

RICHARD BENJAMIN WILKES

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November 15, 2007

SUBJECT: Professional Agreement

Via E-Mail Only

Anthony Kirkpatrick, M.D.
849 Seddon Cove Way
Tampa, FL 33602

Re: Anthony F. Kirkpatrick, M.D., P.A.
File No. 06-0007

Dear Tony:

Further to our telephone conversations and my conference this week with Mr. McNamara, I would like to set forth what I see as the nature of your prospective business arrangements with Dr. Derasari, together with a list of talking points for your upcoming meeting with him. By copy of this letter to Doug Gregory, I am soliciting his input as well.

I understand that your overall goal is to find an appropriate location, both for your practice and for the activities of the Foundation, and, as well, to establish a relationship with another physician who is in a position to complement your practice and to provide coverage. In this regard, the interested parties will be yourself, your PA, and the Foundation. The entities with which you are considering contracting are Dr. Derasari and his professional association.

Consistent with your overall goal, you would like for us to structure arrangements under which:

1. You and Dr. Derasari will acquire the law building on a 50/50 basis; the purpose of this acquisition is to obtain control over the entire parcel which will enable you to create the overall atmosphere for the property that

you believe will be best conducive to your practices and to the work of the Foundation; *and will add value to the location.* *AK/MD*

2. Arrange for your professional association and the Foundation to occupy space and share equipment and facilities with Dr. Derasari's practice in the medical building that is now 100% owned by Dr. Derasari (or an entity that he controls); and

Contracts further to these items are:

1. You will need to have an LLC membership agreement which will be applicable to the entity that will own the law building;

Resolution #1:

Parties agree to form an LLC for the Legal Building.

Initials (AK and MD) *AK/MD*

Date: *11/18/07*

2. You will need to have a cost sharing agreement between the LLC that owns the law building and the entity that owns the medical building, which will govern operating and maintenance expenses that are common to the buildings; - *Start*

is 50/50 as defined below - However, after start-up the cost-sharing for maintenance with (Common area = CAM) will be 75% MD

3. You will need a lease agreement between the LLC that will own the property and the law firm; *25% = AFK*

Resolution #2:

Parties agree to revise the lease agreement with the law firm to reflect the LLC as the owner of the property.

Initials (AK and MD) *AK/MD*

Date: *11/18/07*

Your PA and the Foundation will each need leases with the owner of the medical building.

Please note that I have not reviewed the lease agreements drafted by Doug, so that some of the following items may already be covered in the existing drafts; further, I understand that some agreements may already be in place, such as the agreement to purchase the law building. I understand, however, that you could assign that contract to an LLC.

Considerations applicable to the above-listed agreements and suggested talking points for your upcoming meeting with Dr. Derasari are:

1. These leases need to protect you and the Foundation from a change in ownership and to make sure that the continued use of the building by all occupants is consistent with your practice and the Foundation's activities;

Resolution #13 below

2. Given that you have agreed to equally share in the landscaping expenses and other expenses for the common good of both parcels, and given that you will not own an interest, at least for the time being, in the medical building, there should be an agreed dollar maximum on the 50/50 sharing of expenses;

Resolution #4:

Parties agree to a maximum of 50/50 sharing of \$100,000 by each person for renovations needed for both parcels. *START costs for shared parcels will not exceed \$100,000.*

Thus far, the anticipated major renovation expenses include:

TOTALS \$ (Effective November 17, 2007)

\$31,413

(Estimated landscape by Initial Tropical Plants)

\$55,000

(Includes fence, signage on two walls and painting on buildings to accent triple columns)

\$1,100 (Directional sign in parking area)

\$4,400 (Sidewalk and curbing in parking area)

Anticipated to be less than \$4,400.

\$640 (Removal of sign)

\$Sealing Parking Lot (\$ to be determined)

Anticipated to be \$4,000-5,000,

Estimated total cost for landscape, fence, signage, sidewalk, etc

= \$92,553

50/50 per person = \$46,277

Initials (AK and MD) AK / MD

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3. Given the fact that you are going to contribute 50% of the money needed for improvements that will benefit both parcels, you should have an equal say in how these expenditures are made and in how these areas are maintained; *→ The decision will be made by mutual consent.*
Resolution #5:

Parties agree to the above in principle.

