

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

PROTHONOTARY

APR 30 2 00 PM '98

Commonwealth of Pennsylvania, :
Bureau of Professional and :
Occupational Affairs :

vs. :

Vikram H. Kaji, M.D., :
Respondent :

BUREAU OF PROFESSIONAL
OCCUPATIONAL AFFAIRS
Docket No. 0189-Misc 97 AND
File No. 97-49-03770

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.

2. At all relevant and material times, Vikram H. Kaji, M.D. ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, license number MD-031218-L.

3. Respondent admits that the following facts are true:

a. Respondent's last known address(es) on file with the Board is 1900 Yardley Road, Yardley, PA 19067.

b. On December 27, 1994, the Pennsylvania State Board of Medicine ("Board") issued its Order adopting a Consent Agreement ("1994 Agreement and Order") between Respondent and the Commonwealth based upon Respondent's licensure suspension in New Jersey for, inter alia, engaging in gross malpractice by his having a sexual relationship with his patient and indiscriminately prescribing an anabolic steroid and Seconal.

c. As part of the terms of the 1994 Agreement and Order, Respondent's Pennsylvania medical license was suspended for three (3) years, at least twelve (12) months of which were

to be active, following which, upon an affirmative showing of his meeting certain pre-conditions, Respondent could petition the Board for a stay of the suspension in favor of probation subject to specific terms and conditions.

d. In accordance with the procedure in the 1994 Agreement and Order, in or about March 1996, Respondent petitioned the Board for the stay of the active suspension in favor of probation subject to the specific terms and conditions of the 1994 Agreement and Order.

e. On August 7, 1996, Respondent and the Commonwealth entered into a Stipulation of Facts and Proposed Order ("Stipulation") to implement the stay of the active suspension of Respondent's medical license in accordance with the terms and procedures of the 1994 Agreement and Order. A true and correct copy of the Stipulation (with attachments) is attached as **Exhibit "1."**

f. On August 9, 1996, the Hearing Examiner for the Board issued his Adjudication and Order ("1996 Order") adopting the Stipulation, which, among other things, stayed the active suspension of Respondent's medical license in favor of probation subject to the terms and conditions of the 1994 Agreement and Order as well as providing for additional terms and conditions. A true and correct copy of the 1996 Order (without Appendix - see Exhibit "1," above) is attached as **Exhibit "2."**

g. On November 18, 1997, the Commonwealth filed its Petition for Appropriate Relief in this matter charging Respondent with violating his probation by practicing medicine in the Commonwealth by failing to limit his employment to a

licensee approved by the Board in violation of paragraph 5 of the 1996 Order. A true and correct copy of the Petition is attached as **Exhibit "3"** (without attachments - see Exhibits 1 & 2, above).

h. On November 18, 1997, Respondent's license was actively suspended in accordance with the State Board of Medicine's Probable Cause Screening Committee's Preliminary Order of that date. A true and correct copy of the Preliminary Order is attached as **Exhibit "4"** (without attachment - see Exhibit 3, above).

i. Respondent violated the terms of his probation in that on or about September 18, 1997 through on or about September 27, 1997, he practiced medicine in the Commonwealth and accepted medical employment by a person who was not a licensee approved by the Board in violation of paragraph 5 of the 1996 Order.

j. Beginning on or after September 8, 1997, Respondent conducted ongoing communications with the Board pertaining to the approval of his supervising physician; however, Respondent began his employment without the Board's approval.

k. During the period beginning on or about September 18, 1997 through November 18, 1997, at a time while practicing medicine in the Commonwealth of Pennsylvania, Respondent failed to procure the required malpractice insurance.

l. Effective November 18, 1997, Respondent obtained the required malpractice insurance with tail coverage retroactive to September 15, 1997.

m. Respondent has demonstrated to the Commonwealth that he has insufficient assets to afford the payment of any civil penalty.

