



PRESS RELEASE

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McNICHOLAS & McNICHOLAS FILES LAWSUIT AGAINST KAISER FOR RETALIATION AND WRONGFUL TERMINATION OF FAMILY MEDICINE PHYSICIAN

-- Complaint also alleges Kaiser hides and supports physicians catering to patient demands, including drug-seeking behavior and abuse through doctor shopping --

LOS ANGELES, CA – The Los Angeles-based plaintiff's trial law firm [McNicholas & McNicholas](#) filed a lawsuit on behalf of discharged family medicine physician Jay Espejo, M.D., M.P.H., against Kaiser Foundation Health Plan, Inc., one of the largest Health Maintenance Organizations in the country. The complaint alleges that Dr. Espejo was promoted to partner and fired two weeks later in retaliation for reporting a fellow doctor's, John Miguel, M.D, problematic pattern of enabling doctor shopping and prescribing narcotic drugs with no apparent medical necessity to patients exhibiting drug-seeking behavior. The complaint also alleges that the hospital's actions clearly demonstrate that they prioritize and support physicians catering to patient demands over providing quality and necessary medical care.

"Physicians have a responsibility to prevent abuse of a known or suspected addict," said lead attorney [Matthew McNicholas](#). "Equally egregious is that Dr. Espejo was terminated for speaking out against improper doctor conduct, while the doctor who was reported not only remains employed by Kaiser, but it appears there was no investigation or peer review into his conduct."

According to the Centers for Disease Control and Prevention, overdoses involving prescription painkillers are at epidemic levels and now kill more Americans than heroin and cocaine combined. Attorney [Alyssa Schabloski](#) commented, "This case perfectly illustrates the critical need for physician accountability in prescribing narcotics."

Dr. Miguel's History of Prescribing Narcotics

Patient One: In December 2013, Dr. Espejo's patient saw Dr. Hooks, a Kaiser Urgent Care doctor, complaining of coughing and wheezing and demanded the physician prescribe her a narcotic cough syrup, which is well-known for being a recreational drug. The patient's chart history revealed an active problem list of drug abuse and the doctor determined narcotic cough syrup was not medically

necessary. Later that night, the patient saw Dr. Miguel for a second opinion. In the patient's chart, Dr. Miguel noted he agreed with Dr. Hooks' assessment that the medication was not medically necessary; he prescribed it anyway to appease the adamant and confrontational patient, which is a direct violation of the Controlled Substances Act.

Patient Two: In May 2014, a different patient of Dr. Espejo's saw Dr. Akmakji, a Kaiser Emergency Department Doctor, complaining of abdominal pain. Dr. Akmakji suspected drug-seeking behavior and sent the patient home with anti-cramping medication and Tylenol. Rather than go home, the patient saw Dr. Miguel at the Kaiser Urgent Care Clinic and was prescribed Acetaminophen-Codeine, a Schedule III controlled substance.

In June 2014, Dr. Espejo reported via email to Edward Chiang, D.O., the Physician in Charge of the Urgent Care Clinic and Margarita Roxas, the Urgent Care Clinic department administrator, that Dr. Miguel inappropriately prescribed controlled substances, as well as that Patient Two should have been seen in the Urgent Care Clinic and not the Primary Care Clinic, reserved for patients with an appointment. Dr. Chiang's response was "Hi Jay, We can discuss more in person. The ultimate question would be can the urgent care provide any care for this patient that the regular clinic couldn't?"

Dr. Chiang's email is evidence that the Kaiser Permanente culture enables and supports physicians catering to patient demands—including enabling drug-seeking behavior and/or abuse through doctor shopping—over providing quality, medically necessary care. If Kaiser Permanente cared about the care and safety of its members, the "ultimate question" would not be in which clinic was it more appropriate for the patient to be seen, it would be concerned with patient safety and the provision of high quality medical care.

Wrongful Termination

A distinguished former fellow with the United States Surgeon General, Dr. Espejo had been employed as a family medicine physician at the Kaiser Permanente West Los Angeles Medical Center since September 2011. After several years of exemplary practice, Dr. Espejo was promoted to partner in late June 2014.

At the end of July, one week after Dr. Espejo complained to his supervisors about Dr. Miguel, and his recurring problem, Dr. Espejo's promotion was revoked. He received a performance review and was notified that due to his failure to obtain the support of the Family Medicine partners – support which he had just two weeks prior – was told that his contract would not be renewed and his employment was

terminated. Also during the performance review, they commented on certain alleged performance issues, which again, seemed to have no bearing on his initial promotion to partner.

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McNicholas & McNicholas, a Los Angeles-based plaintiff's trial law firm, represents clients in the areas of catastrophic personal injury, employment law, class actions, sexual abuse and other consumer-oriented matters such as civil rights, aviation disasters and product liability. Founded by a family of attorneys spanning three generations, McNicholas & McNicholas has been trying cases to jury verdict on behalf of their clients for more than five decades.

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