Initials (AK and MD) AK / MD

Date: 11/18/07

4. You should have a purchase option that would entitle you to acquire a 50% ownership interest in the medical building; *→ This statement #4 is confusing*

Resolution #13 below — AK / MD

5. There should be a dispute resolution clause which allows either party to require the other to either sell or buy the other's interests. This clause would take into account the fact that, at the time that it is exercised, your respective ownership interests in the overall parcel may be unequal. The exercise of this clause should also serve to terminate all of the lease arrangements on an equitable basis;

Resolution #6:

Parties agree to the following:

In the event of a dispute related to any matter arising out of the business relationship between the parties and agreements, then the parties agree to submit the dispute to a mediator for resolution prior to pursuing

any legal remedies available. — *DR. Derasari does not feel this will be necessary —*

Initials (AK and MD) OK / MD

Date: 11/18/07

6. Given the fact that the relationship between you and Dr. Derasari is personal, in the sense that even another doctor in the same specialty may not be an adequate substitute, and given the fact that neither party would necessarily want to have the same arrangement with anyone else, in the event of a substantial change in one party's circumstances (e.g. death, disability, significant change in practice, loss of license, etc.) the other party should have a right to ~~require the changed party's interests so that you can~~ continue to maintain your practice to as close to as originally contemplated as possible;

Resolution #13 below

7. The start-up cost sharing for shared resources, equipment, supplies, etc needs to be defined.

Resolution #7:

Parties agree to the start-up cost sharing for the items outlined below:

Initials (AK and MD) _____

Date: _____

SUMMARY OF START-UP COST SHARING
1910-1912 East Busch Boulevard
(Effective November 17, 2007)

I. START-UP COSTS SHARED 50/50:

The following costs will be shared 50/50 by Dr. Derasari and Dr. Kirkpatrick:

1. Fluoroscope: Dr. Derasari paid \$20,000

2. Interior renovations: Creating access to Fluoroscopy Room from 1910

~~3. Narrow fluoroscopy bed with four legs on wheels.~~ *RYK / [signature]*

4. Annual costs to the State of Florida for maintaining a level II office-based surgery center (\$1,500/year). *RYK / [signature]*

II. START-UP COSTS SHARED BY DR. DERASARI:

The following costs will be paid by Dr. Derasari (except where noted):

1. Monitors:

- Top-of-the-line with EKG X1 — *\$4,000*
- Backup monitors for PACU X2 — *\$1,200 X 2*

2. Lead Aprons X3 — *\$300 X 3*

3. Suction Equipment: X1 *\$200*

4. Defibrillator: X1 —

5. Narrow Fluorobed x1 (Cost ~ \$1,000)

6. Miscellaneous Supplies

7. Reclining Chairs X 3 or 4 — *\$1,500 X 3-4*

8. Oxygen E Tanks X2 —

9. EKG Pads —

10. Special Medications:

Ketamine: Multidose vial

Versed: 2 mg vial

Robinol: 0.2 mg vial

Xanax Tablets

11. Stock Crash Cart with medications / equipment to meet Level II requirements for office-based surgery:

For more information on Level II surgery requirements in Florida:

http://www.doh.state.fl.us/mqa/medical/rpt_SCC-06.pdf

Minimum requirements for Crash Cart:

2006 Office Surgery Rules

Florida Administrative Code

Page 12

- I. Adenosine 6 mg/2 ml x 3**
- II. Albuterol Inhaler**
- III. Amiodarone 150 mg x 2**
- IV. Atropine 0.4 mg/ml; 3 ml**
- V. Calcium chloride 10%; 10 ml**
- VI. Dextrose 50%; 50 ml**
- VII. Diphenhydramine 50 mg**
- VIII. Dopamine 200 mg minimum**
- IX. Epinephrine 1:10,000 dilution; 10 ml**
- X. Epinephrine 1:1000 dilution; 1 ml x 3**
- XI. Flumazenil 0.1 mg/ml; 5 ml x 2**
- XII. Furosemide 40 mg**
- XIII. Hydrocortisone or Methylprednisolone or Dexamethasone**
- XIV. Lidocaine 100 mg**
- XV. Magnesium sulfate 1 gm x 2**
- XVI. Naloxone 0.4 mg/ml; 3 ml**
- XVII. Propranolol 1 mg x 1**
- XVIII. Sodium bicarbonate 50 mEq/50 ml**
- XIX. Succinylcholine 1 vial**
- XX. Vasopressin 20 units x 2**
- XXI. Verapamil 5 mg x 2**

IV solution and IV equipment.

Benzodiazepine must be stocked, but not on the crash cart.

III. START-UP COSTS SHARED BY DR. KIRKPATRICK:

Endotracheal tubes, laryngoscopes, oral/nasal airway devices, etc.

Positive pressure ventilation device -- e.g. Ambu.