4. The activities of Respondent, described above, violated the Act at 63 P.S. §422.41(6) in that Respondent violated: (1) a lawful Order of the Board previously entered by it in a disciplinary proceeding, and (2) a lawful regulation promulgated by the Board at 49 Pa. Code §16.35, by and through his violating Section 701 of the Health Care Services Malpractice Act, 40 P.S. §1301.701, by failing to maintain the required malpractice insurance.

5. The parties consent to the issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41(6) in that he violated a lawful Order of the Board previously entered by the Board in a disciplinary proceeding, and that he violated a lawful regulation promulgated by the Board at 49 Pa. Code §16.35, by and through his violating Section 701 of the Health Care Services Malpractice Act, 40 P.S. §1301.701, by failing to maintain the required malpractice insurance.

b. Respondent's license, number MD-031218-L, shall remain **SUSPENDED** until at least April 8, 1999, which represents the remaining period of active suspension on his original three year suspension under the 1994 Agreement and Order, giving Respondent credit for any actively served suspension time.

TERMS AND PRECONDITIONS FOR REINSTATEMENT

c. On or after April 8, 1999, the active Suspension of Respondent's license shall be **STAYED** in favor of an additional

two (2) year period of **PROBATION** subject to Respondent writing to the BEI Compliance Officer and providing the following:

(1) a certification that Respondent has not practiced medicine within the Commonwealth during this period of active suspension;

(2) a certification that Respondent has read and fully understand the terms and conditions of probation set forth below, and;

(3) a copy of Respondent's summary of his Criminal History Record Information (a/k/a "Criminal Record Check") obtained at Respondent's expense.

d. Upon confirmation of receipt and approval by the Board of all of the information required under paragraph 5c, above, the suspension of Respondent's license shall be **STAYED** in favor of two (2) years **PROBATION** from the date of reinstatement subject to the following terms and conditions:

GENERAL

(1) Respondent 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 Respondent holds a license to practice a health care profession. Provided, however, summary traffic violations shall not constitute a violation of this Order.

(2) Respondent shall at all times cooperate with the Bureau of Professional and Occupational Affairs ("Bureau"), any of its agents or employees and the Bureau of Enforcement and Investigation ("BEI") and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees.

(3) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Consent Agreement and Order.

(4) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

(5) Should Respondent resume the practice of medicine within the Commonwealth, Respondent may not be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days unless Respondent seeks and receives prior written permission from the Prosecuting Attorney, subject to any additional terms and conditions required by the Prosecuting Attorney.

(6) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any

criminal charges, the initiation of any other legal action pertaining to the practice of Respondent's profession including malpractice or negligence actions, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction, or the Drug Enforcement Agency of the U.S. Department of Justice, or any investigation, action, restriction or limitation relating to Respondent's privileges to practice a health care profession at any health care facility.

(7) Respondent shall continue to maintain the appropriate malpractice insurance required under Pennsylvania law, as well as participate in the CAT Fund to the extent required by law.

MONITORED/SUPERVISED PRACTICE

(8) Respondent shall not resume the active practice of medicine in the Commonwealth of Pennsylvania unless and until the following preconditions have been met:

(a) Respondent provides the BEI Compliance Officer with a certified copy of a Declaration of Professional Liability Insurance with the appropriate coverage;

(b) Respondent's practice in the Commonwealth of Pennsylvania shall be limited to supervision by a physician(s) licensed in the Commonwealth, in good standing and

approved by the Board ("Supervisor") as follows:

(i) Respondent shall notify the Compliance Officer, in writing, of the name and address of any proposed Supervisor;

(ii) Respondent must provide any proposed Supervisor with a copy of this Consent Agreement and Order. The Board must receive a written confirmation from the proposed Supervisor that the Supervisor has received a copy of this Order, that the Supervisor understands the conditions of Respondent's probation, and that the Supervisor is willing to accept full responsibility for the supervision of Respondent;

(iii) Respondent must await written approval from the Board of the proposed Supervisor;

