 19-21);

k. A report of the Department of Health and Human Services Office of



Inspector General dated January 20, 2016, indicating that Applicant had been excluded and debarred from Medicare, Medicaid and all other Federal health care programs due to the suspension or revocation of his medical license by a Federal, state or local licensing authority. (N.T., p. 177; Exhibit C-1, pp. 7-9);

1. A State Licensure Action report of this Board's Final Order dated October 30, 2018 denying Applicant licensure in Pennsylvania and noting that he had not appealed the Board's provisional denial. (Exhibit C-1, pp. 4-6).

(N.T., pp. 175-176).

8. As part of his application, Applicant submitted a "Corrected Final Decision and Order" of the New Jersey Board dated March 12, 2014 and filed March 24, 2014. ("Revocation Order"). (Exhibit C-2).

9. In its Revocation Order, the New Jersey Board found that Applicant:

a. Grossly and repeatedly deviated from the accepted standard of care and good medical practice, engaged in professional misconduct by performing spinal surgical procedures including but not limited to minimally-invasive spinal fusions with instrumentation, open spinal surgery, and discectomies on a minimum of 11 patients, without sufficient training, education and experience. (*Id.*, pp. 5, 11-12, 14-21);

b. Failed to have the appropriate hospital privileges or Board-approved alternative privileges in spinal surgery and/or interventional pain management. (*Id.*, pp. 6, 12-13);

c. Engaged in dishonesty, fraud, deception, misrepresentation, false promise or false pretense by representing himself as capable: (1) on his website; (2)



in his personal interaction with patients, and (3) in his misrepresentation of the scope of proposed procedures to patients, when his “lack of education and training precluded him from even attempting spinal surgery in any form.” (*Id.*, pp. 11-14);

d. Failed to have medical malpractice insurance and/or a Letter of Credit covering his performance of spinal surgical procedures, thereby engaging in professional misconduct. (*Id.*, pp. 5, 14);

e. Failed to maintain a proper patient record for those patients for whom he failed to obtain signed patient consent forms. (*Id.*, p. 6, 15).

10. The New Jersey Board revoked Applicant’s license to practice medicine and surgery in the State of New Jersey, effective February 12, 2014 and imposed upon Applicant a civil penalty of \$300,000. (*Id.*, pp. 28-29).

11. The \$300,000 civil penalty imposed upon Applicant represented the assessment of a \$20,000 penalty for each of the 15 counts on which the Board found Applicant liable. (*Id.*).

12. By its Revocation Order, the New Jersey Board assessed upon applicant costs in the amount of \$175,422.32. (*Id.*).

13. By letter dated June 18, 2019, after review of the Application and related documents, this Board provisionally denied Applicant’s application, citing sections 22(b) and (c) and 41(1), (3), (4) and (8) of the Act, 63 P.S. §§ 422.22(b) and (c), and 422.41(1), (3), (4) and (8); Section 16.15(j) of the Board’s Regulations, 49 Pa. Code § 16.15(j); and section 9124(c) of the Criminal History Record Information Act (“the CHRIA”), 18 Pa.C.S. §9124(c). (Exhibit B-2).

14. In its letter, the Board listed the following reasons for the provisional denial of the application:

a. Applicant failed to demonstrate the qualifications or standards for



licensure;

- b. Applicant failed to establish that he is of good moral character;
- c. Applicant was convicted of a felony or a misdemeanor related to a health profession;
- d. Another jurisdiction denied or disciplined Applicant's license;
- e. Applicant had been guilty of unprofessional conduct, which includes the departure from or failure to conform to a quality standard of the profession;
- f. Applicant was convicted of a felony or a misdemeanor related to the profession for which the license was sought.

(Exhibit B-2).

15. The Board based the provisional denial on the following events and issues that it gleaned from the materials Applicant submitted with his application:

- a. Applicant's conviction on charges of Medical Manslaughter in England;
- b. The discipline of his licensure to practice medicine in the United Kingdom (UK);
- c. The denial by the Kansas Board of his application for licensure in that state;
- d. The discipline of his licensure by the New Jersey Board;
- e. The seven medical malpractice settlement payments paid by Applicant or on his behalf;
- f. Applicant's not having practiced medicine for at least four (4) years.

(Id.).

16. Applicant's address on file with the Board is 120 Temple Terrace Palisades Park, NJ



07650. (Board records, File No. 19-49-007483.).

17. By his letter dated July 4, 2019, Applicant appealed the Board's provisional denial of his application and requested a hearing. (N.T., pp. 14-15; Board Records; Exhibit B-1, part 3 at pp. 1-2).

18. By order dated October 11, 2019, the Board delegated this matter to a hearing examiner to conduct a hearing and issue a proposed adjudication and order. (Official notice of Board records at File No. 19-49-007483).<sup>5</sup>

19. Applicant attended the hearing in this matter on February 7, 2020, was represented by counsel, testified, presented the testimony of six other witnesses, presented documentary evidence and waived the right to file a post-hearing brief, choosing to present a closing argument on the record via counsel. (N.T, pp. 202-203; and *passim*).

**Applicant's education and medical employment/experience**

20. Applicant graduated from the Royal Free Hospital School of Medicine, London University, London, England. (N.T., p. 121; Exhibit B-1, part 1 at p. 2; Exhibit B-3<sup>6</sup>, p. 76/1962; Exhibit C-4, pp. 1-3).

21. From December 1989 through July 1995, Applicant completed internships and residencies in New York. (N.T., pp. 121-124; Exhibit C-4).

22. Applicant completed a fellowship in Pain Management that he completed in September

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<sup>5</sup>Official notice is taken of the Board's records pertaining to Applicant in accordance with the rule that a licensing board may take official notice of its own records. General Rules of Administrative Practice and Procedure, 1 Pa. Code § 31.1 *et seq.*, at § 35.173; *see also Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A.2d 991 (Pa. Cmwlth. 1987) (The doctrine of official notice allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency's field and those facts contained in reports and records in the agency's files); *Gleeson v. State Bd. of Medicine*, 900 A.2d 430, 440 (Pa. Cmwlth. 2006), *appeal denied*, 917 A.2d 316 (Pa. 2007) (licensing board may take official notice of its own records). All subsequent such references will be cited as "Board records."

<sup>6</sup>A computer disk containing materials that Applicant supplied the Board in support of his appeal, in a single PDF document numbering 1,962 pages, has been accepted into the record as Exhibit B-3. Utilizing the PDF document's page counter, each page of Exhibit B-3 cited herein is numbered as "Exhibit B-3, p. \_\_\_\_/1962".



1996 in Bristol, England. (*Id.*).

23. From September 1996 until February 2001, Applicant served as an attending physician at two clinics in England, one of which was a pain clinic. (*Id.*).

24. Upon returning to the United States in October 2001, and through 2012, Applicant practiced in New Jersey, first in anesthesiology and later in interventional pain management and minimally-invasive spine surgery. (*Id.*).

25. Applicant has not practiced medicine since March 21, 2012. (N.T., p. 136).

26. From June 2012 through March 2014, Applicant was an administrator for the surgical center he owned, New Jersey Spine and Rehabilitation in Pompton Lakes, NJ. (*Id.*, p. 122; Exhibit C-4).

#### **Professional Memberships**

27. As of 2012, Applicant was a board-certified anesthesiologist. (Exhibit C-2, pp. 5, 12).

28. Applicant is a Diplomate of the American Board of Interventional Pain Management<sup>7</sup> (since 2004). (*Id.*, p. 6; Exhibit C-4).

29. Applicant is a member of the American Society of Interventional Pain Physicians (since 2006). (Exhibit C-4)

30. Applicant is a member of the American Academy of Minimally-Invasive Spinal Medicine and Surgery (since 2004). (*Id.*).

#### **The 2001 Criminal Conviction in England**

31. In March 1999, Applicant was working at a dental clinic in England. (N.T., pp. 127-128).

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<sup>7</sup> The New Jersey Board's Revocation Order included a finding of fact that "None of [Applicant's] certifications were recognized by the American Board of Medical Specialties, with the exception of his board-certification in anesthesiology. Non-recognition included his certification by the **American Board of Interventional Pain Management.**" (Exhibit C-2, pp. 6, 10) (emphasis added).



32. A female patient came to the clinic one day that month to have some wisdom teeth extracted, for which Applicant provided anesthesia. (*Id.*).

33. At the end of the procedure, the patient went into ventricular tachycardia. (*Id.*).

34. The patient was transferred to a hospital, where she died six days later. (*Id.*).

35. Following an investigation, Applicant was charged with Medical Manslaughter in October of 1999. (*Id.*, pp. 128-129).

36. In January 2001, Applicant's trial was held, at which expert witnesses testified for each side. (*Id.*).

37. On February 22, 2001, the jury returned a verdict finding Applicant guilty of Medical Manslaughter. (*Id.*, p. 130; Exhibit B-1; part 2, pp. 3-4; Exhibit B-3, pp. 7-8/1962).

38. The presiding judge imposed a suspended sentence upon Applicant, with no probation, jail time or fine. (*Id.*).

### Disciplinary History

39. On February 26, 1999, the UK Specialist Training Authority of the Medical Royal Colleges issued a decision dismissing an appeal filed by Applicant and finding that he had failed to demonstrate that the specialist medical qualifications in anesthetics awarded to him in the United States were equivalent to a CCST<sup>8</sup> in the specialty of anesthetics. (N.T., pp. 126-127; Exhibit B-1, part 2 at p. 3; Exhibit B-3, pp. 71-75/1962).

40. In 2001, Applicant's UK medical license was revoked. (Exhibit C-1, pp. 50-51, 58-59; see also, Exhibit B-1, part one at pp. 113-115/118 regarding UK disciplinary notations for 1999-2002 in Physician Data Center Practitioner Profile<sup>9</sup>).

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<sup>8</sup> Certificate of Completion of Specialist Training.

<sup>9</sup> These notations relate to: (a) A December 17, 1999 Interim Order restricting practice to a supervised setting for six months; (b) a June 17, 2000 Interim Order renewing the December 17, 1999 order for a further period of three months; (c) a September 25, 2000 Interim Order restricting Applicant to a supervised setting, to expire March 16, 2002; (d) a



41. In 2002, Applicant was denied medical licensure in Kansas. (N.T., p. 133; Exhibit C-1, pp. 58-59);

42. On May 14, 2003, the New Jersey Board suspended Applicant's license to practice medicine in that State for two years, the first six months to be served actively and the remainder to be stayed in favor of probation. (Exhibit C-1, pp. 50-51).

43. The basis of the 2003 New Jersey suspension was misrepresentations Applicant made on two hospital applications. (*Id.*).

44. On May 14, 2003, the New Jersey Superior Court, Appellate Division, stayed that date's New Jersey Board suspension of Applicant's license, pending Applicant's appeal. (*Id.*, pp. 50-51, 53).

45. On December 5, 2003, the New Jersey Superior Court, Appellate Division, affirmed the 2003 New Jersey Board suspension. (*Id.*, pp. 55-56).

46. On May 9, 2012, the New Jersey Board approved an Interim Consent Order, directing Applicant to, among other things: (1) cease and desist from performing or assisting in any and all spinal surgical procedures; (2) cease and desist from performing all surgery and special procedures including those utilizing conscious sedation or regional anesthesia or general anesthesia; and (3) cease and desist from performing minor surgical procedures utilizing conscious sedation or regional anesthesia or general anesthesia. (*Id.*, pp. 32-33).

47. On March 24, 2014, the New Jersey Board issued a "Corrected Final Decision and Order" by which it revoked Applicant's license to practice medicine, effective February 12, 2014, and imposed a \$300,000 civil penalty plus \$175,422.32 in costs against him. (Exhibit C-2).

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March 1, 2001 Interim Order suspending medical license, to expire March 15, 2002; (e) an August 21, 2001 Interim Order that the suspension set to expire on March 15, 2002 remain in place; (f) a November 19, 2001 Order that the suspension remain in place; (g) a February 5, 2002 Order that the suspension remain in place; and (g) a June 29, 2002 order erasing Applicant from the Medical Register.



48. The New Jersey Board found that Applicant's education, training, internships, residencies, fellowships and continuing medical education courses were insufficient to prepare him for surgeries of the spine, whether minimally-invasive or open. (Exhibit C-2, p. 5).

**Medical Malpractice History**

49. A medical malpractice settlement of \$200,000 was paid on Applicant's behalf on August 2, 2011 relating to allegations that, on or about June 12, 2005, Applicant failed to recognize a complication while providing treatment including a surgical epidural, epidurogram, fluoroscopy and trigger point injections for a patient's herniated cervical disks. (N.T., p. 174; Exhibit C-1, pp. 46-48).

50. A medical malpractice settlement of \$450,000 was paid on Applicant's behalf on June 9, 2014 relating to allegations that, on or about November 21, 2008, Applicant improperly performed minimally-invasive surgery when he was not qualified to do so, and failed to obtain informed consent. (*Id.*, pp. 28-30).

51. A medical malpractice settlement of \$125,000 was paid on Applicant's behalf on July 17, 2014 relating to allegations that, on or about August 17, 2010, May 20, 2011, and October 17, 2011, Applicant used improper technique in performing spinal surgeries on the same patient. (*Id.*, p. 25-27).

52. A medical malpractice settlement of \$425,000 was paid on Applicant's behalf on July 22, 2014 relating to allegations that, on or about April 4, 2008, Applicant improperly performed spinal fusion surgery when he was not qualified to perform minimally-invasive surgery. (*Id.*, pp. 22-24).

53. A medical malpractice settlement of \$750,000 was paid on Applicant's behalf on November 11, 2014 relating to allegations that, on or about September 19, 2011, Applicant



negligently performed a lumbar decompression and interbody fusion surgery. (*Id.*, pp. 16-18).

54. A medical malpractice settlement of \$1,000,000 was paid on Applicant's behalf on June 10, 2015 relating to allegations that, on or about April 22, 2011, Applicant utilized improper technique in a minimally-invasive procedure, requiring a second surgery five days later to remove a malpositioned pedicle screw. (*Id.*, pp. 13-15; Exhibit B-1, part 1 at pp. 61-63/118);

55. A medical malpractice settlement of \$605,000 was paid on Applicant's behalf on August 13, 2015 relating to allegations that, on or about February 13, 2012, Applicant utilized improper technique for pedicle screw placement. (*Id.*, pp. 10-12).

56. None of the medical malpractice settlements indicate any admission of liability or wrongdoing on Applicant's part, and several of the databank reports specifically indicate the absence of any such admission. (*Id.*, *passim*).

57. As part of his defense in the Medical Manslaughter trial, Applicant produced letters of support from 11 patients and physicians in the UK. (Exhibit B-3, p. 1748-1762/1962).

58. During June and July 2012, a total of 77 patients of Applicant's signed a group letter in support of Applicant during June and July of 2012 to then New Jersey Governor Christie during the pendency of the New Jersey Board proceedings. (*Id.*, pp. 1633-1636/1962).

59. Numerous patients, some overlapping those who signed the group letter, also wrote their own personal letters in support of Applicant, which were directed Governor Christie as well. (N.T., pp. 199; Exhibit B-3, pp. 1631-1747/1962).

60. Twenty-two (22) patients also signed treatment records release authorizations for the purpose of assisting Applicant in the New Jersey Board proceedings. (Exhibit B-3, pp. 1637-1659/1962).

61. Four of Applicant's former New Jersey patients, Doreen Bettens (N.T., pp. 23-36),



John Zerbini (*Id.*, pp. 64-82), George Gongora (*Id.*, pp. 85-105), and Key Darrow (*Id.*, pp. 193-200), and two fellow physicians, Victor Katz, M.D. (*Id.*, pp. 109-119) and Kingsley R. Chin, M.D. (*Id.*, pp. 180-192) testified at the hearing on behalf of Applicant.



## CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact Nos. 1, 13).

2. Applicant had adequate notice of the statutory basis for the Board's provisional denial of his application for a license to practice medicine and surgery and was given an opportunity to be heard in accordance with the Administrative Agency Law, 2 Pa. C.S. § 504. (Findings of Fact Nos. 1, 13-19).

3. The malpractice payouts made on Applicant's behalf, without any admission or finding of liability on his part, do not conclusively demonstrate unprofessional conduct by departing or failing to conform to the quality standards of the profession, negligence in the practice of medicine, or a failure to demonstrate the qualifications or standards for licensure, and therefore, do not warrant the denial of his application under sections 22(c) and 41(8) of the Medical Practice Act, 63 P.S. §§ 422.22(c) and 422.41(8). (Findings of Fact Nos. 49-56).

4. The New Jersey disciplinary orders which suspended, and subsequently revoked, Applicant's New Jersey authorize the Board to deny his application for licensure or impose other disciplinary or corrective action as part of granting his application under the Act at sections 22(c), 41(4), and 42, 63 P.S. §§ 422.22(c), 422.41(4), 422.42(a). (Findings of Fact Nos. 42-48).

5. The UK criminal matter, the UK disciplinary order, and the facts underlying them do not support a finding that Applicant lacks good moral character and, therefore, do not warrant the denial of his Application under sections 22(b) and (c) and 41(1), 63 P.S. §§ 422.22(b) and (c) and 422.41(1). (Findings of Fact Nos. 31-40).

6. Applicant has not demonstrated by a preponderance of the evidence that he is currently able to practice the profession with reasonable skill and safety to patients. (Findings of Fact Nos. 25-26, 41-48).



7. Applicant has demonstrated by a preponderance of the evidence that he otherwise meets the requirements for licensure and the granting of his Application is warranted, in the event he successfully completes a recognized, Board-approved clinical skills evaluation, remediation and physician re-entry program and thereafter submits to practice monitoring. (Findings of Fact Nos. 25-26, 41-48).



## DISCUSSION

The Board has the power to provide for, to regulate, and to license physicians within the Commonwealth. See, 63 P.S. §§422.8, 422.22(b) and (c), and 422.41. See also, *Allen v. State Board of Accountancy*, 595 A.2d 771, 773 (Pa. Cmwlth. 1991) (affirming the Commonwealth's right to regulate and license professions). Moreover, a citizen's right to engage in a profession is "subject to the lawful exercise of the state's police power to protect the public health, safety, welfare and morals" of its citizens through the promulgation of statutes which reasonably regulate occupations. *Pennsylvania Medical Society v. Foster*, 608 A.2d 633, 637 (Pa.Cmwlth. 1992).

### Qualifications to practice

Section 22 of the Act<sup>10</sup> sets forth the qualifications for licensure as a medical physician and surgeon in the Commonwealth. The issuance of a license to practice medicine in the Commonwealth should be reserved for those who have demonstrated the ability to safely, competently and honestly serve

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<sup>10</sup> § 422.22. Licenses and certificates; general qualification

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**(b) Qualifications.**--The board shall not issue a license or certificate to an applicant unless the applicant establishes with evidence, verified by an affidavit or affirmation of the applicant, that the applicant is of legal age, is of good moral character and is not addicted to the intemperate use of alcohol or the habitual use of narcotics or other habit-forming drugs and that the applicant has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for the license or certificate contained in or authorized by this act. The board shall not issue a license or certificate to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless:

- (1) at least ten years have elapsed from the date of conviction;
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations; and
- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act. As used in this section the term "convicted" shall include a judgment, an admission of guilt or a plea of nolo contendere.

**(c) Refusal.**--The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.



the public in their licensed capacities.

Because the Board has the responsibility and authority to oversee the medical profession and to determine the competency and fitness of an applicant to practice within the Commonwealth, an applicant for licensure bears the burden of proving that he meets all of the qualifications necessary for obtaining a license to practice in a given profession. *Barran v. State Board of Medicine*, 670 A.2d 765, 767 (Pa. Cmwlth.), *appeal denied*, 679 A.2d 230 (Pa. 1996). The degree of proof required to establish a case before an administrative tribunal in an action of this nature is a preponderance of the evidence. *Lansberry v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of Applicant's case must weigh slightly more than the opposing evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854, 856 (Pa. 1950).

The issue presently before the Board is whether Applicant has satisfied his burden of proving that he meets the qualifications for licensure despite the following: (1) his conviction on the charge of Medical Manslaughter in England; (2) the discipline of his licensure to practice medicine in the United Kingdom; (3) the denial of licensure in Kansas; (4) the disciplinary actions taken against his license by the New Jersey Board; (5) the seven medical malpractice settlement payments made by Applicant or on his behalf; and (6) his not having practiced medicine for at least four years. In its provisional denial, the Board cited certain reasons by which it has the authority to refuse a license, as specified in section 41(a)(1), (3), (4), (8) of the Act.<sup>11</sup> When the Board is authorized to impose discipline, it may deny the

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<sup>11</sup> § 422.41. Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder

The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:

(1) Failing to demonstrate the qualifications or standards for a license, certification or registration contained in this act or regulations of the board.



issuance of a license under section 42 of the Act.<sup>12</sup>

**Conviction – Felony or misdemeanor relating to a health profession**

The crime of Involuntary Manslaughter is the violation in the Pa. Crimes Code that might come closest to the elements of the crime of Medical Manslaughter of which Applicant was convicted in the UK. Involuntary Manslaughter is defined in the Pa. Crimes Code as:

**§ 2504. Involuntary manslaughter**

**(a) General rule.**—A person is guilty of involuntary manslaughter when as a direct result of the doing of an unlawful act in a reckless or grossly negligent manner, **or the doing of a lawful act in a reckless or grossly negligent manner**, he causes the death of another person.

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(3) Being convicted of a felony or being convicted of a misdemeanor relating to a health profession or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, a Federal court or a court of any other state, territory or country.

(4) Having a license or other authorization to practice the profession revoked or suspended or having other disciplinary action taken, or an application for a license or other authorization refused, revoked or suspended by a proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.

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(8) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. In proceedings based on this paragraph, actual injury to a patient need not be established.

(i) The ethical standards of a profession are those ethical tenets which are embraced by the professional community in this Commonwealth.

(ii) A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care. The board may promulgate regulations which define the accepted standard of care. In the event the board has not promulgated an applicable regulation, the accepted standard of care for a practitioner is that which would be normally exercised by the average professional of the same kind in this Commonwealth under the circumstances, including locality and whether the practitioner is or purports to be a specialist in the area.

63 P.S. § 422.41(a)(1), (3), (4), (8).

<sup>12</sup> **§422.42. Types of corrective action.**

**(a) Authorized actions.**—When the board is empowered to take disciplinary or corrective action against a board-regulated practitioner under the provisions of this act or pursuant to other statutory authority, the board may:

(1) Deny the application for a license, certificate or any other privilege granted by the board.

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63 P.S. § 422.42(a)(1).



**(b) Grading.**--Involuntary manslaughter is a misdemeanor of the first degree. Where the victim is under 12 years of age and is in the care, custody or control of the person who caused the death, involuntary manslaughter is a felony of the second degree.

18 Pa.C.S. § 2504 (emphasis added).

Unfortunately, the record contains no charging document or recitation of the British Medical Manslaughter Statute, by which its grading or its elements might be compared, especially when determining whether it is a crime of moral turpitude.

**Moral character – conviction of a crime of moral turpitude**

In the provisional denial, the Board expressed its concern that Applicant lacks the good moral character required of a Board licensee in the Commonwealth. Case law provides an understanding of the term “good moral character.” For example, in *Gombach v. Department of State, Bureau of Commissions, Elections and Legislation*, 692 A.2d 1127 (Pa. Cmwlth. 1997), the court defined “good moral character” to require the absence of conduct or acts indicating moral turpitude, stating

... [T]he phrase has been made constitutionally certain by our courts in terms of a person lacking “moral turpitude.” Good moral character is defined, in part, as including “an absence of proven conduct or acts which have been historically considered as manifestation of moral turpitude.” BLACK’S LAW DICTIONARY, 693 (6<sup>th</sup> ed. 1990). Our courts have defined moral turpitude as “ ‘anything done knowingly contrary to justice, honesty or good morals.’ ” *Foose v. State Bd. of Vehicle Mfrs., Dealers and Salespersons*, 578 A.2d 1355 (Pa. Cmwlth. 1990) (quoting *Moretti v. State Board of Pharmacy*, 277 A.2d 516 (Pa. Cmwlth. 1971)). From these definitions it is apparent that the two phrases, good moral character and moral turpitude, are often used together or to define each other.

*Gombach*, 692 A.2d at 1130.

Moral turpitude is ‘[t]hat element in personal misconduct in the private and social duties which a man owes to his fellow men, or to society in general, which characterizes the act as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between man and man.’

*John’s Vending v. Department of Revenue*, 284 A.2d 834, 837 (Pa. Cmwlth. 1972), *reversed on other grounds*, 453 Pa. 488, 309 A.2d 358 (1973). Moral turpitude has also been defined under Pennsylvania law as:



Conduct that is contrary to justice, honesty, or morality...“Moral turpitude means, in general, shameful wickedness - so extreme a departure from ordinary standards honest, good morals, justice, or ethics as to be shocking to the moral sense of the community.”

*Bowalick v. Commonwealth of Pennsylvania, Department of Education*, 840 A.2d 519, 523-524 (Pa. Cmwlth. 2004) (citations omitted).

The question of whether a crime involves moral turpitude generally turns on the **elements** of the crime, not on an independent examination of the details of the behavior underlying the crime. *Startzel v. Commonwealth, Department of Education*, 562 A.2d 1005, 1007 (Pa. Cmwlth. 1989), *appeal denied*, 524 A.2d 636 (Pa. 1990) (citing *Flickinger v Department of State*, 439 A.2d 235 (Pa. Cmwlth. 1982)). (emphasis added). A criminal statute may give rise to a finding of moral turpitude under the proper criminal statutory language, based upon **intentional, knowing, or reckless** misconduct. *Id.* (emphasis added). Notably, a crime of moral turpitude requires a reprehensible state of mind or *mens rea*. *Id.*, at 519, 523-524. It is difficult to attribute to Applicant any elements of intent, recklessness or gross negligence forming the basis of his UK conviction, upon which to find that his crime was one of base moral turpitude.<sup>13</sup> The Kansas Board denied Applicant licensure on the basis of its finding the UK conviction to be one of a “felony or class A misdemeanor, related to the practice of the healing arts” and based on reciprocal discipline as well. (Exhibit C-1, pp. 58-60). Without knowing which Kansas offense was compared to *Medical Manslaughter*, it is difficult to establish the precise grade the Kansas Board found the UK offense to be, or whether the elements of moral turpitude were present therein. The record does not indicate whether New Jersey Board found a similar offense in its laws at the time Applicant was granted licensure there. It did, however, discipline Applicant on the basis of his making misrepresentations on two hospital applications and on his 2000 biennial New Jersey renewal form, with regard to his “Negligent Manslaughter” (*sic*) conviction in England. (*Id.*, pp. 50-57).

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<sup>13</sup> The record does not indicate whether any civil settlement or verdict resulted from the 1999 UK incident.



### **Criminal Conviction and effect under the Act or the CHRIA**

Section 9124(c) of the CHRIA authorizes, but does not require, the Board to consider and refuse licensure based upon criminal convictions.<sup>14</sup> Applicant disputes that his conviction may be used as a basis for denying him licensure. He argues that there is no equivalent to Medical Manslaughter in American criminal law, and that the prosecution had been politically motivated, based in part on Applicant's 1997-1999 "very public legal fight to have his American training and qualifications recognized in Britain." (Exhibit B-3, pp. 1, 7-8, 71-75/1962).<sup>15</sup> In this manner, Applicant may not collaterally attack his conviction. *Burnworth v. State Board of Vehicle Manufacturers, Dealers & Salespersons*, 589 A.2d 294 (Pa. Cmwlth. 1991).

### **Unprofessional conduct – departure from standard of care**

Section 41(8) of the Act authorizes the Board to deny a license to an applicant who is guilty of "immoral or unprofessional" conduct. 63 P.S. § 422.41(8). As set forth above, "unprofessional conduct" includes a "departure from of failing to conform to an ethical or quality standard of the profession." *Id.*

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#### **§ 9124. Use of records by licensing agencies**

(a) **State agencies.**--Except as provided by this chapter, a board, commission or department of the Commonwealth, when determining eligibility for licensing, certification, registration or permission to engage in a trade, profession or occupation, **may consider** convictions of the applicant of crimes **but the convictions shall not preclude** the issuance of a license, certificate, registration or permit.

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(c) **State action authorized.**--Boards, commissions or departments of the Commonwealth authorized to license, certify, register or permit the practice of trades, occupations or professions **may refuse to grant** or renew, or may suspend or revoke any license, certificate, registration or permit for the following causes:

- (1) Where the applicant has been convicted of a felony.
- (2) Where the applicant has been convicted of a misdemeanor which relates to the trade, occupation or profession for which the license, certificate, registration or permit is sought.

18 Pa.C.S. §9124(a), (c) (emphasis added)

<sup>15</sup> Applicant's appeal includes a point-by-point argument against each factual and legal basis of the provisional denial, as well as appendices correlated to the provisional denial letter. Pages 71-75/1962 contain the February 1999 decision of The Specialist Training Authority of the Medical Royal Colleges on the equivalency of training issue. See also, N.T., pp. 126-127, wherein Applicant testifies regarding this proceeding. From a strictly chronological standpoint, the incident that led to the Medical Manslaughter charges took place in March 1999, which is not to suggest any causal relationship between the Training Authority's decision on equivalency and that incident, or between the Training Authority proceeding itself and the prosecution of Applicant for Medical Manslaughter. (N.T., p. pp. 128-129).



“A practitioner departs from, or fails to conform to, a quality standard of the profession when the practitioner provides a medical service at a level beneath the accepted standard of care.” 63 P.S. §

422.41(8)(ii). The board may promulgate regulations which define the accepted standard of care. (*id.*).

Through its Regulations, the Board has defined unprofessional conduct to include “[p]racticing the healing arts fraudulently, or with **reckless indifference** to the interests of a patient on a particular occasion, or with negligence on repeated occasions.” 49 Pa. Code §16.61.

Applicant disputes in each case that the treatment he rendered to the patients who brought the eventually-settled malpractice claims did not fall below the standard of care. (Exhibit B-3, pp. 1895-1904/1962). None of the MMPR’s indicate any sort of admission of liability on the part of Applicant. It is difficult to determine from the record whether the number of settlements paid by or on behalf of Applicant is atypical to the sort of surgical procedures he performed. As the patients were not identified, even by initials, in the MMPRs, it is impossible to determine with finality whether any of those cases formed a basis for the New Jersey Revocation Order. On a case-by-case analysis of the medical records and testimony before it, the New Jersey Board found departures from the standard of care by Applicant sufficient in number and degree to revoke his license. (Exhibit C-2).

Based on both the age of the 2005-2012 events forming the basis of the seven medical malpractice settlements and the lack of any finding or admission of liability on Applicant’s part, the medical malpractice settlements alone cannot serve as bases for denying Applicant’s application under the Act at section 22(c), 63 P.S. § 422.22(c) or section 41(8), 63 P.S. § 422.41(8). Nevertheless, when considered together, the settlements and the New Jersey Revocation Order illustrate why the Board harbors doubts that Applicant meets the qualifications for licensure.

### **Disciplinary History**

The UK and the New Jersey Board’s disciplinary orders, and most particularly the license revocations, are the most troubling. The 2003 discipline of Applicant’s license in New Jersey related to



the UK Medical Manslaughter conviction and its revocation of his license, as well as certain misrepresentations Applicant made on his license application regarding his UK license status. The 2014 license revocation in New Jersey (Exhibit C-2) was rooted in findings of “malpractice, negligence and incompetence.” Since the Pennsylvania Board is acting on the *fact* of disciplinary action in another state rather than the underlying events leading to that action, the substance of the charges and the procedure utilized in their resolution must be considered immaterial. *Johnston v. State Board of Medical Education and Licensure*, 49 Pa.Cmwlth. 9, 410 A.2d 103, 105-106 (1980) (emphasis in original). As the Commonwealth Court has stated:

Any inquiry into the underlying reasons for the discipline in another jurisdiction is irrelevant. It is the **fact** of the discipline, not its underlying causes, that is relevant. Further, **we may not insert a requirement not expressed by the General Assembly that the discipline in another jurisdiction be based on a deficit in the level or quality of patient care.**

*Girgis v. Board of Physical Therapy*, 859 A. 2d 852, 855 (Pa. Cmwlth. 2004) (emphasis added).

In his application materials and subsequent *pro se* appeal, Applicant presented a detailed chronology setting forth his extensive critique of the New Jersey Board’s processes, including the hearing that resulted in the revocation of his license (Exhibit B-1, part 2 at pp. 1-51/152; Exhibit B-3, pp. 321-665, 656-818/1962). The chronology also set forth the factors that Applicant believes played some role in the revocation of his New Jersey license. (*Id.*).<sup>16</sup> To the extent that they constitute a collateral attack of his New Jersey license revocation, they are irrelevant. Applicant’s testimony at the hearing, wherein he was represented by counsel, steered clear of these matters. It is the mere *fact* of

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<sup>16</sup> The New Jersey Revocation Order states that Applicant made public allegations of altered court transcripts, interference with legal evidence, and political influence following the Administrative Law Judge’s decision and prior to the New Jersey Board’s consideration of the exceptions he filed and its issuance of the penalty. (Exhibit C-4, pp. 23-25). The New Jersey Board found this to be consistent with what it described as Applicant’s “lack of remorse” and “continued refusal to recognize any failing on his part.” (*Id.*). Applicant repeats his allegations in his chronology, but for purposes of this hearing they constitute an impermissible collateral attack on the Revocation Order. Applicant undoubtedly intends that the Board consider his objections to the New Jersey Board’s process, and he has also provided excerpts of litigation he has filed against the New Jersey Board, Governor Christie and other parties. (Exhibits B-1, B-3, *passim*). It is not within this Board’s jurisdiction to pass judgment on the truth of Applicant’s allegations, as any remedy he seeks is for the New Jersey state or federal courts to consider. The Board’s consideration is limited to his application, the provisional denial and the appeal therefrom.



New Jersey discipline that is the issue, not whether the Pa. Board agrees with the outcome.

The statutory authorization to take disciplinary action against Pennsylvania license holders on the basis of **reciprocal** discipline has been repeatedly upheld by the Commonwealth Court. That court has been fairly consistent in concluding that the **fact** of discipline in another state is the only evidence required by statute to support a corresponding disciplinary action by a Pennsylvania **licensing** board. See *Tandon v. State Bd. of Med.*, 705 A.2d 1338 (Pa.Cmwlth.1997), *petition for allowance of appeal denied*, 556 Pa. 682, 727 A.2d 134 (1998); *Shoenhair v. State Bd. of Nurse Examiners*, 74 Pa.Cmwlth. 217, 459 A.2d 877 (1983); *Johnston v. State Bd. of Med. Ed. & Licensure*, 49 Pa.Cmwlth. 9, 410 A.2d 103 (1980).

*Khan v. State Board of Auctioneer Examiners*, 842 A.2d 936, 950 (Pa. 2004). (emphasis added) In its recent decision in the case of *Rizvi v BPOA, State Board of Medicine*, 2020 WL 2095951, \*4 (Pa. Cmwlth., no. 1378 C.D. 2018, issued May 1, 2020) (unreported) the Commonwealth Court stated:

However, as Doctor acknowledges, the **procedural and substantive validity** of the discipline imposed by the Ohio Board and Maine Board, and **the quality of Doctor's care**, are immaterial in the instant disciplinary proceeding by the Pennsylvania Board pursuant to reciprocal disciplinary provisions of Section 41(4) of the [Medical Practice Act of 1985]. *Tandon v. State Board of Medicine*, 705 A.2d 1338, 1345 (Pa. Cmwlth. 1997); *Johnston v. State Board of Medical Education and Licensure*, 410 A.2d 103, 105-06 (Pa. Cmwlth. 1980).

(emphasis added).

### **Skills and Mitigation**

While his New Jersey license was active, Applicant performed surgeries which produced favorable results for certain patients, as indicated by the letters they wrote on his behalf, individually and collectively. The testimony of a sampling of those patients illustrates this:

#### **Testimony of Doreen Bettens**

Ms. Bettens wrote letters to then-New Jersey Governor Christie in support of Applicant during the 2012 New Jersey Board proceeding. (Exhibit B-3, pp. 1660-1669, 1792-1799/1962). Her mother was a former co-worker (nurse) and patient of Applicant's (N.T., pp. 22). After seeing other providers, Ms. Bettens herself became a patient of Applicant's beginning in the year 2005. (*Id.*, pp. 23, 31). Applicant administered nerve blocks to Ms. Bettens, which brought improvement to her symptoms of



reflex sympathetic dystrophy (RSD), and eventually performed a lumbar fusion for her degenerative disc disease, also bringing her relief. (*Id.*, pp. 24-30). Ms. Bettens is aware that Applicant no longer has a license in New Jersey. She considers him to be “the best doctor at what he does,” is “waiting for him to be my physician,” and would come to Pennsylvania if the Board licensed him to practice here. (*Id.*, pp. 32-33, 39-40). Ms. Bettens has “total faith in his knowledge” and “we became best of friends,” to the degree that Ms. Bettens has provided Applicant with transportation due to his not having a driver’s license. (*Id.*, pp. 37, 41-43). Ms. Bettens is aware of the outcome of Applicant’s Medical Manslaughter trial in the UK. (*Id.*, pp. 47-48).

Testimony of John Zerbini (via telephone)

Mr. Zerbini first met Applicant in 2011 when receiving pain management care post-heart surgery and pre-transplant. (N.T., pp. 64-65). Applicant treated Mr. Zerbini with epidural injections, even though Mr. Zerbini was uninsured and had no money. (*Id.*, pp. 65-66). Mr. Zerbini wrote a letter to the New Jersey Board in support of Applicant. (Exhibit B-3, p. 217/1962). He also wrote a certification in support of Applicant for a court proceeding. (*Id.*, pp. 281-295/1962). He testified as to Applicant’s skill, compassion and responsiveness, citing an e-mail Mr. Zerbini once sent Applicant at 1:00 a.m. (N.T., pp. 66-72). Mr. Zerbini has several compression fractures in his spine and wants Applicant to treat this if he receives licensure in Pennsylvania. Mr. Zerbini learned of Applicant’s licensure issues in England and New Jersey from another doctor (Dr. Kaufman) prior to a treatment. (*Id.*, pp. 75-77; Exhibit B-3, pp. 281-295 of 1962; see, Applicant’s complaint against Dr. Kaufman (Exhibit B-3, pp. 1581-82/1962)<sup>17</sup>. These events would not affect Mr. Zerbini’s decision to continue treatment with Applicant. (N.T., pp. 79-80).

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<sup>17</sup> It cannot be determined from the New Jersey Revocation Order whether this was the same Dr. Kaufman who testified as an expert witness for the New Jersey Attorney General before the New Jersey Board, and whose testimony about “[Applicant’s] lack of training and competency in performing spinal surgeries” the New Jersey Board found to be “extremely credible and compelling.” (Exhibit C-2, pp. 7, 9).



Testimony of George Gongora

Mr. Gongora is a friend of Applicant's. After they met in October 2015, they began having regular, lengthy and detailed conversations about spiritual matters. (N.T., pp. 84-86). Mr. Gongora testified that he finds Applicant to be a very humble, sincere and genuine person, who is open to guidance and learning. (*Id.*, pp. 86-89). Although Mr. Gongora now lives in Texas, he remains in contact with Applicant, and travelled to the hearing to testify in person. (*Id.*, pp. 88-89). Mr. Gongora was aware of Applicant's 2001 medical license revocation in England, his 2003 licensure discipline and 2014 revocation in New Jersey. Mr. Gongora was unaware of Applicant's medical malpractice settlements or the revocation of his participation in federal healthcare programs; however, learning of those does not change his feelings about Applicant. (*Id.*, pp. 91-95, 104).

Testimony of Victor Katz, M.D. (via telephone)

Dr. Katz is an orthopedic spine surgeon. (N.T., p. 109). For nine months in 2005-2006, he and Applicant assisted each other, both as proceduralists, in approximately 20 percutaneous discectomies and/or fusions.<sup>18</sup> (*Id.*, pp. 109, 112-114). Dr. Katz testified that Applicant is a very good doctor "in what he was trained to do," and would recommend that he continue to practice, in Pennsylvania, as an anesthesiologist and in pain management, those being Applicant's areas of specialty. (*Id.*, pp. 111-112). Dr. Katz testified that "as long as [Applicant] sticks to anesthesiology and pain management, he will be just fine," but that "when it comes to more complex cases, I think he should ask for assistance, [from] either a new surgeon or a Board-certified spine surgeon." (*Id.*, p. 115). Dr. Katz has not worked with Applicant since 2006, but testified on his behalf in the New Jersey Board proceeding. (*Id.*, pp. 114-115). Dr. Katz also wrote a letter to the New Jersey Board in support of Applicant. (Exhibit B-3, p. 173/1962).

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<sup>18</sup> Applicant testified that, "[i]n 2005, myself and Dr. Katz performed the first minimally-invasive outpatient fusion, whereby we inserted a graft – it's called the Optimesh Graft. And we inserted it into an intravertebral space, and we placed percutaneous cannulated pedicle screws." (N.T., pp. 131-132). He further testified, "One of the most interesting things is that the expandable interbody device that myself and Dr. Katz inserted in February 2005, now, every major spine company in America has developed a similar device and technique." (*Id.*, p. 139).



Testimony of Kingsley R. Chin, M.D. (via telephone):

Dr. Chin has been an orthopedic spine surgeon since 2003. He met Applicant in late 2008. (N.T., pp. 180-181). At that time, Dr. Chin was helping develop devices for minimally-invasive surgery. (*Id.*, p. 182). They discussed technique and one of those devices in particular. They became good friends and Dr. Chin stayed over at Applicant's house many times. (*Id.*, pp. 184-185). Dr. Chin had the opportunity to observe Applicant performing surgery and dictating charts, and considered him to be an expert in anesthesiology and pain management. (*Id.*, pp. 186-188). He has not worked with Applicant since 2009. (*Id.*, p. 191). Although he was aware of the New Jersey license revocation, Dr. Chin was unaware of the seven medical malpractice payments made by, or on behalf of, Applicant. (*Id.*, p. 191). Neither of these changes his opinion of Applicant's abilities. (*Id.* p. 192). Dr. Chin wrote a letter to the New Jersey Board in support of Applicant. (Exhibit B-3, p. 172/1962).

Testimony of Key Darrow

Mr. Darrow testified that Applicant began treating him from about 2001 or 2002 until his New Jersey license was suspended, and has since become a friend. (N.T., pp. 193, 198). He was referred to Applicant for pain management of his lower back. The treatment took the form of injections for about 18-24 months and, when these did not bring lasting relief, Applicant performed surgery that provided "very on point relief." (*Id.* pp. 194-195). Applicant exhibited a "fantastic" bedside manner, provided his cell phone number to Mr. Darrow, and was responsive to a degree that Mr. Darrow had not experienced from a physician before. (*Id.*, pp. 195, 197-198). Mr. Darrow was one of a group of Applicant's patients who met to discuss what they could do to assist Applicant in the New Jersey license proceedings. (*Id.*, pp. 198-200; see, Exhibit B-3, pp. 1660-1747/1962). Mr. Darrow wrote a letter to New Jersey Governor Christie on Applicant's behalf and another for publication. (Exhibit B-3, pp. 1800-1804/1962).



Patients' group letter, individual patients' letters and signing of medical records authorizations.

Applicant produced letters from 14 patients and physicians in the UK, written in the year 2000 at the time of his Medical Manslaughter trial. (Exhibit B-3, p. 1748-1762/1962).

As indicated in Mr. Darrow's testimony, 77 patients of Applicant's signed a group letter of support during June and July of 2012 to then-Governor Christie. (*Id.*, pp. 1633-1636/1962). Numerous patients also wrote their own personal letters, which were directed Governor Christie as well. (N.T., pp. 199; Exhibit B-3, pp. 1631-1747/1962). Twenty-two patients also executed treatment records release authorizations in the hope that their records might assist Applicant in the proceeding. (*Id.*, pp. 1637-1659/1962).

**Authority of the Board**

At the hearing in the current matter, Applicant requested that this Board grant him licensure and is willing to limit his practice to anesthesia and pain management, being areas in which he has demonstrated skill, and would be willing to have his practice of medicine monitored. (N.T., pp. 138, 208). The Commonwealth recommends that the Application be denied. (*Id.*, pp. 205-207). Section 42 of the Act empowers the Board to deny an application for a license, as does Section 9124(c) of the CHRIA in the case of an applicant who has committed a misdemeanor in relating to his or her profession. Section 42<sup>19</sup> of the Act provides the Board with alternative discipline options attendant to the granting

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<sup>19</sup> § 422.42. Types of corrective action

(a) **Authorized actions.**--When the board is empowered to take disciplinary or corrective action against a board-regulated practitioner under the provisions of this act or pursuant to other statutory authority, the board may:

- (1) Deny the application for a license, certificate or any other privilege granted by the board.
- (2) Administer a public reprimand with or without probation.
- (3) Revoke, suspend, limit or otherwise restrict a license or certificate.
- (4) Require the board-regulated practitioner to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.
- (5) Require the board-regulated practitioner to take refresher educational courses.
- (6) Stay enforcement of any suspension, other than that imposed in accordance with section 40 [footnote omitted], and place a board-regulated practitioner on probation with the right to vacate the probationary order for noncompliance.
- (7) Impose a monetary penalty in accordance with this act.

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of a license.

The Board is charged under the Act with the responsibility and authority to oversee the medical profession and to regulate and license professionals to protect the public. *Barran, supra.* The record evidences that Applicant possesses a lengthy and complex disciplinary history rooted in issues with the quality of the patient care he rendered from 1999-2012. Had this care and other issues raised in the New Jersey Revocation Order occurred in Pennsylvania, and had this Board taken similar action at the time, Applicant would have become eligible under the Act to apply for a new license here sometime in 2017. 63 P.S. § 422.43(a). Applicant does not create a substantial risk of harm to the health and safety of his patients or to the public related to his moral character. For the same reasons, Applicant does not present a substantial risk of further criminal violations.

The Board's regulations address absences from practice for longer than four years, which in Applicant's case, was cited in the provisional denial:

*§ 16.15. Biennial registration; inactive status and unregistered status.*

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(j) If the person has not been practicing in this Commonwealth for longer than 4 years, the Board may require that a personal interview be conducted by a designated Board member or representative to ascertain the physical and mental fitness of the applicant to practice in this Commonwealth.

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49 Pa. Code § 16.15(j).

There is conflicting evidence regarding Applicant's skills, especially with regard to open and minimally-invasive procedures relating to the spine. Applicant has provided testimonial and documentary evidence regarding patients who have received relief from his treatment. However, notwithstanding Applicant's disagreement with the New Jersey Board's findings, even a physician who operated with him and testified on his behalf harbors concerns about Applicant's skills in performing

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63 P.S. § 422.42(a).



spinal surgery and suggests he cease doing so. Even were Applicant to agree, or the Board order him, to cease performing spinal surgery, there remain clear concerns whether Applicant should be granted a license at all, given the New Jersey Board's findings regarding the lack of malpractice insurance and hospital credentials and the informed consent and misrepresentation issues as well. All of these bear upon the recommendation for monitored practice and probation set forth in the within Proposed Order.