Emergency intubation equipment for both adults and pediatric cases (13 years and older).

Emergency power source that meets State of Florida requirements. The generators will be able to produce adequate power to run required equipment for a minimum of two (2) hours.

AK/MD
Phone and Computer with large Apple screen (23 inches) with access to internet for Fluoroscopy Room and PACU.

Bose music system for fluoroscopy room, preop and PACU. — optional AK/MD

Independent Security System for 1910. (\$700-800) — paid by Dr. D but monitoring fee paid + fines for false alarms — ~\$30/mo
Provide refreshments (sodas, juices, etc) for post-op patients.

AK/MD
8. The lease should provide for your right to use the facilities and equipment consistent with the mutual requirements of your practices. I understand that Dr. Derasari has recently indicated that he believes that you need to own half of the fluoroscope in order to receive certain revenues under applicable government regulations. I do not know that that will necessarily require you to spend any additional funds, given your agreement to pay a disproportionate share of the improvements. I would think that, subject to Doug's input, Dr. Derasari could simply convey a one-half ownership interest in the subject equipment to your professional association, which would be subject to revocation in the event of a lease termination. I have reviewed your draft of proposed itemized expenses and contributions; this could be attached, in some form, to the leases as an exhibit;

In the lease agreement for room, PACU and nursing area for performing procedures by Dr. Derasari and Dr. Kirkpatrick,
Resolution #8: rent, included is usage of the fluoroscopy
Parties agree in principle to the ownership of the fluoroscope as outlined above.

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9. I understand that you are not going to be sharing revenues, and this needs to be explicitly set forth in the lease agreements:

Resolution #9:

Parties agree in principle the above regarding shared revenue.

Initials (AK and MD) AK/MD

Date: 11/18/07

10. You need to discuss the length of the leases; I would consider the possibility of a five year term with an option to renew; ~~the leases should contain cross default and termination provisions that are coextensive with your various other agreements with Dr. Derasari. In other words, I don't think either of you want a partial situation and that if one aspect of the arrangement fails, there will be mutual rights to terminate all contracts on an equitable basis.~~

unclear

Resolution #10:

Parties agree in principle with the above and the need for a five year lease term with an option to renew.

Initials (AK and MD)

AK / MD

Date:

11/18/07

11. None of the agreements should be assignable to any other party without the express written consent of all parties;

Resolution #11:

Parties agree.

Initials (AK and MD)

AK / MD

Date:

11/18/07

12. There should be limitations on the nature of the use of the medical building; these limitations should apply to the tenants and limit the use of the medical building to the practice of medicine and to the research work of the Foundation;

Resolution #12:

Parties agree.

Initials (AK and MD)

AK / MD

Date: 11/18/07

13. The Foundation's lease and your PA's lease of the medical building should contain a right of first refusal that would entitle you or your PA to purchase the medical building before it could be offered for sale to a third party.

Resolution #13:

Parties agree to the following:

In the event of death of Dr. Derasari, incapacitation or otherwise unable to handle his personal affairs or desires to sell either his interest in the Legal Building or the Medical Building, then Dr. Kirkpatrick will have the option to purchase Dr. Derasari's interest in the Legal Building or Medical Building at a fair market value determined by an appraiser, ~~or at a price offered by a third party to purchase his interest or whichever is the lowest.~~ parties (MD & AFK) have right to select their own

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the beneficiary

or current owner

appraiser. The purchase price will be determined by the average of the two appraisals.

14. The leases should provide for cost sharing in new fixtures and renovations; I would anticipate that in the event of termination, the fixtures would belong to the owner but you can provide that equipment, such as the electronic equipment, should be owned by whoever originally supplies it; and

Resolution #14:

Parties agree.

Initials (AK and MD) AK/MD

Date: 11/18/07

share the cost

15. If you are going to purchase the fluoroscope, I suggest in the event of a lease termination that you receive 80% of your money back if the lease terminates within the first year, 60% if it terminates in the second year, etc.

The same rights that apply to Dr. Kirkpatrick in this situation, shall apply to Dr. Derasari.

Resolution #15:

Parties agree.

Initials (AK and MD)

Date:

Please do not hesitate to call or write to me if you have any questions or comments. I look forward to hearing from you after your meeting with Dr. Derasari.

Sincerely,

Richard B. Wilkes

*(Signed in Mr Wilkes' absence
in order, to avoid delay)*

RBW/sf

cc: Douglas S. Gregory, Esq.

Note: AFK
Dr. DERASARI Agreed
to decrease the rent
at 1910 from 18 to
\$17/square ft. /year.