(c) Respondent shall also provide the Board with the name of a female health care practitioner licensed in the Commonwealth and in good standing with her respective board ("Coordinator"), who shall be responsible for scheduling or coordinating the attendance of a female health care practitioner licensed in the Commonwealth and in good standing with her respective board ("Attendant"), who shall

be present at all times when Respondent examines any female patients subject to the following:

(i) Respondent may not begin practicing until he receives written approval from the Board of the proposed Coordinator;

(ii) The Coordinator and the Attendant may, but need not be, the same individual;

(iii) Neither the Coordinator nor the Attendant may be either Respondent's wife or his relative;

(iv) The Attendant shall sign the patient chart of any female patient examined by Respondent, indicating that she was present during the entire examination;

(v) No examination of a female patient shall occur without the attendance of the Attendant during the entire period of the examination;

(vi) Respondent shall cause a sign to be placed in each examination room indicating that patients should require that a female attendant be present during an examination;

(vii) Should a female patient insist upon not having an attendant

present and/or appear to be inappropriately friendly or sexually suggestive, Respondent shall not examine the patient, referring her instead to another physician;

(d) Respondent needs prior written approval from the Board before changing Supervisors or Coordinators;

(9) Respondent shall provide BEI with written notification within 72 hours of the occurrence or change in the following:

(a) The name(s) and address(es) of the place(s) at which Respondent will practice the profession in any jurisdiction and a description of Respondent's duties and responsibilities at such places of practice;

(b) Any restrictions on Respondent's practice other than those imposed by this agreement.

(c) Any change of his home address, phone number(s), place(s) of professional employment and/or practice in any jurisdiction including cessation or termination of his professional employment and/or practice.

(10) Respondent shall have any Supervisor submit to BEI the following information in writing:

(a) An evaluation of Respondent's work performance as requested by the prosecuting attorney or BEI; and

(b) Any suspected violation by Respondent of this probation.

REPORTING/RELEASES

(11) Respondent, his providers, monitor(s)/supervisor(s), employers or other persons shall cause any reports, data or other information required to be filed with BEI under this Order, unless otherwise directed, with:

Probation Compliance Officer
Bureau of Enforcement and Investigation
Box 2649
Harrisburg, PA 17105-2649

(12) Respondent consents to the release by the Bureau or BEI of any information or data produced as a result of this probation to any employer, prospective employer or supervisor.

(13) Respondent shall sign waivers and/or release forms upon request of the Bureau or BEI or its designated representative for any and all records, inclusive of medical or other health related records, pertaining to treatment rendered to Respondent.

(14) Respondent shall execute any waivers or consent forms required to allow the Bureau or BEI to obtain access to any agreements or any other records generated through the Bureau or BEI or its agents.

COSTS

(15) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Order, including production of records.

BUREAU/BEI EVALUATIONS

(16) Upon request of the prosecuting attorney or BEI, the Respondent shall submit to evaluations, physical examination or interviews by a provider approved by the prosecuting attorney or BEI. Failure of Respondent to submit to such examination or interview when directed shall constitute a violation of this Order.

VIOLATION OF THIS ORDER

e. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the **IMMEDIATE VACATING** of the stay of the suspension, **TERMINATION** of the period of probation, and **ACTIVATION** of two (2) years of active suspension of Respondent's license to practice medicine in the Commonwealth of Pennsylvania as follows:

(1) The Prosecuting Attorney for the Commonwealth shall file with the Board a Petition which indicates that Respondent has violated any terms or conditions of this Consent Agreement and Order.

(2) Upon a probable cause determination that Respondent has violated any of the terms or conditions of this Consent Agreement and Order, the

Board shall, without holding a formal hearing, issue a preliminary order vacating the stay of the suspension in this matter, terminating the period of probation and actively suspending Respondent's license for two (2) years.

(3) Respondent shall be notified of the Board's Preliminary Order within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Board.