Given Applicant's history and the length of time he has been out of practice, public safety considerations necessitate that Applicant successfully complete a skills assessment and re-entry program prior to being issued a license. Upon his successful completion of such program, and upon the Board's issuance of a license to him, that license should be immediately placed on probationary status, to include monitored practice for an appropriate length of time so as to ensure Applicant's compliance with the quality standards of the profession. In accordance with the foregoing findings of fact, conclusions of law and discussion, the following proposed order shall be entered:



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

<b>In the matter of the Application</b>	:	
<b>For a License to Practice as a</b>	:	
<b>Medical Physician and Surgeon of</b>	:	<b>File No. 19-49-007483</b>
<b>Richard Arjun Kaul, M.D.,</b>	:	
<b>Applicant</b>	:	

**PROPOSED ORDER**

AND NOW, this 28th day of May 2020, in accordance with the foregoing findings of fact, conclusions of law and discussion, it is hereby **ORDERED** that the Application to Practice Medicine and Surgery of **Richard Arjun Kaul, M.D.** ("Applicant") is **GRANTED**, subject to Applicant's successful completion, at his expense, of a Board-approved clinical skills evaluation and remediation program such as the post-licensure assessment programs provided by the Foundation of the Pennsylvania Medical Society (LifeGuard); the University of California, San Diego Physician Assessment and Clinical Education Program (PACE); the Center for Personalized Education for Physicians (CPEP); the Vanderbilt University Comprehensive Assessment Program for Professionals (VCAP); or the Drexel University College of Medicine Physician Re-Entry Course. Applicant must cooperate fully with the evaluation and comply with all remedial education, training and counseling recommendations by the assessment program, including any cognitive, psychological, knowledge and skill evaluations and any continuing education, mini-residency, monitored practice, or other remedial activities. Applicant's licensure is also subject to completion of any application administrative requirements, including updating necessary information and forms, payment of necessary fees and completion of mandated continuing education requirements.



Following Applicant's successful completion of the Board-approved clinical skills evaluation and remediation program and the application administrative requirements, Applicant shall be issued a license to practice medicine and surgery in the Commonwealth and said license shall be immediately placed on **PROBATION** for no less than **FIVE (5) YEARS**, subject to the following terms and conditions:

**MONITORED PRACTICE**

1. Applicant shall not perform spinal surgery, be it minimally-invasive or otherwise unless and until the Board gives him its written approval to do so.
2. Applicant shall obtain a practice monitor(s) approved by the Board who possesses an unrestricted Pennsylvania medical license.
3. Applicant shall not practice the profession within the Commonwealth without having obtained a practice monitor.
4. Applicant shall not work in any practice setting without monitoring as may be required by the practice monitor.
5. Applicant shall allow the practice monitor access to all aspects of his practice, which shall include, but not be limited to, a review of all patient records, Applicant's performance of services/treatments/surgeries, and the questioning of Applicant and his staff.
6. Applicant shall sign/authorize any releases for information requested by the practice monitor to aid the monitor in fulfilling his or her role as a Board-approved practice monitor pursuant to the terms of this Order.
7. Applicant shall fully cooperate, and successfully comply, with the terms, conditions, and/or recommendations of the practice monitor, and any failure to fully cooperate, and successfully comply, with the terms, conditions, and/or recommendations of the practice monitor



shall be deemed to be a violation of this Order.

8. Applicant shall provide the Board by telephone within 48 hours, and in writing within ten (10) days of resuming practice or obtaining employment in the Commonwealth, notification of the following:

a. Name and address of the practice monitor(s) responsible for monitoring Applicant's practice;

b. The name(s) and address(es) of the place(s) at which Applicant will practice the profession and a description of Applicant's duties and responsibilities at such places of practice; and

c. Any restrictions on Applicant's practice.

9. Within ten (10) days of obtaining employment in the Commonwealth, Applicant shall have his practice monitor contact the Board for the purpose of submitting the following information to the Board, in writing:

a. Verification that the practice monitor(s) have received a copy of this Order and understand the conditions of Applicant's probation;

b. Verification that the practice monitor(s) will submit to the Board an evaluation of Applicant's work performance on a 60-day or more frequent basis, as requested; and

c. Verification that the practice monitor(s) will immediately notify the Board, in writing, of any suspected violation of this probation by Applicant or Applicant's breach of the standard of care.

10. Within ten (10) days of Applicant obtaining employment in the Commonwealth, Applicant shall supply a copy of this Order to his employer and to any institution within the



Commonwealth where Applicant maintains clinical privileges or practices the profession.

**GENERAL**

11. Applicant 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 Applicant holds a license to practice a health care profession. Summary traffic violations shall not constitute a violation of this Order.

12. Applicant shall at all times cooperate with the Bureau of Professional and Occupational Affairs and its agents and employees in the monitoring, supervision and investigation of Applicant's compliance with the terms and conditions of this Order, including requests for, and causing to be submitted at Applicant's expense, written reports, records and verifications of actions that may be required by the Bureau of Professional and Occupational Affairs.

13. Applicant shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

14. Applicant shall notify the Bureau of Professional and Occupational Affairs by telephone within 48 hours and in writing within five (5) days of the filing of any criminal charges against Applicant, the initiation of any legal action pertaining to Applicant's practice of the profession, the initiation, action, restriction or limitation relating to Applicant by a professional licensing authority of any state or jurisdiction or the Drug Enforcement Agency of the United States Department of Justice, or any investigation, action, restriction or limitation relating to Applicant's privileges to practice the profession at any health care facility.

15. Applicant shall notify the Bureau of Professional and Occupational Affairs by telephone within 48 hours and in writing within five (5) days of any change of Applicant's home



address, phone number, employment status, employer and/or change in practice at a health care facility.

### **VIOLATION OF THIS ORDER**

16. Notification of a violation of the terms or conditions of this Order shall result in the IMMEDIATE VACATING of the stay order, TERMINATION of the period of probation, and ACTIVATION of the suspension of Applicant's license(s) 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 Applicant has violated any terms or conditions of this Order.

b. Upon a probable cause determination by the Committee that Applicant has violated any of the terms or conditions of this Order, 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 Applicant's license.

c. Applicant 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 Applicant'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, Applicant may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Applicant's violation of probation, in which Applicant may seek relief from the preliminary order activating the suspension.



Applicant shall mail the original answer and request for hearing to the Bureau of Professional and Occupational Affairs' Prothonotary, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105, and a copy to the prosecuting attorney for the Commonwealth, as well as all subsequent filings in the matter.

e. If the Applicant 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 Applicant's request for a formal hearing.

f. Applicant's submission of a timely answer and request for a hearing shall not stay the suspension of Applicant'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 and reactivating the probation.

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

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

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

j. If Applicant 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 Applicant sustaining the suspension of Applicant's license, after at least **five years** of active suspension and any additional imposed discipline, Applicant may petition the Board for reinstatement upon verification that Applicant has complied with the Board's order, 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.


17. Applicant's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

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

19. After successful completion of probation, Applicant may petition the Board to reinstate Applicant's license to unrestricted, non-probationary status upon an affirmative showing that Applicant has complied with all terms and conditions of this Order and is fit to practice.

The State Board of Medicine has announced its intention to review this Proposed Report in accordance with 1 Pa. Code § 35.226(a)(2).

**BY ORDER:**

  
**David M. Green**  
**Hearing Examiner**



*For the Commonwealth:* Adam L. Morris, Prosecuting Attorney  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF STATE OFFICE OF CHIEF COUNSEL  
PROSECUTION DIVISION  
P.O. Box 69521  
Harrisburg, PA 17106-9521

*For Applicant:* Jenni H. Chavis, Esquire  
Chavis Law Firm, LLC  
2601 N. Front Street, Suite 204  
Harrisburg, PA 17110

*Date of mailing:*

May 28, 2020





## **NOTICE**

### **SERVICE OF PROPOSED REPORT:**

The foregoing is the proposed report issued in this matter by a Hearing Examiner for the Department of State, in accordance with the General Rules of Administrative Practice and Procedure at 1 Pa. Code §35.207.

### **EXCEPTIONS TO PROPOSED REPORT:**

Any participant who wishes to appeal all or part of the Hearing Examiner's proposed report to the Board must file exceptions in the form of a *Brief on Exceptions* with the Prothonotary of the Department of State within 30 days after the date of mailing shown on this proposed report in accordance with the General Rules of Administrative Practice and Procedure at 1 Pa. Code §§35.211-214.

The *Brief on Exceptions* shall contain a short statement of the case, a summary of the appealing party's position, the grounds for filing exceptions to the proposed report, and the argument in support of the appealing party's position with citations to the record and legal authority. The appealing party may also include proposed findings of fact and conclusions of law.

In the event any participant files exceptions, the Board may substitute its findings for those of the Hearing Examiner, and /or may impose a greater or lesser sanction than that imposed by the Hearing Examiner without regard to the relief requested or the position argued by any party, and without hearing additional argument or facing additional evidence.

Failure to file a *Brief on Exceptions* within the time allowed under the General Rules of Administrative Practice and Procedure at 1 Pa. Code §§35.211-214 shall constitute a waiver of all objections to the proposed report.

### **FILING AND SERVICES:**

An original and three (3) copies of the *Brief on Exceptions* shall be filed with:

Prothonotary  
2601 North Third Street  
P. O. Box 2649  
Harrisburg, PA 17105-2649

Copies of the *Brief on Exceptions* must also be served on all participants to the proceeding.

Briefs on Exceptions must be received for filing by the Prothonotary within the time limits specified herein. Date of receipt by the Office of Prothonotary and not date of deposit in the mail is determinative.





**COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

**David M. Green  
Hearing Examiner**

**davgreen@pa.gov**

**May 28, 2020**

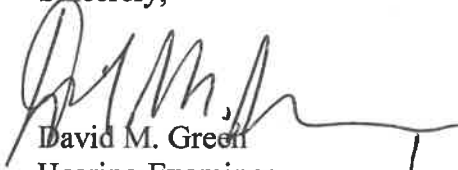
**Jenni H. Chavis, Esquire  
Chavis Law Firm, LLC  
2601 N. Front Street, Suite 204  
Harrisburg, PA 17110**

**RE: Application of Richard Arjun Kaul, M.D.  
File No. 19-49-007483**

**Dear Ms. Chavis:**

**Enclosed is the Proposed Adjudication and Order in this matter.**

**Sincerely,**



**David M. Green  
Hearing Examiner**

**DMG/dg  
Enclosure  
CC w/enclosure: Adam L. Morris, Esquire**





No \_\_\_\_\_

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**In The  
Supreme Court of the Commonwealth of Pennsylvania**

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In re Richard Arjun Kaul, MD

Petitioner

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On Petition for a Writ of Mandamus to the Pennsylvania Medical Board (“**PMB**”) (Case  
No. 19-49-007483)

**EMERGENCY PETITION FOR WRIT OF MANDAMUS**

Richard Arjun Kaul, MD  
Propria Persona  
440c Somerset Drive  
Pearl River, NY 10965

[drRichardKaul@gmail.com](mailto:drRichardKaul@gmail.com)

Dated: December 2, 2020.



The following cases (hereinafter “**The Kaul Cases**”) are related to the instant matter, and are referenced within the petition according to the below key:

K1 - Kaul v Christie: 16-CV-02364

K2 - Kaul v Christie: 18-CV-08086

K3 - Kaul v Schumer: 19-CV-13477

K4 - Kaul v Stolz: 18-CV-01489

K5 - Kaul v Federation: 19-CV-3050

K6 - State criminal indictment v. Defendant Kaufman

K7 - Kaul v Federation: 20-CV-01612

K11-1 - Kaul v Pennsylvania Medical Board: Docket Number Pending

P1 - Kaul/Patel v Allstate: 19-CV-08946

P2 - Kaul/Patel v State of New Jersey/Crist: 19-CV-09232

**For reference purposes:**

“**NJ Defendants**” - Defendants identified in K1 to K7 + P1 + P2.

“**PA Defendants**” - Defendants identified in K11-1



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## **Parties To The Proceeding**

Petitioner: Richard Arjun Kaul, MD (“**Kaul**”)

Respondent: Pennsylvania Medical Board (“**PMB**”)

## **Relief Sought**

Petitioner Richard Arjun Kaul, MD (“**Kaul**”) respectfully requests that this Court grant Kaul’s petition for a writ of mandamus and direct the Pennsylvania Medical Board to: **(i)** immediately issue an order/opinion regarding the May 28, 2020 PROPOSED ADJUDICATION AND ORDER of Hearing Examiner, David M. Green (**Appendix 1: 001**); **(ii)** immediately provide Kaul his requested discovery (**Appendix 2: 27**); **(iii)** promptly submit to the executive and legislative branches of state government a proposed corrective plan of action that brings Defendant PMB into compliance with the mandates of North Carolina Dental Board v FTC 13-534 (2015), the due process clauses of the constitutions of the State of Pennsylvania and the United States; **(iv)** promptly submit to the executive and legislative branches of state government a proposed policy for the future detection of global microbial threats.

Petitioner also respectfully moves this Court to: **(i)** enter a declaratory judgment based on the May 28, 2020 ORDER of David M. Green, that Kaul will be licensed to practice medicine and surgery in the State of Pennsylvania after having completed the state mandated remediation course; **(ii)** enter an order that prohibits under threat of criminal prosecution Defendant PMB/agents/lawyers from using the legal/political apparatus of the State of Pennsylvania to obstruct in any manner Kaul’s practice of medicine and surgery in the State of Pennsylvania; **(iii)** order that members of Defendant PMB/Office



of the PA AG/Office of the Governor disclose monies/material favors/any tangible or intangible instrument of any value received by either them or any members of their family to the third degree, from any of the NJ Defendants within the last decade.

### **Issues Presented + Reasons for Granting The Writ**

That a grant of the petition: **(i)** is warranted because Kaul has a clear legal right to be provided a license as the State of Pennsylvania has already granted his application and the law finds that grant final; **(ii)** is warranted because Defendant PMB has a duty to comply with orders issued by the State of Pennsylvania; **(iii)** is warranted because Kaul has no other appropriate and adequate remedy; **(iv)** will initiate a **“Reformation of American Medical Boards”** (**“RAMBO”**); **(v)** that a **RAMBO** will mitigate the mortality/morbidity threat of any future COVID-19 like pandemics; **(vi)** that a **RAMBO** will eliminate state medical board corruption, reduce healthcare costs and increase public access to life-saving care; **(vii)** will enforce the principles/reasoning of this Court in C. Elder v. BPOA, State Board of Medicine, 66 C.D. 2018 (Pa. Commw. Ct. 2019) ; **(viii)** will hold liable under threat of professional sanction, individuals who have violated the principles/legal reasoning of this Court in C. Elder v. BPOA, State Board of Medicine, 66 C.D. 2018 (Pa. Commw. Ct. 2019); **(ix)** will remedy the injury caused to the state treasury consequent to its deprivation for three (3) years of tax revenue that Kaul would have paid if Defendant PMB had not schemed to obstruct his application for licensure; **(x)** will mitigate the liability of the State of Pennsylvania incurred consequent to the illegal conspiracy of Defendant PMB to knowingly perpetuate Defendant NJBME’s Fraud on the Court; **(xi)** will mitigate the liability of the State of Pennsylvania



incurred consequent to Defendant PMB's vicarious liability for the gross negligence of the failure of Defendant NJBME to **"protect the public"** from the COVID-19 pandemic; **(xii)** will mitigate the liability of the State of Pennsylvania incurred consequent to Defendant PMB's vicarious liability of Defendant NJBME's violation of Supreme Court jurisprudence as set forth in Timbs v Indiana-17-1091; **(xiii)** will establish for the first time in American jurisprudence a basis for the state legislature to codify/quantify the due process clauses of the state constitution regarding the time permitted for an adjudication of an application for medical licensure; **(xiv)** is warranted because Defendant PMB has a duty to comply with orders issued by the State of Pennsylvania.

### **Legal Standard**

The common law writ of mandamus lies to compel the performance of a ministerial act or mandatory duty. Chesapeake Appalachia, LLC v. Golden, 35 A.3d 1277 (Pa. Cmwlth. 2012). **"The burden of proof falls upon the party seeking this extraordinary remedy to establish his legal right to such relief."** Section 16.57 of the Pennsylvania Code establishes this right, the duty of the respondent and the lack of any other adequate and appropriate instrument of enforcement.

### **Statement/Facts/Argument Necessary To Understand Petition**

#### **Statements**

1. This petition is the product of litigation that officially commenced on February 3, 2010 in the State of New Jersey with a politically/economically prejudiced



preliminary evaluation committee of Defendant New Jersey Board of Medical Examiners. However, like a California forest fire, it has over the last decade spread to involve the: **(1)** New Jersey Office of Administrative Law; **(2)** New Jersey Superior Court; **(3)** United States Bankruptcy Court for the District of New Jersey; **(4)** United States District Court for the District of New Jersey; **(5)** United States District Court for the S.D.N.Y; **(6)** United States District Court for the Northern District of Georgia; **(7)** United States District Court for the District of Columbia; **(8)** United States Court of Appeals for the Second Circuit; **(9)** United States Court of Appeals for the Third Circuit; **(10)** United States Court of Appeals for the Eleventh Circuit; **(11)** The Supreme Court of the United States; **(12)** The General Medical Council of the United Kingdom; **(13)** The DEA; **(14)** The FDA; **(15)** The FBI; **(16)** All state medical boards/medical councils in the world; **(17)** The New York Stock Exchange; **(18)** The American political establishment.

2. The decade of litigation in the US has its origins in a challenge made by Kaul on February 2/3 1999 to the British Government to recognize American residency training and board certification as being equivalent to that in the UK (**Appendix 3: 047**).
3. This Court has the power to commence a concluding of the litigation while causing to be effectuated the initiation of a reform of state medical boards/unconstitutional configuration of the mechanism of physician regulation (**Appendix 4: 051**).

## **Fact/Argument**



The below facts substantiate the above fourteen (14) reasons/issues for a grant of Kaul's petition for a writ of mandamus. They are organized chronologically:

1. May 22, 2012 - Email from Kaul's lawyer, Robert Conroy (now deceased) to K2/K5 Defendant and then NJ deputy attorney general, Doreen Hafner  
**(Appendix 5: 068):**

Defendant PMB, by continuing to cover up the crimes of the NJ Defendants, are respectively perpetuating, aiding and abetting both their own crimes and those of the NJ Defendants. Consequently, Defendant PMB has caused the State of Pennsylvania to incur the liability of these crimes, ones that commenced in 2006. This Court has the power to mitigate that liability:

**"I must also warn them [NJ AG-Jeffrey Chiesa + Director of Division of Consumer Affairs-Eric Kanefsky] about engaging in any efforts to obstruct our client's attempt to receive a fair hearing or cover up their previous involvement ... I can assure them that this will ultimately not be judged their finest hour."**

2. September 18, 2017 - Letter from Kaul to Defendant PMB **(Appendix 6: 069):**

Defendant PMB was forewarned of its liability pursuant to RICO:

**"... eight-year campaign of racketeering ... It was against this background, and the fact that my case had been a high profile matter, that many attorneys filed frivolous actions against me, hoping that I would settle, and not want to have the details of the UK case rehashed."**

Defendant PMB violated Kaul's rights by illegally taking possession of highly confidential information from the file of UK Defendant General Medical Council



**(Appendix 7: 072)**. Defendant GMC will cross sue Defendant PMB in K11-1 to protect its interests in American and European courts. The cost and public exposure to the State of Pennsylvania will dissuade domestic and foreign investment. This Court has the power to mitigate that liability:

3. March 19, 2018 - Letter from Kaul to Defendant PMB (Appendix 8: 069):

Kaul provided Defendant PMB fair notice that he would hold it accountable for conspiring with the NJ Defendants to obstruct justice. Such notice deprives Defendant PMB of submitting any argument regarding liability mitigation, as it was forewarned about its criminal conduct but yet persisted in its perpetration. Its liability falls on the State of Pennsylvania. This Court has the power to mitigate that liability and prevent the State of Pennsylvania from being named in The Kaul Cases.

**“ ... I hope that the post-dated request is not a consequence of interference from the Office of the New Jersey Attorney General or the New Jersey Board of Medical Examiners ... The revocation of my medical license in New Jersey, as detailed in ‘The Solomon Critique’ was an illegal act, that is now the subject of a federal lawsuit ...”**

4. April 18, 2018 - Letter from Kaul to Defendant PMB (Appendix 9: 099):

The crimes of the NJ Defendants became the crimes of the PA Defendants when the latter failed to report them to state/federal authorities and or based their denials of Kaul’s applications (2017/2019) for licensure in the State of Pennsylvania, on the illegal revocation of Kaul’s license in New Jersey (2014). Defendant PMB increased its liability by using the unconstitutional, politically



motivated 'conviction' in the UK (2001), as an additional basis for denial.

Defendant PMB committed a massive 'Fraud on the Court', and has rendered itself defenseless against the claims in K11-1. This Court, however, has the power to mitigate the liability of the State of Pennsylvania:

**“Referenced in the aforementioned letter was my intention to notify the United States Supreme Court of the criminal transgressions collectively committed by New Jersey Administrative Law Judge, Jay Howard Solomon and New Jersey physicians, Gregory Przybylski, MD and Andrew Kaufman, MD.”**

5. May 9, 2018 - Letter from Kaul to PA AG, Joshua Shapiro (Appendix 10: 105):

Defendant PMB is a signatory to an illegal legal instrument entitled the **“Interstate Agreement” (Appendix 11: 109)**. This contract with Defendant Federation of State Medical Boards (**“FSMB”**) violates the Commerce and Compact Clauses of the US Constitution, a fact of which Defendant PMB was and is cognizant. The liability of this violation extends to the treasury of the State of Pennsylvania. Similarly, the continuation of this violation deprives Defendant PMB/Members of any defense of sovereign/qualified immunity. Defendant PMB, in collusion/conspiracy with Defendant NJBME, willfully/consciously ignored the conclusive evidence that the revocation of Kaul’s New Jersey license was illegal. In fact, Defendant PMB incorporated that crime and used the name/authority of the State of Pennsylvania to issue a knowingly illegal legal instrument (**Appendix 12: 113**). Defendant PMB then disseminated this illegal legal instrument to every



state/federal healthcare related agency/authority by using the US mail and wires, in furtherance of the schemes detailed in The Kaul Cases. This Court has the power to mitigate the liability of the State of Pennsylvania for permitting itself to be converted into a **“racketeering enterprise”** through the commission of the RICO predicate acts of mail and wire fraud by Defendant PMB:

**“I write this letter to bring your attention to my belief that the New Jersey Board of Medical Examiners has subjected and illegally coerced the Pennsylvania Medical Board (“PMB”), into an agreement that is in violation of the Compact Clause of the United States Constitution, and in the process has denied me my Constitutionally protected right to use my trade to earn a living ... two hundred and seventy-eight (278) separate instances of perjury and evidential omissions, misrepresentations and gross mischaracterizations” (Appendix 10: 105).**

6. July 17, 2018 - Letter from Kaul to Defendant PMB (Appendix 13: 119):

This Court has the power to mitigate the liability of the State of Pennsylvania for the crimes of Defendant PMB:

**“I believe these documents to be further evidence that the revocation of my New Jersey medical license on March 12, 2014, was a consequence of improper conduct, and I hope they are of some assistance to the board in its determination, on July 24, 2018 of my application for medical licensure.”**

7. July 27, 2018 - Letter from Kaul to U.S.M.J. Mannion (Appendix 14: 122):

This letter was circulated by Defendant NJBME to Defendant PMB shortly after it was published to the federal court docket. Kaul commenced his application for



licensure in the State of Pennsylvania in September 2017. Defendant PMB were forewarned of the vicarious liability of their crimes, but were coerced by Defendants Allstate/Geico to persist in their **“pattern of racketeering”** under threat of economic sanction to the State of Pennsylvania:

**“The Ongoing NJBME Enterprise + Vicarious Liability - discovery of all communications ... The PA Board and Defendant NJBME ... The Office of the New Jersey Attorney General and the Office of the Pennsylvania Attorney General.”**

8. August 11, 2018 - Letter from Kaul to Governor Thomas Wolf (Appendix 15: 126):

This Court has the power to mitigate the liability of the State of Pennsylvania for the crimes of Defendant PMB:

**“Alert you the potential liability caused to the Pennsylvania Medical Board and State, consequent to the crimes of mail and wire fraud committed by the New Jersey Board of Medical Examiners (“NJBME”).”**

9. September 25, 2018 - Letter from Kaul to U.S.M.J. Mannion (Appendix 16: 134):

This Court has the power to mitigate the liability of the State of Pennsylvania for the below referenced crimes of Defendant PMB:

**“Dear Justice Albin ... that the Supreme Court of New Jersey immediately enter an Order that stays ... massive Fraud on the Court ... Public Corruption ... defrauding its shareholders, the NYSE and the global equities market ... criminal prosecution ... the letter does NOT have the authority of the Pennsylvania Medical Act ... Defendant Crist [Currently**



**Chairman-Muhlenberg College, Pennsylvania + ex-CEO Defendant  
Allstate-currently major stock holder] having used his political and  
economic influence in Pennsylvania to obstruct my application for a  
medical license ... Two doctors are dead ...”**

10. October 18, 2018 - Letter from Kaul to Wesley Rish (Appendix 2: 004):

This Court has the power to mitigate the liability of the State of Pennsylvania for the crimes/unlawful conduct of Defendants PMB and GMC, the latter for having used the US mail and wires to illegally transmit documents to Defendant PMB in violation of the European Data Protection Act and the former for having violated US state/federal (HIPAA) statutes pertaining to confidential health information.

Defendant PMB also caused the State of Pennsylvania to incur liability consequent to its willful/knowing perpetuation of the crimes of the NJ Defendants and the derogation of its legal duty pursuant to the Pennsylvania Medical Act:

**“The PMB had no intention of ever issuing Kaul a license. The PMB erected knowingly insurmountable obstacles by requesting in March 2018, that Kaul have the General Medical Council and the [sic] K2 defendant, NJBME submit *“letters of good standing”* ... are crimes that the Pennsylvania Medical Board/Counsel have perpetuated ... PMB and counsel failed to consider the evidence ... violation of Kaul’s rights to due process pursuant to the pertinent clauses of ... the Constitution of the State of Pennsylvania and the due process requirement implicit in the Pennsylvania Medical Act.”**

11. October 20, 2018 - Letter from Kaul to Wesley Rish ( Appendix 17: 156):



On May 2, 2018 a landmark bill (SB286) that sought to provide physicians the right to due process in medical board proceedings was advanced out of the Louisiana Senate by 36-0. At the public hearing, Lisa Robbins, a business executive from Defendant Federation of State Medical Boards (for profit corporation) testified against, quite predictably, the introduction of the bill:

<https://www.youtube.com/watch?v=z5f5RaDQ3aE&feature=youtu.be>

At time segment 22:32 Andrew Schlafly, General Counsel for the American Association of Physicians and Surgeons (established 1943) testified:

**“This is an excellent bill ... This could be in a textbook.”**

Kaul emailed a copy of this bill to Rish. His response:

**“ ... the Louisiana legislation setting forth a physician’s bill of rights.**

**However, such legislation has no legal effect in Pennsylvania.” (Appendix 17: 166).** Defendant PMB would refuse to recognize state law that protects the

rights of physicians but yet gave full faith and credit to the crimes committed

against Kaul by the NJ Defendants because it is a one of the **“families”** of the

**“Medical Mafia”**. Kaul will move to have an equivalent bill enacted into law in all

American states, including the State of Pennsylvania. Kaul forewarned

Rish/Defendant PMB that he would initiate legal action:

**“ ... to illustrate that the said application was administered by the**

**Pennsylvania Medical Board in a manner akin to a “sham”, that had no**

**intention of granting me a license ... Pennsylvania Medical Board be**

**subjected to racketeering charges in the United States Federal Court.”**



(**Appendix 17: 157**). On October 1, 2019, Kaul filed K5. In December 2019, Kaul's then lawyer, Jenni Chavis told him NOT to serve Defendant PMB.

12. April 11, 2019 - Letter from Kaul to Defendant PMB (**Appendix 18: 167**):

This Court has the power to mitigate the liability of the State of Pennsylvania for that incurred by Defendant PMB consequent to it having conspired with the NJ Defendants to obstruct justice by predicated the processing of Kaul's license application on the issuance a "**Letter of Good Standing**" from Defendant NJBME. The Pennsylvania Medical Practices Act provides no authority for such a request, as the legislature recognized that to maintain the sovereignty of the state/immunity, the State of Pennsylvania could not permit Defendant PMB to premise licensing decisions on the actions of other states/countries. This would be an admission of the federalization of physician regulation, which would deprive Defendant PMB of sovereign immunity and summarily compel compliance with federal law and grant summary judgment for non-compliance.

**" ... CERTIFICATION OF ARNOLD E. FELDMAN, MD ... detailed a conversation between some of the physicians who conspired to have my license revoked."** The public health rationale underpinning this independence of license adjudication pertains to the issue of the specific healthcare needs of the local market. In the early 1980s Defendant FSMB in collusion/conspiracy with the insurance industry commenced its scheme to initially monopolize the trillion dollar American healthcare market. In furtherance of this scheme of grand corruption, which now extends **globally**, Defendant FSMB bribed federal legislators to have passed in 1986 the deceptively named 'Healthcare Quality Improvement Act', a



piece of law touted as being necessary to supposedly “**protect the public**” from doctors labelled with any of their laundry list of defamatory but meaningless terms “**imminent threat ... grossly incompetent ... moral turpitude ... grossly deviated ...**”, all intended to mislead and inflame the public. Defendant FSMB circulated this verbiage to all state medical boards, with specific instructions of how to target physicians whose clinical practices threatened the economic agendas of healthcare corporations and insurance companies that funneled bribes to Defendant FSMB. Participating state medical boards/members/lawyers were rewarded with monies for compliance (**Appendix 11: 112**), while monies were withheld from those that did not or failed to comply as exactly ordered by Defendant FSMB. Gangsters in suits. Dr/Counsellor Don Corleone.

[https://www.youtube.com/watch?v=0ioA0A-gvZ4&feature=emb\\_logo](https://www.youtube.com/watch?v=0ioA0A-gvZ4&feature=emb_logo)

In 2020, a lethal consequence of this grand scheme of corruption/racketeering is the exceptionally high death rate of American patients with COVID-19, a fact partly accounted for by the callous, economically motivated recalcitrance of state medical boards to issue/reinstate physicians’ licenses (200905). Fewer doctors equates to greater profits for the insurance industry, the trough from which the lawyer/doctor/politician/businessmen ‘hogs’ have fattened/gorged themselves since 1986 at the expense of the American people. Orchestrating this scheme of genocidal corporate greed is Defendant FSMB and the insurance industry. Evil exists. The HCQIA is as the evidence now proves a massive fraud that must be repealed, in order to avoid another catastrophic shortage of doctors. On October



8, 2020 Kaul sent letters to every state medical board (except Defendants PMB/NJBME) enquiring as to whether he would be granted a license in the relevant state. Within the last four months he has received responses from approximately eighteen (18) boards encouraging him to apply for a license. At this point in time Kaul has information that Defendants PMB/NJBME have conspired with certain state medical boards/Defendant FSMB to have them provide Kaul a charade of due process by encouraging him to apply for a license, in the knowledge that they will not grant one. Upon receipt of the letter on or about October 11, 2020, the recipient boards telephoned lawyers/executives at Defendant FSMB/PMB/NJBME, with whom they coordinated a scheme as to which boards would respond and which ones would not. The majority of these boards avoided the use of email due to its discoverability. This constitutes evidence in support of Kaul's claims against Defendants FSMB/NJBME/PMB in K5/K7/K11-1. These include RICO/Antitrust/Section 1983.

13. July 4, 2019 - Letter from Kaul to Kerry E. Maloney (Appendix 12: 117):

**“The legal error of the board’s decision is apparent in its failure to refute/contest/rebut/address the conclusive evidence of ‘The Solomon Critique’ + ‘The Solomon Critique 2’ ...”**

Less than one year on from the admonition of Defendant PMB by this Court in the Elder case, Defendant PMB continued its criminal conduct in the Kaul case, assuming that Kaul would not come to know of the Elder matter. Defendant PMB adopted the position that because its members are on the payroll of the insurance industry, the Supreme Court of Pennsylvania is powerless to enforce



its law against these offenders. On December 1, 2020, at approximately 7 pm EST, PA AG, Joshua Shapiro was quoted in The Philadelphia Inquirer as saying: **“No one is above the law”** in regards to the case of ex-Penn State University president, Graham B. Spanier. However at 4 am EST on December 2, 2020, that quote had been removed and replaced with the more sober: **“We will seek the enforcement of Spanier’s sentence at the first opportunity allowable under the law.”** The reason for the change. The NJ Defendants are tracking Kaul digitally, have hacked into the wix platform hosting his website ([www.drrichardkaul.com](http://www.drrichardkaul.com)) and know that the Shapiro story appeared on his newsfeed. The Defendants must know that in the digital universe one cannot conduct surveillance without being surveilled. Just ask Julian Assange. The Defendants also know Kaul’s propensity for exposing the hypocrisy of the privileged and those in power. For Shapiro to claim **“No one is above the law”** in the Spanier case, but yet not follow the law himself in the Kaul case, is further evidence of the tyrannical/lawless state-of-mind of those that occupy state medical boards/offices of attorney generals. Shapiro will interpret/apply the law to suit the political/economic agendas of himself, his political masters and those from whom he/his masters receive bribes, such as Defendant Allstate. The State of Pennsylvania ranks as the fifth (5th) highest state for the sale of insurance policies sold by Allstate. In 2017, it sold 558,000. The average home/car policy is \$2,000. That equates to \$1.116 billion. Ninety percent (90%) is diverted to shareholders, while ten percent (10%) is used to pay healthcare providers. This Court has the power to turn the tide of the economic war that has been waged by



corporations against the American people over the last four decades. This has caused immense poverty/deprivation of healthcare in Pennsylvania. As of December 1, 2020 there have been 10,563 COVID-19 related deaths. Many of these deaths occurred because of the gross underfunding (diversion of 90% health premiums to shareholders/executives) of the American healthcare system by the insurance industry. The COVID-19 related death rate in Germany is the lowest in the world, while that of the US is the highest. American citizens pay the highest health insurance premiums in the world. However, their access to care has been severely restricted by the insurance industry/corrupted state governments who use corrupted medical boards to eliminate physicians from the healthcare market. This is one of their many illegal tactics. Others include blanket denials of healthcare to many of their injured clients/patients. The list is endless and Kaul could fill a library on this epidemic/plague of corporate corruption. The **SOLUTION**, however, is what matters and this case, this state and this Court can eradicate this plague. The first step involves a “**RAMBO**”, which will commence in the State of Pennsylvania with the enactment of a physician’s bill of rights. “**The Kaul Act**”. Kaul’s journey for physician justice officially began in 1998 in the UK, but unofficially in 1985 when he campaigned against the British government to have junior doctors working hours reduced from 120 hours/week. In 1998 his challenge to the British Government/Specialist Training Authority/Royal College of Anesthetists to have American medical training/board certification recognized in the UK as being equivalent to British training/Fellowship of the Royal College was referenced in news articles/books:



**The London Independent - “Doctor to challenge medical hierarchy”:**

<https://www.independent.co.uk/news/doctor-to-challenge-medical-hierarchy-1168576.html>

**The Shaping of the Medical Profession: The History of the Royal College of Physicians and Surgeons:**

<https://www.amazon.com/Shaping-Medical-Profession-Physicians-Surgeons/dp/1852851872>

This Court has the power to mitigate the liability incurred by the State of Pennsylvania consequent to the conspiracy of Defendant PMB with the NJ Defendants/Defendant GMC to perpetuate their crimes (commenced in 2006) using the funds, authority and legal apparatus of the State of Pennsylvania.

14. July 30, 2019 - Letter from Kaul to Maloney (**Appendix 19: 170**):

Defendant PMB in full knowledge of the law and its legal obligations regarding the issuance of medical licenses, continued to violate the law and willfully abrogate its legal duty:

**“Dr. Elder’s case is legally identical to mine, and there now exists precedent that unequivocally supports my application for medical licensure in the Commonwealth of Pennsylvania.”**

Kaul reminded Defendant PMB of an admonition it received from the Pennsylvania Supreme Court on November 13, 2018 regarding its abuse of discretion and legal error in violating the right to a livelihood of Dr. Christopher Elder:



**“We hold that the Board erred and abused its discretion by using Elder’s ten-year-old conviction to evaluate his present moral character ...”**

**“regardless”** (**Appendix 19: 199** verbatim: Suzanne Zerbe on July 8, 2020)

Defendant PMB has continued its lawless conduct. Only a criminal indictment will convince Zerbe and Defendant PMB that they must follow the law. It is this admitted lawlessness that Defendant NJBME accepts is responsible for the COVID-19 pandemic (**Appendix 20: 244**). Defendants PMB and NJBME are constituent parts of the **“one unit”** (**Appendix 21: 247**) and are thus each liable for the wrongdoing/crimes of the other parts. **“The crime of one becomes the crime of all.”**

15. August 1, 2019 - Kaul v Federation: 19-CV-3050 - Admissions of Fact by Defendant PMB (**Appendix 11: 111**):

**“Your medical board is configured and operates in violation of the due process clauses of the United States Constitution ... Your medical board is not in compliance with the antitrust purposed FTC supervision regulations, as referenced above in point 5 ... The medical board is a signatory to the interstate agreement, and shares confidential licensee information within the F.S.M.B.”**

The only remedy to the lethal lawlessness (COVID-19 morbidity/mortality) of Defendant PMB and thus by reason of the **“one unit”**, all American state medical boards, is to hold Defendant PMB in contempt of court and indict Zerbe and Defendant PMB president, Defendant Dr. Mark B. Woodland. This will establish precedent that the law will exact within the entire US, an enforcement



that will cause a “**RAMBO**” and thus mitigate the death rate of any future microbial threats. Over the last four decades, consequent to corporate corruption, the entire system of physician regulation in America has become interminably corrupted and is an ongoing and “**imminent threat**” to the American public. The “**Corporate-Soylent Machine**”.

16. October 1, 2019 - Kaul v Federation: 19-CV-3050 (Appendix 4: 051):

The Admissions of Fact of Defendant PMB constitute evidence in the above matter sufficient for summary judgment in K5, K11-1 and for a claim against the State of Pennsylvania for derogating its duty in permitting Defendant PMB to violate the law and for failing to enforce the law. This Court has the power to mitigate the liability of the State of Pennsylvania. Defendant PMB came into possession of this Complaint immediately after it was filed (October 1, 2019) in the United States District Court for the District of Columbia, but yet it continued to collude/conspire with the NJ Defendants in its “**pattern of racketeering**”.

**“The current internal procedures of state medical boards violate the ... due process clauses of the United States Constitution ...”**

17. March 9, 2020 - Email from Elder to Kaul (Appendix 22: 251):

The email and attached letter evidence a “**pattern**” of misconduct that violates the cruel and unusual clause of the Constitution. This talks to the gross psycho-pathology invariably found in physicians/lawyers/administrators that parasitize the physician licensing arm of the American healthcare sector.

Defendant Lomazow typifies these miscreants:

<https://www.youtube.com/watch?v=sFtE8EvEMsU&t=1s>



Further compelling evidence of why it is in the public interest for there to be an urgent **“RAMBO”**.

18. May 28, 2020 - COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF STATE, GOVERNOR’S OFFICE OF GENERAL COUNSEL - PROPOSED ADJUDICATION AND ORDER (Appendix 1: 001):

Defendant PMB has taken an illegal position against the law and the State of Pennsylvania, and has thus caused it to incur immense financial/legal liability, that this Court has the power to mitigate:

**“AND NOW, this 28th day of May 2020, in accordance with the foregoing findings of fact, conclusions of law and discussion, it is hereby ORDERED that the Application to Practice Medicine and Surgery of Richard Arjun Kaul, M.D. (“Applicant”) is GRANTED ...”**

19. June 18, 2020 - Kaul v Federation: 20-CV-01612 (Appendix 20: 244):

By reason of the **“one unit”** Defendant PMB has assumed culpability for COVID-19 related mortality and morbidity.

**“As a consequence of Defendants gross negligence, Plaintiff Kaul has suffered further and ongoing economic injury, because his application for licensure in Pennsylvania has been delayed as a result of the COVID-19 pandemic ... The Defendants perversion is directly responsible for the COVID-19 related mortality and morbidity. Had the Defendants fulfilled their duty of care to the public, the viral genocide would either not have occurred or been substantially mitigated.”**



20. June 24, 2020 - Kaul v Christie: 16-CV-02364 - Third Circuit Case Number: 19-3113 (Appendix 23: 255):

This Court, The Kaul Cases and this petition are positioned in an unprecedented way to change American healthcare for the greater good of the people. The historic import of this petition was predicted by Kaul's lawyer, Robert Conroy (now deceased but looking down), when on June 13, 2012 he told Defendant NJBME:

**“Seldom do there come cases in which the very fundamental nature of the board is at issue. Seldom. This is one of them. This will be a case that we’ll be cited for many propositions, many times in the future, regardless of how it comes out. It will be an important case, a case so important that you should think long and hard before you vote to reconsider that which you’ve done already because you got it right the first time.” (Appendix 23: 258).**

This Court has the attention of the United States Court of Appeals for the Third Circuit, the Supreme Court of the United States and the American medical profession:

**“... the outcome of the above cases will have consequences for thousands of members of the American medical profession, who have been victims of medical board corruption.” (Appendix 23: 264).**

The executive director of Defendant NJBME, William Roeder, became Defendant Roeder on June 18, 2020 (200618). Suzanne Zerbe, his opposite number in the State of Pennsylvania, has admitted to unlawful conduct (**Appendix 11: 111**) and



thus the law would grant summary judgment to claims founded on these violations.

21. July 8, 2020 - Defendant PMB Notice of Intent to Review (NIR) PROPOSED ADJUDICATION AND ORDER of the decision of the COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF STATE (Copied to Department of State Counsel, Adam Morris and Kaul counsel, Jenni Chavis) - (Appendix 19: 199):

Defendant PMB submitted an untimely NIR (deadline was June 17, 2020).

**“AND NOW, this 8th day of July, 2020, the State Board of Medicine (“Board”), in accordance with the Board’s regulation found at 49 Pa. Code Section 16.57, hereby gives notice of its intent to review the hearing examiner’s Proposed Adjudication and Order issued on May 28, 2020 ... “.**

Kaul first came into possession of this document on October 1, 2020, after he instructed his counsel to withdraw from the case and requested a copy of his file.

The piece of law cited to by Defendant PMB did not and does not authorize

Defendant PMB to review the decision of the State of Pennsylvania: **“Section**

**16.57 - Appeal from the hearing examiner’s decision (a) Unless otherwise ordered by the Board, the decision of the hearing examiner becomes final**

**20 days after its issuance.”** The law therefore finds that the May 28, 2020

decision of hearing officer David M. Green is final and thus Kaul will be in

possession of a medical license in the State of Pennsylvania after completion of

remedial course. Kaul achieved this despite a premeditated scheme orchestrated

by Defendants Allstate/Geico/FSMB/State of New Jersey to obstruct justice and

hinder/delay and attempt to deny Kaul’s application for medical licensure in



Pennsylvania (a “**battleground state**”) (**Appendix 23: 264**). Defendants Allstate/Geico/FSMB/State of New Jersey in perpetrating the scheme converted the administrative/political/judicial bodies of the states of Pennsylvania/New Jersey into an association-in-fact racketeering enterprise. **BELOW IS A SERIES OF EMAILS** (**Appendix 24: 273**) that further evidence this irrefutable fact and the fact that Kaul’s counsel, Jenni Chavis, did become a co-conspirator in this enterprise purposed to, and that did, obstruct justice (September 2017 to 2020) and “**flagrantly**” (word of K2/K5 Defendant/NJ DAG, Doreen Hafner on June 13, 2012-Lies + Willful Deception + Fraud on the Court) (**Appendix 23: 256**) violate Kaul’s constitutionally protected right to due process. Until recently, Chavis provided counsel to Defendant PMB. Defendant Hafner’s knowingly illegal/malicious misconduct (2012 to the present) “**shocks the conscience**” of the public and is indeed an “**imminent threat to the public**”. This supposed officer of the court has knowingly/willfully/maliciously violated the law. On June 13, 2012 Defendant Hafner committed perjury on a massive scale. She stood in front of almost sixty (60) politicians/lawyers/physicians/journalists in the Richard J. Hughes Justice Complex in Trenton, NJ (opposite the point at which in 1776 Washington crossed the Delaware River and turned the tide of the Revolutionary War) and **lied** for more than nine (9) hours. Her motivation was the promise of professional advancement. Her method was to pervert the course of justice and her purpose was to destroy the economic standing/reputation/career of Plaintiff Kaul: “... I felt that she [Hafner] exploited me, and lied to me to get me to testify against Dr. Kaul ... I believe that Hafner lied to me about Dr. Kaul ...



**Hafner exploited my situation to serve her own purpose, which was to take away Dr. Kaul's livelihood, and destroy his reputation.” (Appendix 25: 305).**

Kaul filed an ethics complaint against Hafner on September 16, 2013 (**Appendix 26: 315**). However long it takes, Kaul will ensure that Defendant Hafner loses her law license, as he will with ensuring her co-conspirator Defendant Kaufman loses his medical license/becomes incarcerated. The misconduct of Walter and Chavis has perpetuated the massive crimes/conspiracy against Kaul that the Defendants commenced in 2006 in, through and with the State of New Jersey/state government and all administrative/judicial bodies within the geographic boundaries of New Jersey, crimes in which Defendant Hafner played a critical and career-ending role. Walter and Chavis, consequent to their proven malfeasance, have incurred the exact same professional liability as Defendant Hafner. Defendants Allstate/Geico/TD Bank conspired with the State of New Jersey/local federal authorities to destroy the economic standing/professional reputation/livelihood and life of Kaul, be it through incarceration/sucide/deportation. The Kaul Cases, which will expand to include any **“new racketeering injuries”** claims that will be filed by Kaul in district courts in states that deny him a license based on the illegal revocation (NJ) or any of its sequelae (lawsuits/time out of practice). These claims will continue to drive down the market capitalization of Defendants Allstate/Geico-Berkshire Hathaway/TD. Within the last three months, Defendants Allstate/Geico-Berkshire Hathaway have engaged in market manipulation to illegally and artificially elevate their share price and market capitalization. Kaul will publicize these facts. The



financial health of the pension fund of the State of Pennsylvania is linked to these market indices.

**Evidence of Obstruction of Justice + Racketeering (Mail Fraud + Wire Fraud):**

July 8, 2020 - Notice of Intent to Review ("NIR") (Appendix 19: 199):

**“AND NOW, this 8th day of July, 2020 ... 49 Pa. Code Section 16.57 ... regardless of whether exceptions are filed to the hearing examiner’s proposed report and order.”** Walter cites 49 Pa. Code Section 16.57 as the legal authority on which she files the **“Notice of Intent to Review”** but then undermines that foundation by violating its central due process related tenet, i.e. that after **20 days** the decision of the hearing examiner becomes **final**. The NIR was and is illegal, a fact known to both Walter and Chavis. However, Walter used the US mail and wires to transmit a knowingly false legal instrument in furtherance of Defendant PMB’s **“pattern of racketeering”** and Chavis, in the knowledge that the NIR was fraudulent, consented to and did accept it, an offense no different to money laundering. Chavis became explicitly complicit in the crimes of Defendant PMB. Chavis did not provide Kaul this document until October 1, 2020. The complicitness of Chavis explains why in September 2020 she vehemently resisted Kaul’s request to send a letter to Walter enquiring as to when Defendant PMB would issue its decision. The crime followed by the cover-up. The following emails - August 3, 2020 (Page 29) to October 1, 2020 (Page 39) - are found in (**Appendix 24: 273**):

August 3, 2020 - Email-Kaul-Chavis:



7:12 AM - Kaul - **“With the board having considered my application on Tuesday July 28, 2020, within what time does the law obligate them to issue their decision?”**

11:54 AM - Chavis - **“There isn’t a specific time that they must issue their decision ... Of course, you cannot find a more vague term than “timely manner”.”**

Chavis, in the knowledge that the NIR of Defendant PMB was illegal, failed to inform Kaul of this fact, because she was in conspiracy with Defendant PMB against Kaul. This constitutes a violation of her professional code of conduct (Rules 1.4 + 1.7), in addition to substantiating a civil claim.

August 17, 2020 - Email-Kaul-Chavis:

8:26 AM - Kaul - **“Is it unlawful for the medical board to impose any “costs” on any physician who applies for licensure in the State of Pennsylvania?”**

8:39 AM - Chavis - **“When I mentioned costs I was thinking generally about tactics board use as barriers to licensure. Typically, adding costs is an issue for disciplinary cases.”**

Defendant PMB/Walter had discussed using the illegal imposition of costs with Chavis in order to obstruct justice and attempt to prevent Kaul from obtaining a license in Pennsylvania. Defendant NJBME employed this **“tactic”** on March 24, 2014 when it imposed an illegal/unconstitutional ‘fine’ of \$475,000 on Kaul in addition to illegally revoking his license. It then used this ‘fine-crime’ to deny Kaul’s applications for license reinstatement in June 2015 and August 2019. Defendant NJBME is named in K2/K5/K7. This **“tactic”**, one of imposing



excessive fines, has now been adopted by many state medical boards. The imposition of excessive fines is illegal as it violates individuals Eighth Amendment rights, as set forth in Timbs v Indiana by Justice Ginsburg.

August 18, 2020 - Email-Kaul-Chavis:

Chavis failed to inform Kaul that under the law he would be in possession of a license after completing the remediation course and that the NIR filed by Defendant PMB/Walter was fraudulent. Chavis also failed to notice Walter on June 17, 2020 that pursuant to **49 Pa. Code Section 16.57** the decision of David M. Green was final and Kaul would become licensed in the State of Pennsylvania. In fact, on June 4, 2020 Kaul commenced his application for remediation program at LifeGuard/The Medical Foundation of the Pennsylvania Medical Society. The program accepted him, a \$400 down payment was made, but Chavis told him to refrain. Chavis did not tell Kaul that if Defendant PMB did not object by June 17, 2020, the opinion of the State of Pennsylvania would be final. Chavis was conspiring with the PMB Defendants against Kaul.

10:31 AM - Kaul - **“Please could you inform the medical board in writing that if they do not issue my license without any modification, then I will have them/members served in K5 and I will file a [petition for a] writ of mandamus in the state court system ... Please also inform them that the hospitals at which they work will be named in K5, as it is my position that they conducted their “pattern of racketeering” on the premises of these facilities, and thus conferred liability on the hospitals ... If I am obligated to move in the state court system, I will be requesting that the State of**



**Pennsylvania mandate a monitoring system for the board ... Please also inform the medical board in writing that if I am not in possession of a license by August 31, 2020, I will aggressively pursue legal recourse to vindicate my rights.**

9:33 PM - Chavis - **“There are no state courts that have jurisdiction over administrative issues except Commonwealth Court and that court will not direct the board to issue decision [sic] based on a writ of mandamus.”**

**September 8, 2020 - Email-Kaul-Youtz (LifeGuard Program/Pennsylvania Medical Society-\$10,000- mandated by David M. Green as precondition for licensure in addition to five (5) years of monitoring paid for by Kaul):**

Youtz had become aware of the crimes Defendant PMB was committing against Kaul and was seeking to permanently delete any evidence relating to the matter, in order to avoid becoming a Third-Party Witness to their wrongdoing.

2:19 PM - Youtz - **“Our last communications with your attorney, Ms. Chavis on July 22nd stated you had a hearing scheduled on July 28th and we were to hold your application & proposal until after ... not heard back regarding your status ... will delete all information related to your application.”**

Kaul - **“I was informed by Ms. Chavis that the medical board is convening in the early part of this month to render its decision.”**

3:35 PM - Kaul - **“I understand that you spoke with my attorney, Jenni Chavis, about four weeks ago ... I was informed by Ms. Chavis that the medical board is convening in the early part of this month to render its decision. In fact, earlier today I sent an email to Ms. Chavis to enquire as to**



**the date. Can you please maintain my file until I hear from the medical board.”**

September 8 - October 1, 2020-Email-Kaul-Chavis-Walter-Youtz:

The below email exchange evidences a perpetuation by the PA Defendants of the crimes of the New Jersey Defendants. Walter/Chavis conspired to attempt to deceive Kaul into thinking that Defendant PMB **“deliberated”** on his case on September 2, 2020 and to obstruct Kaul from inquiring of Defendant PMB, the date his case would be **“deliberated”**. Defendant Walter lied to Chavis. Chavis knew it was a lie, but she was part of the conspiracy, which explains why she refused to send an inquiry letter to Defendant PMB as requested by Kaul. Kaul confirmed with Sargents, the transcription agency used by Defendant PMB, that his matter had never been on the agenda for September 2, 2020. When Kaul presented this information to Chavis, her response was: **“That’s odd. Even when I reached out to board counsel she indicated it was deliberated at the last board meeting. I took that to mean September 2 rather than July 28th”** (September 15, 2020 - 10:02 AM). Chavis failed to inform Kaul that the NIR was a fraud (omission) and instead of simply sending Walter an inquiry letter, she falsely claimed surprise (commission). Chavis, a lawyer, well versed in deceit, was a co-conspirator of Defendant PMB/Walter, but a lawyer who had been paid \$8,500 to represent Kaul. Thus she had to avoid placing Defendant PMB/Walter under scrutiny, which an inquiry letter would have done, while simultaneously concealing the crimes of the PA Defendants and deceiving Kaul into thinking she was representing his interests. Chavis had received instructions from the



Defendants (PA + NJ) to provide Kaul with intentionally misleading and false information, and to not inform him that the NIR was fraudulent.

Chavis failed to inform Kaul that the NIR was fraudulent. Walter and Chavis conspired to ensure Kaul received this supposedly confidential email (September 9, 2020 - 3:51 PM) from Walter to Chavis, in order to deceive him into thinking Defendant PMB had **“deliberated”** on his application, although

Chavis/Walter/Defendant PMB knew the law provided no authority to **“deliberate”** and pursuant to Pa. Code Section 16.57 the May 28, 2020 decision was final and Kaul was already in possession of a license in Pennsylvania. This conduct constitutes the predicate acts of mail fraud/wire fraud/conspiracy, a **“pattern of racketeering”**, in which the PA Defendants have converted the State of Pennsylvania into a **“racketeering enterprise”**, purposed to, amongst other things, conceal the crimes committed against Kaul (2006 to 2020) by the NJ Defendants. Walter lied about the September 2, 2020 **“deliberations”**, as Kaul confirmed on September 23, 2020: **“Dear Ms. Chavis: The minutes of the meeting from September 2, 2020 indicated that my case was NOT heard.”**

(September 23, 2020 - 11:58 AM). Chavis conspired with Walter to use the US mail and wire to perpetuate this lie, in an attempt to continue to conceal the massive crimes of the NJ Defendants. Pursuant to RICO and doctrines of vicarious liability the PA Defendants have become liable for the crimes of the NJ Defendants and vice versa. **“The crime of one becomes the crime of all.”**

Walter/Defendant PMB conspired with the NJ Defendants to propagate this lie across the US mail and wires as part of an association-in-fact racketeering



enterprise purposed to obstruct justice and 'cover-up' the crimes of the NJ Defendants. This scheme of grand corruption was orchestrated by Defendants Allstate/Berkshire Hathaway-Geico/TD Bank. The corporate puppet-masters of the States of Pennsylvania and New Jersey. The Defendants (PA + NJ) immense desperation betrays the immensity of their crimes and their immense ever increasing fear of economic ruin, public humiliation and incarceration. In 2006 they believed they could 'pull-off' the 'crime of the century'. In 2020, they are the 'crime of the century' and that crime is one against humanity; the COVID-19 pandemic. Callous, ruthless corporate profiteering that continues to kill innocent Americans. Eisenhower warned of the military-industrial complex. Kaul warns of the "**Corporate-Soylent Machine**" (ala. "**Soylent Green**").

Chavis: (i) continued to fail to inform Kaul that Defendant PMB had issued a fraudulent NIR; (ii) knew from her communications with Walter that Kaul's case had not been heard on September 2, 2020; (iii) continued to render willful misrepresentations to Kaul in an attempt to conceal the crimes being committed against him by Defendant PMB, and to prevent him from obtaining a license in Pennsylvania. Chavis, consequent to her communications with Walter, who had communicated with the NJ Defendants, understood that if Kaul obtained a license in Pennsylvania it would further undermine the Defendants' defenses in The Kaul Cases and would add an economic thrust to Kaul's prosecution of the Defendants. The corruption in these cases is deep and involves 'The Foundation of the Pennsylvania Medical Society/LifeGuard Program' whose directors sought to permanently eliminate from their servers any evidence related to Kaul or the



within referenced matters, in an attempt to negate their status as a Third-Party Witness to the crimes of the Defendants (NJ + PA). Individuals at the Pennsylvania Medical Society have knowledge of these crimes.

September 8, 2020-1:42 PM - Kaul - **“Dear Ms. Chavis ... Do you know on what date my application will be heard by the medical board?”**

September 8, 2020-2:19 PM - Youtz (LifeGuard Program) - **“Our last communication with your attorney, Ms. Chavis on July 22nd stated you had a hearing scheduled on July 28th ... To date we have not heard back ... closing your file and will delete all information related to your application.”**

September 8, 2020-3:35 PM - Kaul - **“I was informed by Ms. Chavis that the medical board is convening in the early part of this month to render its decision ... please maintain my file until I hear from the medical board.”**

September 9, 2020-6:55 AM - Chavis - **“I didn’t see your case on the September 2nd agenda.”**

September 9, 2020-7:31 AM - Kaul - **“What is the reason for the excessive delay in adjudicating the opinion of David Green, an opinion that was issued on May 27, 2020 ... At what point in time would you recommend I seek relief from the state/federal court systems, if no board decision is issued? ... Can you please send a letter to the Pennsylvania Medical Board that requests: 1. They confirm in writing the date that my application for licensure will be adjudicated. 2. They provide an explanation as to why there has been an excessive delay in adjudicating the opinion of David Green. 3. The Pennsylvania Attorney General, Josh Shapiro, provides an**



**exact legal definition/case law of the term: “timely manner”. 4. The reason as to why they did not adopt the opinion of the hearing officer, David Green. Please ... email me a copy ...**

September 9, 2020-7:33 AM - Kaul - **“If you are busy, I can draft the letter. Please let me know before 5 pm EST today.”**

September 9, 2020-9:16 AM - Kaul - **“ ... please also tell me when the agenda for October 27th, 2020 will be issued and confirm if my name is on the agenda.”**

September 9, 2020-3:51 PM - Walter - **“The Board deliberated on this matter directed counsel to draft a Final Adjudication and Order, which will be issued in due course. I cannot tell you at this time whether it will be on the October agenda or the following agenda.”**

September 9, 2020-6:02 PM - Chavis - **“As you can see, they provided a vague response. While there is no statute that dictates when they must issue a response ... “in due course” = as quickly as possible.”**

September 9, 2020-6:07 PM - Chavis - **“All matters that will be added are typically sent in 2 weeks in advance of the meeting. I will have to confirm when they actually issue the agenda to the public and let you know ... I am not certain I know to which letter you are referring.”**

September 9, 2020-6:11 PM - Kaul - **“Dear Ms. Chavis: Where is the transcript of their deliberations retained?”**

September 9, 2020-6:18 PM - Kaul - **“The letter requesting they: 1. confirm in writing the date my application will be adjudicated; 2. Provide a definition**



**of the term “timely manner”. The latter point is a pure legal question that the courts should address.”**

September 11, 2020-8:45 AM - Kaul - **“Could you please inform me as to where the transcript of the September 2, 2020 medical board hearing is retained.”**

September 11, 2020-9:01 AM - Chavis - **“ ... I don’t know if they just recorded the meetings via the platform they use or supplement the recording with the transcript. Either way, Sargent’s should be able to tell you.**

September 14, 2020-2:34 PM - Kaul - **“I just had a conversation with an individual at Sargents. She cannot find any record of my name on the board agenda of September 2, 2020, but she said she will ascertain if there was an oversight.”**

September 15, 2020-10:02 AM - Chavis - **“That’s odd. Even when I reached out to board counsel she indicated it was deliberated at the last board meeting. I took that to mean September 2 rather than July 28th.”**

September 16, 2020-10:36 AM - Kaul to Chavis - **“The name of the person with whom I spoke on September 14, 2020 is “Kim”. They [Sargents] had the transcript from February 7, 2020, but she said there was no transcript from September 2, only minutes of the meeting, on which she did not see my name ... Could you please send the board a letter asking for clarification of this.”**

September 16, 2020-10:48 AM - Kaul - **“Could you please send the board a letter asking for clarification of this point and direct me to the public forum**



**on which the minutes are published ... I will wait for the minutes, but if my application was not addressed I will commence legal action. The delay is illegal, as is the fact that there exists no statute re: “timely manner”. The board/members can raise their defenses in court.”**

September 18, 2020-6:58 AM - Kaul to Chavis - **“Could you please inform me as to whether you will send a letter to the board re: clarification of whether my case was discussed on September 2, 2020 ... liability of the state viz. a viz the Compact Clause. The State of Pennsylvania has not, and cannot now refute the within facts.”**

September 21, 2020-2:32 PM - Kaul to Kaul re: Chavis conversation - **“Chavis stated that she did not want to send a letter to board counsel re: date of issue of its decision, because she believed it would antagonize the board against me ... Chavis did not explain why a letter would harm my application ... I told Chavis that the board’s “prevaricating” was illegal and would give me no option but to sue them.”**

September 23, 2020-11:58 AM - Kaul to Chavis - **“The minutes of the meeting from September 2, 2020 indicate that my case was NOT heard. Could you please send a copy of your file and send a letter to board counsel seeking clarification on the discrepancy between her communication to you that the matter was on the agenda and the fact that it was not.”**

September 25, 2020-2:38 PM - Kaul to Chavis - **“I would like to ascertain if there has been any willful misrepresentation or fraud by state actors, before I commence legal action, in order to provide these individuals an**



**opportunity to tell the truth. I also do not want to burden the courts with lawsuits unless these individuals force me to do so.”**

September 28, 2020-9:39 AM - Chavis to Kaul - **“Perhaps your case was heard on July 28th ... Does the Kim you spoke to work for the board or the court reporting company?**

October 1, 2020-7:52 AM - Youtz to Kaul - **“ ... we will be closing and deleting your application and related documents from our system and refunding your application fee.”**

October 1, 2020-8:31 AM - Kaul to Youtz - **“Please accept this email as legal notice NOT to delete your file regarding my application, as I will be initiating legal action v. the PA medical board/members.”**

22. September 5, 2020 - Admissions statement of NJ Senate President, Steven Sweeney (Appendix 27 ---):

By reason of the **“one unit”** of American state medical boards, Defendant PMB is liable for the crimes of Defendant NJBME. The corruption of the **“one unit”** by Defendants Allstate/Geico is the direct and proximate cause of COVID-19 related mortality/morbidity and is the **“racketeering enterprise”** in which these Defendants conspired with Defendant PMB to hinder/obstruct/delay/deny Kaul’s application for licensure in Pennsylvania. Defendants Allstate/Geico occupy more than fifty percent (50%) of the auto insurance market in the States of Pennsylvania/New Jersey. On September 19, 2020 Sweeney, a recipient of bribes from Defendants Allstate/Geico admitted:



**“I admit that in a period commencing in or about 2008, I did knowingly/willfully abuse the power of public office and did conspire with the individuals named below to have the New Jersey Board of Medical Examiners manufacture a false case against Richard Arjun Kaul, MD, the purpose of which was to .... increase the profits of Allstate Insurance Company + GEICO by creating an environment of fear/paranoia in which physicians did not practice medicine and thus did not submit professional invoices ... I acknowledge that had the New Jersey state government/NJBME/state politicians not permitted themselves to become corrupted by Allstate/Geico, then the NJBME would have detected the COVID-19 threat and forewarned the public.”**

23. September 23, 2020 - Admissions of Fact by PA AG Joshua Shapiro (Appendix 28 ---):

Defendant PMB has admitted to violations of RICO and thus there neither exists, nor can exist, any dispute as to any material fact pertinent to RICO/Sherman/Clayton claims against Defendant PMB/members. Defendant PMB has admitted to the claims charged in K5 and is thus subject to summary judgment.

**“In my capacity as the Attorney General for the State of Pennsylvania, and as a public servant who has direct first-hand knowledge of evidence relevant to the within claims, arguments and issues, I attest that the claims asserted by Plaintiffs Kaul + Feldman are true ... The PMB and its counsel have violated their code of professional conduct, Pennsylvania state law**



**and federal law by failing to report the crimes of K2 defendants to the Fraud + Public Corruption Unit of the United States Department of Justice, and in failing to do so have aided and abetted their racketeering and antitrust violations ... I hope that the PMB is able to recognize the crimes that were committed against me, my family and my patients, when my ability to make a living and provide care to patients was so wrongly and illegally confiscated. I hope that you are able to persuade the PMB to take action that is consistent with the law and to admit or deny that the NJBME has interfered with my application.”**

24. September 25, 2020 - Notice of litigation from Kaul to PA hospital systems

**(Appendix 29: 325):**

The unlawful conduct of Defendants Woodland/Valigorsky/Domen/Yealy, a consequence of amongst other things, their conspiracy with the New Jersey Defendants, has caused the four largest hospital systems in the State of Pennsylvania to incur liability in excess of \$9 billion. The economic injury to the state treasury in conjunction with the indefinite and unrelenting COVID-19 related financial pressures has the potential to negatively impact employment rates.

Defendants Allstate/Geico will profit from these consequences as less patient care will be provided and thus in excess of ninety (90) cents of every health dollar will be diverted to obscene shareholder and corporate profit.

**“ ... your hospital has incurred legal liability consequent to the unlawful misconduct of Dr. Mark B. Woodland ... Dr. Paul J. Valigorsky ... Dr. Ronald Domen ... Dr. Donald M. Yealy ... illegal conspiracy ... obstruct my**



**application for medical licensure in Pennsylvania .... “pattern of racketeering” ... RICO claim ... I do hope this action can be averted.”**

25. October 8, 2020 - Admissions of Fact by Defendant Christie (Appendix 30: 357):

Defendant PMB is liable pursuant to RICO, doctrines of vicarious liability and by reason of the **“one unit”** for the admitted wrongdoing of the NJ Defendants, and is thus subject to summary judgment.

**“I confirm that this obstruction involved, amongst other things: ... (ix) conspiring with the Defendants to obstruct Plaintiff Kaul’s application for medical licensure in the State of Pennsylvania + attempt to co-opt all state medical boards (2017 to the present) to deny Plaintiff Kaul a license, should he apply.”**

26. November 3, 2020 - Kaul petition to SCOTUS for a writ of mandamus (Appendix 31: 362):

A **“RAMBO”** will save millions of lives. The American judiciary (administrative/state/federal) plays a critical role in American healthcare, and along with the executive and legislative branches its purpose is to serve the people. Kaul respectfully asserts, however, that it has for too long issued decisions that have given too much deference to state medical boards. The lack of accountability of state medical boards/members in conjunction with, Kaul respectfully asserts, misguided doctrines of immunity, has inadvertently facilitated the corruption of state medical boards by for-profit healthcare corporations. This corruption is directly responsible for COVID-19 related mortality/morbidity. Since 1974 American courts have had multiple opportunities



to stem this corporate corruption and compel state medical boards to come into compliance with the law. State legislatures take their cues from the courts and because the courts have given free reign to state medical boards, which in all truth are nothing more than trade associations, American healthcare and thus the American public have sustained massive ongoing injuries. This Court and this petition constitute a point in American legal history in a state not unfamiliar with revolutionary change, a point, one of inflection, from which there exists an opportunity to change the world for the better and reignite the moral arc on its journey to justice. This Court has that power. The power to save the American spirit.

**“Kaul respectfully asserts that a grant of a writ will mitigate future threats of COVID-19 like microbial pandemics and is warranted because of the exceptional circumstances that exist in this case.”**

Kaul believes it will assist this Court to know the malevolent un-American, almost communist-like nature of physicians/lawyers that sit on state medical boards. The majority of these physicians/lawyers are sociopaths, as illustrated by this video of Defendant Steven Lomazow, MD:

<https://www.youtube.com/watch?v=sFtE8EvEMsU&t=18s>

It is also noteworthy that many of these physicians did not attend highly ranked medical schools and generally failed in clinical medicine. They have the same psycho-pathology as people who yearn for the wrong reasons to be police officers. This explains their morbid thirst for power over other physicians.

27. November 9, 2020 - Affidavit of Dina M. Kaul (Appendix 32: 410):



Defendant PMB is liable for the injuries detailed in the affidavit of Dina M. Kaul. Corporate corruption of state medical boards causes immense economic injuries to the public purse, but floods illegal profits (COVID-19 'blood money') into the ravenous pockets of corporate shareholders and executives. The horrors to which the PA/NJ Defendants have subjected Kaul's family are the same atrocities to which the families of thousands of other American physicians have been victims. Suicide, incarceration, divorce, drug/alcohol/domestic abuse are just a few of the life-ending/changing consequences of medical board/corporate corruption.

**“Defendants’ malicious violation of my maternal rights + Foreclosure of home + Deprivation of child support + Lawsuits + Bankruptcy + Defendants burglaries of Bernardsville home + Attack on Plaintiff’s Surgical Center + Sheriffs + Claim Evidence ... Both my children and I have suffered immensely, and continue to suffer because of the Defendants criminal scheme, as described in the above cases.”**

28. November 12, 2020 - Kaul opposition to ORDER + OPINION of U.S.D.J. John Michael Vazquez (Appendix 33: 424):

The New Jersey Defendants have corrupted the United States Court for the District of New Jersey, a court in which justice and the good of the people has been subjugated to profit. The NJ Defendants have converted the court into a **“racketeering enterprise”** and on July 7, 2020 they admitted to the claims asserted in K1. Defendant PMB is vicariously liable for these admissions. On July 7, 2020 Kaul noticed the K1 Defendants as follows:



**“The admitted facts/granted relief will be submitted into any and all pending and future legal actions in America [sic] state and federal courts.”**

The fall in market capitalization of Defendants Allstate/TD/Geico-Berkshire will detrimentally affect the fiscal health of the State of Pennsylvania, at a time when its resources have been strained by the COVID-19 pandemic. These cumulative injuries, consequent to corporate corruption, could force it into bankruptcy. An event that if it occurs, will be because of the greed/professional jealousy/political corruption/fraud of a wicked cabal of extremely wealthy and privileged white collar crooks/state medical boards.

**“Corruption of state medical boards, as detailed in K7 (Exhibit 9) is responsible for the COVID-19 pandemic and the resultant deaths ... The massiveness of corruption/crimes committed by Defendants Allstate/TD/Geico-Berkshire Hathaway will be widely publicized by Kaul and brought to the attention of the global venture capital/hedge fund community and members of the S/P 500.”**

29. November 17, 2020 - Admissions of Fact by Defendant Woodland (Appendix 34: 433)

On November 30, 2020, the president of Defendant PMB, Defendant Woodland admitted to a series of facts conclusive of the K11-1 claims, facts that will be submitted to the Pennsylvania legislature. The American Revolution was born in Pennsylvania. The insurance industry, which began on the back of the slaving industry, remains controlled by the British (Lloyd's of London) and still pulls the world's economic strings. American state medical boards are just some of the



puppets and remain enslaved by this industry. This Court/PA Legislature has the power to unshackle the puppets through a “**RAMBO**”, a change that will bring state medical boards into legal compliance, increase public transparency and eliminate insurance ordered ‘Star Chamber’ like professional executions. A “**RAMBO**” will free state medical boards from the insurance yoke and this case, this Court and the PA Legislature can achieve this. Defendant Woodland admitted:

**“I have knowledge that Dr. Paul Joseph Valigorsky conspired/colluded with Defendants ASIPP/Kaufman/Staats to delay/deny the application of Plaintiff Kaul for medical license in the State of Pennsylvania.”**

30. November 21, 2020 - Notice of litigation from Kaul to the UK General Medical Council (**Appendix 7: 072**)

History has once again placed the State of Pennsylvania at the heart of a revolution that has the potential to dismantle the tyranny of corporate/medical board corruption (read British Crown), and re-elevate that ‘shining city on the hill’. It is a revolution that will return America and its citizens to their egalitarian roots, to a society not wracked with economic insecurity, drug addictions and decimated by a biblical plague. The fabric of this case involves an interweaving of the worlds of medicine/business/law/politics and an exposing of the control of the State of Pennsylvania by the British dominated global insurance industry:

**“ ... the British Government, the Crown Prosecution Service and the Office of the New Jersey Attorney General ... Defendant GMC has incurred legal liability in the United States .... conspiring with ... the Pennsylvania Medical**



**Board, in an “open-ended” association-in-fact racketeering enterprise ...**

**This seed of evil lies at the heart of corporate conducted/caused  
genocides, such as the COVID-19 global pandemic. The British Crown  
received kickbacks from the slaving profiteers, while American  
state/federal politicians/judges receive kickbacks from the corporate  
profiteers. History is a deceptively simple pattern of repetition ... You’re not  
a man who takes away somebody’s livelihood, and he does so, but he  
doesn’t know any better ... As a practical matter, you will be sewing [sic]  
the seeds of absolute and utter chaos, and you’ll reap the whirlwind as a  
result ... but there comes a time when you have to ask what’s reasonable ...  
Is his mere existence a risk?”**

31. November 24, 2020 - Johnson v Kaufman: ESX-L-6164-20 - Request for oral  
examination of Defendant Kaufman by Court re: hacking of hospital server  
(Appendix 35: 440):

In 2006 the NJ Defendants began conspiring, a conspiracy that in 2020 involves  
amongst many others, the State of Pennsylvania, Defendant PMB and  
Defendants Allstate Insurance Company and Kaufman. On August 12, 2020 a  
lawsuit (ESX-L-6164-20) was filed against Defendant Kaufman by Corey Lamont  
Johnson in the NJ Superior Court. It details how Defendant Kaufman’s willful  
negligence has left Johnson permanently disabled and in severe pain. Johnson  
also alleges civil rights violations that amount to a criminal offense. On February  
26, 2010 Defendant Kaufman screamed at Plaintiff Johnson: **“He’s black, it  
doesn’t matter and he can’t do anything because he’s poor.”** Johnson was



crying in the recovery room of Defendant University Hospital (Newark, NJ), after having been verbally abused by Defendant Kaufman, while he was lying face down on an operating room table about to have Defendant Kaufman thrust a ten inch needle into his painful spine. The seriousness of Johnson's claims in conjunction with those asserted in The Kaul Cases have exposed the NJ and PA Defendants to immense civil and criminal liability. The recognition of this liability caused the NJ Defendants to 'hack' into the hospital servers of Defendant University Hospital. This illegal entry occurred on September 10, 2020:

**"UH took immediate, aggressive steps to contain the incident and investigate the cause and extent of the event with the assistance of leading privacy experts and law enforcement."**

On November 24, 2020, Johnson moved the New Jersey Superior Court to compel Defendant Kaufman to testify under oath as to his knowledge/involvement in the episode:

**"The illegal entry ("hacking") occurred approximately one month after the release and two days before I filed the lawsuit, and it is my position that its purpose was to destroy evidence of Defendant Kaufman's guilt ... I respectfully request that an examination under oath of Defendant Kaufman will expose his co-conspirators ... orchestrate access to the servers of the largest state hospital ... I suspect it might be an insurance company such as Allstate."**

As of December 1, 2020, the primary concern of Defendants Allstate/TD/Berkshire Hathaway-Geico is that the public exposure of these



crimes will decimate their market capitalization. Consequent to The Kaul Cases, the market capitalization of these Defendants decreased substantially (Allstate-\$5 billion + TD-\$17 billion + Berkshire Hathaway-Geico-\$50 billion). Within the last three (3) months Defendants Allstate/Berkshire Hathaway/Geico have manipulated the market, using tactics such as shareholder buybacks. The CEO/CFO for these Defendants have also submitted knowingly false 13K forms, in order to conceal the liability of the aforementioned crimes. In the words of Robert Conroy (June 13, 2012 in the matter of State of New Jersey v Richard Arjun Kaul):

**“But as ... Richard Nixon and any number of other people found out, it’s always the cover up that gets you ... The only risk is to a politician’s [Defendant Christie] career ... cover up ... somebody doing something rather impulsively.”**

Kaul dismantled the political career of Defendant Christie (**Appendix 30: 357**). This Court ought not to allow the PA Defendants to exhaust the public purse in yet another, but increasingly futile cover up of their crimes and those of the NJ Defendants. The PA Defendants have vicariously incurred the serious criminal liability of illegally hacking into servers belonging to the State of New Jersey.

32. November 30, 2020 - Johnson v Kaufman: ESX-L-6164-20 - Request pursuant to FOIA (**Appendix 36: 449**):

Pursuant to RICO the funds (mutual/hedge) that substantiate the market value of Defendants Allstate/Berkshire Hathaway-Geico/TD have incurred the liability proven by the evidence of this breach. Similarly, the NYSE, the trading platform



on which these Defendants conduct business, has assumed their liability. The economic viability of the State of Pennsylvania is determined by market indices, which are themselves determined by investor confidence. The uncertainty of the COVID-19 pandemic/vaccine in conjunction with the liability of the breach have decimated investor confidence. This decimation will continue to detrimentally affect the economic viability of the State of Pennsylvania and will be further exacerbated as more evidence of the Defendants manipulation of the market emerges. This Court is positioned to mitigate the economic decimation that will ensue with the prosecution of K11-1:

**“Please accept this letter as a request pursuant to the Freedom of Information Act (FOIA) for the production of all documents/communications/information pertaining/relating in any manner to the unauthorized entry of my file on September 10, 2020.”**

## **Conclusion**

Kaul respectfully moves this Court to grant the relief sought in this petition, as the above referenced facts satisfy the requisite elements for the grant of a writ of mandamus. A grant of the petition will serve the public interest for the above asserted facts and reasons.

I certify that the above statements are true and accurate to the best of my knowledge and that if it is proved that I knowingly and willfully misrepresented the facts, then I am subject to punishment.

Dated: December 2, 2020

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Richard Arjun Kaul, MD



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APPLICATION FOR MEDICAL LICENSURE IN NEW  
YORK

BY

RICHARD ARJUN KAUL, MD



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## SECTIONS

1. KATZ LETTER
2. KATZ PROPOSAL
3. THE ROYAL COLLEGE OF ANESTHETISTS
4. BRITISH PROSECUTION
5. EDUCATION + TRAINING
6. MINIMALLY INVASIVE SPINE SURGERY
7. AMERICAN BOARD OF ANESTHESIOLOGY
8. PATIENTS FK + PM
9. MEDICARE + AAAHC CERTIFICATION
10. POLITICAL CORRUPTION
11. FORGED TRANSCRIPTS
12. APPLICATION FOR LICENSE REINSTATEMENT-THE KEATING  
CHAPTER
13. CHILD SUPPORT OBLIGATIONS
14. FEDERAL LAWSUIT
15. CLINICAL RECORD



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## 16. SUMMARY + CONCLUSION



## **1. KATZ LETTER**



## **2. KATZ PROPOSAL**



### **3. THE ROYAL COLLEGE OF ANESTHETISTS**

1. **1995-1996:**

The Applicant returned to the UK in 1995 because his J-1 had expired and commenced a one-year fellowship in interventional pain management at the Bristol Royal Infirmary in Bristol. He had intended to stay in the UK for 2 years and then return to the US, to work in the New York area, but for personal reasons his plans changed. He was advised by senior consultants at the hospital that if he intended to stay he should make an application to have his name placed on what was called the 'specialist register', a list created by the Royal College of Anesthetists that was a prerequisite to obtaining an NHS consultant post.

2. **1997-1999:**

He therefore submitted his application which contained his CV, American Board of Anesthesiology certification and recommendations from doctors he had worked with in the US. Approximately six weeks later he received a response from the Specialist Training Authority (STA) that denied his application based on their opinion that US training and board certification were not equivalent to British training nor the Fellowship of the Royal College of Anesthetists (F.R.C.A.). The STA stated that in order to meet British standards he would need to undergo a further eighteen months of training in the UK. He challenged this decision as he believed it was an inaccurate reflection of American training. The case attracted publicity **(A2a-b) (NYS0095-0098)** because it was the first time a foreign graduate had publicly challenged the STA.

3. **1999:**

The appeal took place in London in February 1999 and lasted three days. The Chairman of the Applicant's anesthesiology residency travelled from New York to London to testify on his behalf. The hearing was extremely contentious, during which the Applicant received veiled threats from the president of the Royal College of Anesthetists, Professor Leo Strunin, that his career in the UK was over. Approximately one month later the STA issued its decision which denied his application **(A3a) (NYS0101-0105)**. The decision was reported in the medical press **(A3b) (NYS0107)**. The Applicant then commenced the administrative process necessary to return to the US.



#### **4. BRITISH PROSECUTION**

1. March 9, 1999:

However, shortly after the appeal the Applicant was involved in a clinical incident which has had long lasting consequences both his personal and professional life. On 9 March, 1999, he was asked to administer dental anesthesia in a National Health Service (NHS) clinic in North London. The operative list commenced at 10.00am, but the first patient, IB, had failed to make her appointment. He therefore started the other cases, which all proceeded without event. At approximately 2.30 pm as he was leaving the facility IB arrived and although he was already late for another appointment, he agreed to stay and administer the anesthetic.

2. March 9, 1999:

The procedure, a wisdom tooth extraction, lasted seventeen minutes, and proceeded without incident, until at completion, when as the dentist removed the dental block, the patient went into cardiac arrest. IB was successfully resuscitated and transferred to the nearest hospital. However due to the limited resources in the NHS, there were no ICU beds for IB, and she spent the next three hours in an ambulance.

3. March 9, 1999:

Eventually a bed was found at the London Hospital, which happened to be the hospital at which Professor Leo Strunin was the head of the Anesthetic and ICU Departments. He initiated a police investigation, an act the Applicant believes was retribution for his prior challenge to the STA. Sadly, the patient passed away on March 16<sup>th</sup> 1999, but during that time period had come under the care of at least fifteen other hospital physicians. The Applicant believes it is significant that he was was the only physician investigated, and subsequently prosecuted by the Crown Prosecution Service. In the UK the criminal justice system is increasingly used to prosecute cases that in the US, would be litigated through the civil system **(A4a) (NYS0110-0114)**. However, when the Applicant returned to the US in September 2001, he was continually confronted with challenges from patients and work colleagues about the UK case. As a consequence, he had a website developed, that explained the political context of the case, and provided literature regarding similar cases. The site also included scholarly articles that question the value of the criminalization of medical mistakes **(A7g-q) (NYS0271-0363)**.

4. February 2001:

The case lasted from October 1999 to February 22, 2001, in which six experts testified that the cause of the cardiac arrest was hypokalemia **(A4b-g) (NYS0116-0180)**. In



1999 the NHS did not permit pre-procedure blood screening in dental clinics, and there was, therefore, no way the Applicant could have detected the deficit. The trial resulted in a guilty verdict, that was based on a majority jury decision. Multiple letters of recommendation from the Applicant's physician colleagues and patients **(A5) (NYS0182-215)** were sent to the judge, who imposed a suspended sentence, with no probation, jail time or fine. The judge permitted the Applicant to leave the building the moment he completed his sentencing remarks.

5. September 2001:

After the case the Applicant returned to the US and commenced work in the Interventional Pain Department at Hackensack University Medical Center in New Jersey. The applications to renew the Applicant's CDS, DEA and medical licenses contained questions that enquired as to events in federal or state jurisdictions. It was the Applicant's understanding at the time that the case in the UK did not fall into this category and it was, therefore, not referenced. He subsequently discovered that he should have interpreted the questions more broadly and has, therefore, included the information on every subsequent application.

6. August 2002:

As a consequence of the UK case the New Jersey Board of Medical Examiners (NJBME), initiated proceedings against the Applicant's license. Professors Albert Saubermann and Paul Goldiner, the latter the Chairman of Anesthesiology at Mount Sinai, provided reports that respectively addressed the political and clinical aspects of the matter **(A6a-b) (NYS0218-0238)**. A retired superior court judge, Barnert Hoffman, rendered an expert legal report, that compared the US and UK statutes and analyzed the facts of the case **(A6c) (NYS0240-0247)**. However, as a consequence of the non-disclosure of the case, the medical board suspended the Applicant's license for a period of six months. The suspension commenced on December 10, 2003 and required that the Applicant attend an ethics course, which he successfully completed on January 18, 2004 **(A7a)**.



## **5. EDUCATION + TRAINING**

The applicant graduated from the Royal Free Hospital School of Medicine, London University, in 1988 and underwent six and half years of post graduate training in the specialties of general surgery, anesthesiology and interventional pain. The Applicant obtained board certification in anesthesiology in 1996. **(A1a-b) (NYS0006-0092).**



## **6. MINIMALLY INVASIVE SPINE SURGERY**

### **1. June 2004:**

The Applicant returned to practice in June 2004, and commenced building an interventional and minimally invasive spine practice. In 2004 when the Applicant returned to practice he consulted with several healthcare attorneys in NJ to enquire whether, under the authority of his medical license, he would be permitted to perform minimally invasive spine procedures **(A7b) (NYS0253)**. He was advised that his plenary license permitted him to perform medicine and surgery, as long as the facility in which he operated had granted him the appropriate clinical privileges. He subsequently applied to several facilities in NJ, which all granted him privileges to perform minimally invasive spine procedures **(A7c) (NYS0255-0259)**. From 2004 to 2012 the Applicant performed 800 fusions and discectomies with no mortalities, no life threatening complications and good to very good outcomes in 90-95% of cases.

### **2. March 2011:**

The Applicant opened a Medicare certified, AAAHC accredited surgical center in Pompton Lakes, New Jersey, which required cooperation from the New Jersey Department of Health and Human Services (NJDOHSS). The Center began successfully performing a combination of interventional pain procedures and minimally invasive spine procedures. It should be noted that throughout the Applicant's career he has performed over 10,000 cases, including 800 minimally invasive spine procedures and 6000 interventional pain procedures. There has been one death, no life threatening complication, no insurance fraud and no sexual impropriety.

### **3. October 15, 2012:**

The Applicant sent a letter to the attorney who had been retained to litigate the medical board matter, in which the issue was raised that the medical board, after having interviewed the Applicant on February 3, 2010, about his performance of minimally invasive spine surgery, issued no restrictions. The medical board permitted the Applicant to continue performing minimally invasive spinal procedures, and in fact the Department of Health and Social Services had been involved in the registration procedure for the Applicant's surgical center, in which they knew he would perform minimally invasive spine surgery **(B12g) (NYS0667-0691)**.



## **7. AMERICAN BOARD OF ANESTHESIOLOGY**

### **1. March 2007:**

The Applicant received a letter from the American Board of Anesthesiology **(A7d) (NYS:0261-0262)**, which requested the Applicant provide specific information about the facts that underpinned the license suspension. The Applicant and his attorney provided responses **(A7e-f) (NYS:0264-0269)**. The ABA credentials committee reviewed the responses and determined that the facts did not meet the standard required for revocation of board certification **(A7r) (NYS:0365-0366)**.



## **8. PATIENT FK + PM**

### **1. July 2008:**

The Applicant operated on FK, a middle-aged female, who had a ten-year history of multiple spinal injuries, subsequent to car and work related accidents. The Applicant utilized a technique, which he first documented in March 2005 **(A8) (NYS:0368-0371)**. The patient had undergone two spinal surgeries, performed consecutively by a neurosurgeon and orthopedic surgeon **(A9a) (NYS:0374-0376)**, neither of which resulted in permanent relief. FK underwent an extensive diagnostic evaluation **(A9b-f) (NYS:0378-0389)**, the findings of which, provided the basis for the minimally invasive fusion, which was performed in July 2007 **(A9g) (NYS:0391-0394)**.

### **2. December 2008:**

FK underwent an EMG/NCV on December 12, 2008 that confirmed the presence of a left L4-5 chronic radiculopathy **(A9w) (NYS:0440)**. The chronic nature is consistent with a long term injury and not one that could have been related to the surgery. FK continued to treat with the Applicant till April 13, 2009.

### **3. January 2009:**

The Appellant, at the request of FK's personal injury attorney, provided a report on January 20, 2009 that ascribed the patient's spinal pain to her multiple car accidents **(A9x) (NYS:0442-0445)**. This document was submitted to the court and used by FK to procure monies from the insurance company.

### **4. August 2008:**

It is significant that FK improved after the procedure, but approximately one month later she tripped in her house and a fish tank fell on her left leg, causing her to develop leg pain **(A9h) (NYS:0396-0397)**. The details of this incident were communicated to the Applicant by one of his patients, CS, who had been an acquaintance of FK. CS provided a written account to the medical board **(A9z8) (NYS0473-0474)**. FK's allegations of left leg pain were investigated and treated by the Applicant from August 8, 2008 to April 13, 2009 **(A 9h-w + 9y-z7) (NYS:0396-0440 + NYS0:447-0471)**.

### **5. February 2010:**

FK used this incident and the Applicant's professional history from the UK, to initiate legal proceedings. She consulted with a local neurosurgeon, Robert Heary, who advised



her to file a lawsuit against the Applicant and a complaint with the medical board. The Appellant was interviewed by the board on February 3<sup>rd</sup> 2010, during which he discussed his education, training and the care he had provided to FK **(B1) (NYS:0479-0581)**. An expert report was submitted to the medical board on behalf of the Appellant **(B2) (NYS:0583-0587)**, which stated that the Applicant had "provided appropriate medical care". The board took further action and permitted the Applicant to continue performing minimally invasive spine surgery.

6. June 2012-:

During the litigation FK admitted during a June 11, 2012 deposition that Heary had disparaged and defamed the Applicant **(B3) (NYS:0589-0601)**. In July 2012 the Applicant obtained surveillance of FK, and both a video **(B4) (NYS:0603)** and the investigator's report **(B5) (NYS:0605-0609)**, contradict claims made by FK in her complaint, of being "severely injured" **(B6) (NYS:0611-0616)**.

7. September 2012:

At the request of his attorney, the Appellant issued a response in late 2012, that addressed the issues raised by the neurosurgical expert retained by FK's attorney **(B7) (NYS:0618-0622)**.

8. August 2012:

CS was deposed on August 7, 2012 and stated **(B8-page 11, line 21) (NYS:0629)** with regards to FK's condition after surgery that;

*"She was standing straight, she was --- I would ask how is she feeling, she said the pain was gone, she had no more pain, just soreness from surgery".*

9. August 2012:

CS testified that FK had injured her left leg after tripping and causing a fish tank to fall on her **(B8-page 13, line 9) (NYS:0630)**. She then described, **(B8-page 15, line 5) (NYS:0631)** how FK planned to sue the Applicant because;

*"He already had a history is England"*

10. August 2012-:

Of significance is the fact that the FK's attorney, John Hoyt, knew about the medical board investigation, which was meant to be confidential. The attorney asked CS **(B8-page 35, line 20) (NYS:0641)**;



***"Before Dr. Kaul's license was taken away a few months ago, did you know there were proceedings against his license?"***

Under New Jersey law the proceedings are meant to be confidential, which suggests that either the attorney instigated the medical board action in the hope it would facilitate his civil action, or the medical board improperly released information. In the federal complaint (**Docket No. 16-CV-02364**) the Appellant has alleged RICO violations against multiple defendants. The claims assert that kick backs were provided to the governor of New Jersey, in return for having the medical board revoke the Applicant's license. The monies came from settlements, through actions such as those filed by FK and her attorney.

11. August 22, 2102:

The Applicant sent a copy of the surveillance video to his malpractice insurance carrier (**B11**) (**NYS:0664**).

12. October 2012:

An individual named Kathleen Bua was deposed (**B9**) (**NYS:0651-0660**). Bua was a friend of FK and had provided information about FK's clinical condition before and after her surgery (**B9-page 14, line 23**) (**NYS:655**);

***"When she first had the surgery she looked good"***

13. October 1, 2012:

Significantly Bua also confirmed that FK's left leg injury was a consequence of her tripping and a fish tank falling on her leg (**B9-page 15, lines 6-9**) (**NYS:0655**);

***"Well---and I'm only saying this from hearing it because I didn't see it---supposedly a fish tank"***

14. October 17, 2012:

The Appellant sent a letter dated October 17, 2012 to neurosurgeon, Richard Jordan, an expert retained by the Appellant for the licensing hearing in the New Jersey Office of Administrative Law. It references the FK matter and includes the deposition transcripts from FK's friends, Cheryl Schwartz and Kathleen Bua, who both confirmed that FK had improved after the surgery, and that the cause of her left leg injury was the fish tank accident (**B10**) (**NYS:0662**). A copy of the surveillance video was enclosed



15. March 21, 2013:

FK had a friend called PM, on whom the Applicant had performed a minimally invasive spinal fusion. PM improved after the surgery, but retained the FK's attorney and sued the Applicant, not wanting to forego an economic opportunity. The Applicant's carrier retained an expert **(C3a) (NYS:1200-1206)** who opined;

**"The training that physicians can now acquire to become proficient in minimally invasive surgical techniques is often far superior to those offered in standard orthopedic or neurosurgical fellowships"**

16. March 22, 2013:

During the litigation Heary had repeatedly failed to appear for his deposition, and as a consequence the court issued an arrest warrant **(C6a) (NYS:1470-1471)**. As a consequence, Heary's deposition was scheduled, and did indeed commence, but came to an abrupt halt when the attorney for FK realized that Heary's testimony was damaging to his case. The proceedings lasted no more than thirty minutes, during which Heary admitted that the Applicant's use of unilateral pedicular constructs was within the standard of care.

17. March 22, 2013:

The Applicant filed a defamation lawsuit against five neurosurgeons, in Bergen County Superior Court **(C6b) (NYS:1473-1496)**.

18. May 15, 2013:

To bring attention to the malfeasance of the New Jersey governor, a press release was issued via PR Newswire on May 15, 2013 **(C6c) (NYS:1498)**.

19. July 29, 2013:

The Appellant received a letter dated July 29, 2013, from the attorney retained by the insurance company to litigate the matter **(D1a) (NYS:1508)**. The attorney states that two of the experts, Drs Przybylski and Kaufman, had both been barred from providing expert testimony on behalf of FK due to their failure to attend their depositions. The aforementioned individuals had testified against the Appellant in the medical board matter, during which they provided testimony that was contradictory to their prior testimony and reports. The Appellant believes that their withdrawal from the FK case, was a consequence of their realization that their testimony had been exposed as fraudulent.



## **9. MEDICARE + AAAHC CERTIFICATION**

### **1. April 2, 2012:**

In a highly publicized manner, the New Jersey Medical Board filed papers to either suspend or revoke the Appellant's medical license, alleging that he did not possess the qualifications or training necessary to perform minimally invasive spine procedures. This was despite the fact that the medical board had known that the Applicant had been safely and successfully performing these procedures since 2004, and had in fact interviewed the Applicant on February 3, 2010, about his minimally invasive spine training. This issue was raised in a letter dated October 15, 2012, that the Applicant sent to his attorney, Robert Levy, who had been retained to litigate the Applicant's case in the New Jersey Office of Administrative Law **(B12g) (NYS:0713-0714)**.

### **2. August 31, 2012:**

One of the Appellant's attorneys, Jeffrey Randolph, sent a letter to Jesse Sheffett, Esq, the attorney for one of the surgical centers, at which the Appellant had been credentialed to perform minimally invasive spine surgery **(B12a) (NYS:0667-0691)**. The correspondence between the two attorneys and the director of the New Jersey Department of Health and Senior Services **(B12c-d) (NYS:0696-0700)**, John Calabria, prove that the Applicant had complied with all state and federal regulations. Attached to Randolph's letter was a copy of an e-mail the Appellant sent in 2007 to his attorney, Joseph Gorrell, in which he sought legal advice, with regards to performing minimally invasive spine surgery **(B12b) (NYS:0693-0694)**.