(4) Within twenty (20) days of mailing of the notification of the Board's action, Respondent may answer the Commonwealth's Petition and request that a formal hearing be convened concerning Respondent's violation of probation, in which Respondent may seek relief from the Preliminary Order activating the suspension. Respondent shall serve the prosecuting attorney for the Commonwealth with a copy of the answer and all subsequent filings in this matter.

(5) If a request for a formal hearing is received from Respondent, the Board shall convene a formal hearing within forty-five (45) days from the date of the Board's receipt of Respondent's request for a formal hearing.

(6) If Respondent files an answer and request for a hearing within the twenty (20) day period, the Preliminary Order activating the suspension shall remain in effect unless and until

the Board issues a determination favorable to Respondent after holding the formal hearing.

(7) The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing.

(8) If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order activating the suspension of Respondent's license and imposing any additional disciplinary measures it deems appropriate.

(9) If a request for a formal hearing is not received from Respondent within the prescribed twenty (20) day period, the Board's Preliminary Order shall become a Final Order twenty (20) days after the date of its mailing.

f. Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

g. 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 Consent Agreement.

h. Upon successful completion of probation, Respondent may request reinstatement of Respondent's license to unrestricted, non-probationary status by writing to the Compliance Officer of BEI certifying that Respondent has complied with all terms and conditions of this Consent Agreement and Order and that Respondent's resumption of

unmonitored practice does not present a threat to the public health and safety. Respondent shall include with the reinstatement request a summary of Respondent's Criminal History Record Information (a/k/a "Criminal Record Check") obtained at Respondent's expense. The Board shall subsequently restore Respondent's license to unrestricted status, unless the prosecuting attorney for the Commonwealth opposes on the basis that Respondent failed to comply with the terms and conditions of this Consent Agreement and Order;

i. This case shall be deemed settled and discontinued upon Board adoption of the Consent Agreement.

j. This Order shall take effect immediately upon Board adoption of the Consent Agreement.

6. Respondent's execution of this Consent Agreement shall constitute a consent for release of all medical health related and psychological records pertaining to Respondent to the Prosecuting Attorney, the Bureau and BEI.

7. Respondent's execution of this Consent Agreement shall also constitute a release for any employment, peer review or review records pertaining to Respondent's practice of the profession to the Prosecuting Attorney, the Bureau and BEI.

8. Respondent waives the filing, service and receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; the right to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the

Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

9. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

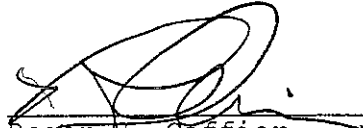
10. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

11. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. The participants waive any objection to a Board member's consideration of this Agreement in the event that the member participated in a prior decision to prosecute this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

12. This agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

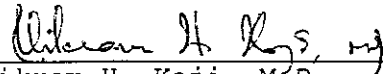
13. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that

statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



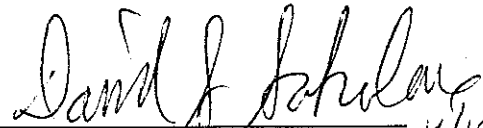
Roger H. Caffier
Andrew B. Kramer
Prosecuting Attorneys
Bureau of Professional and
Occupational Affairs

DATED: 15 April 1998



Vikram H. Kaji, M.D.
Respondent

DATED:



David S. Sokolow, Esquire
Jacquelin M. Carolan, Esquire
Attorneys for Respondent

DATED:

ar C 4/9/98



ORDER

AND NOW, this 28 day of April, 1998, the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

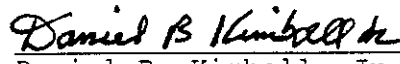
BY ORDER:

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS

STATE BOARD OF MEDICINE



Dorothy Childress
Commissioner



Daniel B. Kimball, Jr., M.D.
Chairman

For the Commonwealth:

Roger H. Caffier, Esquire
Andrew B. Kramer, Esquire
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

David S. Sokolow, Esquire
Jacquelin M. Carolan, Esquire
2000 Market Street, 10th Floor
Philadelphia, PA 19103