### **3. 2003-2012:**

The Appellant had been provided with legal advice since 2007 from NJ healthcare attorneys, that he was permitted under his plenary license to perform minimally invasive spine surgery. In 2011 the federal government credentialed him to perform minimally invasive spine surgery at his surgical center in Pompton Lakes, as did AAAHC. From 2003 The Appellant had also been credentialed by multiple state licensed surgical centers, to perform minimally invasive spine surgery. In 2005 the Appellant's work came under direct inspection from the New Jersey Department of Health and Social Services, which inspected a surgical center, at which the Appellant performed minimally invasive spine surgery **(B12a) (NYS:0667-0691)**.



4. 2011:

The medical board also knew that the Appellant had been credentialed by Medicare and AAAHC to perform minimally invasive discectomies and fusions, as the state of New Jersey had been involved in the certification process for the NJSR Surgical Center **(B12a) (NYS:0667-0691)**. To obtain the federal and surgical center credentialing permits, the Appellant utilized the professional services of lawyers and clinical consultants, with expertise in New Jersey healthcare.

5. August 2012:

The Randolph letter is evidence that the Division of Consumer Affairs, the medical board and the department of health, had collectively known, and permitted the Appellant, to perform minimally invasive spine surgery since 2005.

6. August 2012:

Shortly after the suspension of his license, the Appellant wrote a brief essay, in an attempt, to explain the evolution of minimally invasive spine surgery **(B12e) (NYS:0702-0703)**.

7. April 2012:

At the request of the Appellant, his practice was reviewed by a neurosurgeon from Arkansas, Richard Jordan, who issued a report dated April 25, 2012 **(B12f) (NYS:0705-0711)**. The report stated that;

***"His outcomes are rather good"***



## **10. POLITICAL CORRUPTION**

### **Undercover agents**

1. April 2012:

Shortly after the Appellant's license had been suspended he substituted his attorney, Joseph Gorrell, with Robert Conroy. The medical board had made allegations in its initial complaint that the Appellant's website was misleading. An e-mail dated May 4, 2012 **(B13a) (NYS:0717-0719)** from the Appellant to Conroy, asks for clarification of the allegation, in addition to highlighting a number of suspicious calls the Appellant had received at his office, by individuals posing as patients, but who were most likely undercover agents employed by the state.

### **Alternative privileges**

2. August 2012:

The aforementioned e-mail also contains an enquiry the Appellant had sent to Jeffrey Randolph, Esq, in 2008, that sought clarification from the medical board, regarding the question of whether alternative privileges were required for minimally invasive spine surgery. The Appellant had commenced preparations to develop the NJSR Surgical Center, and wanted to ascertain if alternative privileges would be required. As is evident from Randolph's letter dated August 30, 2012 **(B12a) (NYS:0667-0691)** alternative privileges were not required for minimally invasive spine surgery.

### **Media coverage**

3. May 8, 2012:

Conroy received a call from a reporter at the Star Ledger, who had been alerted to the May 9 hearing. The reporter, as the e-mail shows **(B13b) (NYS:0721)**, was under the impression that the Applicant's license would be summarily suspended. The Applicant believed the publicity was engineered by the governor of the state, in order to increase his public profile, in furtherance of his political campaigns. There was no legitimate need for the gratuitous publicity that surrounded the case, and which persisted until September 2015. The medical board's mandate of protecting the public is not served by turning professional licensing matters into public theater, unless of course, the motivation for the action is political.



#### Consent order

4. May 9, 2012:

Appellant's attorney negotiated a consent order **(B13c) (NYS:0723-0726)** with the medical board, in which the Appellant agreed to limit his outpatient practice to interventional spinal procedures, but which permitted him to apply for hospitals privileges, to perform minimally invasive spine surgery.

#### Prosecutorial misconduct + Prejudice

5. May 9, 2012:

However, despite the medical board having signed the consent order, on May 9, 2012, the state's attorney general, Jeffrey Chiesa, made prejudicial pre-hearing comments to the media, that the Appellant was not qualified to perform minimally invasive spine surgery. He made these fraudulent comments in the knowledge that the Appellant had been credentialed by Medicare, AAAHC and multiple state licensed surgical centers to perform the procedures, and had in fact been performing them since 2003. The comments caused the Appellant's attorney, Robert Conroy, to send the deputy attorney general, Doreen Hafner, an e-mail **(B13d) (NYS:0728)**.

#### Hospital privileges

6. Mid-May 2012:

The consent order gave the Appellant the right to apply to hospitals for clinical privileges to perform minimally invasive spine surgery. Therefore, the Appellant met with the administration at Bayonne Medical Center and initiated the application process for minimally invasive spine surgery **(B13e) (NYS:0730-0740)**.

#### Improper subpoenas

7. Mid-May 2012:

The Appellant believes that information about his application to Bayonne Medical Center came to the attention of the attorney general and the governor, who then embarked on a campaign to undo the consent order agreed to by the medical board. The Applicant is also of the opinion that the aforementioned individuals did not have any intention of honoring the consent order, and schemed to undo it as soon as it had been signed. This commenced with the issuance of improper subpoenas intended to harass the Applicant. **(B13f) (NYS:0742-0743)**.



### CDS license

8. May 22, 2012:

Eric Kanefsky, the director of the Division of the Consumer Affairs (DCA) arbitrarily and without good cause, circumvented the medical board process and summarily suspended the Applicant's CDS license, in the knowledge that it would prevent him from obtaining hospital privileges and practicing medicine, even under the terms of the consent order **(B13g) (NYS:0745-0748)**. The Applicant had not violated any elements of N.J.A.C. 13:45H-1 pertaining to the dispensation of controlled substances, and Kanefsky had not made any showing of such. The order of immediate suspension was a continuation of the ill intended scheme, orchestrated by the New Jersey governor.

### Due process violation

9. May 22, 2012:

When Kanefsky filed the CDS suspension order, the Applicant had already commenced the application process for privileges at Bayonne Medical Center, but was, as consequence of the aforementioned bad faith act, foreclosed from pursuing it. To obtain hospital privileges requires an active CDS license, a fact that was known to Kanefsky. He conspired to revoke the Applicant's CDS license, in order to block his attempts to obtain hospital privileges.

10. May 22, 2012:

Kanefsky's actions violated proper procedure, which caused Conroy to send an e-mail on May 22, 2012 at 4:31pm, to the deputy attorney general, Doreen Hafner, that brought attention to the violation of the Appellant's constitutional right to due process **(B13h) (NYS:0750-0751)**, and raised the issue of a federal action.

### Ethics complaint

11. May 15, 2012:

In response to Kanefsky's illegal conduct, Conroy told Hafner that he would seek relief in superior court. It is significant that during this conversation on May 15, 2012 Hafner stated;

***"Bob, I just want to let you know the decision to suspend his license had nothing to do with me. I am just following orders".***



12. September 2013:

These details are memorialized in an ethics complaint the Appellant filed against Hafner on September 12, 2013 **(B13i) (NYS:0753-0755)**.

False allegations

13. Early June, 201:

In retaliation to Conroy's May 15 conversation with Hafner, regarding the filing of a superior court action, Kanefsky filed an action with the medical board that sought to revoke the consent order. It alleged that the Applicant had not complied with its terms, by ignoring subpoenas and not amending his website. Both of these allegations were false.

14. May 24-25, 2012:

As is evident from a series of e-mails **(B13j) (NYS:0760-0764)** between the Applicant's employee, Daniel Goldberg, and Conroy's associate, Denise Sanders on May 24 and 25, 2012, the Appellant went above and beyond what the consent order required.

15. May 22, 2012:

The matter had been transferred from the medical board to the Office of Administrative Law on May 22, 2012 **(B13k) (NYS:0766-0773)**, and Conroy correctly asserted that the OAL, and not the medical board, had subpoena jurisdiction. Similarly, the Appellant's website did not make the claim that the Appellant himself, was performing minimally invasive spine surgery. Neither Kanefsky, Chiesa nor the medical board provided any evidence that the Appellant had violated the consent order. The entire affair was consistent with, and an extension of, the malicious politically motivated conduct that caused the suspension of the Appellant's license.

Special prosecutor + Ad hoc medical board

16. June 7, 2012:

The Applicant filed a lawsuit in Mercer County Superior Court that asked for the appointment of a special prosecutor and ad hoc medical board **(B13l) (NYS:0775-0819)**. The actions of Chiesa and Kanefsky had proven that the Applicant would not receive a fair trial in New Jersey. There exists in New Jersey an unconstitutional concentration of power in the governor's office, in which the executive branch controls the attorney general, the medical board and the office of administrative law. The adjudication of actions against physicians is thus effectively administered by the same judge, jury and



prosecutor who are all subservient to the governor. In this matter, the governor needed money for his political campaigns, and abused public office to procure bribes from entities, who commercially competed against the Applicant. In return the corrupt politician used his power to have the medical board revoke the Applicant's license. He had both the motive and the means, to commit the 'crime'.

#### Grand jury

17. May 22, 2012:

As a consequence of misinformation propagated by the governor's office, several law firms posted information on the internet that the Appellant was under a grand jury investigation. This caused Conroy to send an e-mail to one of the lawyers **(B13m) (NYS:0821-0822)**.

#### Political interference

18. May 22, 2012:

Conroy sent a further e-mail to the Hafner at 5:01pm on May 22, 2012, which highlighted Kanefsky's unethical conduct, and stated that he would be subpoenaed to attend the June 13, 2012 medical board hearing, regarding Kanefsky's motions to overturn the consent order and suspend the Appellant's CDS license **(B13n) (NYS:0824)**.

#### MSNJ v Jacobs

19. May 22, 2012:

There was an e-mail exchange between Conroy and Hafner at 6:40 pm on May 22, 2012, in which Conroy referred to a case before the Florida medical board, in which an ad hoc medical board had been appointed, because of political interference **(B13o) (NYS:0826-0828)**. Kanefsky and Chiesa had both proven to be prejudiced, by their actions respectively of arbitrarily suspending the Applicant's CDS license and making pre-hearing prejudicial comments to the media. Both individuals were subordinates of the governor of the state, and controlled the medical board. Conroy, correctly asserted, that neither, based on their actions, could be trusted to administer justice. The Applicant's Fourteenth Amendment right had been at risk of violation, simply because of the unconstitutional configuration of the medical board and attorney general, but the risk became actualized by the actions of the aforementioned individuals.



#### Legal error

20. May 23, 2012:

The Appellant sent Conroy an e-mail on May 23, 2012 at 5:08pm, in which he stated that he had reviewed the statute on which Kanefsky had suspended his CDS license, and could not ascertain which part applied to his case **(B13p) (NYS:0830)**.

#### Recusal

21. May 24, 2012:

Via an e-mail dated May 24, 2012 sent at 9:57am Conroy stated that the office of the attorney general should recuse itself from the case, as a consequence of the unethical conduct of Chiesa and Kanefsky **(B13q) (NYS:0832-0835)**.

#### Scheme

22. May 29, 2012:

The expert for the state, Gregory Przybylski, confirmed to Hafner, on May 29, 2012 that he can attend the June 13 hearing **(B13r) (NYS:0837)**. This communication occurs several days before the order to show cause to rescind the consent order is filed, and suggests that Chiesa and Kanefsky had planned to undo the consent order. It should be noted that however perverse this conduct might seem to an outside observer, it is consistent with that of an administration, that closed three lanes into the GWB in September 2013. Neither Chiesa nor Kanefsky ever had any intention of honoring the consent order. The consent order was entered on May 9, the same day that Chiesa made prejudicial comments to the media. Kanefsky arbitrarily suspended the Applicant's CDS license on May 22, and when Conroy indicated he would file a restraining order, Kanefsky retaliated by filing the order to show cause. During a phone call on May 16, **Hafner**, aware that Kanefsky was about to suspend the Applicant's CDS license, told Conroy that she was;

***"Just following orders".***



#### Bergen Record

23. May 27, 2012:

A letter **(B13s) (NYS0839-0840)** from an orthopedic surgeon, published in the Bergen Record prompted an interventional pain physician, Gabriel Jasper, to make the comment;

*"Here is the letter from Dr. Kovatis trying to destroy us".*

24. May 28, 2012:

The letter caused one of the Applicant's patients to send the Bergen Record a response **(B13t) (NYS:0842-0843)** that was published, and which included the comment

*"I have read and re-read the letter written by Dr. Kovatis, and each time I read it there seems to be a re-occurring theme; doctors that are not part of the "Good old Boys Club" are under fire".*

#### Illegal CDS suspension

25. June 1, 2012:

On June 1, 2012 at 3:43 pm, one of Conroy's associates, sent the Applicant's administrative assistant an e-mail, which contained language to be used as part of an application for malpractice insurance renewal, that pertained to the CDS license suspension. Significantly the attorney highlighted the terms *"unilateral"*, *"unprecedented"* and *"illegal"* nature of the actions taken by Kanefsky **(B14a) (NYS:0846-0847)**.

#### Patient support

26. June, 2012:

Letters of support and a petition were sent to the governor of New Jersey by the Applicant's patients **(B14b) (NYS:0849-0963)**.

#### Injunctive relief + obstruction of justice

27. June 5- 8, 2012:

There was a series of e-mail exchanges **(C1a-b) (NYS:0969-0978)** between Hafner and Conroy from June 5 to 8, 2012, in which Hafner refused Conroy's request, that the state withdraw its order to show cause to rescind the consent order. Conroy made the



request based on a motion filed on June 7, 2012 in Mercer County Superior Court, for the appointment of a special prosecutor and ad hoc medical board. The attorney general's office, on behalf of the medical board, argued in superior court that the Applicant had not "exhausted" his administrative remedies, but then moved to quash subpoenas Conroy had issued for Chiesa and Kanefsky. Conroy, a highly respected attorney with over twenty years of medical board experience, described the conduct of the attorney general in the following terms;

***"obstruction of justice and denial of due process and other acts of official malfeasance"***

28. June 13, 2012:

The Appellant had the right to demand that Kanefsky and Chiesa make themselves available for cross examination at the June 13, 2012 medical board hearing. Neither Chiesa nor Kanefsky complied with the subpoenas, which were quashed by a medical board, which was controlled by the two aforementioned individuals. Justice had, and has no chance, of surviving, the kleptocracies that were, and are, the New Jersey Board of Medical Examiners, and Office of Attorney General.

Sidney Wolfe

29. June 11, 2012:

Conroy sent a four-page letter dated June 11, 2012 to the executive director of the medical board (C1c) (NYS:0980-0983). It references, among other things, the influence the publication of a report from Sidney Wolfe on May 18 might have had on the medical board's decision to rescind the consent order. The penultimate paragraph on page 4, compares the constitutionally flawed regulation of physicians in New Jersey with the system in New York, and includes an indirect reference to Chiesa and Kanefsky whose conduct Conroy described in the following way;

***This case speaks volumes as to the waste and wrong-headedness of the present structure that encourages bureaucrats without any medical knowledge to play "cops and robbers" with our health care system and patient safety"***

On page 3 of the letter Conroy makes a plea to the the executive director, that the Applicant's case has provided an opportunity for change by stating;

***"Now is the time for this Board to throw off the shackles of their structure and seize back control of medicine; and, in doing so, to help the public and medical community to see that their safety and the very integrity of the system cannot be assured by selective and sometimes capricious prosecutions-prosecutions designed, may times, to make some itinerant office-holder look good in the media."***



### Alice in Wonderland

#### 30. June 11, 2012:

Conroy sent a letter **(C1d) (NYS:0985-0986)** to the executive director of the medical board, William Roeder, and an e-mail **(C1e) (NYS:0988-0989)** to deputy attorney general, Kevin Jespersen, on June 11, 2012, after having been informed that Chiesa and Kanefsky had filed motions with the medical board to quash the subpoenas. Conroy, having appeared in front of the board for twenty years, believed that the Appellant's case provided an extreme example of the official malfeasance, that had become an integral part of the New Jersey Board of Medical Examiners. His comment is the opinion of a highly regarded and experienced healthcare attorney, who was clearly exasperated with the endemic corruption at the New Jersey Board of Medical Examiners.

***"We refuse to go down through the "rabbit hole" even if a Deputy is leading the way"***

### Tyranny

#### 31. June 13, 2012:

Conroy argued two motions before the medical board:

- a) An order to show cause filed by Kanefsky that sought to open and then rescind the consent order
- b) A motion filed by DAG Jespersen to quash the witness subpoenas served on Kanefsky, Chiesa and the president of the medical board, Dr. Paul Jordan.

The medical board quashed the subpoenas and permitted Kanefsky to open the consent order, which the medical board then rescinded, and then suspended the Applicant's license, based on false allegations about the Applicant's website, and the provision of documents. The Applicant had materially complied with the consent order and limited his practice to interventional spinal procedures. On page 12, line 2, **(C1f) (NYS:1002)** Conroy characterizes the conduct of Christie, Chiesa and Kanefsky in the following way;

***"When those charged to uphold the laws act in a lawless way, they were faced with tyranny".***

The allegations made by the deputy attorney general were not supported by the evidence they provided, and in fact the videos to which they referred, were all posted on YouTube, and not the Applicant's website. The deputy attorney general provided no evidence that the Applicant had performed any minimally invasive spine procedures



since the consent order, which was because, he had in fact, NOT, performed any. The entire affair was a conglomeration of fraud, perpetrated by public servants flying the color of state.

**"By Hook or by Crook"**

32. June 14, 2012:

The governor of New Jersey manipulates the media, and did so by widely publicizing the Applicant's case. Negative publicity in physician licensing matters, has never been shown to protect the public, nor improve the delivery of healthcare. Politicians use medicine as political footballs, with which to score points, intended to advance their political careers. The governor of New Jersey has no regard for the welfare of New Jersey citizens, and saw no issue with shutting down three lanes into the GWB. The medical board's mandate is to protect the public. Its mandate is not, to use its regulatory apparatus as a cheap form of political theater.

On June 13, 2012 at approximately 2pm a journalist from the Star Ledger entered the room in which the hearing was taking place, and her story (C1g) (NYS:1181-1182) published on June 14, included a quote from Conroy that the board;

***"wants to get Dr. Kaul's license by hook or by crook"***

As became evident in September 2013, the medical board and the attorney general accelerated their witch hunt, with the **forging of court transcripts**. The depths of illegality and corruption to which these entities and their officials had descended was shocking, and is a sad example of why Americans feel "the system is broken".

**Post hearing strategy**

33. June 14, 2012:

The Appellant sent Conroy a letter dated June 14, 2012 (C1h) (NYS:1184-1185), which contained nine questions regarding the next legal steps, one of which included an enquiry as to the feasibility of a federal lawsuit. Conroy provided answers via an e-mail sent on June 18 (C1i) (NYS:1187-1189) responding to the federal enquiry with the comment;

***"The federal district court for this district has proven itself to be most sympathetic to the state government".***



### Christie corruption

#### 34. September 11, 2012:

In September 2012 an article **(C2) (NYS:1191-1197)** was published in Orthopedics This Week, about a scheme orchestrated in 2008 by the New Jersey politician, who at the time was the US Attorney for New Jersey. It was essentially an extortion racket, perpetrated on orthopedic surgeons and medical device companies. They were threatened with criminal prosecution, unless off course they accepted the politician's terms of settlement, which just happened to involve the imposition of expensive federal monitors, one of whom was **David Samson**, an ex-attorney general, recently convicted of political corruption

The Applicant has included this information as it provides one example of many, of how the politician abused the power of public office to exploit the healthcare system. In the process he become familiar with the business of American medicine, and which healthcare sectors he believed, would be the most profitable for his form of legalized extortion.

#### 35. October 24, 2012:

The Applicant received an e-mail from one of his colleagues in which he expressed his opinion about the circumstances that led to the revocation of the Applicant's license. The individual, an interventional pain physician, was very familiar with the professional jealousies, and the particular physicians, who had instigated the medical board action against the Applicant **(D11) (NYS:2059-2061)**.

#### 36. November 10, 2015:

A letter was sent to the US Attorney for the Southern District of New York, in which the Applicant brought attention to the political corruption that resulted in the revocation of the Applicant's license, and the loss of his New York property assets **(D12) (2063-2065)**.

#### 37. November 11, 2015:

As a consequence of the license revocation, the Applicant became immersed in the politico-legal quagmire of New Jersey, and came to know about the sale of chemical weapon components to intermediaries with connections to the Syrian civil war. This information was first brought to his attention in 2013, but he was advised not to discuss it further. However, in November 2015, dismayed at the continuing bloodshed in Syria, he sent a letter to the International Criminal Court, in the hope it would hold accountable the responsible individuals. As the Applicant later discovered, America is not a signatory to the Rome Treaty, and the ICC therefore had no jurisdiction over the accused parties, and therefore took no further action. Of significance, is the fact that the



parties, who came to know of the letter, made no personal or public denial of the accusations, nor had their legal representatives send the Applicant a notice of legal proceedings for defamation (D13) (2066-2068).

38. November 14, 2015:

Understanding the significance of the 2016 Presidential election, the Applicant believed it important that Donald Trump was made aware of the damage the New Jersey politician had caused to a charitable program, established by the Applicant to assist veterans with spinal pain. In 2011 the Applicant had begun providing free healthcare to injured veterans, as part of an initiative called 'Project Backbone'. However, the revocation of his license prevented him from continuing to provide the service. The Applicant had witnessed Trump's speeches about his affiliation with veterans, and thought it would be of interest to him, to know that one of his competitors had caused actual harm to a program that benefitted veterans. Trump did not respond, which caused the Applicant to consider that maybe his self-professed affiliation with veterans, was more political show, than substance (D14) (NYS:2070-2071).

39. November 16, 2015:

Dr. Felix Roque had offered in July 2014, to act as a clinical monitor, to enable the Applicant to have his license reinstated. He was subsequently charged by the New Jersey attorney general with filing false health insurance claims. Roque represented to the Applicant that the action was political retribution by the New Jersey governor, because of his support for the Applicant. This conduct was similar in nature to the vindictive act, in which the politician engaged, when he closed three lanes into the GWB in September 2013. The Applicant offered to provide Roque with whatever assistance he could, in return for the help he had received from Roque (D15) (NYS:2073-2074).

40. November 16, 2015:

When the Applicant's license was suspended in April 2012, he used the services of an attorney, from whom he had received advice in October 2007, that under his plenary license, it was permissible to perform minimally invasive spine surgery. The Applicant had used the services of this individual and his law firm, whenever he required legal guidance that pertained to compliance with healthcare regulations. This individual was informed, before the Applicant, by the deputy attorney general, of the action against the Applicant's license, and was therefore retained by the Applicant, to defend his interests before the medical board. However, the attorney failed to properly prepare for the May 9, 2012 hearing, and the Applicant retained the services of another attorney. A letter, dated November 16, 2015, was sent to the attorney, in which the Applicant expressed his dismay at the pervasiveness of political corruption between certain New Jersey lawyers, politicians and physicians (D16) (NYS:2076-2078)



41. August 6, 2013:

The state's neurosurgical expert, upon whose opinion the case was based, had provided reports and testimony that the Applicant had deviated from the standard of care, in his provision of minimally invasive spine care. However, under cross examination on May 6, 2013, he admitted that actually no standard existed, and he could not, but have known, this to be the case. The Applicant filed an ethics complaint with his professional society, who responded and stated that because the Applicant was not a member they could take no action. Significantly, they did not admit there was no merit to the complaint **(D1b) (NYS:1510-1511)**.

42. August 20, 2013:

The Applicant's reputation was subjected to a barrage of defamatory abuse that reached its depths, when a local neurosurgeon accused the Applicant of being a "Murderer". The Applicant filed a complaint with the individual, and copied the president of the hospital, on whose premises the offense occurred. Interestingly the neurosurgeon responded with a denial and an apology, that occurred most likely upon advice of the hospital's lawyers **(D1c) (NYS:1513-1514)**.

43. December 26, 2013:-

The Applicant sent a letter to the administrative law judge, in which he asked the judge three questions, one of which related to the whether or not he had read a six-thousand-word front page article that had been published on Sunday 17, 2013 in the Bergen Record, the second most widely read New Jersey newspaper **(D4a) (1588-1589)**.

44. March 22, 2013:

The Applicant filed a lawsuit against the five neurosurgeons who conspired and engaged in racketeering, in order to have the Applicant's medical license revoked. **(C6b) (NYS:1473-1496)**.

45. May 15, 2013:

A press release is issued that highlights the capricious prosecution of the Applicant, by a medical board controlled by a corrupt politician, who lied about his name, when he underwent bariatric surgery at a New York ambulatory surgical center in 2013 **(C6c) (NYS:1498-1499)**.

46. April 18, 2013:

A press release is issued via PR Newswire, that highlighted the fact that over \$800,000 had been spent on the case, while state university professors, had been forced to purchase their own paper because of budgetary cuts **(C3c) (NYS:1210-1211)**.



## **11. FORGED TRANSCRIPTS**

### **1. May 6, 2013:**

After the June 13, 2012 hearing the matter was referred to the New Jersey Office of Administrative Law, where the claims were argued in a hearing that commenced on April 9 2013, and concluded on June 30 2013. The applicant had an independent transcriptionist record the proceedings on several days, which included May 6 (**C4b**) (**NYS:1286-1363**), the day the state's neurosurgical expert was cross examined. The Applicant had been forewarned by his attorney that the state forged transcripts, and told the Applicant during an intermission in the June 13 2012 hearing, that;

**"the state has a habit of tampering with transcripts".**

The Applicant's attorney had brought his own transcriptionist to the hearing in Trenton on June 13 2012.

### **2. May 6, 2013:**

The independent transcription differed from the state's transcription in critical areas, that included the neurosurgeon's testimony that no there no standards existed for minimally invasive spine surgery (**C4b**) (**NYS:1318**). This admission contradicted the entirety of all his prior written and oral testimony, on which the state's case was founded. Realizing that their expert's testimony had the potential to unhinge their case, the state conspired with the transcription service to create forged documents, in the knowledge that any appeal could only be made from the state's transcripts. In fact, when the independent transcriptionist entered the administrative court, the judge became agitated and stated that he would only rely on the transcription generated by the state transcriptionist.

### **3. April 14 + July 28, 2016:**

The proceedings were also recorded by the court audio system and the Applicant sent the court a letter dated April 27 2016, that requested a copy of the audio file (**C4c**) (**NYS:1365**). The court failed to respond and on July 28, 2016 the acting director was served with a subpoena issued from the federal court (**C4d**) (**NYS:1367-1373**). The acting director failed to comply with the subpoena, and the Applicant sent the federal court a letter, dated August 22, 2016, that requested permission to file a motion to compel compliance. On August 23, 2016 the court denied, without prejudice the letter application, because the subpoena had been issued prior to a Rule 26 (a) discovery schedule.



4. June 5, 2013:

During the May 6, 2013 hearing a journalist was present in the administrative court. He wrote a story that was published in Orthopedics This Week, a widely read trade publication, in which the state's expert was reported as having admitted under cross examination that no standards existed for either the education or performance of minimally invasive spine surgery **(C3e) (NYS:1219-1223)**.

5. April 30, 2013:

A journalist for Orthopedics This Weeks, a widely read trade publication, authored an article on April 30, 2013, that provided an overview of the political context to the case **(C3d) (NYS:1213-1217)**.

6. March 2013:

The Applicant's expert, Dr. Solomon Kamson, issued a report and testified in court that the Applicant had not deviated from the standards of care applicable to the diagnosis and management of spinal disease **(C4a) (NYS:1226-1284)**. Kamson also opined that the Applicant was properly credentialed and trained to perform minimally invasive spine surgery **(C4a) (NYS:1272-1274)**.

7. September 12, 2013:

Upon becoming aware of the forged transcripts the Applicant sent letters to the administrative law judge **(C5a + D2a) (NYS:1430-1431 + 1517-1518)**, the transcription service **(C5b + D2c) (NYS:1433 + 1525)**, a healthcare ombudsman appointed to oversee the Chapter 11 proceedings of the Applicant's corporations **(C5c + D2b) (NYS:1435-1436 + 1522-1523)**, and the governor of New Jersey **(C5d + D2d + D2h) (NYS:1438-1440 + 1527-1529 + 1542-1453)** that all raised the issue of forged transcripts and requested an investigation. In this same time period the Applicant also filed an ethics complaint against the deputy attorney general **(D2e) (NYS:1531-1533)**, and sent a letter to the president of TD Bank, that brought attention to the political corruption in which the New Jersey branch of TD had become involved **(D2g) (NYS:1538-1540)**.

8. September 23, 2013:

In mid to late September it was brought to the Applicant's attention, that one of his previous patients had filed complaint against a physician at a local hospital, who while performing a procedure on the patient, had publicly slandered the Applicant **(C5e + D2f) (NYS:1442-1443 + 1535-1536)**.



9. September 26, 2013:

The Applicant received a telephone call from the office of the New Jersey governor in response to the Applicant's letter dated September 13, 2013. The Applicant sent a second letter to the New Jersey governor, dated September 26, 2013 **(C5f) (NYS:1445-1446)**.

10. December 26, 2013:

On December 13, 2013 the administrative law judge issued his opinion, without having taken any investigative action as to the forged transcripts. He recommended revocation of the applicant's license. However, on Sunday November 17, 2013, one of the most widely read newspapers in New Jersey, The Bergen Record, published a highly defamatory six-thousand-word story. The judge was at the time, a resident of Bergen County, and the Applicant enquired, via a letter dated December 26, 2013 **(C5g) (NYS:1448-1449)**, whether or not he had read the story. The Applicant received no response from the administrative law judge.

11. January 5, 2014:

The Applicant sent a letter to President Obama, that addressed, amongst other things, the forged transcripts **(C5h + D4b) (NYS:1451-1454 + 1591-1594)**.

12. January 9, 2014:

The Applicant was interviewed in the first week of August 2013 by a local journalist, whose story was published on November 17, 2013 in the Bergen Record. The Applicant sent the journalist a letter dated January 9 2014 **(D5) (NYS:1596-1598)**, that requested a copy of the audio recording of the interview, which the journalist had illegally obtained. During the interview, which was witnessed by the Applicant's Director of Communications, the journalist discussed the issue of forged transcripts.

13. February 6, 2014:

Subsequent to the administrative law judge's ruling, the matter was returned to the medical board for a final adjudication, which occurred on February 12, 2014. However, the Applicant sent the medical board president a letter dated February 6, 2014 **(D6) (NYS:1600-1602)**, in which he stated his reasons for not attending the hearing, and again raised the issue of forged transcripts.

14. February 12, 2014:



The deputy attorney general made a motion to introduce the independent transcript into evidence, as a letter regarding the forged transcripts, had been sent to President Obama by the Applicant, and had been posted to his website. **(C5k +D7c) (NYS:1464 + 1680)**. Her motivation was to have the medical board neutralize the effect of the allegation, and because of her influence within the medical board, by virtue of the fact that her office counsels the medical board, the deputy attorney general was able to have the independent transcript entered into evidence.

The deputy attorney general knew that the medical board would minimize the differences between it and the state authored transcript. The medical board's analysis of the differences lacked specificity and was characterized in a manner clearly consistent with an effort to suppress evidence. The medical board knew, or should have known the differences were of immense relevance, as they related to the issue of standards.

Considering the nature of the case, the medical board should have remanded the transcript matter for an independent evaluation, before it rendered its final decision. The fact that it did not is, the Applicant suggests, further evidence of their complicity in the 'crimes', that both preceded and persisted through the entire affair. The medical board wanted to 'cover up' the forged transcripts.

15. July 28, 2016:

A subpoena was served on the acting director of the office of administrative law on July 28, 2016, that commanded the individual to produce the court audio recording from May 6, 2013 **(D7d) (NYS:1689-1695)**. This was the date the state's expert admitted that no standards existed for minimally invasive spine surgery, an admission that dismantled the crux of the state's case.

It was also this testimony that became altered by the state as part of the forged transcripts, upon which both the medical board and the administrative law judge subsequently relied. However, the medical board understanding the gravity of the offense, attempted to minimize their significance.

The medical board should have halted the proceedings, and ordered an independent investigation of the matter. Instead, they rendered a decision that they knew was based on false documents, and thus committed a fraud against the Applicant and the process of justice.

16. August 22, 2016:

The subpoena was ignored by the acting director, and the Applicant requested permission from the court to file a motion to compel production **(C4e) (NYS:1375-1427)**.

17. January 29, 2015:



On January 29 2015 the Applicant filed a complaint with the US Attorney for New Jersey (C5I) (NYS:1466-1467), that requested an investigation into the forged transcripts. Two weeks after filing the complaint, and not having received a response, he telephoned the office, and was told by a female representative that;

**“They are not an investigative agency”.**

It should be noted that the New Jersey governor had been the US Attorney for New Jersey from 2000-2008, and the individual to whom the Applicant made the request, had been his subordinate. There was no further communication with the US Attorney, regarding the issue of forged transcripts.

18. June 28, 2015:

The Applicant sent his malpractice carrier a letter, dated June 28, 2015, that brought their attention to the issue of forged transcripts, political corruption and the attorney general’s intimidation of Roque, that was intended to dissuade him from assisting the Applicant (D10) (NYS:2051-2057).

19. October 15, 2013:

The Applicant’s attorney submitted a post-trial brief (D3) (NYS:1545-1585) that highlighted the lack of any standard, and the fact that the evidence proved the Applicant had not violated any regulations, nor committed malpractice (NYS:1576), which in relevant part states;

**“What the State points out as alleged malpractice are (sic) more properly characterized as complications inherent in surgical procedures of the type performed. The State’s own expert witnesses confirm this fact. Moreover, the Respondent has successfully treated hundreds of patients who have nothing but positive feedback about the Respondent and their outcome”**

20. February 2, 2015:

On February 2, 2015, the Applicant posted a video, in which he presented evidence of the forged transcripts (D7a) (NYS:1605).



## **12. APPLICATION FOR LICENSE REINSTATEMENT**

### **THE KEATING CHAPTER**

1. In 2014 the Applicant was contacted by a physician colleague, Dr. Felix Roque, who specializes in interventional pain. Roque had professionally known the Applicant since 2008, and had witnessed him performing minimally invasive spine procedures on multiple occasions. He had also acted as a state appointed clinical monitor for other physicians, against whose licenses had been suspended, and who were permitted to re-commence practice under his supervision.
2. Roque contacted the Applicant in July 2014, and stated that he would be prepared to act as a clinical monitor, to facilitate a reinstatement of the Applicant's license.
3. During the course of one of the medical malpractice actions that had ensued from the negative publicity that surrounded the revocation of the Applicant's license, he became familiar with Michael Keating, a healthcare attorney, who had experience with the medical board. Keating agreed to collaborate with Roque and the Applicant to file the reinstatement application. Keating is a senior partner at the law firm at which both the New Jersey governor, Christopher J. Christie and the New Jersey Attorney General, Jeffrey Chiesa, had worked, before becoming respectively, the US Attorney, and the New Jersey Attorney General. The Applicant only became aware of these conflicts of interest in June 2015, by which point it had become painfully evident to the Applicant, that Keating had deceived him into thinking he had performed work. The Applicant filed an ethics complaint in November 2014, which has been docketed, and is now under formal investigation. Keating and his law firm are also named as defendants in a federal lawsuit (**Docket No. 16-CV-02364**).
4. The following, chronologically organized e-mails are, in the opinion of the Applicant, further evidence of the politico-legal malfeasance, that tainted the case from it's ill conceived inception:
  1. August 7, 2014:

The process commenced with a series of questions submitted to Roque by Keating (**D8a**) (**NYS:1698-1699**).
  2. September 15, 2014:

The Applicant informed Roque that Keating has confirmed that the medical board hearing is scheduled "either the 1<sup>st</sup> or 2<sup>nd</sup> week of October" (**D8b**) (**NYS:1701-1702**).



3. October 13, 2014:

Keating represented that he was “working” on the application **(D8c) (NYS:1704)**.

4. November 6, 2014:

The Applicant brings his concerns to Roque, about Keating’s tardiness in submitting the application. Also raised were questions about the fact Keating had failed to provide a signed legal retainer **(D8d) (NYS:1706)**.

5. November 6, 2014:

Almost four months after the reinstatement effort commenced, Keating has still not drafted the application **(D8e) (NYS:1708)**.

6. November 20, 2014:

The Applicant received no response to the November 6 e-mail, and again enquired as to the status of the application **(D8f) (NYS:1710)**.

7. November 22, 2014:

Due to Keating’s failure to draft an application, the Applicant took the initiative, and prepared a document **(D8g) (NYS:1712-1713)**.

8. November 22, 2014:

The Applicant requested that a lawyer friend review the document **(D8h) (NYS:1715)**.

9. November 25, 2014:

A copy of the interim consent order, into which the Applicant entered into with the medical board in May 2012, is sent to Keating **(D8i) (NYS:1717)**.

10. November 25, 2014:

The Applicant sent Keating evidence that he had complied with the medical board’s request in May 2012 to amend his professional website. The medical board, as is detailed elsewhere in this statement, made false allegations that the website has not been amended, which it then used as pre-text to rescind the interim consent order **(D8j) (NYS:1719)**.



11. November 25, 2014:

The Applicant informed Roque that Keating had represented at a meeting on November 24, 2014, that the Applicant and Roque would appear before the medical board at the end of December. This did not occur. (D8k) (NYS:1721).

12. November 29 + December 1, 2014:

Almost six months from the inception of the reinstatement process, Keating has still not drafted the application, and continued to make misrepresentations to the Applicant. Roque is perplexed as to why there has been no progress. (D8l) (NYS:1723-1725).

13. December 3, 2014:

The October meeting did not occur, and the Applicant expressed his concerns about the inordinate delay, and Keating's prior representations. Keating advises the Applicant that part of the "strategy" for license reinstatement should be "remorse". The Applicant has maintained from the beginning of the proceedings that the action against his license was a consequence of political corruption. The federal action (Docket No. 16-CV-02364) provides a factual basis for this position. Keating states that the \$450,000 penalty levied against the Applicant is high. Attached to the e-mail is a copy of a report issued by an ethics committee, that confirmed the Applicant's successful completion of ethics course in January 2004 (D8m) (NYS:1727-1734).

14. December 5, 2014:

The Applicant authorized Keating to share information, regarding the reinstatement application, with an attorney who represented the Applicant on one of the medical malpractice cases, that had been filed in the wake of the negative publicity that surrounded his license suspension. Keating had known the attorney for many years, but failed to provide any information or respond to the aforementioned attorney (D8n) (NYS:1736).

15. December 12, 2014:

This is the first indication that Keating has commenced work. The Applicant provides Keating with the medical rationale for the use of dorsal column stimulators, in the management of intractable angina (D8o) (NYS:1738-1741).

16. December 16, 2014:



Keating confirms the importance of Roque's support of the application **(D8p) (NYS:1743-1745)**.

17. December 18, 2014:

Keating, instead of sending Roque an e-mail, asked the Applicant to request Roque send his CV to Keating. The circuitous nature of the process, intended to delay the application, can only now be viewed as being consistent with the fact that Keating, Christie and the attorney general who litigated the case against the Applicant, were all partners in the same law firm **(D8q) (NYS:1747)**.

18. December 18, 2014:

The Applicant requested that Roque send his CV to Keating **(D8r) (NYS:1749)**.

19. December 23 + December 26, 2014:

Keating submitted a proposal to the medical board that requested the reinstatement of a "limited medical license". The letter provided a chronology of the legal events that surrounded the revocation of the Applicant's license, describing them as a "bitterly contested case with a very high stakes outcome". Attached to the submission were letters of professional recommendation from four physicians who had direct experience of the Appellant's clinical competence and character **(D8s + D8t) (NYS:1751-1768 + 1770)**.

20. December 30, 2014:

In 2005 the Applicant had described a minimally invasive technique for accessing the L5-S1 interspace, a copy of which the Applicant sent to Keating, to demonstrate his understanding of the specifics of minimally invasive spine surgery **(D8u) (NYS:1772)**.

21. January 6, 2014:

After six months, during which the Applicant has invested significant time and resources, and indicated to multiple interested parties that there would be a medical board hearing, none had been scheduled **(D8v) (NYS:1774)**.

22. January 7, 2014:

Keating claims he had an "interesting" conversation with the deputy attorney general, who had litigated the license case, and against whom the Applicant had filed an ethics complaint in 2013. This individual had been assigned to the Applicant's reinstatement application, which the Applicant later argued was improper, because of the ethics



complaint. This is, in the Applicant's opinion, simply another example of the flagrant disregard, demonstrated by members of the Office of the New Jersey Attorney General, for the Constitutional principle of impartial adjudication. As is evident from the federal complaint, there is a theme of official misconduct that polluted this case, and which caused these lawyers, who are officers of the court, to believe they could behave with impunity **(D8w) (NYS:1776-1778)**

23. January 15, 2016:

The Applicant sent Keating a copy of the Randolph-Sheffet letter, dated August 30, 2012, in which the Applicant's attorney, Randolph, detailed the facts which permitted the Applicant to perform minimally invasive spine surgery **(D8x) (NYS:1780)**.

24. January 21, 2015:

The conflict of interest described in paragraph 22, is detailed by the Applicant in an e-mail, to which the ethics complaint is attached. Keating, in a phone conversation several weeks later, dismissed the Applicant's concerns, which in retrospect, was further evidence that Keating's efforts were nothing, but a charade **(D8y) (NYS:1782)**.

25. January 22, 2015:

The conflict of interest issue, and the lack of a hearing date, are again raised by the Applicant in two e-mails, with the latter being sent after the Applicant had visited Keating's office on the afternoon of January 22, 2015 **(D8z1 + D8z2) (NYS:1784 + 1786-1787)**.

26. January 22 + January 23, 2015:

The Applicant informed Roque that Keating had confirmed he would follow up with the deputy attorney general regarding a hearing date **(D8z3 + D8z4) (NYS:1789 + 1791)**.

27. January 26, 2015:

The Applicant asked Keating if there were any laws that controlled the time, in which the medical board had to comply with a hearing request. The medical board had been changed by the New Jersey governor around September 2014, a fact that his administration attempted to keep quiet. The Applicant believes that the politician became aware of the Applicant's intent to have his license reinstated, and dismissed medical board members in order to suppress evidence of wrongdoing **(D8z5) (NYS:1793)**.

28. January 28, 2015:



The Applicant raised the issues of forged transcripts and the conflict of interest that was presented by the fact, that the Applicant had filed an ethics complaint against the deputy attorney general assigned to the Applicant's submission. Keating told the Applicant he did not believe it necessary to ask deputy attorney general to recuse herself. In fact, under the New Jersey Rules of Professional Conduct the deputy attorney general should have recused herself voluntarily **(D8z6) (NYS:1795)**.

29. January 30 + January 31 + February 2, 2015:

The Applicant received no response to the January 28 e-mail, and therefore sent Keating several further enquiries **(D8z7 + D8z8 + D8z9) (NYS:1797 + 1799 + 1801)**.

30. February 3, 2015:

Keating claims that he talked with the deputy attorney general to ascertain if a hearing date had been scheduled. This communication was dishonest, as the proper procedure would have been for Keating to directly contact the executive director of the medical board. It was he, William Roeder, who was responsible for scheduling matters, and not the deputy attorney general. This, the Applicant asserts, was further evidence of Keating's charade **(D8z10) (NYS:1803-1805)**.

31. February 9, 2015:

Keating continued to mislead the Applicant into believing it was the deputy attorney general who was responsible for scheduling the matter **(D8z11) (NYS:1807-1808)**.

32. February 10, 2015:

The Applicant again enquired as to whether any law existed that limited the time in which the medical board had to schedule a reinstatement hearing **(D8z12) (NYS:1810)**.

33. February 11, 2015:

Keating represented that he would send a letter to the executive director of the medical board, William Roeder **(D8z13) (NYS:1812-1813)**.

34. February 12 to February 24, 2015:

Despite numerous requests from the Applicant, Keating sent no letter to William Roeder, and the Applicant received no response from Keating **(D8z14 + D8z15 + D8z16 + D8z17) (NYS:1815 + 1817 + 1819 + 1821-1822)**.

35. February 25, 2015:



The Applicant's requests for information regarding a medical board hearing continued to be ignored. He raised the possibility of visiting the executive director of the medical board, in order to, at the very least, obtain an answer as to status of the submission. (D8z18) (NYS:1824).

36. February 26 to March 3, 2015:

The Applicant sent Keating information regarding Robert Heary, the neurosurgeon who instigated the medical board action, and enquired again as to whether a hearing date had been scheduled, and whether he should visit William Roeder directly in order to facilitate the process. (D8z19 + D8z20 + D8z21) (NYS:1826 + 1828 + 1830).

37. March 3, 2015- (D8z22) (NYS:1832-1837).

- a) Keating received the message regarding the Applicant's visit to Roeder at 5am, and rather coincidentally, later that afternoon the deputy attorney general sent Keating her opposition papers to the Applicant's submission. According to the deputy attorney general, one of the reasons she advanced as to why the medical board should deny his reinstatement application, was the fact that he had exercised his First Amendment right and rendered an opinion about the ruling from the administrative law judge.
- b) This was not the first time that a member of her office had violated the Applicant's Constitutional rights, as what is so evidently missing from her self serving analysis, is the fact that her office **forged court transcripts**. The deputy attorney general does not reference the inherent conflict of interest that existed because of the ethics complaint, but instead obsesses about the Applicant's website. What seemed clear from both the tone and content of her report, is the fact that for her the issue had become very personal, in which she used pejorative terms such as "pathetic" to describe the Applicant's communications.
- c) Instead of rationally analyzing the Applicant's submission, this individual could not help but allow herself to descend into maliciously attacking the Applicant's character, while seeing no contradiction or ethical failure, in the fact that her office had forged a critical part of the court transcripts. Instead of recognizing the Applicant's fair mindedness and willingness to work with the medical board, the individual's personal animus towards the Applicant, as the Applicant expected, was unbridled.



- d) The deputy attorney general's comments will now be viewed in the context of the federal lawsuit, which details profound acts of political corruption by state officials who believe they are above the law. The rhetoric of the deputy attorney general and her accusations that the Applicant lacked insight and behaved arrogantly, are shocking in their level of hypocrisy. If the deputy attorney general had been honest, she would never have allowed herself to become involved in the political machinations of a corrupt governor, who wanted to occupy The White House.
- e) Instead, she chose, as the Applicant detailed in the ethics complaint, to violate her oaths, not just to her profession, but to the American Constitution, and in doing so, she has lost all credibility, and will be held to account in the federal proceedings. Unfortunately, the New Jersey Board of Medical Examiners, because of its subjugation, along with the attorney general and the office of administrative law, to the executive branch of government, behaves in the same illogical manner as did the Spanish Inquisition.
- f) The judge, jury and prosecutor are one, and if they, for whatever reason, many of which are political in nature, deem a physician 'guilty', without the benefit of due process, then just like the Inquisition, they will employ a perverse logic, that requires the physician to prostrate themselves and beg for mercy. Anything less, is viewed by these individuals as constituting "arrogance" and or, "lack of insight".
- g) The process of physician adjudication in New Jersey is not conducted by an impartial tribunal, is fundamentally flawed and rampant with political corruption. It does not serve the public, but simply satisfies the personal vendettas of career prosecutors and opportunistic politicians, in much the same way that the Spanish Inquisition satisfied the ambitions of religious zealots.

**38. March 5 to March 30, 2015- (D8z23-D8z41) (NYS:1839-1887):**

- a) In this time period there were nineteen communications in which the Applicant made repeated requests about whether Roeder had scheduled a hearing date. Frustrated at the process, the Applicant contacted Roeder's office and on March 10, 2015 spoke with a female representative, who instructed the Applicant to send a letter **(D8z26) (NYS:1846)**. The medical board continued to stonewall the Applicant and in an e-mail sent to Keating on March 11 **(D8z27) (NYS:1848-1849)**, he indicated his intention to visit the medical board in Trenton.
- b) The Applicant also provided Keating with further information about his clinical record, the level of support he had from patients and identified other interventional pain physicians in NJ who were performing minimally invasive spine surgery. The issue of the the ethics complaint was once again raised, but it was ignored by Keating **(D8z32) (NYS:1861-1862)**.



- c) The Applicant's efforts at license reinstatement had caused immense consternation within certain state agencies and the legislature. They did not want the political corruption behind the revocation to be exposed, and went to great lengths to obstruct the Applicant's attempts to have his license reinstated. This included the submission of a bill, that was based on the Applicant's case with the medical board from 2003, that was clearly intended to draw negative attention to the Applicant, in the hope that it would dissuade him from pursuing his course of action.
- d) The Applicant expressed his concern to Keating, about the legislation, in a communication dated March 19, 2015 **(D8z33) (NYS:1864-1866)**. On March 23, 2015 the Applicant went to the medical board offices in Trenton **(D8z37) (NYS:1875-1877)** where he was told that Roeder or the two individuals responsible for scheduling were not in the office. Keating feigned ignorance as to the Applicant's efforts to ascertain a hearing date. On March 26, 2015 he sent the Applicant an e-mail **(D8z40) (NYS:1884)**, in which he states "I did not receive an e-mail from the Medical Board office yesterday". This statement was bizarre in the fact that Keating, an attorney with over thirty years of medical board experience, did not pick up the phone and call the board himself to obtain the information he sought from the Applicant with the words "What did they say?". This, the Applicant believed, was further evidence of Keating's complicity in the medical board racket.

39. April 1 to April 30, 2015- **(D8z42-D8z59) (NYS:1889-1932):**

- a) Eighteen communications confirm the foul play, which the Applicant had suspected for many months. Keating's platitudes and excuses as to why no hearing date had been scheduled, became painfully transparent. They had caused the Applicant and his family, a prolonged period of false hope and disappointment.
- b) The Applicant believed the lies perpetrated by Keating, whose dishonesty, caused him to also make misrepresentations to one of the Applicant's friends, an attorney, who was present at a meeting the Applicant had with Keating in April. Keating continued to find reasons not to talk with the Applicant, but on April 30, 2015, informed the Applicant that the matter had already been considered by the Preliminary Evaluation Committee **(C8z59) (NYS:1931-1932)**.
- c) The PEC had not given notice to the Applicant, nor requested he attend the meeting with Roque. The PEC arrived at it's decision, without the benefit of testimony from either the Applicant or Roque. It was to all intents and purposes, an arbitrary decision, that summarily judged the application, and which in retrospect was part of the medical board's efforts at covering both their misconduct, and that of the deputy attorney general's.



- d) The identities of the individuals on the PEC, were never disclosed to the Applicant, nor was the transcript of the proceeding. The entire affair was conducted in secrecy, if indeed any proceeding occurred, and a decision was only made known to the Applicant via Keating's e-mail. No official record of the meeting was ever made available to the Applicant, and thus the Applicant had no basis on which to examine the rationale for the decision.

40. May 11 to May 30, 2015- (D8z60-D8z74) (NYS:1934-1970):

- a) In May there were fifteen communications between the Applicant, Keating and Roque, although Roque responded to none of Keating's e-mails. The story that was filtered through Keating was that a PEC of the board had supposedly evaluated the application, and deemed it "premature", because the Applicant had been unable to pay the medical board the \$450,000 it had levied as a 'fine,' at the conclusion of the February 12, 2014 hearing.
- b) No record was ever produced of the PEC hearing, and the Applicant never received any letter from the board that confirmed their decision. The Applicant visited the medical board on May 24, 2015 and spoke with Lawrence Muka, from whom the Applicant requested a copy of his file. Muka seemed shocked when he saw the Applicant and did not produce the file.
- c) On May 25 the Applicant received an e-mail from Jacqueline Johnson, a public filings officer, who stated that any questions the Applicant had, should be directed through Keating (D8z68). Interestingly, Johnson's message missed the point of the Applicant's visit, which was to obtain a copy of his file, but more importantly it contradicted Keating by stating **"The Board will be reviewing your file and will advise your attorney"** In in response to PEC decision, Keating proposed that Roque send the medical board a letter, which recommended that the Applicant would provide six months of community service as part of the license reinstatement process.
- d) Additionally, Keating believed it would assist the Applicant's case if Roque stated that he would loan the Applicant \$85,000, in order to make an initial payment towards the \$450,000. Keating believed this would dispel any notion the board and the deputy attorney general had, that the Applicant had **"lots of money" (D8z69) (1970).**
- e) What became apparent to the Applicant was the bizarre obsession the medical board had with the Applicant's financial status, which had no relevance to the Applicant's proposal or his clinical ability in regards to license reinstatement. This



sordid detail is evidence that supports the facts and central theme of the federal complaint, which is that the Applicant's license was revoked because of professional jealousy about the commercial success of his practice.

- f) There is no other explanation as to why a medical board, whose remit is to the public, should be so obsessed with the economic standing of a physician. The Applicant believes that the medical board did not perform a legitimate evaluation of the application, and the idea that it was "premature" was entirely ascribable to the deputy attorney general, against whom the Applicant filed an ethics complaint in 2013. In fact, the Applicant stated in an e-mail to Keating on January 21, 2015 **"I know that Hafner thinks this is premature but is that her opinion or that of the medical board?" (D8y) (1782).**

39. June 1, 2015:

The Applicant requested, and received, a copy of Keating's file, in order to demonstrate to the Somerset County Family Court, the extent of his efforts to regain his medical license, and satisfy his child support obligations. Of significance is the fact there were only two documents generated by Keating, which was an unusually small number for a medical licensing matter, that had been ongoing for almost one year. Keating did not have any other relevant legal files in his possession **(D8z75) (NYS:1972-1974).**

40. June 1, 2015:

The Applicant forwarded a copy of Keating's file to his matrimonial attorney, David Ferrante, with permission that he could contact Keating, if he had any questions. To the Applicant's knowledge, Ferrante and Keating, exchanged no information **(D8z76) (NYS:1976-1981).**

41. June 1, 2015:

The Roeder letter regarding the application being "premature" had not been provided to the Applicant, nor had the letter that Keating represented would be sent to Roeder, in response to the supposed decision from the PEC **(D8z77) (NYS:1983).**

42. June 2, 2015:

The Applicant, frustrated with Keating's obfuscations, failure to provide the Roeder letter and an almost non-existent work product, stated that he had considered representing himself. **(D8z78) (NYS:1985-1986).**

43. June 2, 2015:



The Applicant sent a copy of Keating's threadbare file to his family, who had expressed their concerns about Keating's work, since December 2014 (D8z79).

44. June 3, 2015:

Keating failed to respond to the prior communication, and the Applicant enquired as to whether the file contained any other documents. The letter Keating claimed to have sent to Roeder in late January was missing, as was the file that Roeder claimed to have sent Keating in March (D8z80) (NYS:1988-1989)

45. June 4, 2015:

As a consequence of the loss of his license, the Applicant became unable to satisfy his child support obligations, and appeared before the Family Court on June 3, 2015, to explain why the payments were delinquent. The Applicant informed Keating that he had given his matrimonial attorney, David Ferrante, permission to discuss the case with him, and that he had a meeting scheduled with Roque the following day. The Applicant suggested Keating should contact Roque, in order to update him. Keating contacted neither Roque nor Ferrante (D8z81) (NYS:1993-1994).

46. June 5, 2015:

The Applicant terminated the relationship with Keating (D8z82) (NYS:1996)

47. June 8 to July 10, 2015:

There is a series of exchanges between the Applicant and Roeder regarding issues of political corruption, the \$450,000 'fine' and his refusal to provide the Applicant with a copy of his medical board file (D8z83) (NYS:1998-2009).

48. June 9, 2015:

Subsequent to the June 8 communications the Applicant had with Roeder, Keating left a message with the Applicant, that requested they talk. The Applicant enquired as to an appropriate time. Keating, incredulously, continued his false narrative, by stating he would talk to the board about scheduling a hearing. He made this representation despite the fact that Roeder had confirmed in the June 8 e-mails that the application was "premature" because the Applicant had not paid the \$450,000 'fine' (D8z84) (NYS:2011)



49. June 10, 2015:

The Applicant received a strange call from a male individual, who discussed the circumstances surrounding the revocation of the Applicant's license **(D8z85) (NYS:2013)**.

50. June 11, 2015:

Keating's misrepresentations during the June 9 communication and the political corruption that caused the revocation of the Applicant's license, are issues raised by the Applicant **(D8z86) (NYS:2015)**.

51. June 17, 2015:

Aileen Droughton, an attorney retained by the Applicant's malpractice carrier, had sent multiple communications to Keating, that requested updates on the license reinstatement process. Keating, despite his professional familiarity with Droughton, failed to respond. This, the Applicant surmised, was further evidence of the fact that Keating had deceived the Applicant, because of his political affiliation with the New Jersey governor. The latter individual had presidential ambitions, and did not want his malfeasant acts to become public, which a medical board hearing would have permitted **(D8z87) (NYS:2017-2021)**.

52. June 22, 2015:

The recalcitrance of the medical board, in its refusal to provide the Applicant with a copy of his file, was one of the issues the Applicant discussed with his family. The medical board's excuse that it had to "talk" to its attorney about the file matter, was a response consistent with a party that was attempting to cover its tracks. **(D8z88) (NYS:2023)**

53. June 30, 2015:

The Applicant instructed Roeder that he had to produce the file by July 9, 2015 **(D8z89) (NYS:2024)**

54. July 17, 2015- (D8z90) (NYS: 2026-2027):

- a) The Applicant had been contacted by one of his colleagues, who introduced the Applicant to an individual for the purposes of financial advice. The aforesaid individual was, according to his colleague, familiar with the medical licensing landscape in New Jersey, as a consequence of his commercial interactions with the state.



- b) The Applicant was led to believe by his colleague, that this individual, Mark Murphy, had at one time been politically affiliated with the New Jersey governor, but there had, allegedly, been a dispute that caused their relationship to fracture. The Applicant's colleague was aware of his antipathy towards the politician, and suggested that the Applicant and Murphy would have some common ground.
- c) The Applicant cautiously agreed to meet with Murphy, but believed it might have been just an attempt of the the part of the politician to placate the Applicant, and steer him away from publishing any further negative posts about the New Jersey governor. The Applicant met with Murphy, and had several communications with individuals who were meant to assist the Applicant in his attempts to have his license reinstated.
- d) However, it quickly became apparent to the Applicant, that it was indeed another effort on the part of the politician, to silence the Applicant with false promises, as had occurred with Keating. The Applicant sent Murphy a copy of the brief drafted by Keating, and a copy of the June 8 communication with Roeder. Interestingly, neither of the files could be opened by the Applicant's sister, who had been copied on the e-mail, but yet Murphy reported no such issue, which suggested to the Applicant that he might not have bothered to even open the attachments, as he had no intention of actually assisting.

55. August 8, 2015:

The medical board failed to provide the Applicant with a copy of his file, which caused the Applicant to make a third visit to Trenton, which was filmed, and is published on YouTube: (<https://www.youtube.com/watch?v=RJbmCp2zv8E>). The video shows how the Applicant was prevented from talking to Roeder. The Applicant advises Roeder that a federal action will be filed if he fails to provide the file. (D8z91) (NYS:2029-2031).

56. September 9, 2015:

The Applicant initiated action towards the filing of a federal lawsuit (D8z92) (NYS:2033-2034).

57. October 14, 2015:

The Applicant made a fourth visit to Trenton on October 14<sup>th</sup>, when he delivered a letter to the attorney general, John Hoffman, that demanded a copy of his file. The Applicant entered the building at 125 Market Street, Trenton and asked to speak with John Hoffman. Hoffman refused to come down and meet with the Applicant,



instead sending a member of his staff, a large African-American male, to whom the Applicant handed the letter **(D8z93) (NYS:2036)**

58. November 10, 2015:

An ethics complaint was filed against Keating, and has since been docketed, with an investigation that is ongoing **(D8z94) (NYS:2038-2039)**.

59. December 21, 2015:

Keating, having become aware of the ethics complaint, requested the Applicant call him. **(D8z95) (NYS:2041)**.

60. December 31, 2015:

The Applicant requested Keating return the monies he had received from the Applicant. Keating did not reimburse the Applicant. **(D8z96) (NYS:2043-2045)**.



### **13. CHILD SUPPORT OBLIGATIONS**

1. March 18, 2014- (D7b) (NYS:1607-1656):

- a) Shortly after the medical board affirmed the administrative law judge's decision and revoked the Applicant's license, on February 12, 2014, the Applicant's ex-wife filed a motion in matrimonial court to enforce her rights as per the divorce decree. Her attorney described the Applicant as a "hugely successful anesthesiologist", which the Applicant submits was a consequence of the quality of care he provided to his patients, and the cause of the professional jealousy, which when combined with political corruption, resulted in the revocation of his medical license.
- b) As stated in the motion, the Applicant's inability to provide child support coincided with the revocation of his license and an avalanche of legal attacks from opportunistic patients, and insurance companies. The latter sought to erase their financial liabilities to the Applicant's corporations, based on the medical board ruling, which they argued was reason for them not to pay the Applicant for minimally invasive spine procedures he had already performed. Two of these carriers are named as defendants in the federal action, and are alleged to have been contributors to the scheme that caused the revocation of the Applicant's license.

2. April 5, 2015:

As a consequence of the license revocation, the Applicant became unable to meet his child support obligations. In response to a letter he received from the Somerset Family Division, he detailed the sequence of events that caused the issue **(D9) (2047-2049)**.



## **14. FEDERAL LAWSUIT**

### **1. February 22, 2016:**

On February 22 2016 the applicant filed a RICO lawsuit (Docket No. 16-CV-1346, Kaul v Christie, et. al.,) in the United States District Court, Southern District of New York. The matter was transferred, sua ponte, to the District of New Jersey on April 19 2016, and the Applicant file an interlocutory appeal (Docket No. 16-CV-1397), that requested the matter be transferred back to the SDNY. The Applicant was concerned that the politico-legal nexus in New Jersey would impede his access to substantive justice. The appeal was denied, and the matter is now pending in the District of New Jersey (Docket No. 16-CV-02364).



## **15. CLINICAL RECORD**

1. The applicant has extensive support from both patients and professional colleagues, and has a clinical record that spans twenty-eight years, during which he has successfully administered ten thousand (10,000) interventional spinal procedures, eight thousand anesthetics (8000) and eight hundred minimally invasive fusions and discectomies.
2. The negative publicity surrounding the suspension of his license in April 2012 caused a flurry of frivolous lawsuits, which were shown to be frivolous when surveillance videos, the Applicant obtained, demonstrated patients engaging in activities, they claimed they could not perform.



## **16. SUMMARY + CONCLUSION**

The Applicant, as the record shows, built a successful practice in the field of minimally invasive spine surgery. Throughout his career he has complied with state and federal regulations, was in possession of a plenary medical license, had been credentialed by multiple surgical centers to perform minimally invasive spine surgeries, and had actually performed eight hundred cases with good to very good outcomes in 90-95% of cases. He always sought legal advice to ensure his practice was properly organized. The Applicant's practice was public knowledge. The New Jersey Board of Medical Examiners had known at least since 2005, if not before, that the Applicant was performing minimally invasive spine procedures.

The events that led to the revocation of the Applicant's license were a consequence of professional jealousy and political corruption. Because there is an unconstitutional concentration of power in the hands of the New Jersey governor, he controls the medical board, attorney general and office of administrative law. These three agencies exert authority over physician licensing proceedings, and it was, therefore, easy for the Applicant's competitors to have his medical license revoked, by simply bribing the governor.

The forging of court transcripts would have gone unnoticed, had the Applicant not had, an independent transcriptionist records the proceedings. The Applicant's competitors were unable to compete fairly, and therefore cheated by engaging in political corruption. The case is, in the opinion of the Applicant, another example of the corruption that has become synonymous with New Jersey, and its current governor.

The forged court transcripts, the epidemic of slander and the racketeering between physicians, lawyers and healthcare businesses, created a situation, which the Applicant describes in the attached chart, as '**A Perfect Storm**'.

Lost in this storm, however, were the Applicant's many patients, who were left without a physician, and whose appeals to the politician, were simply ignored. These individuals did not even receive the courtesy of a response to their letters. Their opinion was not given no weight.

The legal malfeasance that occurred in this case is shocking, but it persisted because there is a culture of corruption that emanates from the top of state government. These officials acted outside of the law, and violated both their oaths, and the Constitutional rights of the Applicant. They did this with an impunity, and an utter disregard for the rule of law.

The applicant has always acted in good faith. The Applicant made bone fide efforts to have his license reinstated, and suggested to the medical board in April 2012 that they place a monitor in his practice. This proposal was rejected. The Applicant proposed a reasonable plan in 2014, which would have facilitated his re-entry into clinical medicine. These efforts were met with



responses that had no basis in reason, or in the medical board's remit to protect the public, but were simply punitive, and reflective of an organization, that has become absolutely corrupted, by absolute power.

The applicant submits a proposal to the New York State Medical Board, that he hopes will facilitate his re-entry into clinical medicine, and will provide the medical board with adequate safeguards, to ensure the protection of the New York public.

For the reasons stated in this application, the Applicant respectfully requests that a hearing be granted to the Applicant and his monitor, in order that the board can more thoroughly evaluate the Applicant, and that the Applicant can more fully explain his professional history.

Yours sincerely

Richard Arjun Kaul, MD



## TESTIMONIAL BUNDLE

*Dr Richard Kaul*

	<u>Date</u>	<u>Page no:</u>
1. Ms A M Williams SRN	19th May 2000 (rec)	1
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9. Mr P Ashby FRCS	31st March 2000	16
10. Mr S Kay	26th March 2000	7
11. Mr N Hasan FRCS	22nd March 2000	18
12. Mr R Downes FRCS	12th April 2000	19
13. Mr E Chand BDS	3rd April 2000	20
14. Dr A Kingdon	10th March 2000	21
15. Mr P Jordan FRCS	20th March 2000 (rec)	22
16. Mr A Skanderowicz FRCS	28th March 2000	23
17. Dr R Agarwal	6th April 2000	24
18. Mr P Crouch	12th April 2000	25-26
19. Mr P Malan	4th April 2000	27
20. Mr S Karmani	12th December 2000	28



21. Mr N Chantarasak FRCS	20th November 2000	29
22. Mr R Hawken BDS	31st January 2001	30
23. Professor A Saubermann	1st February 2001	31-32



# THE LONDON WELBECK HOSPITAL

21 Welbeck Street, London W1M 7PG

Telephone: 0171-224-2242

Fax: 0171-224 2493



## To Whom It May Concern

I write on behalf of Richard Kaul who I have known for two years. Dr Kaul initially came to work at the London Welbeck Hospital in our two large theatres as an anaesthetist.

We have guidelines, which we follow when we accept both surgeons and anaesthetists to work in our theatres and hospital. We obtain four professional references with evidence of registration membership to the General Medical Council. In addition to this all theatre staff are instructed to write a practice report on a new anaesthetist who takes a fulltime post as an anaesthetist.

I wish to give you my own professional background. I have been in the nursing profession for thirty years. My experience ranges from general nursing, theatres, midwifery and paediatrics. I also have experience in the education of nurses. I have also managed one hospital before coming to the London Welbeck Hospital as the director of nursing and the registered person in charge of the hospital. The registered person is responsible for all aspects of running their hospital and ensuring that all medical staff gives quality, equal and safe care. This means that the Health Authority expects my full and vigilant involvement of the care of all patients who are admitted and operated on at the London Welbeck Hospital. In short, I am responsible to my patients, the Health Authority and its acts and regulations and my employers.

It is now two years since we at the London Welbeck Hospital first met Dr Richard Kaul. My staff and myself right from the beginning found him a very able individual with a pleasant personality at all times. He is always polite and gentle in his approach and it is indeed a privilege to have such an honest and helpful team member. Dr Kaul's professional practice and approach to both his patients and colleagues, observed, over the period has always been the best. I can honestly state that we find him a conscientious doctor who is very caring and committed to his work. As the Welbeck Hospital has no accident and emergency department Dr Kaul would make sure that every patient anaesthetised by him is fully recovered and comfortable in their room before leaving his contact or on call room. He is the senior in house lecturer on the Cardiac Arrest training, recommended by the Health Authority, for all the clinical staff.

Personally, <sup>if</sup> I would be most pleased and would have a total confidence for Dr Kaul to anaesthetise me if I ever <sup>was</sup> to have an operation.

Please contact me if you would like any more information.

Yours sincerely

A. M. Williams BA Hons. (London) F.ed  
SRN(RGN) DCM(RM)



2/5/2000

Flat B  
29 Howitt Rd  
Belsize Park  
London  
NW3 4LT

Dear Mr Barker

Thank you, for your letter dated 19<sup>th</sup> August 2000 regarding Dr Richard Kaul. I was extremely upset to hear of his manslaughter charge, as my experience with Dr Kaul was a very positive one. I first met him in July 1999, when he was the anaesthetist who looked after me for an operation I had at the Highgate Private Hospital.

In a pre-operative visit he instilled great confidence in me and made me feel relaxed and safe. He explained in thorough detail every aspect of the anaesthetic care and answered all my questions. The operation went well and I saw Dr Kaul a couple of hours after I had woken up, he came to check that everything was okay and that I wasn't experiencing any pain or nausea.

His whole manner from start to finish was professional and caring and I find it hard to believe how someone with his skills and expertise would in anyway behave negligently. A few weeks after my discharge Dr Kaul telephoned to check on my welfare, I was doing fine and thanked him for his care.

I can't speak too highly of my experience with Dr Kaul and would gladly attend court if necessary.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Sutton'.

Anthony Sutton



36 Belrice Grove, Hampstead, London NW3 4TR

Tel: 071-722 4261

26<sup>th</sup> April 2000,

Hempsons Solicitors  
33 Henrietta Street  
Covent Garden  
London WC2E 8NH

Your Ref: 1009 27 15420.

Dear Mr Barker,

I received your letter regarding Dr Richard Ka  
I received treatment from him at the Highgate  
Hospital in April last year where he was my  
anaesthetist for having my wisdom teeth removed.

I have absolutely no complaints about my  
treatment, I was made to feel very comfortable  
and suffered no after effects - is no swelling.

Although I only met Dr Karl on the one  
occasion before my operation, I was impressed  
by the caring manner he expressed when I told  
him that I was incredibly nervous.

I hope that I may have provided some  
assistance, unfortunately I will not be able to  
attend the Court hearing as I am a student.



Birmingham, and have exams after the 10<sup>th</sup> Ma

Yours sincerely,  
Tanya Chappell





GEORGE PARFLE

26, LEE ROAD

NORTHAM

TEWKESBURY

GL20

8QF

TEL 01684-294658

On the 25<sup>th</sup> / APRIL / 80

Dear Mr. Barker,

Thank you for your letter dated  
the 16<sup>th</sup> of April 1980.

I am sorry to hear about the  
problem that Dr. R. Karl finds himself.

I personally got to know Dr.  
Karl, through Mr. Anthony Mitro, at the Highgate  
Private Hospital.

Mr. Mitro, an excellent ear, nose  
and throat specialist, was in 1976 when I was  
enlarged my life. I have naturally, been a patient  
of his since then.

When my little boy started having  
problems with his ears, mainly through ear infections, the  
approach too frequently for my liking, I knew when  
to turn to

I took my little boy, Lambert, to  
see him and Mr. Mitro suggested that Lambert should  
have grommets inserted in his ears, which should stop the problem.

I naturally agreed and we arranged for  
my son to have the operation. Although a routine operation.



But's when I got to know Dr Karl.  
On the evening of the operation, he came to  
our private room, and introduced himself.

He was dressed in his uniform, except the cap,  
and he told us he was the anaesthetist.

He was pleasant, calm, very confident and  
reassuring and he even talked with Lambert for a bit.  
I suppose it was a good thing to do, because at  
the time came for Lambert to go to the operating  
theatre, he was ~~not~~ greeted by a familiar, smiling face.

He reassured me once again that everything was  
be all right and he guided Lambert along as to what  
steps to take, i.e. climb on to the bed, lie on his  
back, the mask on his face, etc.

Lambert followed instructions to the letter.

From my point of view, it was good to see that all  
the things Dr Karl told me would happen during the  
process of getting Lambert to sleep, did indeed happen.  
Like there would be a reaction at first from Lambert, that  
he would laugh a bit and before you know it he'll be  
asleep.

Dr Karl constantly kept checking various things  
in various intervals and kept calling to his assistant to  
give him this or that.

It seemed like a long time but I probably only  
took a few minutes.

Having had three operations myself, I must admit  
I was scared for my boy. For myself I was not scared  
because I was asleep before they even took me to the  
operating theatre. But when it is your child, it is a  
different story.

However, having seen everything turn out exactly  
as Dr Karl said it would, at least his part. I know



In fact, I was surprised to see Dr Karl come back in the room, after they brought Lancel back, to tell us that he will be sore and groggy when he wakes up. That is just as much because of the anaesthetic in his body, rather than pain from the operation.

I thought that was kind of him.

I mean I knew for certain Mr. Mitral would be coming to see us. But you never expect the anaesthetic to turn up.

Anyway, all went well and unfortunately we needed the services once more of Dr Karl because one of the granits did not pop out as we were asked by Mr. Mitral that it would, so they had to get Lancel sleep again in order to remove it.

Dr Karl was the man in charge again of getting Lancel to sleep and he was as professional the second time as he was the first.

Lancel felt comfortable with him, and so did I. As for his character what can I say?

One finds a picture of someone by the way they conduct themselves and by the feelings one gets.

In ~~that~~ those brief meetings I took Dr Karl to be a very professional man. As for his nature I wouldn't like to say, because I can't really know him.

As a Doctor he seemed fine.

I never take Mr. Mitral. He operated on me in 1975. I must have seen him since then. I can't remember, yet I don't even know where he comes from. He practically knows everything ~~about~~ ~~the~~ on LA. I know nothing about him except that I trust him implicitly and I feel good with him when I am in his presence, especially as a professional man.

I suppose, having twice used the services of Dr Karl



I hope I have been as helpful as I have  
been truthful.

I wish in the best of luck as I'm  
sure in my mind that if he did everything as he  
shall, then he has nothing to fear.

Best regards

Yours sincerely,





WITNESS STATEMENT

STATEMENT OF

SYLVIA MOORE

AGE: OVER 18

This Statement consisting of 2 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

DATED this 9<sup>th</sup> day of May 2000

Signed A. Moore

SYLVIA MOORE

I am SYLVIA MOORE of 17 Union Street, Londonderry, Northern Ireland. In April of last year I underwent an operation in London, being liposuction. The doctor who conducted anaesthesia for the purposes of that operation was Dr Richard Kaul. I met Dr Kaul on several occasions prior to the operation, and he spent a lot of time with me explaining what was involved, and ensuring that I felt comfortable before deciding to proceed.

Following the operation, Dr Kaul came to see me to review my condition on several occasions, and I was most impressed with his care. Indeed, other patients at the hospital commented that they too were most impressed with him.

Signed A. Moore

Witnessed [Signature]



## STATEMENT OF SYLVIA MOORE

AGE: OVER 18

From my experience in consulting Dr Kaul, I can say he is a most kind and caring person and very considerate.

As an example of Dr Kaul's caring approach, I recall that after the operation that Dr Kaul was concerned to review me, and it was necessary for him to telephone me to revise the time of my appointment. He mentioned to me that his uncle, who was to him a father figure, sadly had just passed away. I was concerned as to suggest to him that it would not matter if I did not see him in the circumstances, but he was determined to see me to ensure that all was well.

I am aware that Dr Kaul is charged with gross negligence manslaughter, the charge against him arising out of his care of a patient. When I learned of the allegation I was shocked, and could not believe that the charge involved the same person who had cared for me. I plan to have another operation, and have resolved that if Dr Kaul is unavailable to conduct anaesthesia, I will wait until such time as I can be treated by him. My regard for him is such that I would have no hesitation in going back to him for treatment in spite of the allegation which has been made against him.

Signed *S. Moore*Witnessed *J. B. B. B.*



WITNESS STATEMENT

STATEMENT OF


NIKKI KINGDON

AGE: OVER 18

---

This Statement consisting of 2 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

DATED this 13<sup>th</sup> day of February 2001

Signed:   
NIKKI KINGDON

---

I am NIKKI KINGDON of 339 Lonsdale Road, Barnes, London. On 26 April 1997 I had wisdom tooth removed. The doctor who conducted anaesthesia for the purposes of that operation was Dr Richard Kaul.

The operation was a tricky one that had to be done by a maxillo-facial surgeon. I had a general anaesthetic. Dr Kaul made me feel confident and at my ease. I was very upset when I arrived for my appointment as I had got the appointment time wrong and was an hour late. I was very upset about this and in tears but he was very kind and said that it was not a problem.

I can not remember anything of the operation as I just went out under the anaesthetic and I remember nothing until I woke up afterwards. I do remember that Dr Kaul came to see me after my operation to check how I was and to make sure I was OK. The general anaesthetic was brilliant for the operation I had and I had no problems at all.

In the same year, Dr Kaul came to work for my former husband who has a cosmetic surgery clinic in Earley Street. Some patients were treated at the Cosmetic Surgery Clinic under sedation and Dr Kaul carried this out. I was not present at any of the



~~sedations. There were never any problems or complaints by the patients that they were~~  
sick or dizzy. Everything was straightforward.

Some of our patients have surgery in the hospital at Highgate for breast augmentations and such like and Dr Kaul carried out the general anaesthetic for those patients. Again there were never any problems or complaints in this respect.

I liked Dr Kaul although I did not know him very well. He has a pleasant manner and got on well with staff and patients alike.

Signed N. Kaul

Dated 13 February 2001



# SU POLLARD

396 RICHMOND AVENUE  
LONDON, N1 0HT.

13-4-00.

Dear Mr. Barker,

I am writing to confirm that on June 10th, 1900  
I had an appointment at the Highgate Hospital,  
with Mr. Mitra, for a sinus draining operation.  
Being a professional actress, it is essential that  
any infection which may hamper my ability to  
perform in any way, be treated as effectively as  
possible.

On the day of the minor operation I was visited  
in my private day room by Dr. Kaul, the  
gentleman in charge of my anaesthetic. He spent  
time detailing the whole procedure, what it entailed,  
how long surgery would last and what I might  
expect post-operatively (i.e. a probable dry  
throat & discomfort). Indeed, this is what subsequent  
information). He accompanied this dialogue with a  
diagram which - to my mind, anyway - fully explained  
what would be happening while I was under  
anaesthetic.

Although I had had no experience of Mr. Kaul  
either professionally or socially before my surgery,  
I found him to be extremely informed and willing  
to answer any of my queries and questions in a  
straightforward and knowledgeable manner.



21  
He made it his business to fully inform me  
before commencement of the operation, thereby  
allaying any anxiety I might have felt.

I consider my surgery to have been wholly  
successful and have been extremely happy with  
my sinuses! For the period since my operation.

I found Dr. Kaul to have been, professional,  
considerate and compassionate.

Yours most sincerely,

So Palard - SU POWARD.



To whom it may concern

My name is Caroline Ford, age 55 of 56 MARGERY PARK ROAD, WINDON E7  
I am writing this letter in support of Dr Kaul who has been charged with manslaughter  
in relation to a death under dental anaesthesia.

I first met Dr Kaul on 5<sup>th</sup> November 1996, I was scheduled to have a breast enlargement at the Highgate Private Hospital, London to be carried out by Dr Chantersak. On the day of surgery I was seen by Dr Kaul, who after having completed his pre-operative history, placed a series of monitors on me, which I believe were to keep an eye on my heart and breathing. He then placed a needle in my hand and gave me some drugs, I remember falling asleep. The next thing I remember is being woken up in the operating theatre with Dr Kaul and nursing staff reassuring me. I was transferred to the Middlesex Hospital where I was told I had suffered a cardiac arrest whilst the surgeon was injecting local anaesthetic into my breast. Dr Kaul had responded immediately and successfully resuscitated me, thereby saving my life. Although the exact details of the event are a bit vague now I clearly remember being told that Dr Kaul had acted swiftly and effectively in restarting my heart. I spent three days at the Middlesex and was then discharged.

I owe my life to Dr Kaul and he regularly called me for a couple of months after the event to check on my welfare. One year after the arrest I telephoned him as it was his birthday to thank him for saving my life. My experience with this doctor has been very positive, he was caring, considerate and competent if it had not been for his rapid response I would probably not be here today. I would be more than happy to support him in whatever way I can, as I believe he is an extremely able and compassionate young doctor.

Yours faithfully



Caroline Ford



Mr P H Ashby FRCS  
Cosmetic Plastic Surgeon

51 Harley Street  
London W1N 1DD

Tel: 0171 580 6449  
Fax: 0171 580 6448

TO WHOM IT MAY CONCERN

Re: Dr. Richard Kaul.

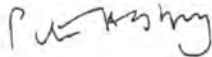
My name is Peter Ashby. I am a plastic surgeon and I have been in full time private practice based in Harley St for thirteen years. My name is on the Specialist Register maintained by the GMC.

I have known Dr Richard Kaul since the autumn of 1997, initially in a professional capacity, when he joined a select group of anaesthetists whose professional skills I and my patients enjoy on a regular basis. With the passing of time that professional relationship has matured into a warm friendship which I greatly value.

On reviewing my records I can confirm that Dr Kaul has anaesthetised, approximately, 75 of my patients a year. Almost without exception these operations have been under a general anaesthetic as it is not my practice to operate using so called sedation, or twilight anaesthesia.

In running a private practice, I have the luxury - which is not afforded to my Health Service colleagues - of choosing my anaesthetist. Traditionally, the relationship between anaesthetist and surgeon can be adversarial but in my practice I am happy to say the relationship is one of co-operation with the wellbeing of the patient being paramount. I cannot fault either Dr Kaul's professional relationship with me as a surgeon or, more importantly, his professional skills as an anaesthetist.

Dr Kaul told me about the death of his patient shortly after it happened, and I witnessed his anguish and distress. We continued to work together until his right to practice as an anaesthetist was suspended by the GMC at the end of 1999, and I look forward to working with him again after his acquittal.



P. H. Ashby.  
31 March 2000



Harley Stre  
Dental Clin

Mr I S P Barker  
Hempsons  
33 Henrietta Street  
Covent Garden  
London WC2E 8NH

26<sup>th</sup> March 2000

Dear Mr Barker

RICHARD KAUL  
Your Ref. 1009 27 15420


I have known Richard personally for nearly three years. I am the owner and principal of the Harley Street Dental Clinic which incorporates a designated operating theatre with anaesthetic and recovery facilities which is approved by the local health authority. The theatre is used extensively for surgical procedures and general anaesthetics (usually IV sedations).

Richard has worked at the surgery as an anaesthetist. He has worked for me personally, the three maxillofacial surgeons at the practice and with our restorative consultant. He also works with the ophthalmic surgeon, using our laser equipment.

During the two and a half years Richard has worked at the surgery, no one has had cause for alarm, I have spoken to all the surgeons he has worked with, no has had any reason to complain, to the best of my knowledge all the patients have been totally satisfied with their treatment.

I have been happy with Richard's work at the surgery in the past, and would be more than happy for him to continue in the future.

Yours sincerely



STANLEY S KAY

39a



## Mr Naveed Hasan

BSc, MBBS, FRCS (Edin), DA (RCS & RCP) Lond  
Consultant • General Surgeon • Specialist in Vascular and Genito-Urinary Surgery

79 Harley Street  
London W1N 1DE  
Tel: 020 7224 5537  
020 7224 5536  
Fax: 020 7224 5539

Welbeck hospital  
27 Welbeck Street  
London W1M 7PG  
Tel: 020 7224 2242

Mobile: 0780 118 1632

22<sup>nd</sup> March 2000

Your Ref: 1009 27 15420

Hempsons Solicitors  
33 Henrietta Street  
Covent Garden  
London  
WC2E 8NH

Dear Mr Barker

Thank you for your letter dated 9<sup>th</sup> March 00. I apologise for the late delay in replying.

I have known Dr Richard Kaul as a colleague for the past 12 months. He has on numerous occasions anaesthetised my patients during my operations. I have known him in the capacity of professional as well as having social interactions with him on a few occasions.

I confirm that Dr Richard Kaul is a very pleasant gentleman as well as a competent anaesthetist. I also confirm that I have never heard any unpleasant comments regarding Dr Richard Kaul from any other colleagues of mine who work in hospital environments.

I shall be more than pleased to assist in any way, if and when required in the courts as a witness.

Yours sincerely

Dr N. Hasan





Mr Richard Downes

The Nottingham Nuffield Hospital  
748 Mansfield Road  
Nottingham NG5 3FZ  
Tel: 0115 9209209  
Secretary/Fax: 01636 816390

12<sup>th</sup> April 2000

Mr I S P Barker  
Hempsons Solicitors  
33 Henrietta Street  
Covent Garden  
London WC2E 8NH

Dear Mr Barker

Re R - v - Dr Richard Kaul

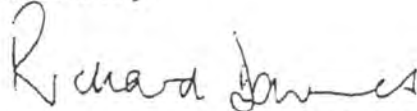
May I start by apologising for not replying to you sooner with regard to character reference for Richard but I have just been in the throws of changing jobs.

Richard Kaul has worked with me as an anaesthetic colleague in the operating theatre of 102/104 Harley Street over the last two years. He has provided general anaesthetic or local anaesthetic plus sedation for me for patients on a regular basis requiring cosmetic/aesthetic surgery. I have always found him to be a kind and considerate doctor taking time to explain fully to the patients what the surgery entailed. In relation to this practice he always struck me as being a very competent and able anaesthetist and at no time did problems arise with any of the patients that he anaesthetised for me during this period of time. Because of change of practice I have not actually undertaken very much surgery over the last three to four months and this indeed is the only reason that I have not made any call on Richard's services. I would be more than happy to use him again as an anaesthetist and am of course very sorry to hear of the situation in which he now finds himself.

In summary my opinion of Richard Kaul is that he is a sound and competent anaesthetist and in my experience has never compromised patient care and I would be more than willing to use his services in the future as and when the situation dictates.

With kindest regards

Yours sincerely



Mr R N Downes B Sc FRCOphth FRCS DO  
Consultant Ophthalmic and Oculoplastic Surgeon



# ABBEY DENTAL

20 North Street, Barking, Essex, IG11 8AW  
Tel. 0181 594 4059

E. Chand BDS LDSRCS

I. S. P. Barker  
Hempsons Solicitors  
33 Henrietta Street  
Covent Garden  
London WC2E 8NH

3rd April 2000

Dear Sir/Madam,

RE R -v- DR RICHARD KAUL

I first met Richard when at the Royal Free Hospital in Hampstead in 1985 when he started his Medical Studies. I remember him as a popular person. I subsequently met him again in 1996 at my clinic at Whitechapel. He had been sent by an anaesthetic agency to provide his services to the patients I was treating that day.

Mr Kaul has worked providing anaesthetic services at my practices in Barking, Whitechapel and Walthamstow. He has worked with other dentists at these practices and I have personally worked with Dr Kaul on many occasions where I carried out the dental treatment and Dr Kaul was responsible for the anaesthesia.

I have worked with in excess of 40 different anaesthetists and have regarded Dr Kaul as one of the most competent by which I mean that procedures were generally very easy to carry out as the patients seemed relaxed if sedated and stable if under general anaesthetic.

A good anaesthetist will enable the dentist to carry out his work with the minimal of stress and interruption. Patients tended to have good recoveries following treatments.

I would definitely regard Dr Kaul as one of the best anaesthetists I have worked with and would choose to work with him again. He was always thorough, calm and competent in my opinion.

It is unfortunate that he should find himself in this situation as being an anaesthetist can be a very stressful job at times. From my experience of Dr Kaul, I believe that when faced with a situation where a patient becomes medically distressed while under anaesthesia, Dr Kaul would have coped with it in a calm, authoritative and competent manner. I certainly do not believe that he would have been negligent in his duty of care to his patients such that an medical emergency could be precipitated.

Your faithfully,





# THE COSMETIC SURGERY CLINIC

100 Harley Street London W1N 1AF  
Tel: 020 7486 5111 Fax: 020 7486 5771 Mobile: 07714 703007  
E-mail: [mail@cosmeticsurgeryclinic.co.uk](mailto:mail@cosmeticsurgeryclinic.co.uk) internet: [www.cosmeticsurgeryclinic.co.uk](http://www.cosmeticsurgeryclinic.co.uk)

Mr I S P Barker  
Hempsons Solicitors  
33 Henrietta Street  
Covent Garden  
London  
WC2E 8NH

10<sup>th</sup> March 2000

Dear Mr Barker,

Re: Dr Richard Kaul

I have known Richard Kaul for about 4 years. I met him in a professional capacity since he was an anaesthetist working in the same clinic that I was. I have found him to be a very nice man.

I have always been impressed with his ability as an anaesthetist. For this reason we have routinely used him at this clinic. He has a very good manner with patients in that he inspires confidence.

The various surgeons that have worked with me at this clinic have always expressed satisfaction with his performance as an anaesthetist.

My own particular experience is of Dr Kaul using I.V sedation for me during Liposculpture procedures. I have always found him particularly skilful in this regard. The patients experience no pain and the impression has always been that he has conducted himself very carefully and with a routine that has always led to the smooth completion of the procedure.

Such is my confidence in his ability as an anaesthetist that when my wife required I.V sedation for a dental procedure I particularly requested Dr Kaul for this purpose.

I would find it very surprising if Dr Kaul was ever less than completely conscientious in administering an anaesthetic sedation.

Please let me know if I can be of any further help.

Yours sincerely,



Dr A J Kingdon.





**PETER R. JORDAN** L.R.C.P., M.B.B.S., F.R.C.S.(Eng), Sp.Cert Plastic Surgery  
CONSULTANT PLASTIC SURGEON

---

*TESTIMONIAL*

Laundon Hall,  
Threackingham,  
Sleaford,  
Lincolnshire.  
NG34 0AX  
Tel. (01529) 241060  
Fax. (01529) 240951

Re:- Dr Richard Kaul

I am a surgeon specialising in Plastic and Cosmetic Surgery having been in practice for over thirty years. Dr Kaul has anaesthetised for me over the last five years and I have built up a friendship both socially and professionally during that time.

I have always found him to be a thoroughly caring and skilled practitioner. He has never stinted in his attention to patients in his care – making sure that pre and post-operative treatment was both thorough and effective.

His training and experience has been very wide both in the U.K. and America. He is a versatile doctor and very capable anaesthetist in whom I have had every confidence. I was indeed very surprised to hear about the charge brought against him and would find it very difficult to believe that it should arise from professional neglect or incompetence by him.

Should further information be required, I would be pleased to supply it.



Peter R Jordan MBBS FRCS (Eng)



## TESTIMONIAL DR RICHARD KAUL

I have known Dr Richard Kaul for about four years during which I have come to respect him both professionally and personally. Despite having had a disadvantaged childhood, losing both his parents at an early age, Richard has managed to achieve a very successful medical career which only serves to show his determination and true character. I strongly emphasise that his achievement in medicine despite all the early difficulties and disadvantages he was forced to endure is second to none.

We have worked together regularly since 1996, with Richard anaesthetising my patients at the Highgate Hospital. He has always shown the utmost concern for patient welfare and been a conscientious and caring doctor.

His theoretical knowledge and technical skills of anaesthesia are in my opinion excellent and I have never had any doubt about his competence. Many of his patients have commented on the confidence he inspires in them before anaesthesia. Indeed I wouldn't hesitate to allow him to administer an anaesthetic to me or any member of my family.

I was most upset to hear of the manslaughter charge against him and still find it difficult to comprehend how the clinician I have regularly worked with could possibly be accused of such an offence.

I was aware of the appeal Richard had lodged against a decision made by the RCA/STA with regards to his specialist accreditation in this country. I was most surprised at their rejection of his appeal, as I have worked extensively with NHS consultants in the past and still do and would in no way consider Richard's skills and knowledge in any way inferior.

Richard has consistently shown the same level of expertise and competence as any NHS consultant and judge the decision made against him as a political rather than a clinical one.

Unfortunately the tragic death of the dental patient has afforded certain parties an opportunity to further villify Richard. It would seem to me that certain individuals at the RCA have very inappropriately turned this unfortunate case into a political platform.

That said I again strongly emphasise my support and confidence in Richard as a competent and caring anaesthetist and will gladly assist him in whatever way I can.



ANDREW SKANDEROWICZ FRCS

28.3.00.





## Castlefield Clinics

5th Floor, 2 St Johns St,  
Manchester  
M3 4DB  
TEL: 0161 832 8700  
FAX: 0161 832 0087

Thursday 6th April 2000

Hempsons Solicitors  
33 Henrietta Street  
Covent Gardens  
London  
WC2E 8NH

Dear Sirs,

DR RICHARD KAUL

I am writing in response to your letter dated 24th March 2000.

I first met Dr Kaul when we worked together at the Highgate Private Hospital about five years ago. In this time I have known Dr Kaul on a personal basis as well as professional.

I have always found Dr Kaul a very capable and competent doctor. I have never had to worry about any problems arising when working with Dr Kaul as I know I can put 100% confidence in him. He cares for all the patients extremely well and always sees the patients before discharging them. On many occasions Dr Kaul has volunteered to go to the hospital the next day to see my patients as I would be unavailable due to work commitments in my Manchester Clinic.

Yours sincerely



Dr R K Agarwal



● HEMPSONS SOLICITORS

33 Henrietta St.  
Covent Garden  
London WC2E 8NH12

12 April 2000

Att. Ian Barker

R-v-Dr. Richard Kaul.

To whom it may concern,

I first met Richard Kaul in the early part of 1996. He was introduced to me by a mutual friend, Evan Chand, & I learnt that he was an anaesthetist who had been working in America & had a very good reputation.

Some months later I needed an anaesthetist in my dental practice, & managed to employ Richard for two days per week, even though he was always busy at other places.

During the time he worked with me, & I must say that our G.A. sessions were extremely hectic, Richard was always in absolute control & never let a situation develop which could have been detrimental to the patient. In other words, the anaesthetic part of the day's session was always very smooth & stress free.

I might add that I myself had done dental anaesthetics full-time for many years, & had worked as a dentist with various anaesthetists as well, & I can say categorically that Richard was as good as the best, & better than a lot!

I eventually sold my practice to Richard, & on the few occasions I dropped in to chat, the anaesthetic &/or sedation sessions were very quiet & professional, the layout of the rooms was more efficient & I got the impression that everything was more "hospital-like".

Over the years Richard & I have become good, if infrequent, friends, & I have always regarded him as very, very professional & apparently very caring. I say this because he would often leave my practice at the end of the session to dash off & see to a patient's



● aftercare in hospital, as he has also done on a few occasions when we've been out together!

I hope my opinions will help to give a more balanced view of Richard's persona, which is always busy, always thinking & always trying to improve his professionalism. (& which can lead to jealous reactions!).

Yours faithfully,

Peter Crouch(BDS.Syd.)



PIETER D MALAN

135 HUNTER AVENUE  
SHENFIELD  
ESSEX  
CM15 8PC

Phone: 01277 222842  
Fax: 01277 222842  
Email: pmalan@writec.com

4 April 2000

You Ref.: 1009 27 15420

Mr ISP Barker  
Hempsons Solicitors  
33 Henrietta Street  
Covent Garden  
London  
WC2E 8NH

Re.: Dr Richard Kaul

I have had an interest in dental treatment under general anaesthetics since I graduated and have been working in various general anaesthetic clinics in the UK since December 1993. During this time I worked with more than thirty different anaesthetists.

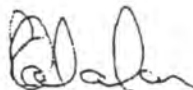
I first worked with Dr Kaul in December 1996 when he was the anaesthetist performing general dental anaesthetics in a dental clinic. I subsequently worked with him again and worked as an associate at his clinic in Balls Pond Road, Dalston.

We worked together regularly until he found a regular associate to perform the general anaesthetics while he worked elsewhere. I found him to be a very professional anaesthetist. He was confident and competent and never compromised the safety of our patients.

When he took charge of the clinic, he not only upgraded the dental equipment and instruments, but also the general anaesthetic equipment with special reference to the safety equipment i.e.: a dedicated crash trolley and enlargement of the clinical area.

I only met him socially once, to discuss the possibility of me working in his clinic as an associate. He is a teetotaler and I got the impression that he is very serious about his profession.

Yours sincerely



Pieter Malan



Mr. Ian Barker  
New Legal Services  
230 Blackfriars Rd  
London SE1 8JY.

THE MDU  
19 DEC 2000  
LEGAL

M. S. KARANTHI  
2, BATHFORD RD.  
LONDON  
SW17 5TZ  
12.2.00

Dear Mr. Barker,

re: Richard Kaul

I have been asked by Richard Kaul to provide a letter of reference for his upcoming Court Case. I understand he has been charged with manslaughter due to a patient of his having cardiac arrest and subsequently dying. I worked with Richard at the Weston dental anaesthetics Centre from 25.1.97 to 20.5.97. In this period I have seen him carry out hundreds of anaesthetics safely and competently without any complications. His technical skills as an anaesthetist are excellent and he was always a caring + compassionate professional. I would be happy to support him in whatever way I can.

Yours Sincerely  
M. S. Karanthi

Shweta Karanthi



ND CHANTARASAK FRCS

78 Harley Street London W1N 1AE  
Tel: 020 72551308

Fax: 020 84211288  
Mobile: 07070 191366  
Email: ndc2@hotmail.com

November 20, 2000

TO WHOM IT MAY CONCERN

I, Mr ND Chantarasak am writing in support of Dr Richard Kaul whom I have known as an anaesthetist for six years. I understand he has been charged with manslaughter and is due for trial on 15<sup>th</sup> January 2001.

I would like to specifically describe what happened on 5<sup>th</sup> November 1996, when a patient called Caroline Ford, was scheduled for a breast augmentation operation at the Highgate Private Hospital. This lady was brought to the operating theatre induction room where Dr Kaul anaesthetized her. After having injected her proposed incision line with 1 ml of local anaesthetic she was moved into the operating theatre and placed on the table. As soon as the monitors were reconnected it was noted by Dr Kaul that she had a weak cardiac output, and her ECG tracing was abnormal. Cardiopulmonary resuscitation was commenced and as the operation had not actually commenced the surgery was abandoned. After a period of time Mrs Ford responded to the resuscitation and she was transferred to the Middlesex Hospital for continuing care and observations. She was discharged three days later with no specific diagnosis.

I can say that Dr Kaul performed his anaesthetic duties as well as can be expected and successfully resuscitated this woman in a calm and professional manner. I do not have any reservations concerning his ability and would be glad to support him.

Yours sincerely



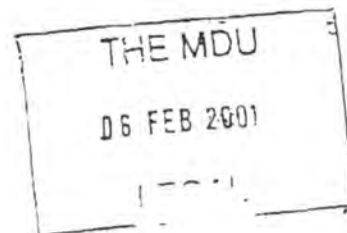
Mr ND Chantarasak FRCS

BRITISH ASSOCIATION OF COSMETIC SURGEONS  
EUROPEAN ACADEMY OF COSMETIC SURGEONS  
AMERICAN ACADEMY OF COSMETIC SURGEONS





ROGER A. HAWKEN  
B.D.S.  
and Associate Dental Surgeons



31<sup>st</sup> January 2001

Mr Ian S P Barker  
Solicitor  
MDU Services Limited  
230 Blackfriars Road  
LONDON  
SE1 8PB

Your Ref: ISPB/jds/9902700/Legal

Dear Mr Barker

RE: DR RICHARD KAUL

My name is ROGER HAWKEN BDS, Principal Dental Surgeon at 119 Golden Cross Lane, Catshill, Bromsgrove, Worcs.

Until recent legislative changes, my Surgery provided General Anaesthetic and Sedation services for our own patients and patients on referral, enabling a wide range of dental treatment, including oral Surgery to be carried out.

During the period these services were provided, Anaesthetists were supplied by the Poggo Anaesthetic Group Ltd who also supplied, maintained and serviced all Anaesthetic Equipment as well as providing all Anaesthetics/drugs.

From March 1996 to October 1997, Dr Richard Kaul was engaged by the Poggo Group to give General Anaesthetic or Intravenous sedation to patients booked on designated sessions, normally on Saturday, all day, once a month at this Surgery. Dr Kaul attended patients on approximately 12 of these sessions, and was supported by a suitably trained and qualified Recovery Nurse, 2 Dental Surgery Assistants, and an Oral Surgeon.

By personal observation, and on questioning all staff involved in these anaesthetic sessions, I can state that Dr Richard Kaul administered General Anaesthetics and Intravenous Sedation in a highly professional and competent manner. In my opinion his personal attitude to the work carried out was both highly ethical and well motivated regarding patient care. Dr Kaul, also supervised the role of the Recovery Nurse in a professional manner and was always consulted regarding the discharge of a patient after treatment.

I hope these observations are of value.

Yours sincerely

R A HAWKEN  
Dental Surgeon

119 Golden Cross Lane, Catshill, Bromsgrove, Worcestershire B61 0LA  
Telephone: 01527 876003

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70





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COLLEGE OF MEDICINE  
OF YESHIVA UNIVERSITY

ALBERT J. SAMBERMAN, M.D.  
Francis F. Poldos Professor  
and Chairman

718-820-2808  
718-821-3343 Fax  
asamber@yeshiva.edu E-mail

February 1, 2001

Ian S. P. Barker  
Solicitor  
MDU Services Limited  
230 Blackfriars Road  
London, SE1 8PJ, ENGLAND

By fax to 011-44-20 7202 1663

RE: Richard Kaul, M.D.  
Ref: ISBP/wp/9902700/Legal

Dear Mr Barker:

Regarding your request for a testimonial letter on behalf of Dr. Richard Kaul, I am happy to provide the following information. I met Dr. Kaul in July 1994 when I joined the Department of Anesthesiology at Albert Einstein College of Medicine as Department Chairman. Dr. Kaul had already successfully completed two years of a three-year anesthesiology residency training program in our department by that time. Consequently, my knowledge of his competency comes from one year of first hand information of his last year of training and available written evaluation from his prior two years.

In general Dr. Kaul was considered to be an average to above average resident throughout his training. Although we do not specifically rank residents, I would say that Dr. Kaul was in the upper half of the middle third of his cohorts. His residency group consisted of approximately 30 doctors. I know that he did particularly well in pain management and obstetrical anesthesiology. Both of these rotations need effective interpersonal relationships for success in addition to knowledge, good medical judgment and technical skills. Upon completing his training Dr. Kaul was considered to be a competent anesthesiologist demonstrating the necessary professional characteristics and clinical skills as judged by our faculty to be eligible to sit for the American Board of Anesthesiology. Accredited anesthesiology residency programs are required to evaluate clinical competency and professional characteristics every 6 months. To obtain credit for that 6-month training period the report must be completely satisfactory for that period. A special faculty committee called the Clinical Competency Committee carries out this evaluation. All of Dr. Kaul's clinical competency evaluations were satisfactory. It is upon this recommendation that a candidate is permitted to sit for the two part Board examination process. Certification as a Board Certified Anesthesiologist would be considered by many to be the equivalent of a Consultant in the UK. Board certification in the US carries with it a similar recognition of achievement and competency. Dr. Kaul successfully completed the Board Certification process attesting to his competency and professionalism.

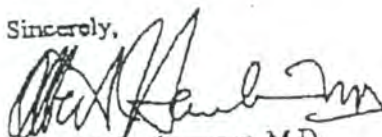
Mailing Address  
Weinstein Medical Center  
111 East 210th Street  
Bronx, New York 10467-1400



On a personal level, I know Dr. Kaul to be a very intelligent and considerate individual who while here at Albert Einstein College of Medicine demonstrated a level of skill and knowledge appropriate for his training. By the end of the last year of his residency training, I felt that he had grown professionally and demonstrated good medical judgment and knowledge. It was my impression that he would successfully complete the process of Board Certification and that he would be a safe and competent practitioner of the medical specialty of anesthesiology.

Since completing his training, Dr. Kaul has remained in contact with me. I have offered what support I could during his unsuccessful effort to demonstrate equivalency between his training here in the United States and that in the United Kingdom. Unfortunately, I am unable to comment on Dr. Kaul's practice after he returned to London. However, based upon my knowledge of his capabilities, his personal characteristics, and his prior performance I would expect him to have continued the high level of professionalism and practice standards to which he was held here.

Sincerely,



Albert J. Saubermann, M.D.  
Francis F. Foldes Professor and Chairman

AJS:mr



Dear Governor Chris Christie,  
My name is Stephanie Blue I am a patient  
of Dr Richard Kaul At NJSR, I was in  
an accident in 2004 I have been in the  
care of a host of other Doctor's for  
my condition which causes severe pain and  
increased loss of mobility. I became a patient  
of Dr. Kaul and immediately my concerns became  
his concern and he mapped out a plan to take  
care of my medical needs. I have been treated with  
dignity and respect by Dr. Kaul and he makes  
me feel like we are in this together and  
he is duly missed by me. I am writing  
to you to ask that you take a look at  
getting Dr. Kaul Back to the patients that  
he cares for because we want him to be  
right where he needs to be which is to  
take care of his patients that respect and  
admire him. He is the first doctor that  
has made my care a priority and I really  
Appreciate him for that, ~~too~~

Thank you for your consideration

Stephanie L. Blue

6/25/12



Doreen M. Bettens  
133 Kendall Ct.  
Dover, NJ 07801

April 16, 2012

To Whom It May Concern;

I started seeing Dr. Richard Kaul back around 2004.

Approximately 2 years prior I started having excruciating pain in my feet and legs due to a pair of shoes. My feet and legs were swollen, bright red and so painful, more pain than I have ever felt.

I saw a podiatrist for 2 years, who ran all kinds of tests, gave me cortisone shots in my feet, that felt like fire shooting through them. Through all of this he repeatedly told me he had no idea what was wrong.



My mother, Barbara Betters, was, and still is a patient of Dr. Rauls at the time. He did a Lumbar Dissection on my mother's spine. I took my mother for a follow up visit and he saw me walking with a cane and a cane walker (a brace from the foot to almost the knee). He asked me what was wrong and I explained and told him that I keep being told that the other Doctor doesn't know what the problem is.

I made an appointment as requested with Dr. Rauls, he wasn't even concerned if I had, or what type of insurance I had, he just wanted to see if he could help me. After reviewing all my previous x-rays and other test results, and examining my lower limbs, he immediately knew I have Reflex Sympathetic Dystrophy.



Dr. Kaul started treating me with Sympathetic Nerve blocks, still with no concern of how he would be paid. For the first time in over 2 years, I could walk almost normal and with minimal pain. I truly believe if it wasn't for him, I would be in a wheelchair by now.

Shortly after, maybe a year or two, I bent over and my back went out. He ordered an MRI and learned that I had herniated discs and the main nerve bundle was being compressed. Dr. Kaul did a series of epidural nerve blocks on the spine which took care of the pain. After several years I started having a lot of back pain again. Dr. Kaul did another series of epidural nerve blocks. I did not get the relief that I had gotten the previous time.



Dr Paul then decided to do a Disc-A-Gram, so he could see what was going on with my spine. The Disc-A-Gram was done on Oct. 24, 2011. Within 2-3 days after I started experiencing excruciating headaches. On Thursday, Oct. 27, 2011. I called his office and left a message. On Friday morning, Oct. 28, 2011 Dr Paul called me from his cell phone, he was at the airport on his way to a work convension. He told me what to do to try and alleviate the pain. He told me if it didn't work then I would need a blood patch to close the hole in my spine. On Sunday, Oct. 30, 2011, I couldn't take the pain any longer and went to the Emergency Room at St. Clares Over. I explained the situation to the doctor there, and after giving me



3 different pain medications which didn't help much, they told me I had a tension headache and sent me home. By this time the pain was so bad I could hardly keep my eyes open or stay upright. All I could do is lie down to help relieve the pain.

On Monday, Oct. 31, 2011, my mother called him on my behalf on his cell phone. His office / surgical center was closed that day. Upon hearing of my condition, he opened his surgical center (for me only), sent his transportation to pick me up, and brought me in and did the blood patch on my spine. I finally got the relief I was so desperate to get, and he did this on his day off.

After reviewing my results of the Disc-A-Graph, he seemed surprised to learn the disc at L3-4 was



completely disintegrated and the disc at L4-5 was almost gone also.

After several attempts to put it through my Workmans Comp. for approval for surgery, the Workmans Comp. flat out refused. They stated it was not their problem, that it had nothing to do with the injury that caused my RSD.

So being that I am of lower income and have little money, I have raised 4 children on my own, and this type of surgery is very costly, it appeared as if it would not be done.

I then received a phone call that Dr Paul was donating the entire surgery to me selflessly. He was more concerned for my well-being and quality of life



(which was almost non-existent)  
then how he would be paid.

Dr Kaul is the first  
doctor in years that I have  
seen, who is more concerned  
with his patients well-being,  
then how much money is  
going to be put in his pocket.  
Years ago, and I mean  
years ago, Doctors and Nurses  
went into the field of medicine  
because they cared about the  
well being of the patient. Now  
a days, its more about the  
money to be made by the  
doctors and the insurance  
companies.

In the years I  
have been a patient of  
Dr Kaul's, and will continue  
to be seeing him as the  
RSD is chronic, I have  
seen a man who truly  
cares and wants to help  
his patients. Something  
that is hardly seen anymore.



He listens to you and genuinely  
cares

I have and will continue  
to recommend him to people  
whom he could possibly help.  
I also will hold him dearly  
in my heart, always, for all  
he has done for me. Without  
his kindness and medical  
knowledge, I am sure I  
would be crippled by this  
point of my life.

Sincerely,  
Doreen Betters



**KEY W. DARROW**  
12 EDOR LANE  
SUCCASUNNA, NEW JERSEY 07876  
TEL. & FAX NO. 973.252.5070  
CELL 973-219-6797  
EMAIL: KEYDARROW@YAHOO.COM

To: Governor Chris Christie  
& Attorney General of NJ  
MEDICAL Licensing Division  
& STATE Senators & Assemblymen of Sussex, Morris, Passaic  
And Bergen Counties.

TO ALL:

I am writing this letter today to express my shock  
& disbelief that the STATE of New Jersey has  
SUSPENDED DR. RICHARD KAU'S MEDICAL License!

Please see & read the attached copy of a letter  
to The Editor, Bergen Record, printed Sunday, June 10, 2012.

Dr. Kau has restored a quality of life that I  
had not known since 1975, when I injured my  
back breaking up a bar fight. I was a Police Officer



**KEY W. DARROW**  
 12 EDOR LANE  
 SUCCASUNNA, NEW JERSEY 07876  
 TEL. & FAX NO. 973.252.5070  
 CELL 973-219-6797  
 EMAIL: KEYDARROW@YAHOO.COM

IN the Borough of Wharton AT the Time. I  
 HERNATED 3 Disks. L4-L5, & L5-S1 ! For  
 30 years I SUFFERED ! IN JANUARY, OF 2008,  
 DR KAUL PERFORMED A Lower Lumbar Fusion that  
 TOTALLY ELIMINATED ALL OF my PAIN !

MOST Recently, I WAS SCHEDULED to HAVE A  
 3 Level Fusion in my NECK (C3, C4, C5, + C6)

DUE to the STUPIDITY of THE ATTORNEY GENERAL'S  
 OFFICE - I WAS DENIED THE SERVICES of A DOCTOR THAT  
 I WOULD TRUST MY LIFE AS WELL AS POTENTIAL  
 PARALYSIS !



(3)

**KEY W. DARROW**  
12 EDOR LANE  
SUCCASUNNA, NEW JERSEY 07876  
TEL. & FAX NO. 973.252.5070  
CELL 973-219-6797  
EMAIL: KEYDARROW@YAHOO.COM

FORTUNATELY, DR LAUL WAS GOOD ENOUGH & CARED ENOUGH ABOUT MY HEALTH, HE REFERRED ME TO DR MARC COHEN.

DR COHEN OPERATED ON ME ON 6-12-12 AND IT IS SO FAR A VERY SUCCESSFUL OPERATION.

I RECOGNIZE AND APPRECIATE DR COHEN'S SKILLS AS A DOCTOR & SURGEON. I THANK HIM PROFUSELY FOR WHAT HE HAS DONE FOR ME!

BOTTOM LINE, I WAS DENIED THE SERVICES OF A HIGHLY SKILLED DOCTOR & SURGEON BECAUSE OF FALSE ALLEGATIONS MADE AGAINST DR LAUL!

PLEASE CORRECT YOUR MISTAKE AND RE-INSTATE HIS PRIVILEGES IMMEDIATELY.



(4)

**KEY W. DARROW**  
12 EDOR LANE  
SUCCASUNNA, NEW JERSEY 07876  
TEL. & FAX NO. 973.252.5070  
CELL 973-219-6797  
EMAIL: KEYDARROW@YAHOO.COM

Thanking you in Advance for your proper  
+ Thorough investigation into this matter.

Very Truly Yours,

Key W. Darrow



## Medicine is limited by conservatism

Regarding "A challenge to medical examiners" (Your Views, May 27):

Dr. Paul Kovatis seems to put doctors who are not part of the "Good Old Boys Club" under fire. His letter takes Dr. Richard A. Kaul to task for performing same-day neurosurgery.

Kaul is a physician licensed to practice medicine and surgery in New Jersey. Kaul undertook some of his training in spine and neck surgery in Seoul, South Korea, the center of many medical advances in the Pacific Rim.

Just because Kaul did not do a four- or five-year orthopedic residency in a United States program does not mean he received less of an education. Most of the time spent in residency is spent on doing the "scut work" of the attending physicians; instead, Kaul spent almost all of his time actually learning the techniques of minimally invasive spine surgery.

I disagree with Kovatis' remarks concerning ambulatory care centers. I had three surgeries performed on my back by Kaul at the Bergen Passaic Ambulatory Care Center on Main Avenue in Clifton. I had never received better care. I have had numerous operations in hospitals in northern New Jersey, and the level of care there was inferior to what I

received at the Bergen-Passaic Ambulatory Care Center.

After seriously injuring my back while working as a police officer in 1979, a board-certified orthopedist told me he could perform an operation that would give me a 50-50 chance of walking again. I decided against the surgery and retired on disability. Nearly 30 years later, Kaul performed a spinal fusion that gave me back a quality of life I had not enjoyed for three decades.

My brother, a board-certified orthopedist practicing in West Virginia, accompanied me on a follow-up visit to Kaul. He was amazed at the manner in which Kaul performed the minimally invasive procedure. He told me that by having same day surgery and going back to my home, I reduced my chances of infection by 300 percent by not staying in a hospital.

Kovatis is past president of the Bergen County Medical Society. By this connection, I read "Good Old Boys Club" protecting collective assets.

Let's keep politicians and the old-time doctors out of the state Board of Medical Examiners and let qualified people who have investigated medical practices around the globe make decisions.

**Key W. Darrow**

*Succasunna, May 28*



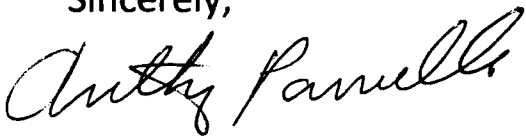
June 19, 2012

To Whom It May Concern,

I, Anthony Parrinello have been with Dr. Richard Kaul since April 3, 2009. I had a series of three sessions of needles injected in my back every few weeks. Then I had back lumbar fusion surgery in January 2012. I am now on the road to a fast recovery. He helped me tremendously. He helped other patients who had no insurance. He is still helping me with my lower back.

The staff is also friendly and helpful.

Sincerely,

A handwritten signature in black ink that reads "Anthony Parrinello". The signature is written in a cursive, flowing style.

Anthony Parrinello  
92 Hecker Street  
Staten Island, NY 10307



June 19, 2012

NJSR  
P.O. Box 378  
Pompton Lakes, N.J. 07442

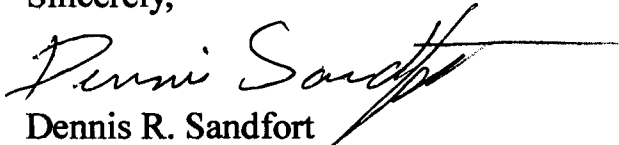
Attention: Governor Chris Christie

I was appalled to find out that Dr. Kaul's license was suspended. My wife, Jean B. Sandfort has been under his care and treatment for the past 8 years and to show you the kind of man and doctor he is I would like to relay my experience with him. He gave me my wife and our life back which was taken away from her from an injury many years ago. We continue to go on vacations, go for walks, work in the garden and do things she was told she would never be able to do again by other doctors.

On our last visit to see Dr. Kaul I told him that I was experiencing pain in my back which I never had before. Even though I am not a patient of his he ordered an MRI and told me he will discuss the findings when the results are in. After seeing what he did for my wife I would trust his judgment and course of action to be taken explicitly. I would not let any other doctor operate on me but Dr. Richard Kaul.

Please reconsider the credentials of this man as a Doctor, Surgeon and Humanitarian.

Sincerely,

  
Dennis R. Sandfort



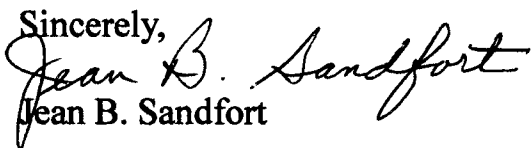
June 19, 2012

Attention: Governor Chris Christie

It has just come to my attention that Dr. Richard Kaul of Pompton Lakes, New Jersey has had his license suspended. On behalf of Dr. Kaul I would like to tell you of my experience with him. I have been a patient of his since 2004 and without Dr. Kaul and his expertise in spinal rehabilitation I would not be able to walk today. He is the only one that promised me help and assured me that I would be able to perform a normal lifestyle once again.

He performed a fusion on my spine which he also inserted a titanium plate and screws to sustain this procedure. To my surprise I was able to walk again and have minimal pain, I was actually carried in to see him in excruciating pain and he said those words I thought I would never hear, "I can help you". I have been back to him for epidural injection treatments to keep the pain level to a minimum. He was there for me throughout all my agony and depression and never failed to be nothing but positive in his treatment for my symptoms over the years.

I have recommended Dr. Kaul to the highest degree to everyone that I know and cannot give him enough credit for taking on a task that no other doctor would even consider. I was told nothing could be done for me that I would end up in a wheelchair with the deterioration of my spine. He promised me relief and to this day I owe him my every movement, happiness and pain-free days of my life. He is not only an incredible doctor but cares very deeply and sincerely for the well being of his patients. It sickens me to know that a man of his knowledge, expertise, background and fortitude has to endure such a horrendous outcome at this point in his career. I still continue to be under Dr. Kaul's care out of his concern to monitor my health and progress. Please consider all the good that this man has done for scores of people throughout the world that he has helped during his career and reinstate him back to full duty as soon as possible. Dr. Kaul is my savior and my salvation, I owe him my life and the quality of it that I enjoy daily.

Sincerely,  
  
Jean B. Sandfort

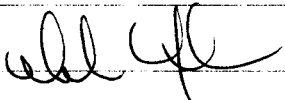


6/19/12

I was originally referred to Dr. Kaul on two separate occasions by two different doctors due to multiple chronic problems requiring immediate help/treatment. Over time these doctors just gave up because they couldn't come to a finite conclusion and they just dismissed me.

I am a very private person and quite frankly am uncomfortable writing this letter. But I feel so strongly that without Dr. Kaul my quality of life would have had little value and my ability to effectively perform my job to support my family would have been severely compromised.

He has always provided the highest standard of care and as important empathy and concern including calls to my home in the evening to check on my condition. This is something that I never received from other doctors.

  
Michael Frank.



Sammy Baez  
6-19-12

Attn: Governor Chris Christie  
Office of the Governor  
P.O. Box 001  
Trenton, NJ 08625

Dear Governor Christie:

I, Sammy Baez's wife, Keisha Baez, am writing this letter to you on his behalf. My husband is a patient of Dr. Richard Kaul for many years and he's writing you this letter regarding the unbelievable news that Dr. Kaul's license was taken away. I am unclear as to why and would like to share with you my thoughts and experiences with Dr. Kaul. Dr. Kaul is an amazing and caring doctor, who has been an angel sent from above to help me over the years.

When all doors were being closed and all the fighting for my surgery seem at my wit's end; Dr. Kaul and his staff stopped at nothing to make sure my surgery would happen because my life counted on it and I was suffering in tremendous pain and able to do nothing. Having the pleasure of meeting Dr. Kaul and my surgery



being successful was a dream or wish come true. I am extremely grateful to Dr. Kaul for delivering extraordinary care, great advice, thorough follow-ups and a dedicated staff. Dr. Kaul has an exceptional personality that makes it easy to trust, talk to and explain the day-to-day struggles I deal with.

Dr. Kaul expresses a genuine concern for not only myself, but I've witnessed his support and heard the encouragement he has shared with others. This also makes me realize that he is a one-of-a-kind doctor that takes pride in what he's great at and has a high respect for his staff and patients. At each appointment I feel good because I'm treated with respect, kindness and he's always courteous. Dr. Kaul has shown in many ways that he goes beyond his job description and duties of a surgeon to assist me with all my needs.

Dr. Kaul expresses happiness in doing his work, that makes me comfortable; knowing that he loves to help others and not many doctors have good bedside manners and good business etiquette's. He has also been very sensitive towards my situation and illnesses. He takes



time to listen and understand what I'm feeling and the circumstances I'm in, no matter how busy or complicated his day can be at times. Another great and appreciated thing is that when he is unavailable, he makes sure someone always get back to me and in a timely manner.

Dr. Kaul has also understood times when I was running late for an appointment or needed to reschedule an appointment at short notice; which many other offices have a problem with this and would cancel on you or not reschedule. This doctor has made me feel like a valued and cared for patient, that I travel from the Bronx, NY to continue treating with him because he has shown me how much he cares for my well being.

My family is also welcome to my appointments and well compensated during their wait with Refreshments and every day life conversations. Dr. Kaul has made me realize that the present is all we have in which to create a life that connects us to help each other in times of need. This encourages me to never give up and I'm grateful for his encouraging advice.



I am able to do some things I wasn't prior to the surgery and this is a great gift in my life because now Jim is able to do some things with my kids and wife.

I would like for you to consider my thoughts about Dr. Kaul and experiences mentioned. I have great concern as to Dr. Kaul's licence being reinstated so that I will be able to treat with him and continue with our plan of success for my health. I am certain that Jim not the only patient Dr. Kaul has done the same for and is a doctor deserving of this credibility and recognition for his outstanding job performance and dedication to helping me.

I thank you for your time and consideration. I have seen how amazing you are as a governor of NJ and how you continue to help your community and the people get all that is best for them. You stated that you are a governor that welcomes the opportunity to consider the thoughts, concerns and ideas of the people. I know I am not a resident of NJ, but would like for you to



also consider these things for me,  
and help justice to come to my doctor,  
Dr. Kaul because he's really a  
great doctor that has done for  
me what you do for your community;  
"help and give back."

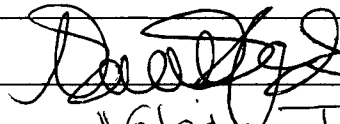
With the highest  
regards,

x *Sammy Baez*

patient = Sammy Baez  
wife = Keisha Baez  
Keisha Baez



I was referred to Dr Kaul years ago when I exhausted all's & specialists who failed to help me. Dr Kaul was able to provide me with a quality of life I did not have. He is compassionate and professional and working together we are able to finally stabilize my condition. He has always had my best interest in my quality of life at heart. I know I would not be here today without it.



Valerie T Fank



June 20, 2012

Attn: Governor Chris Christie:

Dr. Kaul has been my doctor for over two years. I had a fusion done by him this past December of 2011. My surgery was successful, and he had given me an extraordinary medical attention. Dr. Kaul is a very great, and caring doctor. Without him only God knows if I would have been able to walk again.

Now that his license has been suspended, it has been an inconvenience to me, because he can't no longer provide his services to me, and many other patients that really need his care.

Governor Chris Christie I am writing to you to please ask you, if there is any way that you can help Dr. Kaul to get his license restored! We will be so grateful to you Governor Christie and appreciate for any assistance you can provide to Dr. Kaul.

His patients really need him and his care. We care for Dr. Kaul and would like to help him in any way we can.

We greatly appreciate your service Governor Christie if you can help us. Thank you



6/26/12

To Whom it May Concern,

I have been seeing Dr. Kaul for about 9 years now. I started seeing him for a nerve condition called Reflex Sympathetic Dystrophy. I could barely walk when I first started seeing him. After a series of Sympathetic nerve blocks, I felt like a new person.

Last year I started having severe back pain. After a disc-a-gram Dr. Kaul learned I had no disc left at L3 L4 and only small pieces of discs at L4 L5. He did a Subbar Fusion in March and I feel like a new person.

I have been recommending Dr. Kaul to people for many years, and I will continue to recommend him. He is knowledgeable in all the newest techniques. He is always going to workshops and seminars to learn and keep updated on all the latest techniques. I would not have felt comfortable letting anyone



else do my back surgery. I have heard many fusion back surgery horror stories. As for Dr. Kaul I have never heard anything but positive feedback, trust me I asked many of his patients how they felt after the surgery and never received a negative answer.

I will continue to be a patient of Dr. Kaul's and will also continue to recommend him to people I feel he could help. If it wasn't for him I feel I would be severely disabled by now. He has greatly improved my quality of life.

Sincerely,

Doreen M. Bettens



George Apwah Apt. 10N  
3 Marshall St.  
Irvington, New Jersey  
07111

**OFFICE OF THE GOVERNOR  
P. O. BOX 001  
TRENTON, NEW JERSEY  
08625**

20<sup>TH</sup> June, 2012

TO: Governor Christie

Your Honor,

I am writing in reference to Dr. Richard Kaul, whose license had been suspended.

Many friends of mine had asked me to write a character reference letter in reference to this great doctor. But the truth is that I had already thought of doing so before they made their suggestion. I feel strongly about Dr. Kaul, and I will try to make you feel the same for him.

Dr. Kaul is a very good doctor. It may seem hard to believe in the given circumstances, but this is true nonetheless. I had known him since the first day I walked into his consulting room on 137 Clifford Street, Newark. In the three consecutive visits that I made to his office in Pompton Lakes, I can now sleep and twist my body with ease. This had made me believe that he is a great doctor at the core.

He had dedicated many hours of his service helping the sick. He even organizes health clinics for the under privileged and spends time with them in Africa. If you had the chance to interact with him, he is bound to leave you with a smile every time you meet him.

I am sure there may have been some issues as Dr. Kaul is not infallible.



However, I hope you will take into consideration the good work of this great doctor, and make a fair decision.

Thank you.

Yours sincerely,

(  )

George Apwah



Christie . . .

June 20<sup>th</sup>  
2012

My name is Kathleen Maitney and the reason I'm writing you. Is because Dr Richard Kaul is my Spine & Back Dr. Now I know there been a lot of Bad Talking about him and what People are saying about him, But let me tell you some things everyone dont know about him. 7 years ago was the first time I meet him, I Couldn't even walk, That man that everyone is Downgrading make it possible for me to walk again. When I first went to him, He told me right out my back was a mess, But! He would do his best and he did, after my first operation, I was in so much Pain, So I went back to him, He ask me if I was taking my Pills I told him no because I Couldn't Pay for them, This ->



man went right in his wallet  
and took out every bill he had in  
it, He gave me that money to get  
my Pills, He didn't have to do that  
O.K. maybe he did something wrong  
But how long ago was that, He  
is a good Dr and he has help a  
lot of People, When I go to him and  
I'm in the waiting room, so many  
People say what a good Dr he is I  
would of never been able to walk  
if it wasn't for him. He is the most  
Caring understanding, respectful Person  
I ever meet, Please give him his  
License back, I need him & so does so  
many others Every one sees what he  
did wrong But no one sees what  
he is doing good. Please don't take  
my Dr Richard Kaul away from me  
& so many others Every Body makes  
mistake - but no one should lose every  
thing they worked so hard for, He is the  
best doctor going

Kathleen Kactner



Oscar Z. Leal  
509 Helfin Street  
Bound Brook NJ 08805

June 20, 2012

To Whom It May Concern:

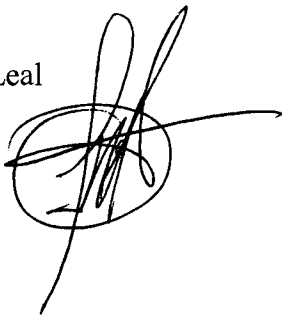
I am writing this letter to inform you the following: Dr. Richard Kaul is a very good doctor, he is treating me for more then 3 years and I am getting better with all the treatments that his being doing to me, I never have another doctor like Dr. Kaul. He is a great professional, very friendly and efficient.

I wish you can do whatever you can to clear any situation and you can continue to provide the best medical attention to your patients, like me.

Thank you very much and if you need more information feel free to contact me at 732-377-9784.

Sincerely;

Oscar Z. Leal

A handwritten signature in black ink, consisting of a circular loop with several vertical strokes and a horizontal line extending to the right.



June 20, 2012

Governor Chris Christie  
Trenton, NJ

Re: Richard Kaul, MD

Dear Governor Christie,


I am writing to you regarding Dr. Richard Kaul. I have been a patient of Dr. Kaul's for the past 10 years. He is the best doctor I have ever been too. Dr. Kaul always puts his patients first before anything else, even if it means he won't get paid. He is a true doctor in sense of the word.

He treated my late husband after he was in an auto accident and was there for him through all everything, even in fact, when we were on a trip to Nevada and he fell ill and had to be medevac'd out of the Grand Canyon and it had nothing to do with what Dr. Kaul was treating him for, I called Dr. Kaul on that Sunday and he called me back and called the hospital that they took him too and kept in touch with me on daily basis until he was released a month later. He also called the hospital daily to see what they were doing and kept me informed. This went beyond what he needed to do for his patient.

As for me, I was in an auto accident in 2006 and broke my wrist. After having extensive surgery on my wrist, I developed RSD, which is a chronic pain syndrome which renders you totally unable to use the affected limb. I went to see Dr. Kaul when no other doctor would listen to me and he diagnosed me and treated me right away so that I would not lose the use of my arm. Even when the insurance company denied the treatment until they could further investigate whether I did have RSD, Dr. Kaul treated not knowing whether he would get paid or not. Because of his swift treatment of my arm, he was able to contain the RSD to only the arm that was injured and kept it from spreading to the limbs.

I am hoping that you would intervene on his behalf so that his license can be reinstated and he can continue to treat his patients that depend on him for their daily living from day to day. If you were to sit in his office and listen to how he helped his patients to be free of pain you would know what I am saying.

Very truly yours,

  
Kathleen Calabrese



To, The Honorable Chris Christie  
Governor of New Jersey

I have been a patient of Dr. Richard Kaul for almost 3 years. I have had ongoing back problems since I suffered a spinal injury while serving with the Army in Iraq. I started seeing V.A. doctors for pain management and underwent spinal epidural injections. Their methods are extremely crude compared to Dr. Kaul. They performed the procedure in a regular exam room "A non-sterile environment" sitting upright on an exam table while they injected my spine. I endured this twice before seeking private care. My father has been a patient of Dr. Kaul's for many years so I went to see him. Since I have had rounds of epidural, facet joint, and radio frequency injections. The NJSR facility in Pompton Lakes is a brand new office with a top of the line O.R. fully staffed and equipped with emergency response equipment. As a health care professional I notice these things. I scrutinize my doctors and staff and have been very pleased with NJSR. In articles I read "One room O.R." being used as one of the prime reasons that his practices are putting patients in "imminent danger." To the eyes and ears of people not in the medical field it does sound bad. However most surgeries are done in surgical centers that are no better staffed or equipped than NJSR. That is a fact and in speaking from the perspective of someone who has received and administered care in these facilities. I am also reading alot about a tragedy that occurred while he was practicing abroad. It shakes my faith in the system that a good doctor who has been honest and forthright concerning his past could be lost because of peoples opinions who clearly don't



understand how medicine is practical.

My point is Dr. Kaul is a good man and doctor, who has treated several people I know including my own family. He has done so with professionalism and great success. I think these unjust actions are being driven by and blown out of proportion for the sake of of sensational headlines. Thank you please step in and stop this unjust action before people suffer.

Sincerely,  
Anthony Cecala  
(973) 714-3284



6-21-12

The Honorable Chris Christie

Dear Governor Christie

In 1989 I was in the first of 3 major rear impact automobile accidents. As a result I have several spinal issues in both my back and neck. I've had about 15 surgeries in my life, and have quite a bit of experience with doctors of different specialties and hospitals including Memorial Sloan Kettering.

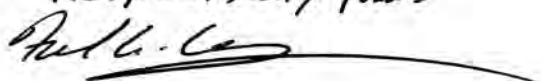
Dr. Kaul is one of the finest. Since I started seeing Dr. Kaul about 11 or 12 years ago at Dover General Hospital I have gotten to know him quite well. I can honestly say that he cares about his patients. The trust I have built with him through experience is hard to find. Other members of my family have suffered spinal injuries. My son in service to our country, and my wife and daughter in accidents like my self.

Who better to treat them than a doctor I have trusted with my life. I would not be where I am today without Dr. Kaul. I have had several procedures with Dr. Kaul some being the ones in question. I had a spinal fusion with the chief surgeon at Lenox Hill Hospital in NY and also with Dr. Kaul. The experience with Dr. Kaul was better all around from recovery to results.

I am walking proof because Dr. Kaul knows what he is doing. I was very limited in physical abilities due to the level of pain I was in.



The relief he gave me has improved my quality of life, allowing me to continue working and providing for my family. Losing a doctor like him would be a great injustice because many people would suffer. People like my self who thought they would never get better. Only they won't get the second chance I did if this action isn't reversed giving Dr. Kaul back his license. I don't know why people are so quick to attack this doctor. There are serious risks involved with even the most routine procedures involving Anesthesia. Dr. Kaul has been honest from the beginning about the tragedy in England and despite the unrealistic expectations people put on doctors they are human. Nobody is talking about all the good he has done and continues to do be it working with patients who have no insurance with out means to get care without his generosity. The many people in Africa he has helped in ways they never dreamed of. There are very few doctors with the compassion and sincerity of Dr. Kaul.

Respectfully Yours  


FRANK A. CECALA  
201-572-5575



to Governor Christie

I would like to take this moment to thank you for all the hard work and changes you are doing for the state of New Jersey. I'm writing this letter to you for the wrong doing, and mistake for the state of New Jersey toward Dr. Richard Kaul.

My name is Alberto Jesus and I reside at 5923 69th Lane Maspeth, N.Y. 11378.

I have been seen by a New York doctor and underwent multiple surgical procedures to the lumbar spine under the direction of Dr. Jamie Nieto, which has failed. And the matter has not been resolved, and I'm not convinced in the way the matter was handled, I had a follow up visit with the neurologist. Dr. Mitza Bey. Who so kindly forward me to Dr.



Richard Kaul. And with him I  
under went Multiple treatment as  
per x ray, ct scan, Mri as well as  
several nerve test and multiple  
epidural injection treatment to the  
lumbar spine, also trigger point injection  
and transforaminal nerve block treatment.  
I also underwent multiple surgical  
procedures lumbar fusion from L-2 to  
L5S1 and a trial dorsal column stimulation  
for pain which was withdrawn due to  
failure. With all that being said with  
the great care that Dr Richard Kaul  
has given me hope and a chance to  
have some what of a normal life and  
I ask you to help Dr Kaul to the  
reinstated so he can continue treating  
his client or patient with excellence in  
the state of New Jersey.

Thank you  
Alberto Reyes



June 2012

Dear Gov Christie,

I write to you requesting that you reinstate the license of my doctor, Richard Kaul. He became my doctor in 2004 when it became necessary for me to seek options to repair multiple injuries to my neck and lower back that resulted from a car accident in Morris County.

Doctor Kaul was referred to me by his colleagues when standard treatment by medicine proved to be useless. I had seen a chiropractor, a neurologist, an orthopedic surgeon. Dr. Kaul attempted all non-surgical options such as physical therapy, manipulation under anesthesia, to name a few besides stronger medications which all proved to be allergies to my system.

Along with another surgeon, Dr. Kaul reviewed my MRI's, Cat scans and X-rays to determine the best surgical treatment plan for my neck and back. At separate times a successful double level fusion and a triple level fusion were safely and successfully performed. A double level fusion in my neck caused an overgrowth of bone which is often the case.

It had to be addressed. The first attempt was cancelled because it would have been unsafe for the surgery to occur. A surgical pillow specifically designed for patients like me who previously had a fusion. Dr. Kaul and the accompanying surgeon were there when I opened my eyes and explained the situation. Several months later the surgery was successfully performed. At no time did I feel in danger, I knew I was in competent hands. ~~After~~ After every surgery, Dr. Kaul made himself available 24x7 to ensure I was okay.

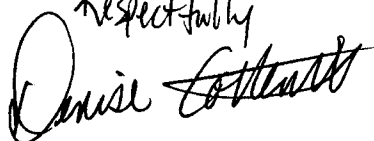
Pg 1 of 2



I was so grateful when I had a serious allergy to narcotic pain medication. ~~He~~ Dr Kaul was available by phone to help ER doctors determine the allergy and prescribe the needed medication. He has always been available when I needed another alternative when pain was intolerable. His patient care is the finest I have ever experienced.

Dr Kaul is a smart, compassionate medical doctor who has always acted responsibly with my care. It sickens me that the DA, likely vying for your position, would begin a witchhunt, ~~extorting~~ ~~extorting~~ his information to advance his career. Dr Kaul came from Europe where laws are different, education superior where continued training is encouraged and practiced. He is known here as ~~a~~ a preeminent doctor by his peers and patients. He built a business here, to help people and to use his knowledge to help alleviate pain and discomfort to many. Please do not prevent him from servicing patients, including me. He is a responsible doctor who provides excellent patient care and is very knowledgeable. I request that you reinstate his license as soon as possible.

Thank you for your consideration.

Respectfully  


Denise Giffrell

June 25, 2012



Goran E Spranger  
P.O. Box 818 Hickory  
N.C. 07849

Dear Governor Christie

I have been a patient of Dr R Kaul since 2004, I have a very bad back. Dr Kaul has performed several procedures on my back, injections one and at least 2 Surgeries, 1 Surgery was minor a 2nd Surgery MAJOR my back had become so bad that I had to have 2 vertical Pins installed and 6 horizontal Bolts.

IF Dr Kaul had not done the Surgery that he did I believe I would be in a wheel chair TODAY. I still work Every day on Trucks as a Mechanic I am 63 yrs old. Dr Kaul has Always been very professional.

Thank you  
Goran E Spranger



To The Honorable Governor Christie

Dear Mr. Christie,

June 22, 2012

I Theresa Ceala have been a patient of Dr Richard Kaul's for about 8 yrs. now. I had been in a car accident we were hit by a drunk driver. I had severe neck pain & had suffered from headaches. My husband Frank had already been a patient of Dr Kaul's for quite some time & I knew he had alot of trust in Dr Kaul & was very pleased with his treatment. So I went to Dr Kaul. He had me go for testing. He explained the results in detail, he was very thorough. Afterward, I had gone for some injections & physical therapy. I finally had relief. Then sometime later I had fallen & hurt my back & returned to Dr Kaul for treatment. The insurance I had did not pay much & the remaining balance was double the amount that was paid. He said he would accept what the insurance paid & for me not to worry about it. This always reminded me of when doctors were more concerned about the patient instead of the money. I would also like to add that before I started going to Dr. Kaul that there had been an incident in England. He told Frank to go on his website & that he had all the information concerning this incident. This truly impressed me because I feel that Dr Kaul didn't have to say what had happened after all this was in another country. He was honest & had wanted Frank to make his own decision about it. He didn't cover it up, he put his patient first. I had & will always continue to have a great amount of respect for this man for his honesty. How many



doctors do you really think would have done that? Not many, & how many doctors are practicing in this country, state etc. with a long line of incidents & never told their patients. I think it took a lot of courage to do this knowing that there would possibly be a risk of losing his patients. But there again, he was not concerned with himself but the patients. In conclusion to my letter I really feel that it would be very sad to think that this man would no longer be able to help someone in need. As far as competency, I feel that there should be no question concerning this man & as far as it being said that he would put his patients at risk. There was actually a time when my husband Frank had to have a procedure done & Dr Kaul actually recommended that Frank go to another doctor to have this procedure done because he was not equipped to do it, once again he put the well being of his patient first. Please if there is anything you could do on behalf of this man I feel you would be doing a great justice not only for him, but for his future patients.

Respectfully,  
Theresa A. Ceala  
Theresa A. Ceala  
51 Jefferson Ave  
Dover, N.J. 07801



To whom it may concern,

June 23, 2012

I am a patient of Dr. Karl.  
(Richard Karl). Through out the years I  
have seen numerous amounts of Doctors.  
Unfortunately, not one of them had helped  
me with my neck and back pain.

Dr. Karl was the last Doctor  
I went to see, and finally the only  
Doctor who could help me. Dr. Karl is a  
very kind and caring Doctor who is actually  
concerned for his patients feelings. He  
is an excellent surgeon, and I highly  
recommend him for a surgeon and  
Doctor. He has helped me enormously.

Sincerely  
Mrs. Kim. Chokas.



6-24-12

-1-

Dear Mrs. Christie,

I am writing to you to express my displeasure with the decision to suspend the medical license of Dr. Richard Kaul.

I have been a patient of his since 2006. My story begins in January, 2005 - after a fall down a flight of icy stairs - causing 2 blown disks & injuring others. I saw a number of other medical professionals, including 2 orthopedists, 1 spine surgeon & 3 chiropractors. I endured months of pain, spinal injections, physical therapy & medication. I was unable to work & enjoy my life, for months. The pain was excruciating!!

At the recommendation of my orthopedist, I was referred to Dr. Kaul. He gave me a thorough exam & after looking at my most current MRI advised that surgery would be necessary to repair the damage. He went out of his way to make me feel at ease, answered all of my concerns & ~~before~~ <sup>because</sup> he made me feel like the patient came first!! I was not just "a piece of meat" (my words) to



be cut into, to repair + say goodbye. He  
genuinely cared!! He was kind,  
considerate + caring.

My surgery was scheduled + went  
well. The damage to the disks was  
repaired + secured month later, my L5  
disk was so "plump" - it was like  
nothing ever happened! It was perfect!

As it happens, I required a  
second surgery to remove a small  
piece of bone to make room for my  
"plump disks". All went well.

I am, as of this writing, able to  
work a very physical job, ride my  
motorcycle, and 95% of the things I  
was able to do before my fall. <sup>within of course</sup>

If it had not been for Dr. Kaul,

I would most likely be completely  
disabled - unable to work + collecting  
a check from disability - something that  
goes against my grain as a decent human  
being!! One who wants to work + enjoy  
life.



You will not find a better surgeon than Dr. Kaul. I wouldn't hesitate to recommend him to family & friends.

He is talented, kind, compassionate & an all around genuinely good human being.

Please restore Dr. Kaul's license.

Kind regards,

Lauri Marlene



June 25, 2012

To whom it may concern,

I have been a patient of Dr. Richard Kaul since 2007. I have always known him to be a caring, kind, and compassionate doctor.

In 2008, I made an appointment to see Dr. Kaul after having undergone an unsuccessful ACDF at level C6-C7. Upon reviewing my films and reports, Dr. Kaul suggested that I take a conservative approach and try having a series of injections (epidural and trigger point). After receiving the series of injections, I still did not have any relief. At this point, Dr. Kaul suggested I have a revision of my cervical fusion.

On August 8, 2008, Dr. Kaul along with another doctor present, attempted to perform the revision. Upon examination of the site and surrounding tissue and blood vessels, Dr. Kaul discovered that the blood vessels had grown too large for him to make a safe approach. Dr. Kaul then closed the site and woke me up from the anesthesia and informed me that



My case was too complicated to safely handle at the surgical center.

It is in my humble opinion, that Mr. Kaul is an outstanding, compassionate physician who truly follows the Hippocratic Oath of "First do no harm." His concern for my safety and well being speaks volumes as to what kind of doctor he is. I will forever be eternally grateful to Mr. Richard Kaul for placing such value on my life.

Once again, my opinion of Mr. Richard Kaul is 'That he is an outstanding example of what a physician should be. I implore you to reinstate his license to practice medicine. I feel it is a travesty that his reputation is being questioned.

If you have any further questions please feel free to contact me at 845-477-0502 or 845-699-3050, or via email at blueeyes29707@aol.com.

Most Sincerely,  
Laura Morales  
Laura Morales



June 25/2011

To whom it may concern;

Approx 7 yrs ago I developed severe lower back pains. I was referred to Dr Jim Scales in Sparta N.J. for treatment. After his diagnosis & treatment I was referred to Dr. Richard Kaul at one of his locations. After extensive exam and questions he felt I should start a series of cortizone shots to the effective area. I continued this treatment until a follow up exam between shots. progressively I began to feel some relief. I was still working at the time driving 2-3 hrs each day to work.

Eventually it was necessary to perform surgery installing 2 screws. This did help with the pain but after the next visit with Dr. Kaul we did another series of shots to the next location. It was determined after several more



Upst. that a second surgery was  
necessary. a third series of shots were  
needed & a third surgery was performed.

throughout the entire treatment period  
I spent with Dr. Raul I have never  
had any reason to distrust his treatment, plans.  
I continue to want to stay with him  
because of my trust & have gained in him.  
During the end of my work period I  
was examined by a Social Security doctor  
and deemed disability eligible. Retired  
at age 62 due to my existing back pain.

Respectfully Submitted

Richard Beck  
36 Bedford La  
Saratoga Springs NY 12866



6-26-12

To whom it may concern, I have been a patient of Doctor Paul for several months now. He is one of the most professional Doctors that I have dealt with in a very long time. The treatments and the professional advice that I have received from him and his staff have been of a great help to my health and well being. We as patients need doctors like doctor Paul to ensure we all receive the best treatment and care that we can get.

Sincerely,

Alfred Filmore Jr.

Alfred Filmore Jr.



6/26/12.

When I sat down to write this letter about Dr. Kaul, I had no idea where to start but then I began thinking and a million things popped into my head and then it hit me; I am sitting in a hard chair, sitting straight with good posture and most importantly I don't have a single pain in my back. But to start from the beginning I will have to rewind back to the start. As of now I am 17 years old and ready to start cheerleading for my high school football team, but two years ago I was the kid walking off the volleyball court putting ice packs on my back. It was December of my freshman year in high school, I was 14 years old and thought I had just usual back pain from the sports I played. But then it began to get worse, I couldn't walk down my school hallway without shooting pains and my legs giving out. After a busy weekend I couldn't even bend down to



comfortable than sitting in a hospital bed with strangers walking around and other patients by me. His facility seemed more like a home and not a doctors office or hospital.

When I got home I was not able to tell if the surgery had worked yet but I knew Dr. Kaul did it right because I was ~~able~~ able to walk out of the recovery room in his facility and out to the car. I didn't need a wheel chair even though it was offered to me. I had enough strength to walk out to the car even after I got screws into my bones a few hours earlier. I was able to get off the couch and got to the bathroom with minimum assistance after a week from my surgery. If I went through a different type of procedure then I would probably ~~be~~ still be in a hospital with minimum mobility. Dr. Kaul pioneered in the minimally invasive surgery that was in favor of the patients health because it was a faster recovery with a very little chance of infection. After six months from my surgery, I was already jumping and flipping on my trampoline. Now it has



and I wouldn't have to go through a rehabilitation or physical therapy center. This gave me a positive mindset to a fast road to recovery.

I remember my surgery as if it was yesterday. I got into Dr. Kaul's facility early in the morning on March 25<sup>th</sup>, 2011. I was welcomed in and was comfortable. By the way Dr. Kaul spoke to me as if I was not just a patient that needed surgery but a human being that wanted to recover and feel normal again. Dr. Kaul treated me as if I was an important person and not just another person he was going to perform surgery on, he comforted me and used his positive mindset to convince me that in the end everything was going to be okay and that in less than one year I would be a new person again. My surgery wasn't too long and I was able to leave his surgical center at around four in the afternoon on the same day. The reason I liked his surgical center was because Dr. Kaul and his staff made me feel at home and I was treated with care. I was glad that I could leave the same day because sitting home would be more



set up a meeting with my mom and I. Dr. Kaul took away his own time to meet with my mom and I at a doctors office and gave us details about my condition of spondylolisthesis. Afterwards we set up a date for my surgery.

I didn't feel comfortable around my doctors because they always seemed one step behind, but Dr. Kaul was on top of everything and knew exactly what to do with confidence. His confidence and positive outlook rubbed off onto me and made me feel safe and like I was making the right decision to trust him.

Dr. Kaul had a very different approach to surgery than other doctors. Past doctors that I went to told me I would need a spinal fusion that would be an open back surgery and they would have to cut through all of my layers of skin, muscle, and tissue. Dr. Kaul had a different style of a ~~more~~ minimally invasive surgery which would have a small scar, much faster recovery, and not have to go through layers in my body because it was done percutaneously. My recovery would be less than one year.



been about one year and three months after my surgery and I am running, swimming, and starting cheerleading too. But the most important thing is not that I can play sports and that I am healthy now, the important thing is that I couldn't have done it and I wouldn't be right here now if it wasn't for Dr. Kaul.

I used to have days prior to my surgery where I felt that there was nothing doctors could do and that I would be stuck this way, but Dr. Kaul gave me hope and gave me a reason to persevere and to never give up. He showed me not to quit and to keep pushing forward because things are always better in the end, and even if I have a small pain or large pain, it's not the end yet because I need to carry on because things are always better in the end.

I had news men calling my house and reporters asking questions about my pain prior to the surgery and how I dealt with things. Almost every question I was asked was about me, but no one ever bothered ~~me~~ to ask me about Dr. Kaul. If someone asked me to describe Dr. Kaul in one way then my answer would be: life changing.



Dr. Kaul is the reason why I am active this way now. If it wasn't for him then I would still be sitting home in pain and ~~no~~ not outside running and playing the sports I love. The main focus was always about me and how I felt but the main focus should really be on the person who made all of this happen for me and that is Dr. Kaul. Dr. Kaul genuinely changed my life and after my surgery I wanted to do the same thing for at least one other person. I wanted to carry on the goodness of changing another person's life. I recommended Dr. Kaul to others with back pain and I remember walking into Dr. Kaul's office and patients in the waiting room looked up and recognized me from one of Dr. Kaul's testimonials, they told me that I had changed their life from seeing my video and they told me that they had back pain for years and ~~saw~~ saw my video and came straight to Dr. Kaul to finally be fixed and taken care of. And in that moment it didn't matter to me that I was healthy and painless, what mattered was that I helped another person become painless, happy, and healthy.



But it all traces back to Dr. Kaul. I wouldn't have been able to change others if it wasn't for Dr. Kaul to change my life. Dr. Kaul isn't just a doctor, he is a real person with a heart, he made me feel as if he didn't care about the money from doing surgeries, he didn't care about his reputation, he cares about his patients and how he can help them and change them from the goodness of his heart. And for that, I thank him!

Sincerely,

Amanda Mraz

Amanda Mraz



6/26/12. 1 of 3

I'm writing this letter on behalf of Dr. Richard Kaul.

My daughter had severe back pain for over 2 years. I went to several doctors and she had one procedure after another with no results. My daughter's pain continued to get worse. She was an active 15 year old who played Soccer, Softball, Volleyball, she loved to dance and with her constant pain she was no longer able to do any of those things.

After Amanda had an epidural a nerve block was suggested but we were advised that it would only be a temporary fix. I took Amanda back to the Chiropractor and advised him that Amanda did not want to have the nerve block, she wanted a permanent fix. With that Dr. Curtis picked up the phone and called Dr. Kaul. After Dr. Curtis went over Amanda's issues he told him to give mom his cell phone number and have her call me."



I took Dr. Kaul's number but figured he would not answer, I was wrong! He personally answered, he was in the car and pulled over. Within a week we met with Dr. Kaul at a friend's office because it was more convenient for us.

After meeting Dr. Kaul I was confident that he would fix my daughter. Dr. Kaul was a very confident, caring person. He felt my pain of feeling helpless as a mother. He cared for my daughter as if she were his own and eased me of any worries!

Within a month Amanda had her procedure done. We arrived at his surgical center at 6:00am, and Dr. Kaul again went over everything with us and made us so comfortable. Within 4-5 hours her procedure was complete and we went home late that afternoon. Amanda was shuffling down the hall ~~and~~ days and within a week she knew Dr. Kaul had fixed her!



March 2012 was a year and Amanda is back to all of her previous activities. Her confidence and bright smile is back again and we owe it all to Dr. Kaul!

If we had not met with Dr. Kaul I don't know where we would be today.

Dr. Kaul is in my prayers every night and there is no way I could ever repay him. He took our family out of a very dark place and brought us back to a happy place.

Dr. Kaul has not received much payment from my insurance and has never asked me for any money. He told me not to worry and that his only concern was getting Amanda out of pain and back to her normal activities.

Dr. Kaul is not a doctor he is an angel who truly performs out of the goodness of his heart!

Angela Mraz  
Angela Mraz



Dear; Governor Christi

I'm Carmen Ortiz writing this letter to let you know about Dr. Kaul. He changes my life and take care me like a professional and I'm so glad to meet Dr. KAUL he is a nice doctor and human being. The way he took care the people with pain and strong pain is amazing. I thank god because I meet him and his workers. Thank you for take time to read this.

Sincerely,

CARMEN ORTIZ

*Carmen Ortiz*



June 26, 2012

To Whom It May Concern,

I am writing this letter to show my complete confidence and faith in Dr. Richard Kaul.

In 2004 and 2006, I had the misfortune of being a passenger in two car accidents. Having seen physicians of many specialties over time, I had come to the conclusion, that not only were my injuries going to continue to encumber my ability to function and be a productive member of society, but that I was not going to find a doctor who listened to what my concerns were regarding my treatment, or in fact about the actual pain I felt on a daily basis. Dr Kaul changed that for me.

He was the first doctor to really listen to what I, as a lay person, had to say about what I was feeling and not disregard my thoughts as "patient ramblings". He considered my personal observations regarding my symptoms; his first concern was to the patient: ME. And having experienced so many doctors, who after treating me, would forget my name, I was pleasantly surprised to find one that did not treat me like a non-entity.

After reviewing my medical records from other doctors and having in-depth conversations with me, Dr Kaul decided on a different approach regarding my treatment. Where other doctors solely focused on medical records, Dr Kaul went out of his way to include me in my diagnosis. His course of treatment alleviated much of the back, shoulder, and arm pain that other specialists decided were permanent.

(1)



If it were not for Dr. Kaul, I would still be in constant pain. I would not be able to do the most basic activities that most people take for granted such as sitting, standing, walking, bending, lifting and writing. Without Dr. Kaul's dedication to me, I would not have been able to write this letter. And I am forever grateful and in his debt.

Sincerely,

Ivana Lee

Ivana Lee

50 Lakeside Avenue

Butler, NJ 07405



To whom it concerns, my name is Joseph Connell.

I have been under Dr. Richard Davis' care for at least 9 yrs.  
During that time he has helped me in many ways both  
medically and compassionately. It would be a great loss  
to myself and many patients that I have met in his  
office. He is a very kind, caring & helpful man.

If anyone would like to speak to me on this my cell #  
is 973-570-8086. or my address is Joseph Connell / 107 Falcon Ridge-  
way North      Hamburg NY 07419.

JVC 6-26-12  
Joseph V Connell



6/26/2012

Dr. Kaul

re: Suspension of License

I am writing this letter in support of the reinstatement of Dr. Kaul's medical license.

I have been a patient of Dr. Kaul's since 1999. I met him when he just started his practice and was trying to build his patient base. I was impressed with Dr. Kaul as his enthusiasm and knowledge was nothing short of being all for the patient's well being and living a life pain free. He did whatever it took to make my life comfortable as I had bulging discs in my lumbar that was excruciating pain. His approach was non-aggressive and anything invasive was his last resort. I watched his practice grow simply through word of mouth and his dedication to me/his patients was unsurpassed. I followed Dr. Kaul through many Counties and cities as he was helping me tremendously. I referred several people to Dr. Kaul and the outcome was always the same. My friends were healed or improved and some are pain-free.



Today. Their lives are on the road to recovery. If Dr. Kaul could not fix it he gave referrals of doctors who could fix you. His comradery with other physicians is vast and today through his continued education and his contribution to poorer countries just makes his person better for the medical community. As a person, he is kind and gentle, and because I have known him for so long and trust his judgement I believe that his decisions are sound and always "patient positive". He always has helped with insurance issues or money problems with patients so they get the care they need.

His staff is hard picked, and as I said earlier, I watched him grow from a one man office, into a state-of-the-art, all over the TV and radio dedicated doctor. I have nothing but good things to say and the most important, I am a 17 year survivor of a L4-L5 lumbar replacement. Without the surgery I would not have been able to do the things I do today. My main focus was always being able to go to the gym and exercise and he (Dr. Kaul) and his staff made that possible.



Whatever the situation at hand is with Dr Kaul, I can support him 100% with his judgement. He has always been very thorough with his decisions and always put me first. I still go for my monthly check-ups and still see some of the same people who have gone to him as long as I. We are on a first name basis with some people.

I trust this will all smooth over and he could go ahead and practice what he does best, making people enjoy their lives pain free and knowing they will never suffer and Dr Kaul is always there to talk to.

I am still in amazement at how successful he has become in just 12 years.

I will support him and be there for him as he was for me.

Please do not take a brilliant Doctor out of practice. Many people will lose ~~a~~ a great doctor, and many more people will never know how relieving it is to have not been able to be under his care. I pray he wins.

Sincerely,  
Karen McCarroll  
Karen McCarroll



6/26/12.

To whom this may concern

My name is Kevin Jackson and I am writing to you about Dr. Kaul. to let you now he is a great doctor and a great guy. He has helped me out a lot with my treatment and my shots. So in short we need a great person like Dr. Kaul at NJSR so please let him come back to were he is need.

Signed

Kevin Jackson  
Kevin Jackson



To Whom it May Concern:

I have been a patient of Dr. Richard Kaul since the year 2004. If it weren't for Dr. Kaul I would not be walking today! Not only did he do my spinal fusion but years later he did a cervical fusion! I am well today thanks to him. Dr. Kaul is an amazing Doctor and his bed side manner is warm and comforting! I could not have chosen a better Doctor. I have an appreciation for him that ~~can~~ is beyond words. I would not let any other Doctor touch me then or now! If my child needed surgery Dr. Kaul would be the one we choose over anyone! I would trust him only with the care and well being of my only child!

So as of today, Dr. Kaul is not only my doctor but he is my friend. I could never find the words to express how thankful I am for Dr. Richard Kaul!

Sincerely  
Laura Ferraioli  
Laura Ferraioli



Re: Dr. Richard Kaul

Attention: Governor Christie

Dear Governor,

I am writing this letter to beg you to allow my doctor, Richard Kaul to be reinstated. Not only is he a brilliant doctor, he sincerely cares about his patients. I have never met a doctor that I trust as much as I do Dr. Kaul. When I met doctor Kaul I was at such a terrible point in my life. I was suffering from pain so terrible I could hardly cope on a daily basis. I honestly felt like Dr. Kaul was sent from God to help me because I had seen so many doctors & none of them knew how to treat me. Dr. Kaul assured me that he would help me and he did exactly as promised. Before I met him I felt like I would never walk again. After being in his care for a short period I had already begun to see improvement. As time progressed I began to feel so secure with him as my back doctor that I don't trust anyone else. I don't want anyone else to work on me besides Dr. Kaul. Please understand that Dr. Kaul has helped sooo many people and so many people depend on him to live a normal life. We often share stories in his office waiting room about how he has helped each of us and how great of a doctor he is. I have even referred so many people to him and everyone says the same thing, Dr. Kaul is the best! I honestly think he is the best at what he does in this country. I am in mental turmoil



at the thought of him not returning I  
am begging you to please let him come  
back. So many of our livelihoods depend  
on it.

Sincerely,  
Martina Cupido



1. / 26 / 12

To Whom it may concern,

I have been a patient of Dr. Kaul for over 6 years. He has helped me with the pain I have suffered from for 17 years. He was the only doctor out of over 10 that I have visited that gave me any hope or relief.

I have, under his care, had a discectomy and a 3 level spinal fusion. I have also had a complete hip replacement. He has helped me manage the constant pain I have been in and I have made great improvements. I can now walk and am considering going back to work. All of this is due to Dr. Kaul. When I couldn't pay he gave me charity care. He is the most caring and generous doctor and man I have ever meet. He has helped so many people. I have recommended him to many people. He is one of the few doctors who takes time to get to know his patients and to truly help them.

Mary K Griffiths  
Mary K. Griffiths

to



6/26/2012

Dr. Kaul

re: Suspension of License

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I have been a patient of Dr. Kaul's since 1999. I met him when he just started his practice and was trying to build his patient base. I was impressed with Dr. Kaul as his enthusiasm and knowledge was nothing short of being all for the patient's well being and living a life pain free. He did whatever it took to make my life comfortable as I had bulging discs in my lumbar that was excruciating pain. His approach was non-aggressive and anything invasive was his last resort. I watched his practice grow simply through word of mouth and his dedication to me/his patients was unsurpassed. I followed Dr. Kaul through many Counties and cities as he was helping me tremendously. I referred several people to Dr. Kaul and the outcome was always the same. My friends were healed or improved and some are pain-free.



To Whom it may Concern

I'm writing this letter in support of Dr Richard Kohl. I have been a patient of Dr Kohl since 2003. I came to Dr Kohl as a last resort after many back surgeries and failed fusions. I was in chronic pain 24 hours a day and could barely function in my daily life. Dr Kohl began treating me and after a period of time I have become almost pain free and have a new life. I credit Dr Kohl for his treatment, knowledge, and encouragement to me, without this I don't think I would be alive today, because with the pain I was experiencing when I became his patient I was ready to give up. I recommend Dr Kohl on a regular basis and would encourage anyone in chronic pain to see him for treatment.

Phyllis Orrell



Dear Governor Chris Christie,  
My name is Stephanie Blue I am a patient  
of Dr Richard Kaul At NJSR, I was in  
an accident in 2004 I have been in the  
care of a host of other Doctor's for  
my condition which causes severe pain and  
increased loss of mobility. I became a patient  
of Dr. Kaul and immediately my concerns became  
his concern and he mapped out a plan to take  
care of my medical needs. I have been treated with  
dignity and respect by Dr. Kaul and he makes  
me feel like we are in this together and  
he is duly missed by me. I am writing  
to you to ask that you take a look at  
getting Dr. Kaul Back to the patients that  
he cares for because we want him to be  
right where he needs to be which is to  
take care of his patients that respect and  
admire him. He is the first doctor that  
has made my care a priority and I really  
Appreciate him for that, ~~too~~

Thank you for your consideration

Stephanie L. Blue

6/25/12



Doreen M. Bettens  
133 Kendall Ct.  
Dover, NJ 07801

April 16, 2012

To Whom It May Concern;

I started seeing Dr. Richard Kaul back around 2004.

Approximately 2 years prior I started having excruciating pain in my feet and legs due to a pair of shoes. My feet and legs were swollen, bright red and so painful, more pain than I have ever felt.

I saw a podiatrist for 2 years, who ran all kinds of tests, gave me cortisone shots in my feet, that felt like fire shooting through them. Through all of this he repeatedly told me he had no idea what was wrong.



My mother, Barbara Betters, was, and still is a patient of Dr. Rauls at the time. He did a Lumbar Dissection on my mother's spine. I took my mother for a follow up visit and he saw me walking with a cane and a cane walker (a brace from the foot to almost the knee). He asked me what was wrong and I explained and told him that I keep being told that the other Doctor doesn't know what the problem is.

I made an appointment as requested with Dr. Rauls, he wasn't even concerned if I had, or what type of insurance I had, he just wanted to see if he could help me. After reviewing all my previous x-rays and other test results, and examining my lower limbs, he immediately knew I have Reflex Sympathetic Dystrophy.



Dr. Kaul started treating me with Sympathetic Nerve blocks, still with no concern of how he would be paid. For the first time in over 2 years, I could walk almost normal and with minimal pain. I truly believe if it wasn't for him, I would be in a wheelchair by now.

Shortly after, maybe a year or two, I bent over and my back went out. He ordered an MRI and learned that I had herniated discs and the main nerve bundle was being compressed. Dr. Kaul did a series of epidural nerve blocks on the spine which took care of the pain. After several years I started having a lot of back pain again. Dr. Kaul did another series of epidural nerve blocks. I did not get the relief that I had gotten the previous time.



Dr Paul then decided to do a Disc-A-Gram, so he could see what was going on with my spine. The Disc-A-Gram was done on Oct. 24, 2011. Within 2-3 days after I started experiencing excruciating headaches. On Thursday, Oct. 27, 2011. I called his office and left a message. On Friday morning, Oct. 28, 2011 Dr Paul called me from his cell phone, he was at the airport on his way to a work convention. He told me what to do to try and alleviate the pain. He told me if it didn't work then I would need a blood patch to close the hole in my spine. On Sunday, Oct. 30, 2011, I couldn't take the pain any longer and went to the Emergency Room at St. Clare's Over. I explained the situation to the doctor there, and after giving me



3 different pain medications which didn't help much, they told me I had a tension headache and sent me home. By this time the pain was so bad I could hardly keep my eyes open or stay upright. All I could do is lie down to help relieve the pain.

On Monday, Oct. 31, 2011, my mother called him on my behalf on his cell phone. His office / surgical center was closed that day. Upon hearing of my condition, he opened his surgical center (for me only), sent his transportation to pick me up, and brought me in and did the blood patch on my spine. I finally got the relief I was so desperate to get, and he did this on his day off.

After reviewing my results of the Disc-A-Graph, he seemed surprised to learn the disc at L3-4 was



completely disintegrated and the disc at L4-5 was almost gone also.

After several attempts to put it through my Workmans Comp. for approval for surgery, the Workmans Comp. flat out refused. They stated it was not their problem, that it had nothing to do with the injury that caused my RSD.

So being that I am of lower income and have little money, I have raised 4 children on my own, and this type of surgery is very costly, it appeared as if it would not be done.

I then received a phone call that Dr Paul was donating the entire surgery to me selflessly. He was more concerned for my well-being and quality of life



(which was almost non-existent)  
then how he would be paid.

Dr Kaul is the first  
doctor in years that I have  
seen, who is more concerned  
with his patients well-being,  
then how much money is  
going to be put in his pocket.  
Years ago, and I mean  
years ago, Doctors and Nurses  
went into the field of medicine  
because they cared about the  
well being of the patient. Now  
a days, its more about the  
money to be made by the  
doctors and the insurance  
companies.

In the years I  
have been a patient of  
Dr Kaul's, and will continue  
to be seeing him as the  
RSD is chronic, I have  
seen a man who truly  
cares and wants to help  
his patients. Something  
that is hardly seen anymore.



He listens to you and genuinely  
cares

I have and will continue  
to recommend him to people  
whom he could possibly help.  
I also will hold him dearly  
in my heart, always, for all  
he has done for me. Without  
his kindness and medical  
knowledge, I am sure I  
would be crippled by this  
point of my life.

Sincerely,  
Doreen Betters



**KEY W. DARROW**  
12 EDOR LANE  
SUCCASUNNA, NEW JERSEY 07876  
TEL. & FAX NO. 973.252.5070  
CELL 973-219-6797  
EMAIL: KEYDARROW@YAHOO.COM

To: Governor Chris Christie  
& Attorney General of NJ  
MEDICAL Licensing Division  
& STATE Senators & Assemblymen of Sussex, Morris, Passaic  
And Bergen Counties.

TO ALL:

I am writing this letter today to express my shock  
& disbelief that the STATE of New Jersey has  
SUSPENDED DR. RICHARD KAU'S MEDICAL License!

Please see & read the attached copy of a letter  
to The Editor, Bergen Record, printed Sunday, June 10, 2012.

Dr. Kau has restored a quality of life that I  
had not known since 1975, when I injured my  
back breaking up a bar fight. I was a Police Officer



**KEY W. DARROW**  
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 EMAIL: KEYDARROW@YAHOO.COM

IN the Borough of Wharton AT the Time. I  
 HAD 3 DISKS - L4-L5, & L5-S1 ! FOR  
 30 years I SUFFERED! IN JANUARY, OF 2008,  
 DR KAUL PERFORMED A Lower Lumbar Fusion that  
 TOTALLY ELIMINATED ALL OF MY PAIN !

MOST RECENTLY, I WAS SCHEDULED TO HAVE A  
 3 Level Fusion in my NECK (C3, C4, C5, + C6)

DUE TO THE STUPIDITY OF THE ATTORNEY GENERAL'S  
 OFFICE - I WAS DENIED THE SERVICES OF A DOCTOR THAT  
 I WOULD TRUST MY LIFE AS WELL AS POTENTIAL  
 PARALYSIS!



(3)

**KEY W. DARROW**  
12 EDOR LANE  
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FORTUNATELY, DR LAUL WAS GOOD ENOUGH &  
CARED ENOUGH ABOUT MY HEALTH, HE REFERRED  
ME TO DR MARC COHEN.

DR COHEN OPERATED ON ME ON 6-12-12 AND  
IT IS SO FAR A VERY SUCCESSFUL OPERATION.

I RECOGNIZE AND APPRECIATE DR COHEN'S  
SKILLS AS A DOCTOR & SURGEON. I THANK HIM  
PROFUSELY FOR WHAT HE HAS DONE FOR ME!

BOTTOM LINE, I WAS DENIED THE  
SERVICES OF A HIGHLY SKILLED DOCTOR & SURGEON  
BECAUSE OF FALSE ALLEGATIONS MADE AGAINST DR LAUL!

PLEASE CORRECT YOUR MISTAKE AND RE-INSTATE  
HIS PRIVILEGES IMMEDIATELY.



(4)

**KEY W. DARROW**  
12 EDOR LANE  
SUCCASUNNA, NEW JERSEY 07876  
TEL. & FAX NO. 973.252.5070  
CELL 973-219-6797  
EMAIL: KEYDARROW@YAHOO.COM

Thanking you in Advance for your proper  
+ Thorough investigation into this matter.

Very Truly Yours,

Key W. Darrow



## Medicine is limited by conservatism

Regarding "A challenge to medical examiners" (Your Views, May 27):

Dr. Paul Kovatis seems to put doctors who are not part of the "Good Old Boys Club" under fire. His letter takes Dr. Richard A. Kaul to task for performing same-day neurosurgery.

Kaul is a physician licensed to practice medicine and surgery in New Jersey. Kaul undertook some of his training in spine and neck surgery in Seoul, South Korea, the center of many medical advances in the Pacific Rim.

Just because Kaul did not do a four- or five-year orthopedic residency in a United States program does not mean he received less of an education. Most of the time spent in residency is spent on doing the "scut work" of the attending physicians; instead, Kaul spent almost all of his time actually learning the techniques of minimally invasive spine surgery.

I disagree with Kovatis' remarks concerning ambulatory care centers. I had three surgeries performed on my back by Kaul at the Bergen Passaic Ambulatory Care Center on Main Avenue in Clifton. I had never received better care. I have had numerous operations in hospitals in northern New Jersey, and the level of care there was inferior to what I

received at the Bergen-Passaic Ambulatory Care Center.

After seriously injuring my back while working as a police officer in 1979, a board-certified orthopedist told me he could perform an operation that would give me a 50-50 chance of walking again. I decided against the surgery and retired on disability. Nearly 30 years later, Kaul performed a spinal fusion that gave me back a quality of life I had not enjoyed for three decades.

My brother, a board-certified orthopedist practicing in West Virginia, accompanied me on a follow-up visit to Kaul. He was amazed at the manner in which Kaul performed the minimally invasive procedure. He told me that by having same day surgery and going back to my home, I reduced my chances of infection by 300 percent by not staying in a hospital.

Kovatis is past president of the Bergen County Medical Society. By this connection, I read "Good Old Boys Club" protecting collective assets.

Let's keep politicians and the old-time doctors out of the state Board of Medical Examiners and let qualified people who have investigated medical practices around the globe make decisions.

**Key W. Darrow**

*Succasunna, May 28*



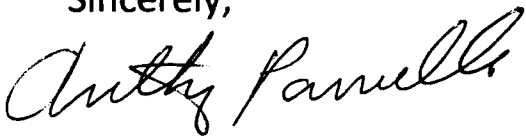
June 19, 2012

To Whom It May Concern,

I, Anthony Parrinello have been with Dr. Richard Kaul since April 3, 2009. I had a series of three sessions of needles injected in my back every few weeks. Then I had back lumbar fusion surgery in January 2012. I am now on the road to a fast recovery. He helped me tremendously. He helped other patients who had no insurance. He is still helping me with my lower back.

The staff is also friendly and helpful.

Sincerely,

A handwritten signature in black ink that reads "Anthony Parrinello". The signature is written in a cursive, flowing style.

Anthony Parrinello  
92 Hecker Street  
Staten Island, NY 10307



June 19, 2012

NJSR  
P.O. Box 378  
Pompton Lakes, N.J. 07442

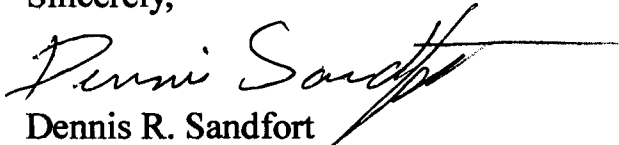
Attention: Governor Chris Christie

I was appalled to find out that Dr. Kaul's license was suspended. My wife, Jean B. Sandfort has been under his care and treatment for the past 8 years and to show you the kind of man and doctor he is I would like to relay my experience with him. He gave me my wife and our life back which was taken away from her from an injury many years ago. We continue to go on vacations, go for walks, work in the garden and do things she was told she would never be able to do again by other doctors.

On our last visit to see Dr. Kaul I told him that I was experiencing pain in my back which I never had before. Even though I am not a patient of his he ordered an MRI and told me he will discuss the findings when the results are in. After seeing what he did for my wife I would trust his judgment and course of action to be taken explicitly. I would not let any other doctor operate on me but Dr. Richard Kaul.

Please reconsider the credentials of this man as a Doctor, Surgeon and Humanitarian.

Sincerely,

  
Dennis R. Sandfort



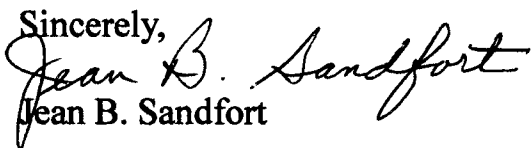
June 19, 2012

Attention: Governor Chris Christie

It has just come to my attention that Dr. Richard Kaul of Pompton Lakes, New Jersey has had his license suspended. On behalf of Dr. Kaul I would like to tell you of my experience with him. I have been a patient of his since 2004 and without Dr. Kaul and his expertise in spinal rehabilitation I would not be able to walk today. He is the only one that promised me help and assured me that I would be able to perform a normal lifestyle once again.

He performed a fusion on my spine which he also inserted a titanium plate and screws to sustain this procedure. To my surprise I was able to walk again and have minimal pain, I was actually carried in to see him in excruciating pain and he said those words I thought I would never hear, "I can help you". I have been back to him for epidural injection treatments to keep the pain level to a minimum. He was there for me throughout all my agony and depression and never failed to be nothing but positive in his treatment for my symptoms over the years.

I have recommended Dr. Kaul to the highest degree to everyone that I know and cannot give him enough credit for taking on a task that no other doctor would even consider. I was told nothing could be done for me that I would end up in a wheelchair with the deterioration of my spine. He promised me relief and to this day I owe him my every movement, happiness and pain-free days of my life. He is not only an incredible doctor but cares very deeply and sincerely for the well being of his patients. It sickens me to know that a man of his knowledge, expertise, background and fortitude has to endure such a horrendous outcome at this point in his career. I still continue to be under Dr. Kaul's care out of his concern to monitor my health and progress. Please consider all the good that this man has done for scores of people throughout the world that he has helped during his career and reinstate him back to full duty as soon as possible. Dr. Kaul is my savior and my salvation, I owe him my life and the quality of it that I enjoy daily.

Sincerely,  
  
Jean B. Sandfort

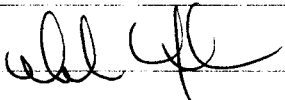


6/19/12

I was originally referred to Dr. Kaul on two separate occasions by two different doctors due to multiple chronic problems requiring immediate help/treatment. Over time these doctors just gave up because they couldn't come to a finite conclusion and they just dismissed me.

I am a very private person and quite frankly am uncomfortable writing this letter. But I feel so strongly that without Dr. Kaul my quality of life would have had little value and my ability to effectively perform my job to support my family would have been severely compromised.

He has always provided the highest standard of care and as important empathy and concern including calls to my home in the evening to check on my condition. This is something that I never received from other doctors.

  
Michael Frank.



Sammy Baez  
6-19-12

Attn: Governor Chris Christie  
Office of the Governor  
P.O. Box 001  
Trenton, NJ 08625

Dear Governor Christie:

I, Sammy Baez's wife, Keisha Baez, am writing this letter to you on his behalf. My husband is a patient of Dr. Richard Kaul for many years and he's writing you this letter regarding the unbelievable news that Dr. Kaul's license was taken away. I am unclear as to why and would like to share with you my thoughts and experiences with Dr. Kaul. Dr. Kaul is an amazing and caring doctor, who has been an angel sent from above to help me over the years.

When all doors were being closed and all the fighting for my surgery seem at my wit's end; Dr. Kaul and his staff stopped at nothing to make sure my surgery would happen because my life counted on it and I was suffering in tremendous pain and able to do nothing. Having the pleasure of meeting Dr. Kaul and my surgery



being successful was a dream or wish come true. I am extremely grateful to Dr. Kaul for delivering extraordinary care, great advice, thorough follow-ups and a dedicated staff. Dr. Kaul has an exceptional personality that makes it easy to trust, talk to and explain the day-to-day struggles I deal with.

Dr. Kaul expresses a genuine concern for not only myself, but I've witnessed his support and heard the encouragement he has shared with others. This also makes me realize that he is a one-of-a-kind doctor that takes pride in what he's great at and has a high respect for his staff and patients. At each appointment I feel good because I'm treated with respect, kindness and he's always courteous. Dr. Kaul has shown in many ways that he goes beyond his job description and duties of a surgeon to assist me with all my needs.

Dr. Kaul expresses happiness in doing his work, that makes me comfortable; knowing that he loves to help others and not many doctors have good bedside manners and good business etiquette's. He has also been very sensitive towards my situation and illnesses. He takes



time to listen and understand what I'm feeling and the circumstances I'm in, no matter how busy or complicated his day can be at times. Another great and appreciated thing is that when he is unavailable, he makes sure someone always get back to me and in a timely manner.

Dr. Kaul has also understood times when I was running late for an appointment or needed to reschedule an appointment at short notice; which many other offices have a problem with this and would cancel on you or not reschedule. This doctor has made me feel like a valued and cared for patient, that I travel from the Bronx, NY to continue treating with him because he has shown me how much he cares for my well being.

My family is also welcome to my appointments and well compensated during their wait with Refreshments and every day life conversations. Dr. Kaul has made me realize that the present is all we have in which to create a life that connects us to help each other in times of need. This encourages me to never give up and I'm grateful for his encouraging advice.



I am able to do some things I wasn't prior to the surgery and this is a great gift in my life because now Jim is able to do some things with my kids and wife.

I would like for you to consider my thoughts about Dr. Kaul and experiences mentioned. I have great concern as to Dr. Kaul's licence being reinstated so that I will be able to treat with him and continue with our plan of success for my health. I am certain that Jim not the only patient Dr. Kaul has done the same for and is a doctor deserving of this credibility and recognition for his outstanding job performance and dedication to helping me.

I thank you for your time and consideration. I have seen how amazing you are as a governor of NJ and how you continue to help your community and the people get all that is best for them. You stated that you are a governor that welcomes the opportunity to consider the thoughts, concerns and ideas of the people. I know I am not a resident of NJ, but would like for you to



also consider these things for me,  
and help justice to come to my doctor,  
Dr. Kaul because he's really a  
great doctor that has done for  
me what you do for your community;  
"help and give back."

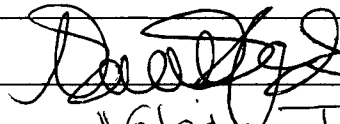
With the highest  
regards,

x *Sammy Baez*

patient = Sammy Baez  
wife = Keisha Baez  
Keisha Baez



I was referred to Dr Kaul years ago when I exhausted all's & specialists who failed to help me. Dr Kaul was able to provide me with a quality of life I did not have. He is compassionate and professional and working together we are able to finally stabilize my condition. He has always had my best interest in my quality of life at heart. I know I would not be here today without it.



Valerie T Fank



June 20, 2012

Attn: Governor Chris Christie:

Dr. Kaul has been my doctor for over two years. I had a fusion done by him this past December of 2011. My surgery was successful, and he had given me an extraordinary medical attention. Dr. Kaul is a very great, and caring doctor. Without him only God knows if I would have been able to walk again.

Now that his license has been suspended, it has been an inconvenience to me, because he can't no longer provide his services to me, and many other patients that really need his care.

Governor Chris Christie I am writing to you to please ask you, if there is any way that you can help Dr. Kaul to get his license restored! We will be so grateful to you Governor Christie and appreciate for any assistance you can provide to Dr. Kaul.

His patients really need him and his care. We care for Dr. Kaul and would like to help him in any way we can.

We greatly appreciate your service Governor Christie if you can help us. Thank you



6/26/12

To Whom it May Concern,

I have been seeing Dr. Kaul for about 9 years now. I started seeing him for a nerve condition called Reflex Sympathetic Dystrophy. I could barely walk when I first started seeing him. After a series of Sympathetic nerve blocks, I felt like a new person.

Last year I started having severe back pain. After a disc-a-gram Dr. Kaul learned I had no disc left at L3 L4 and only small pieces of discs at L4 L5. He did a Subbar Fusion in March and I feel like a new person.

I have been recommending Dr. Kaul to people for many years, and I will continue to recommend him. He is knowledgeable in all the newest techniques. He is always going to workshops and seminars to learn and keep updated on all the latest techniques. I would not have felt comfortable letting anyone



else do my back surgery. I have heard many fusion back surgery horror stories. As for Dr. Kaul I have never heard anything but positive feedback, trust me I asked many of his patients how they felt after the surgery and never received a negative answer.

I will continue to be a patient of Dr. Kaul's and will also continue to recommend him to people I feel he could help. If it wasn't for him I feel I would be severely disabled by now. He has greatly improved my quality of life.

Sincerely,

Doreen M. Bettens



George Apwah Apt. 10N  
3 Marshall St.  
Irvington, New Jersey  
07111

**OFFICE OF THE GOVERNOR  
P. O. BOX 001  
TRENTON, NEW JERSEY  
08625**

20<sup>TH</sup> June, 2012

TO: Governor Christie

Your Honor,

I am writing in reference to Dr. Richard Kaul, whose license had been suspended.

Many friends of mine had asked me to write a character reference letter in reference to this great doctor. But the truth is that I had already thought of doing so before they made their suggestion. I feel strongly about Dr. Kaul, and I will try to make you feel the same for him.

Dr. Kaul is a very good doctor. It may seem hard to believe in the given circumstances, but this is true nonetheless. I had known him since the first day I walked into his consulting room on 137 Clifford Street, Newark. In the three consecutive visits that I made to his office in Pompton Lakes, I can now sleep and twist my body with ease. This had made me believe that he is a great doctor at the core.

He had dedicated many hours of his service helping the sick. He even organizes health clinics for the under privileged and spends time with them in Africa. If you had the chance to interact with him, he is bound to leave you with a smile every time you meet him.

I am sure there may have been some issues as Dr. Kaul is not infallible.



However, I hope you will take into consideration the good work of this great doctor, and make a fair decision.

Thank you.

Yours sincerely,

(  )

George Apwah



Christie . . .

June 20<sup>th</sup>  
2012

My name is Kathleen Maitney and the reason I'm writing you. Is because Dr Richard Kaul is my Spine & Back Dr. Now I know there been a lot of Bad Talking about him and what People are saying about him, But let me tell you some things everyone dont know about him. 7 years ago was the first time I meet him, I Couldn't even walk, That man that everyone is Downgrading make it possible for me to walk again. When I first went to him, He told me right out my back was a mess, But! He would do his best and he did, after my first operation, I was in so much Pain, So I went back to him, He ask me if I was taking my Pills I told him no because I Couldn't Pay for them, This ->



man went right in his wallet  
and took out every bill he had in  
it, He gave me that money to get  
my Pills, He didn't have to do that  
O.K. maybe he did something wrong  
But how long ago was that, He  
is a good Dr and he has help a  
lot of People, When I go to him and  
I'm in the waiting room, so many  
People say what a good Dr he is I  
would of never been able to walk  
if it wasn't for him. He is the most  
Caring understanding, respectful Person  
I ever meet, Please give him his  
License back, I need him & so does so  
many others Every one sees what he  
did wrong But no one sees what  
he is doing good. Please don't take  
my Dr Richard Kaul away from me  
& so many others Every Body makes  
mistake - but no one should lose every  
thing they worked so hard for, He is the  
best doctor going

Kathleen Kactiney



Oscar Z. Leal  
509 Helfin Street  
Bound Brook NJ 08805

June 20, 2012

To Whom It May Concern:

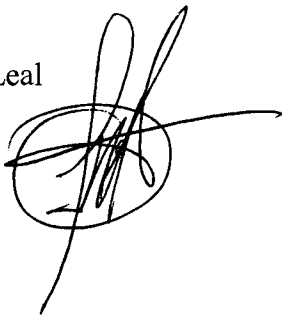
I am writing this letter to inform you the following: Dr. Richard Kaul is a very good doctor, he is treating me for more then 3 years and I am getting better with all the treatments that his being doing to me, I never have another doctor like Dr. Kaul. He is a great professional, very friendly and efficient.

I wish you can do whatever you can to clear any situation and you can continue to provide the best medical attention to your patients, like me.

Thank you very much and if you need more information feel free to contact me at 732-377-9784.

Sincerely;

Oscar Z. Leal

A handwritten signature in black ink, consisting of a large, stylized 'O' with a horizontal line through it, followed by a series of loops and a long horizontal stroke extending to the right.



June 20, 2012

Governor Chris Christie  
Trenton, NJ

Re: Richard Kaul, MD

Dear Governor Christie,

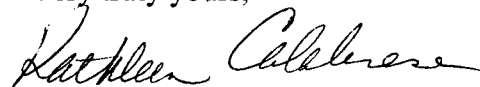
I am writing to you regarding Dr. Richard Kaul. I have been a patient of Dr. Kaul's for the past 10 years. He is the best doctor I have ever been too. Dr. Kaul always puts his patients first before anything else, even if it means he won't get paid. He is a true doctor in sense of the word.

He treated my late husband after he was in an auto accident and was there for him through all everything, even in fact, when we were on a trip to Nevada and he fell ill and had to be medevac'd out of the Grand Canyon and it had nothing to do with what Dr. Kaul was treating him for, I called Dr. Kaul on that Sunday and he called me back and called the hospital that they took him too and kept in touch with me on daily basis until he was released a month later. He also called the hospital daily to see what they were doing and kept me informed. This went beyond what he needed to do for his patient.

As for me, I was in an auto accident in 2006 and broke my wrist. After having extensive surgery on my wrist, I developed RSD, which is a chronic pain syndrome which renders you totally unable to use the affected limb. I went to see Dr. Kaul when no other doctor would listen to me and he diagnosed me and treated me right away so that I would not lose the use of my arm. Even when the insurance company denied the treatment until they could further investigate whether I did have RSD, Dr. Kaul treated not knowing whether he would get paid or not. Because of his swift treatment of my arm, he was able to contain the RSD to only the arm that was injured and kept it from spreading to the limbs.

I am hoping that you would intervene on his behalf so that his license can be reinstated and he can continue to treat his patients that depend on him for their daily living from day to day. If you were to sit in his office and listen to how he helped his patients to be free of pain you would know what I am saying.

Very truly yours,

  
Kathleen Calabrese



To, The Honorable Chris Christie  
Governor of New Jersey

I have been a patient of Dr. Richard Kaul for almost 3 years. I have had ongoing back problems since I suffered a spinal injury while serving with the Army in Iraq. I started seeing V.A. doctors for pain management and underwent spinal epidural injections. Their methods are extremely crude compared to Dr. Kaul. They performed the procedure in a regular exam room "A non-sterile environment" sitting upright on an exam table while they injected my spine. I endured this twice before seeking private care. My father has been a patient of Dr. Kaul's for many years so I went to see him. Since I have had rounds of epidural, facet joint, and radio frequency injections. The NJSR facility in Pompton Lakes is a brand new office with a top of the line O.R. fully staffed and equipped with emergency response equipment. As a health care professional I notice these things. I scrutinize my doctors and staff and have been very pleased with NJSR. In articles I read "One room O.R." being used as one of the prime reasons that his practices are putting patients in "imminent danger." To the eyes and ears of people not in the medical field it does sound bad. However most surgeries are done in surgical centers that are no better staffed or equipped than NJSR. That is a fact and in speaking from the perspective of someone who has received and administered care in these facilities. I am also reading alot about a tragedy that occurred while he was practicing abroad. It shakes my faith in the system that a good doctor who has been honest and forthright concerning his past could be lost because of peoples opinions who clearly don't



understand how medicine is practical.

My point is Dr. Kaul is a good man and doctor, who has treated several people I know including my own family. He has done so with professionalism and great success. I think these unjust actions are being driven by and blown out of proportion for the sake of of sensational headlines. Thank you please step in and stop this unjust action before people suffer.

Sincerely,  
Anthony Cecala  
(973) 714-3284



6-21-12

The Honorable Chris Christie

Dear Governor Christie

In 1989 I was in the first of 3 major rear impact automobile accidents. As a result I have several spinal issues in both my back and neck. I've had about 15 surgeries in my life, and have quite a bit of experience with doctors of different specialties and hospitals including Memorial Sloan Kettering.

Dr. Kaul is one of the finest. Since I started seeing Dr. Kaul about 11 or 12 years ago at Dover General Hospital I have gotten to know him quite well. I can honestly say that he cares about his patients. The trust I have built with him through experience is hard to find. Other members of my family have suffered spinal injuries. My son in service to our country, and my wife and daughter in accidents like my self.

Who better to treat them than a doctor I have trusted with my life. I would not be where I am today without Dr. Kaul. I have had several procedures with Dr. Kaul some being the ones in question. I had a spinal fusion with the chief surgeon at Lenox Hill Hospital in NY and also with Dr. Kaul. The experience with Dr. Kaul was better all around from recovery to results.

I am walking proof because Dr. Kaul knows what he is doing. I was very limited in physical abilities due to the level of pain I was in.



The relief he gave me has improved my quality of life, allowing me to continue working and providing for my family. Losing a doctor like him would be a great injustice because many people would suffer. People like my self who thought they would never get better. Only they won't get the second chance I did if this action isn't reversed giving Dr. Kaul back his license. I don't know why people are so quick to attack this doctor. There are serious risks involved with even the most routine procedures involving Anesthesia. Dr. Kaul has been honest from the beginning about the tragedy in England and despite the unrealistic expectations people put on doctors they are human. Nobody is talking about all the good he has done and continues to do be it working with patients who have no insurance with out means to get care without his generosity. The many people in Africa he has helped in ways they never dreamed of. There are very few doctors with the compassion and sincerity of Dr. Kaul.

Respectfully Yours

Frank A. Cechala

FRANK A. CECALA

201-572-5575



to Governor Christie

I would like to take this moment to thank you for all the hard work and changes you are doing for the state of New Jersey. I'm writing this letter to you for the wrong doing, and mistake for the state of New Jersey toward Dr. Richard Kaul.

My name is Alberto Jesus and I reside at 5923 69th Lane Maspeth, N.Y. 11378. I have been seen by a New York doctor and underwent multiple surgical procedures to the lumbar spine under the direction of Dr. Jamie Nieto, which has failed. And the matter has not been resolved, and I'm not convinced in the way the matter was handled, I had a follow up visit with the neurologist. Dr. Mitza Bey. Who so kindly forward me to Dr.



Richard Kaul. And with him I  
under went Multiple treatment as  
per x ray, ct scan, Mri as well as  
several nerve test and multiple  
epidural injection treatment to the  
lumbar spine, also trigger point injection  
and transperineal nerve block treatment.  
I also underwent multiple surgical  
procedures lumbar fusion from L-2 to  
L5S1 and a trial dorsal column stimulation  
for pain which was withdrawn due to  
failure. With all that being said with  
the great care that Dr Richard Kaul  
has given me hope and a chance to  
have some what of a normal life and  
I ask you to help Dr Kaul to the  
reinstated so he can continue treating  
his client or patient with excellence in  
the state of New Jersey.

Thank you  
Alberto Reyes



June 2012

Dear Gov Christie,

I write to you requesting that you reinstate the license of my doctor, Richard Kaul. He became my doctor in 2004 when it became necessary for me to seek options to repair multiple injuries to my neck and lower back that resulted from a car accident in Morris County.

Doctor Kaul was referred to me by his colleagues when standard treatment by medicine proved to be useless. I had seen a chiropractor, a neurologist, an orthopedic surgeon. Dr. Kaul attempted all non-surgical options such as physical therapy, manipulation under anesthesia, to name a few besides stronger medications which all proved to be allergies to my system.

Along with another surgeon, Dr. Kaul reviewed my MRI's, Cat scans and X-rays to determine the best surgical treatment plan for my neck and back. At separate times a successful double level fusion and a triple level fusion were safely and successfully performed. A double level fusion in my neck caused an overgrowth of bone which is often the case.

It had to be addressed. The first attempt was cancelled because it would have been unsafe for the surgery to occur. A surgical pillow specifically designed for patients like me who previously had a fusion. Dr. Kaul and the accompanying surgeon were there when I opened my eyes and explained the situation. Several months later the surgery was successfully performed. At no time did I feel in danger, I knew I was in competent hands. ~~After~~ After every surgery, Dr. Kaul made himself available 24x7 to ensure I was okay.

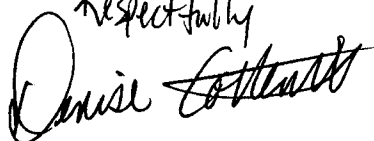
Pg 1 of 2



I was so grateful when I had a serious allergy to narcotic pain medication. ~~Dr~~ Dr Kaul was available by phone to help ER doctors determine the allergy and prescribe the needed medication. He has always been available when I needed another alternative when pain was intolerable. His patient care is the finest I have ever experienced.

Dr Kaul is a smart, compassionate medical doctor who has always acted responsibly with my care. It sickens me that the DA, likely vying for your position, would begin a witchhunt, ~~extorting~~ ~~extorting~~ his information to advance his career. Dr Kaul came from Europe where laws are different, education superior where continued training is encouraged and practiced. He is known here as ~~a~~ a preeminent doctor by his peers and patients. He built a business here, to help people and to use his knowledge to help alleviate pain and discomfort to many. Please do not prevent him from servicing patients, including me. He is a responsible doctor who provides excellent patient care and is very knowledgeable. I request that you reinstate his license as soon as possible.

Thank you for your consideration.

Respectfully  


Denise Giffrell

June 25, 2012



Goran E Spranger  
P.O. Box 818 Hickory  
N.C. 07849

Dear Governor Christie

I have been a patient of Dr R Kaul since 2004, I have a very bad back. Dr Kaul has performed several procedures on my back, injections one and at least 2 Surgeries, 1 Surgery was minor a 2nd Surgery MAJOR my back had become so bad that I had to have 2 vertical Pins installed and 6 horizontal Bolts.

IF Dr Kaul had not done the Surgery that he did I believe I would be in a wheel chair TODAY. I still work Every day on Trucks as a Mechanic I am 63 yrs old. Dr Kaul has Always been very professional.

Thank you  
Goran E Spranger



To The Honorable Governor Christie

Dear Mr. Christie,

June 22, 2012

I Theresa Ceala have been a patient of Dr Richard Kaul's for about 8 yrs. now. I had been in a car accident we were hit by a drunk driver. I had severe neck pain & had suffered from headaches. My husband Frank had already been a patient of Dr Kaul's for quite some time & I knew he had alot of trust in Dr Kaul & was very pleased with his treatment. So I went to Dr Kaul. He had me go for testing. He explained the results in detail, he was very thorough. Afterward, I had gone for some injections & physical therapy. I finally had relief. Then sometime later I had fallen & hurt my back & returned to Dr Kaul for treatment. The insurance I had did not pay much & the remaining balance was double the amount that was paid. He said he would accept what the insurance paid & for me not to worry about it. This always reminded me of when doctors were more concerned about the patient instead of the money. I would also like to add that before I started going to Dr. Kaul that there had been an incident in England. He told Frank to go on his website & that he had all the information concerning this incident. This truly impressed me because I feel that Dr Kaul didn't have to say what had happened after all this was in another country. He was honest & had wanted Frank to make his own decision about it. He didn't cover it up, he put his patient first. I had & will always continue to have a great amount of respect for this man for his honesty. How many



doctors do you really think would have done that? Not many & how many doctors are practicing in this country, state etc. with a long line of incidents & never told their patients. I think it took a lot of courage to do this knowing that there would possibly be a risk of losing his patients. But there again, he was not concerned with himself but the patients. In conclusion to my letter I really feel that it would be very sad to think that this man would no longer be able to help someone in need. As far as competency, I feel that there should be no question concerning this man & as far as it being said that he would put his patients at risk. There was actually a time when my husband Frank had to have a procedure done & Dr Kaul actually recommended that Frank go to another doctor to have this procedure done because he was not equipped to do it, once again he put the well being of his patient first. Please if there is anything you could do on behalf of this man I feel you would be doing a great justice not only for him, but for his future patients.

Respectfully,  
Theresa A. Ceala  
Theresa A. Ceala  
51 Jefferson Ave  
Dover, N.J. 07801



To whom it may concern,

June 23, 2012

I am a patient of Dr. Karl.  
(Richard Karl). Through out the years I  
have seen numerous amounts of Doctors.  
Unfortunately, not one of them had helped  
me with my neck and back pain.

Dr. Karl was the last Doctor  
I went to see, and finally the only  
Doctor who could help me. Dr. Karl is a  
very kind and caring Doctor who is actually  
concerned for his patients feelings. He  
is an excellent surgeon, and I highly  
recommend him for a surgeon and  
Doctor. He has helped me enormously.

Sincerely  
Mrs. Kim. Chokas.



6-24-12

-1-

Dear Mrs. Christie,

I am writing to you to express my displeasure with the decision to suspend the medical license of Dr. Richard Kaul.

I have been a patient of his since 2006. My story begins in January, 2005 - after a fall down a flight of icy stairs - causing 2 blown disks & injuring others. I saw a number of other medical professionals, including 2 orthopedists, 1 spine surgeon & 3 chiropractors. I endured months of pain, spinal injections, physical therapy & medication. I was unable to work & enjoy my life, for months. The pain was excruciating!!

At the recommendation of my orthopedist, I was referred to Dr. Kaul. He gave me a thorough exam & after looking at my most current MRI advised that surgery would be necessary to repair the damage. He went out of his way to make me feel at ease, answered all of my concerns & ~~above all~~ made me feel like the patient came first!! I was not just "a piece of meat" (my words) to



be cut into, to repair + say goodbye. He  
genuinely cared!! He was kind,  
considerate + caring.

My surgery was scheduled + went  
well. The damage to the disks was  
repaired + secured month later, my L5  
disk was so "plump" - it was like  
nothing ever happened! It was perfect!

As it happens, I required a  
second surgery to remove a small  
piece of bone to make room for my  
"plump disks". All went well.

I am, as of this writing, able to  
work a very physical job, ride my  
motorcycle, and 95% of the things I  
was able to do before my fall. <sup>within of course</sup>

If it had not been for Dr. Kaul,

I would most likely be completely  
disabled - unable to work + collecting  
a check from disability - something that  
goes against my grain as a decent human  
being!! One who wants to work + enjoy  
life.



You will not find a better surgeon than Dr. Kaul. I wouldn't hesitate to recommend him to family & friends.

He is talented, kind, compassionate & an all around genuinely good human being.

Please restore Dr. Kaul's license.

Kind regards,

Lauri Marano



June 25, 2012

To whom it may concern,

I have been a patient of Dr. Richard Kaul since 2007. I have always known him to be a caring, kind, and compassionate doctor.

In 2008, I made an appointment to see Dr. Kaul after having undergone an unsuccessful ACDF at level C6-C7. Upon reviewing my films and reports, Dr. Kaul suggested that I take a conservative approach and try having a series of injections (epidural and trigger point). After receiving the series of injections, I still did not have any relief. At this point, Dr. Kaul suggested I have a revision of my cervical fusion.

On August 8, 2008, Dr. Kaul along with another doctor present, attempted to perform the revision. Upon examination of the site and surrounding tissue and blood vessels, Dr. Kaul discovered that the blood vessels had grown too large for him to make a safe approach. Dr. Kaul then closed the site and woke me up from the anesthesia and informed me that



My case was too complicated to safely handle at the surgical center.

It is in my humble opinion, that Mr. Kaul is an outstanding, compassionate physician who truly follows the Hippocratic Oath of "First do no harm." His concern for my safety and well being speaks volumes as to what kind of doctor he is. I will forever be eternally grateful to Mr. Richard Kaul for placing such value on my life.

Once again, my opinion of Mr. Richard Kaul is 'That he is an outstanding example of what a physician should be. I implore you to reinstate his license to practice medicine. I feel it is a travesty that his reputation is being questioned.

If you have any further questions please feel free to contact me at 845-477-0502 or 845-699-3050, or via email at blueeyes29707@aol.com.

Most Sincerely,  
Laura Morales  
Laura Morales



June 25/2011

To whom it may concern;

Approx 7 yrs ago I developed severe lower back pains. I was referred to Dr Jim Scales in Sparta N.J. for treatment. After his diagnosis & treatment I was referred to Dr. Richard Kaul at one of his locations. After extensive exam and questions he felt I should start a series of cortizone shots to the effective area. I continued this treatment until a follow up exam between shots. progressively I began to feel some relief. I was still working at the time driving 2-3 hrs each day to work.

Eventually it was necessary to perform surgery installing 2 screws. This did help with the pain but after the next visit with Dr. Kaul we did another series of shots to the next location. It was determined after several more



Upst. that a second surgery was  
necessary. a third series of shots were  
needed & a third surgery was performed.

throughout the entire treatment period  
I spent with Dr. Raul I have never  
had any reason to distrust his treatment, plus,  
I continue to want to stay with him  
because of my trust & have gained in him.  
During the end of my work period I  
was examined by a Social Security doctor  
and deemed disability eligible. Retired  
at age 62 due to my existing back pain.

Respectfully Submitted

Richard Beck  
36 Bedford La  
Saratoga Springs NY 12866



6-26-12

To whom it may concern, I have been a patient of Doctor Paul for several months now. He is one of the most professional Doctors that I have dealt with in a very long time. The treatments and the professional advice that I have received from him and his staff have been of a great help to my health and well being. We as patients need doctors like doctor Paul to ensure we all receive the best treatment and care that we can get.

Sincerely,

Alfred Filmore Jr.

Alfred Filmore Jr.



6/26/12.

When I sat down to write this letter about Dr. Kaul, I had no idea where to start but then I began thinking and a million things popped into my head and then it hit me; I am sitting in a hard chair, sitting straight with good posture and most importantly I don't have a single pain in my back. But to start from the beginning I will have to rewind back to the start. As of now I am 17 years old and ready to start cheerleading for my high school football team, but two years ago I was the kid walking off the volleyball court putting ice packs on my back. It was December of my freshman year in high school, I was 14 years old and thought I had just usual back pain from the sports I played. But then it began to get worse, I couldn't walk down my school hallway without shooting pains and my legs giving out. After a busy weekend I couldn't even bend down to



comfortable than sitting in a hospital bed with strangers walking around and other patients by me. His facility seemed more like a home and not a doctors office or hospital.

When I got home I was not able to tell if the surgery had worked yet but I knew Dr. Kaul did it right because I was ~~able~~ able to walk out of the recovery room in his facility and out to the car. I didn't need a wheel chair even though it was offered to me. I had enough strength to walk out to the car even after I got screws into my bones a few hours earlier. I was able to get off the couch and got to the bathroom with minimum assistance after a week from my surgery. If I went through a different type of procedure then I would probably ~~be~~ still be in a hospital with minimum mobility. Dr. Kaul pioneered in the minimally invasive surgery that was in favor of the patients health because it was a faster recovery with a very little chance of infection. After six months from my surgery, I was already jumping and flipping on my trampoline. Now it has



And I wouldn't have to go through a rehabilitation or physical therapy center. This gave me a positive mindset to a fast road to recovery.

I remember my surgery as if it was yesterday. I got into Dr. Kaul's facility early in the morning on March 25<sup>th</sup>, 2011. I was welcomed in and was comfortable. By the way Dr. Kaul spoke to me as if I was not just a patient that needed surgery but a human being that wanted to recover and feel normal again. Dr. Kaul treated me as if I was an important person and not just another person he was going to perform surgery on, he comforted me and used his positive mindset to convince me that in the end everything was going to be okay and that in less than one year I would be a new person again. My surgery wasn't too long and I was able to leave his surgical center at around four in the afternoon on the same day. The reason I liked his surgical center was because Dr. Kaul and his staff made me feel at home and I was treated with care. I was glad that I could leave the same day because sitting home would be more



set up a meeting with my mom and I. Dr. Kaul took away his own time to meet with my mom and I at a doctors office and gave us details about my condition of spondylolisthesis. Afterwards we set up a date for my surgery.

I didn't feel comfortable around my doctors because they always seemed one step behind, but Dr. Kaul was on top of everything and knew exactly what to do with confidence. His confidence and positive outlook rubbed off onto me and made me feel safe and like I was making the right decision to trust him.

Dr. Kaul had a very different approach to surgery than other doctors. Past doctors that I went to told me I would need a spinal fusion that would be an open back surgery and they would have to cut through all of my layers of skin, muscle, and tissue. Dr. Kaul had a different style of a ~~more~~ minimally invasive surgery which would have a small scar, much faster recovery, and not have to go through layers in my body because it was done percutaneously. My recovery would be less than one year.



been about one year and three months after my surgery and I am running, swimming, and starting cheerleading too. But the most important thing is not that I can play sports and that I am healthy now, the important thing is that I couldn't have done it and I wouldn't be right here now if it wasn't for Dr. Kaul.

I used to have days prior to my surgery where I felt that there was nothing doctors could do and that I would be stuck this way, but Dr. Kaul gave me hope and gave me a reason to persevere and to never give up. He showed me not to quit and to keep pushing forward because things are always better in the end, and even if I have a small pain or large pain, it's not the end yet because I need to carry on because things are always better in the end.

I had news men calling my house and reporters asking questions about my pain prior to the surgery and how I dealt with things. Almost every question I was asked was about me, but no one ever bothered ~~me~~ to ask me about Dr. Kaul. If someone asked me to describe Dr. Kaul in one way then my answer would be: life changing.



Dr. Kaul is the reason why I am active this way now. If it wasn't for him then I would still be sitting home in pain and ~~not~~ outside running and playing the sports I love. The main focus was always about me and how I felt but the main focus should really be on the person who made all of this happen for me and that is Dr. Kaul. Dr. Kaul genuinely changed my life and after my surgery I wanted to do the same thing for at least one other person. I wanted to carry on the goodness of changing another person's life. I recommended Dr. Kaul to others with back pain and I remember walking into Dr. Kaul's office and patients in the waiting room looked up and recognized me from one of Dr. Kaul's testimonials, they told me that I had changed their life from seeing my video and they told me that they had back pain for years and ~~saw~~ saw my video and came straight to Dr. Kaul to finally be fixed and taken care of. And in that moment it didn't matter to me that I was healthy and painless, what mattered was that I helped another person become painless, happy, and healthy.



But it all traces back to Dr. Kaul. I wouldn't have been able to change others if it wasn't for Dr. Kaul to change my life. Dr. Kaul isn't just a doctor, he is a real person with a heart, he made me feel as if he didn't care about the money from doing surgeries, he didn't care about his reputation, he cares about his patients and how he can help them and change them from the goodness of his heart. And for that, I thank him!

Sincerely,

Amanda Mraz

Amanda Mraz



6/26/12. 1 of 3

I'm writing this letter on behalf of Dr. Richard Kaul.

My daughter had severe back pain for over 2 years. I went to several doctors and she had one procedure after another with no results. My daughter's pain continued to get worse. She was an active 15 year old who played Soccer, Softball, Volleyball, she loved to dance and with her constant pain she was no longer able to do any of those things.

After Amanda had an epidural a nerve block was suggested but we were advised that it would only be a temporary fix. I took Amanda back to the chiropractor and advised him that Amanda did not want to have the nerve block, she wanted a permanent fix. With that Dr. Curtis picked up the phone and called Dr. Kaul. After Dr. Curtis went over Amanda's issues he told him to give mom his cell phone number and have her call me."



I took Dr. Kaul's number but figured he would not answer, I was wrong! He personally answered, he was in the car and pulled over. Within a week we met with Dr. Kaul at a friend's office because it was more convenient for us.

After meeting Dr. Kaul I was confident that he would fix my daughter. Dr. Kaul was a very confident, caring person. He felt my pain of feeling helpless as a mother. He cared for my daughter as if she were his own and eased me of any worries!

Within a month Amanda had her procedure done. We arrived at his surgical center at 6:00am, and Dr. Kaul again went over everything with us and made us so comfortable. Within 4-5 hours her procedure was complete and we went home late that afternoon. Amanda was shuffling down the hall ~~and~~ days and within a week she knew Dr. Kaul had fixed her!



March 2012 was a year and Amanda is back to all of her previous activities. Her confidence and bright smile is back again and we owe it all to Dr. Kaul!

If we had not met with Dr. Kaul I don't know where we would be today.

Dr. Kaul is in my prayers every night and there is no way I could ever repay him. He took our family out of a very dark place and brought us back to a happy place.

Dr. Kaul has not received much payment from my insurance and has never asked me for any money. He told me not to worry and that his only concern was getting Amanda out of pain and back to her normal activities.

Dr. Kaul is not a doctor he is an angel who truly performs out of the goodness of his heart!

Angela Mraz  
Angela Mraz



Dear; Governor Christi

I'm Carmen Ortiz writing this letter to let you know about Dr. Kaul. He changes my life and take care me like a professional and I'm so glad to meet Dr. KAUL he is a nice doctor and human being. The way he took care the people with pain and strong pain is amazing. I thank god because I meet him and his workers. Thank you for take time to read this.

Sincerely,

CARMEN ORTIZ

*Carmen Ortiz*



June 26, 2012

To Whom It May Concern,

I am writing this letter to show my complete confidence and faith in Dr. Richard Kaul.

In 2004 and 2006, I had the misfortune of being a passenger in two car accidents. Having seen physicians of many specialties over time, I had come to the conclusion, that not only were my injuries going to continue to encumber my ability to function and be a productive member of society, but that I was not going to find a doctor who listened to what my concerns were regarding my treatment, or in fact about the actual pain I felt on a daily basis. Dr Kaul changed that for me.

He was the first doctor to really listen to what I, as a lay person, had to say about what I was feeling and not disregard my thoughts as "patient ramblings". He considered my personal observations regarding my symptoms; his first concern was to the patient: ME. And having experienced so many doctors, who after treating me, would forget my name, I was pleasantly surprised to find one that did not treat me like a non-entity.

After reviewing my medical records from other doctors and having in-depth conversations with me, Dr Kaul decided on a different approach regarding my treatment. Where other doctors solely focused on medical records, Dr Kaul went out of his way to include me in my diagnosis. His course of treatment alleviated much of the back, shoulder, and arm pain that other specialists decided were permanent.

(1)



If it were not for Dr. Kaul, I would still be in constant pain. I would not be able to do the most basic activities that most people take for granted such as sitting, standing, walking, bending, lifting and writing. Without Dr. Kaul's dedication to me, I would not have been able to write this letter. And I am forever grateful and in his debt.

Sincerely,

Ivana Lee

Ivana Lee

50 Lakeside Avenue

Butler, NJ 07405



To whom it concerns, my name is Joseph Connell.

I have been under Dr. Richard Davis' care for at least 9 yrs.  
During that time he has helped me in many ways both  
medically and compassionately. It would be a great loss  
to myself and many patients that I have met in his  
office. He is a very kind, caring & helpful man.

If anyone would like to speak to me on this my cell #  
is 973-570-8086. or my address is Joseph Connell / 107 Falcon Ridge-  
way North Hamburg NY 07419.

JVC 6-26-12  
Joseph V Connell



6/26/2012

Dr. Kaul

re: Suspension of License

I am writing this letter in support of the reinstatement of Dr. Kaul's medical license.

I have been a patient of Dr. Kaul's since 1999. I met him when he just started his practice and was trying to build his patient base. I was impressed with Dr. Kaul as his enthusiasm and knowledge was nothing short of being all for the patient's well being and living a life pain free. He did whatever it took to make my life comfortable as I had bulging discs in my lumbar that was excruciating pain. His approach was non-aggressive and anything invasive was his last resort. I watched his practice grow simply through word of mouth and his dedication to me/his patients was unsurpassed. I followed Dr. Kaul through many Counties and cities as he was helping me tremendously. I referred several people to Dr. Kaul and the outcome was always the same. My friends were healed or improved and some are pain-free.



Today. Their lives are on the road to recovery. If Dr. Kaul could not fix it he gave referrals of doctors who could fix you. His comradery with other physicians is vast and today through his continued education and his contribution to poorer countries just makes his person better for the medical community. As a person, he is kind and gentle, and because I have known him for so long and trust his judgement I believe that his decisions are sound and always "patient positive". He always has helped with insurance issues or money problems with patients so they get the care they need.

His staff is hand picked, and as I said earlier, I watched him grow from a one man office, into a state-of-the-art, all over the TV and radio dedicated doctor. I have nothing but good things to say and the most important, I am a 17 year survivor of a L4-L5 lumbar replacement. Without the surgery I would not have been able to do the things I do today. My main focus was always being able to go to the gym and exercise and he (Dr. Kaul) and his staff made that possible.



Whatever the situation at hand is with Dr Kaul, I can support him 100% with his judgement. He has always been very thorough with his decisions and always put me first. I still go for my monthly check-ups and still see some of the same people who have gone to him as long as I. We are on a first name basis with some people.

I trust this will all smooth over and he could go ahead and practice what he does best, making people enjoy their lives pain free and knowing they will never suffer and Dr Kaul is always there to talk to.

I am still in amazement at how successful he has become in just 12 years.

I will support him and be there for him as he was for me.

Please do not take a brilliant Doctor out of practice. Many people will lose ~~a~~ a great doctor, and many more people will never know how relieving it is to have not been able to be under his care. I pray he wins.

Sincerely,  
Karen McCarroll  
Karen McCarroll



6/26/12.

To whom this may concern

My name is Kevin Jackson and I am writing to you about Dr. Kaul. to let you now he is a great doctor and a great guy. He has helped me out a lot with my treatment and my shots. So in short we need a great person like Dr. Kaul at NJSR so please let him come back to were he is need.

Signed

Kevin Jackson  
Kevin Jackson



To Whom it May Concern:

I have been a patient of Dr. Richard Kaul since the year 2004. If it weren't for Dr. Kaul I would not be walking today! Not only did he do my spinal fusion but years later he did a cervical fusion! I am well today thanks to him. Dr. Kaul is an amazing Doctor and his bed side manner is warm and comforting! I could not have chosen a better Doctor. I have an appreciation for him that ~~can~~ is beyond words. I would not let any other Doctor touch me then or now! If my child needed surgery Dr. Kaul would be the one we choose over anyone! I would trust him only with the care and well being of my only child!

So as of today, Dr. Kaul is not only my doctor but he is my friend. I could never find the words to express how thankful I am for Dr. Richard Kaul!

Sincerely  
Laura Ferraioli  
Laura Ferraioli



Re: Dr. Richard Kaul

Attention: Governor Christie

Dear Governor,

I am writing this letter to beg you to allow my doctor, Richard Kaul to be reinstated. Not only is he a brilliant doctor, he sincerely cares about his patients. I have never met a doctor that I trust as much as I do Dr. Kaul. When I met doctor Kaul I was at such a terrible point in my life. I was suffering from pain so terrible I could hardly cope on a daily basis. I honestly felt like Dr. Kaul was sent from God to help me because I had seen so many doctors & none of them knew how to treat me. Dr. Kaul assured me that he would help me and he did exactly as promised. Before I met him I felt like I would never walk again. After being in his care for a short period I had already begun to see improvement. As time progressed I began to feel so secure with him as my back doctor that I don't trust anyone else. I don't want anyone else to work on me besides Dr. Kaul. Please understand that Dr. Kaul has helped sooo many people and so many people depend on him to live a normal life. We often share stories in his office waiting room about how he has helped each of us and how great of a doctor he is. I have even referred so many people to him and everyone says the same thing, Dr. Kaul is the best! I honestly think he is the best at what he does in this country. I am in mental turmoil



at the thought of him not returning I  
am begging you to please let him come  
back. So many of our livelihoods depend  
on it.

Sincerely,  
Martina Cupido



1. / 26 / 12

To Whom it may concern,

I have been a patient of Dr. Kaul for over 6 years. He has helped me with the pain I have suffered from for 17 years. He was the only doctor out of over 10 that I have visited that gave me any hope or relief.

I have, under his care, had a discectomy and a 3 level spinal fusion. I have also had a complete hip replacement. He has helped me manage the constant pain I have been in and I have made great improvements. I can now walk and am considering going back to work. All of this is due to Dr. Kaul. When I couldn't pay he gave me charity care. He is the most caring and generous doctor and man I have ever meet. He has helped so many people. I have recommended him to many people. He is one of the few doctors who takes time to get to know his patients and to truly help them.

Mary K. Griffiths  
Mary K. Griffiths

to



6/26/2012

Dr. Kaul

re: Suspension of License

I am writing this letter in support of the reinstatement of Dr. Kaul's medical license.

I have been a patient of Dr. Kaul's since 1999. I met him when he just started his practice and was trying to build his patient base. I was impressed with Dr. Kaul as his enthusiasm and knowledge was nothing short of being all for the patient's well being and living a life pain free. He did whatever it took to make my life comfortable as I had bulging discs in my lumbar that was excruciating pain. His approach was non-aggressive and anything invasive was his last resort. I watched his practice grow simply through word of mouth and his dedication to me/his patients was unsurpassed. I followed Dr. Kaul through many Counties and cities as he was helping me tremendously. I referred several people to Dr. Kaul and the outcome was always the same. My friends were healed or improved and some are pain-free.



To Whom it may Concern

I'm writing this letter in support of Dr Richard Kohl. I have been a patient of Dr Kohl since 2003. I came to Dr Kohl as a last resort after many back surgeries and failed fusions. I was in chronic pain 24 hours a day and could barely function in my daily life. Dr Kohl began treating me and after a period of time I have become almost pain free and have a new life. I credit Dr Kohl for his treatment, knowledge, and encouragement to me, without this I don't think I would be alive today, because with the pain I was experiencing when I became his patient I was ready to give up. I recommend Dr Kohl on a regular basis and would encourage anyone in chronic pain to see him for treatment.

Phyllis Orrell



Dear Reverend Chris Christie,

I am writing you regarding Dr. Kaul. I have been a Patient of Dr. Kaul for just over one year. I developed a very bad back injury last December. Dr. Kaul has been treating me for two crushed disks in my lower back.

I have gone through a series of epidurals, injections and intense therapy. I have had nothing but the best experience throughout my time with Dr. Kaul, as well as all the employees at JSSZ. Dr. Kaul has been a life saver for me. I am now back to doing the things that once seemed granted through out life. Dr Kaul has given me my life back. I am now able to play ball with my son again not to mention work the full of hours that I was accustomed to with limited pain.

I am asking you to please do anything in your power to reinstate Dr. Kaul. Not having him around would be a huge loss to myself as well as the hundreds of people whom he has treated with much success. Dr Kaul is a very kind and thoughtful person and not allowing him to do what he does best would be a great loss.

Respectfully,  
Thomas S Ferrara Jr.



To whom it may concern 6/29/12

My name is Carrie Ackerman  
I am a patient of Dr Kaul. I started  
seeing Dr Kaul a couple months ago  
because I have severe back pain  
due to disc and nerve damage.

Dr Kaul was very nice, professional, and  
showed lots of concern. He has helped  
manage my pain allowing me to be able  
to do my daily activities. Dr Kaul is  
a great doctor and cares a lot about  
his patients, I would keep seeing  
Dr Kaul for however long it took  
to heal my back.

Sincerely,  
Carrie Ackerman



6/29/12

To whom it may concern,

my name is Kyle Kerwin a patient of Dr. Kaul. I started seeing Dr. Kaul a couple of months ago because of back pain from a prior back surgery. Dr. Kaul was very kind, professional, and showed lots of concern and care towards me. He had sent me for an MRI. to find out what was wrong immediately. He started treating me with the up most respect and kindness. He is a great Dr. who shows lots of care towards me, and I would assume his other patients as well. I believe he is a good Dr. and I would continue seeing him for as long as it would take to make me better.

Sincerely yours,

Kyle Kerwin

Kyle



Sharon Boyd.

July 15, 2012

To Whom It May Concern:

I highly recommend Dr. Kaul as a doctor. I have been his patient for two years.

Dr. Kaul has a wonderful rapport with all his patients, his ability to connect with his patients is truly superior. Dr. Kaul has excellent communication skills, he is extremely organized and reliable.

I have had the pleasure of having all my surgeries done by Dr. Kaul. He is kind, brilliant and a consummate professional. Throughout the two years that I've known Dr. Kaul, he has worked extremely hard to make sure that the pain in my back and knees were alleviated. Dr. Kaul explained every surgery to me and what will be done to my body.

I have no doubt that Dr. Kaul will be an asset to any medical institution. Please do not hesitate to contact me



with further questions.

Sincerely,  
Sharon Boyd



**KEY W. DARROW**  
12 EDOR LANE  
SUCCASUNNA, NEW JERSEY 07876  
TEL. & FAX NO. 973.252.5070  
CELL 973-219-6797  
EMAIL: KEYDARROW@YAHOO.COM

November 22, 2012

Governor Chris Christie  
State of New Jersey  
Trenton, New Jersey

Re: The Medical License of Dr. Richard Kaul

Dear Governor Christie,

I write to you this day and ask you to have the Attorney General re-instate the medical license of Richard A. Kaul.

I am a life long resident of the State of New Jersey and an active voter. I am also a retired/disabled police officer of the Borough of Wharton.

Dr. Richard Kaul has changed my life after 30 years of pain by performing a lower lumbar fusion on me in 2008. I had injured my back as a result of breaking up a bar fight while on duty as a police officer.

Your Attorney General has maliciously revoked the medical license of Dr. Kaul, in response to an unfounded complaint from a former patient and by the pressure and lobbying from certain Neuro Surgeons that are jealous of Dr. Kaul's practice and his approach to affordable health care!

Dr. Kaul deserves an apology from the Attorney General and his priveleges re-instated immediately.

Please act responsibly and expeditiously to this request.

Very truly yours,

  
Key W. Darrow



**November 22, 2012**

Jason K. Darrow  
849 Boston Post Rd.  
Marlborough, MA. 01752

**Governor Chris Christie  
Trenton, New Jersey**

Dear Governor Christie,

I am writing this letter to you to request your intervention with the Attorney General's Office. In particular, I wish that you have the Attorney General apologize to Dr. Richard Kaul for his capricious action in taking Dr. Kaul's medical license and to re-instate the doctor's license immediately.

Dr. Richard Kaul is responsible for my father's health! After my father received an injury to his back in 1978, working as a police officer, Dr. Kaul performed a lower lumbar fusion that changed my father's life after 30 years of pain!

Please allow and encourage Dr. Kaul to continue in his practice so that others may benefit from his medical/surgical expertise.

Very truly yours,

  
Jason Key Darrow



December 8, 2012

Sammy Baez  
1129 Vyse Ave. #3A  
Bronx, NY 10459  
(347) 577-1736  
[molbae@optimum.net](mailto:molbae@optimum.net)

To whom it may concern:

I, Sammy Baez's wife, Keisha Baez am writing this letter on his behalf. I am writing this letter in appreciation of Dr. Kaul's memorable services to my husband, thanking him for changing his life in a positive way. My husband treated with Dr. Kaul for over eight years and we would like to express our deepest appreciation for his medical care and treatment. My husband was suffering for years from an injury and it was fortunate that Dr. Kaul was recommended by a colleague of his, who knew how great of a doctor he is. Dr. Kaul never made my husband feel that he was imagining the pain, that he was making more of it than he felt; as other doctor's made him feel. Dr. Kaul understood that he really was in immense pain and hurting. This became his main concern for my husband.

My husband had other problems, but they were secondary to getting him out of this pain he was in. Dr. Kaul helped reassure my husband and I that he would help to relieve the extreme pain and solve the problem. Dr. Kaul accomplished all he had promised and continued to help maintain my husband's health. My husband was absolutely terrified of medicine and surgery. Right before Dr. Kaul did the surgery for my husband, he came into the room to tell my husband and I everything was going to be all right and right then and there we knew he was right. We both instantly became relaxed and reassured. After the surgery, we felt so lucky and blessed to have Dr. Kaul as a doctor! He gave my husband and I the hope we needed to move forward with his health and life, now we give you back that same support and hope you gave us on that very special day.

After Dr. Kaul's treatments, surgery and care, my husband was so glad that he was feeling better enough to do things with his family; that he wasn't able to do before the surgery. My husband is very grateful that he's no longer suffering from the pain that debilitated him in the past years. My husband is able to mobilize and do many things with moderate to minimal pains with the help of medicine and therapy. Dr. Kaul had stuck by my husband's side through the tough times and good ones. My husband has treated with different types of doctor's and had felt hopeless and lost. Sometimes he wasn't treated very well at most of the doctor's offices he had went to. It was so great to have my husband treat at Dr. Kaul's facility, where everyone is so helpful, kind, friendly and positive. The greatest part was that Dr. Kaul's staff was this way on a consistent basis. Please know that it's very much appreciated. This helped to alleviate a lot of stress my husband and I was experiencing. Dr. Kaul made the whole terrifying experience over the years much more manageable.

My husband and I would like to express great appreciation for Dr. Kaul being an exceptional doctor that went to great lengths getting my husband's treatments and surgery approved and making sure we always received quality service. Having a doctor like him makes it very easy for us to recommend Dr. Kaul to our friends and strangers. I thank you for your efficient handling of my husband's needs and treatment plans. As an out-of-state traveler and patient, he feared it would be a problem to treat with you since he was out of jurisdiction, but with the help of your competent staff and yourself knowing exactly what to do made it all possible. The treatment my husband received was very sensitive, kind and beneficial to his health.

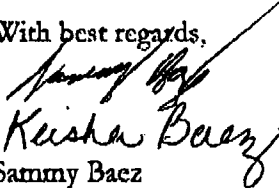


Dr. Kaul had worked tirelessly to improve the lives of people around the world through his dedication to public health and public service. His work has profoundly affected the development of minimal invasive surgery, where other facilities and surgeons didn't offer this type of service. Dr. Kaul's concern for his patients is a gift no one can compare and his patience, skilled hands and ability to see beyond is rare. We wish to thank you for your dedication, wisdom and hope for my husband's case and situation. Now that you have made it possible for my husband to be able to do things with his family, I feel it is time to give credit where credit and recognition is due; so I hope you get your license back and continue to do the same for others.

Dr. Kaul is never too busy to speak or meet with his patients. He takes initiative with taking on challenges. He has an attitude that is always positive no matter the situation; upbeat and comforting to all. His zealous manner and persistence to succeed in all his endeavors is outstanding and encouraging. There are few doctor's in my life that remain dedicated to their patient's and work and who's care and concern be an unyielding part of their life. I want to express a sincere thank you for your contribution in helping to make my husband's life brighter. Believe it or not, we refer to and treat Dr. Kaul and his staff as family. In fact, they are all always in our prayers for good health, wealth and the three main blessings of all FAITH, HOPE, and LOVE. Dr. Kaul gives my husband faith to move forward with his care, hope that the treatments will be successful and love he express to us and in everything he does.

It has been very hard and frustrating for my husband to continue on with maintain his health without Dr. Kaul's treatments and care because there is no other doctor like him that is patient, takes the time to understand your history and previous treatment plans. My husband and I are looking forward to Dr. Kaul returning as soon as possible to his profession in the near future. I believe that when Dr. Kaul took his oath to help patients, he really took it to heart and provide them all with unconditional care. I would like for you to consider everything mentioned in this letter and realize that out of every bad comes something great. I always believe that the positive in life over shines any negative brought against you. All the good Dr. Kaul has provided, will be proven and exemplified to show how great of a doctor he is and how other doctor's can learn from his actions and service.

With best regards,

  
Keisha Bacz

Sammy Bacz  
Keisha Bacz



June 27, 2012

To Governor Christie  
RE: Dr Richard Kaul

Hello my name is Delia Green, I've been a patient of Dr. Richard Kaul for several years. Dr Kaul has changed my life. Before I had my back surgery with Doctor Kaul all I did was stay in bed most of the time, my body would hurt and be in pain constantly. Since the surgery my pain is somewhat subsided. I'm currently taking medicine to help with the pain, but the surgery has been a life saver for me. Dr. Kaul ~~is~~ treats his patient with respect and dignity. He is a very very good doctor. So with that being said I ask that Dr. Richard Kaul be reinstated as a Doctor. Thanking your office in advance.

Ms. Delia Green  
529-A So. 12th St  
Newark, NJ 07108  
(973) 388-1836



Dear Reverend Chris Christie,

I am writing you regarding Dr. Kaul. I have been a Patient of Dr. Kaul for just over one year. I developed a very bad back injury last December. Dr. Kaul has been treating me for two crushed disks in my lower back.

I have gone through a series of epidurals, injections and intense therapy. I have had nothing but the best experience throughout my time with Dr. Kaul, as well as all the employees at JSSZ. Dr. Kaul has been a life saver for me. I am now back to doing the things that once seemed granted through out life. Dr Kaul has given me my life back. I am now able to play ball with my son again not to mention work the full of hours that I was accustomed to with limited pain.

I am asking you to please do anything in your power to reinstate Dr. Kaul. Not having him around would be a huge loss to myself as well as the hundreds of people whom he has treated with much success. Dr Kaul is a very kind and thoughtful person and not allowing him to do what he does best would be a great loss.

Respectfully,  
Thomas S Ferrara Jr.



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Ms. Delia Green  
529-A So. 12th St  
Newark, NJ 07108  
(973) 388-1836



To whom it may concern 6/29/12

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due to disc and nerve damage.

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to do my daily activities. Dr Kaul is  
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his patients, I would keep seeing  
Dr Kaul for however long it took  
to heal my back.

Sincerely,  
Carrie Ackerman



6/29/12

To whom it may concern,

my name is Kyle Kerwin a patient of Dr. Kaul. I started seeing Dr. Kaul a couple of months ago because of back pain from a prior back surgery. Dr. Kaul was very kind, professional, and showed lots of concern and care towards me. He had sent me for an MRI. to find out what was wrong immediately. He started treating me with the up most respect and kindness. He is a great Dr. who shows lots of care towards me, and I would assume his other patients as well. I believe he is a good Dr. and I would continue seeing him for as long as it would take to make me better.

Sincerely yours,

Kyle Kerwin





Sharon Boyd.

July 15, 2012

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I have no doubt that Dr. Kaul will be an asset to any medical institution. Please do not hesitate to contact me



with further questions.

Sincerely,  
Sharon Boyd



**KEY W. DARROW**  
12 EDOR LANE  
SUCCASUNNA, NEW JERSEY 07876  
TEL. & FAX NO. 973.252.5070  
CELL 973-219-6797  
EMAIL: KEYDARROW@YAHOO.COM

November 22, 2012

Governor Chris Christie  
State of New Jersey  
Trenton, New Jersey

Re: The Medical License of Dr. Richard Kaul

Dear Governor Christie,

I write to you this day and ask you to have the Attorney General re-instate the medical license of Richard A. Kaul.

I am a life long resident of the State of New Jersey and an active voter. I am also a retired/disabled police officer of the Borough of Wharton.

Dr. Richard Kaul has changed my life after 30 years of pain by performing a lower lumbar fusion on me in 2008. I had injured my back as a result of breaking up a bar fight while on duty as a police officer.

Your Attorney General has maliciously revoked the medical license of Dr. Kaul, in response to an unfounded complaint from a former patient and by the pressure and lobbying from certain Neuro Surgeons that are jealous of Dr. Kaul's practice and his approach to affordable health care!

Dr. Kaul deserves an apology from the Attorney General and his priveleges re-instated immediately.

Please act responsibly and expeditiously to this request.

Very truly yours,

  
Key W. Darrow



**November 22, 2012**

Jason K. Darrow  
849 Boston Post Rd.  
Marlborough, MA. 01752

**Governor Chris Christie**  
**Trenton, New Jersey**

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Please allow and encourage Dr. Kaul to continue in his practice so that others may benefit from his medical/surgical expertise.

Very truly yours,

  
Jason Key Darrow



December 8, 2012

Sammy Baez  
1129 Vyse Ave. #3A  
Bronx, NY 10459  
(347) 577-1736  
[molbae@optimum.net](mailto:molbae@optimum.net)

To whom it may concern:

I, Sammy Baez's wife, Keisha Baez am writing this letter on his behalf. I am writing this letter in appreciation of Dr. Kaul's memorable services to my husband, thanking him for changing his life in a positive way. My husband treated with Dr. Kaul for over eight years and we would like to express our deepest appreciation for his medical care and treatment. My husband was suffering for years from an injury and it was fortunate that Dr. Kaul was recommended by a colleague of his, who knew how great of a doctor he is. Dr. Kaul never made my husband feel that he was imagining the pain, that he was making more of it than he felt; as other doctor's made him feel. Dr. Kaul understood that he really was in immense pain and hurting. This became his main concern for my husband.

My husband had other problems, but they were secondary to getting him out of this pain he was in. Dr. Kaul helped reassure my husband and I that he would help to relieve the extreme pain and solve the problem. Dr. Kaul accomplished all he had promised and continued to help maintain my husband's health. My husband was absolutely terrified of medicine and surgery. Right before Dr. Kaul did the surgery for my husband, he came into the room to tell my husband and I everything was going to be all right and right then and there we knew he was right. We both instantly became relaxed and reassured. After the surgery, we felt so lucky and blessed to have Dr. Kaul as a doctor! He gave my husband and I the hope we needed to move forward with his health and life, now we give you back that same support and hope you gave us on that very special day.

After Dr. Kaul's treatments, surgery and care, my husband was so glad that he was feeling better enough to do things with his family; that he wasn't able to do before the surgery. My husband is very grateful that he's no longer suffering from the pain that debilitated him in the past years. My husband is able to mobilize and do many things with moderate to minimal pains with the help of medicine and therapy. Dr. Kaul had stuck by my husband's side through the tough times and good ones. My husband has treated with different types of doctor's and had felt hopeless and lost. Sometimes he wasn't treated very well at most of the doctor's offices he had went to. It was so great to have my husband treat at Dr. Kaul's facility, where everyone is so helpful, kind, friendly and positive. The greatest part was that Dr. Kaul's staff was this way on a consistent basis. Please know that it's very much appreciated. This helped to alleviate a lot of stress my husband and I was experiencing. Dr. Kaul made the whole terrifying experience over the years much more manageable.

My husband and I would like to express great appreciation for Dr. Kaul being an exceptional doctor that went to great lengths getting my husband's treatments and surgery approved and making sure we always received quality service. Having a doctor like him makes it very easy for us to recommend Dr. Kaul to our friends and strangers. I thank you for your efficient handling of my husband's needs and treatment plans. As an out-of-state traveler and patient, he feared it would be a problem to treat with you since he was out of jurisdiction, but with the help of your competent staff and yourself knowing exactly what to do made it all possible. The treatment my husband received was very sensitive, kind and beneficial to his health.

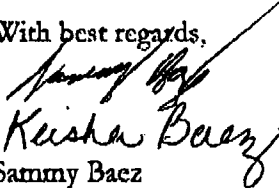


Dr. Kaul had worked tirelessly to improve the lives of people around the world through his dedication to public health and public service. His work has profoundly affected the development of minimal invasive surgery, where other facilities and surgeons didn't offer this type of service. Dr. Kaul's concern for his patients is a gift no one can compare and his patience, skilled hands and ability to see beyond is rare. We wish to thank you for your dedication, wisdom and hope for my husband's case and situation. Now that you have made it possible for my husband to be able to do things with his family, I feel it is time to give credit where credit and recognition is due; so I hope you get your license back and continue to do the same for others.

Dr. Kaul is never too busy to speak or meet with his patients. He takes initiative with taking on challenges. He has an attitude that is always positive no matter the situation; upbeat and comforting to all. His zealous manner and persistence to succeed in all his endeavors is outstanding and encouraging. There are few doctor's in my life that remain dedicated to their patient's and work and who's care and concern be an unyielding part of their life. I want to express a sincere thank you for your contribution in helping to make my husband's life brighter. Believe it or not, we refer to and treat Dr. Kaul and his staff as family. In fact, they are all always in our prayers for good health, wealth and the three main blessings of all FAITH, HOPE, and LOVE. Dr. Kaul gives my husband faith to move forward with his care, hope that the treatments will be successful and love he express to us and in everything he does.

It has been very hard and frustrating for my husband to continue on with maintain his health without Dr. Kaul's treatments and care because there is no other doctor like him that is patient, takes the time to understand your history and previous treatment plans. My husband and I are looking forward to Dr. Kaul returning as soon as possible to his profession in the near future. I believe that when Dr. Kaul took his oath to help patients, he really took it to heart and provide them all with unconditional care. I would like for you to consider everything mentioned in this letter and realize that out of every bad comes something great. I always believe that the positive in life over shines any negative brought against you. All the good Dr. Kaul has provided, will be proven and exemplified to show how great of a doctor he is and how other doctor's can learn from his actions and service.

With best regards,

  
Keisha Bacz

Sammy Bacz  
Keisha Bacz