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Supreme Court of California
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S259364

IN THE SUPREME COURT OF CALIFORNIA

SUNDAR NATARAJAN,
Plaintiff and Appellant,

v.

DIGNITY HEALTH,
Defendant and Respondent.

AFTER A DECISION BY THE COURT OF APPEAL, THIRD APPELLATE DISTRICT
CASE NO. C085906

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF OF SCRIPPS HEALTH AND REGENTS OF THE UNIVERSITY OF CALIFORNIA IN SUPPORT OF RESPONDENT

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APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

Amici curiae Scripps Health and the Regents of the University of California request leave to file the attached amicus curiae brief in support of respondent Dignity Health. (See Cal. Rules of Court, rule 8.520(f).)

Scripps is a private, nonprofit, community-based health care network in San Diego that includes five acute-care hospitals with two Level II trauma centers. The University of California operates five medical centers: UC Davis, UC San Francisco, UC Los Angeles, UC Irvine, and UC San Diego. Although the University is exempt from California's peer review statute (see Bus. & Prof. Code, § 809.7 [peer review statute "shall not apply to peer review proceedings conducted in state or county hospitals" or "in hospitals owned by, operated by, or licensed to the Regents of the University of California"]), its hospitals incorporate the peer review statutes' requirements in their bylaws.

Scripps and the University believe this brief will assist the Court by providing the combined perspective of private and public hospital systems. Both amici conduct peer review proceedings and rely on the same pool of qualified hearing officers to preside over peer review hearings. And despite their differences as private and public hospital systems, amici's hospitals adhere to largely similar peer review procedures.

This brief explains an alternative way this Court can resolve this case in Dignity Health's favor without deciding whether private and public hospitals are subject to different standards. Because peer review hearing officers are not judges

and are not subject to the exacting neutrality standards that apply to judges, neither fair procedure nor due process requires recusal of hearing officers who might be rehired by the same hospital or hospital system. What's more, private and public hospitals alike preclude hearing officers from having a direct financial interest in the hearing's outcome and afford robust administrative and judicial review of peer review decisions, including all hearing officer rulings. Whether a hospital is private or public, those safeguards satisfy whatever minimal standard of neutrality the law may require for non-judges.

No party or counsel for any party authored any part of the proposed brief. Nor has any person or entity other than amici made a contribution intended to fund the preparation or submission of the proposed brief. (See Cal. Rules of Court, rule 8.200(c)(3).)

November 30, 2020

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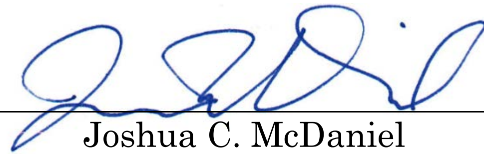
By: 
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AMICUS CURIAE BRIEF

INTRODUCTION

The question in this case is whether a hearing officer in a hospital peer review must be disqualified merely because the hearing officer might be rehired to assist that hospital (or affiliated hospitals) with future peer review hearings. Relying on due process precedents—including this Court's decision in *Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017 (*Haas*)—petitioner Sundar Natarajan, M.D., argues that the answer is yes. But the Court of Appeal answered no, mainly reasoning that because the peer review here took place at a *private* hospital, due process precedents do not apply. (*Natarajan v. Dignity Health* (2019) 42 Cal.App.5th 383, 388–389 (*Natarajan*), review granted Feb. 26, 2020, S259364.)

In this brief, amici highlight an alternative reason to resolve this case in Dignity Health's favor, which doesn't require the Court to decide whether private and public hospitals are subject to different standards (a question on which amici, operators of both private and public hospitals, take no position). For more fundamental reasons, Dr. Natarajan's attempt to overturn the result of his peer review hearing fails irrespective of Dignity Health's private-hospital status.

First, this Court's decision in *Haas* applied a constitutional rule applicable to *judges*—but peer review hearing officers are *not* judges. Under the constitutional rule, "a *judge* has a disqualifying financial interest when plaintiffs and prosecutors are free to choose their *judge* and the *judge's* income from *judging* depends

on the number of cases handled." (*Haas*, *supra*, 27 Cal.4th at pp. 1024–1025, emphasis added.) While the rule may apply to "adjudicators in courts and administrative tribunals alike" (*ibid.*), it is still a rule designed for judges, not other personnel involved in the process. Indeed, judges are held to a higher standard of "*adjudicative* neutrality" because, unlike others, they " 'make the final decision.' " (*People v. Vasquez* (2006) 39 Cal.4th 47, 64 (*Vasquez*), emphasis added.) A *judge's* impartiality thus " 'serves as the ultimate guarantee of a fair and meaningful proceeding.' " (*Ibid.*)

But unlike the administrative judge in *Haas*, hearing officers in hospital peer review hearings are not adjudicators or judges. While they preside over the hearing and may resolve discovery and evidentiary issues, they lack power to decide the merits or issue dispositive rulings. Those powers are reserved for medical "peers"—the physicians on the peer review panel who render a final decision after hearing the evidence. As this Court has explained, peer review hearing officers play "no part in the decisionmaking process." (*Mileikowsky v. West Hills Hospital & Medical Center* (2009) 45 Cal.4th 1259, 1271 (*Mileikowsky*).) For that reason alone, *Haas*—which involved a judge who decided the merits—does not apply.

Second, *Haas* doesn't comfortably apply here because private and public hospitals alike have adopted safeguards to mitigate any risk of hearing officer bias. Under industry-standard bylaws, physicians have the right to voir dire the hearing officer, challenge the hearing officer's impartiality, and

obtain review of the hearing officer's rulings on non-merits issues. More to the point, private and public hospitals forbid hearing officers from gaining any direct financial interest in the hearing's outcome. This approach is akin to the neutrality standard that applies to prosecutors—rooted in the need for government evenhandedness—which bars them from gaining "a *direct pecuniary interest in the outcome of a case*." (*County of Santa Clara v. Superior Court* (2010) 50 Cal.4th 35, 51 (*County of Santa Clara*), emphasis added.) But that limited neutrality duty simply means it would be improper to pay prosecutors more for obtaining a conviction, *not* that they have to bow out just because they might be asked to handle future cases. The same logic applies to non-judge hearing officers.

As amici will explain, applying *Haas* to non-judges doesn't make sense and would impede hospitals' ability to effectively conduct peer review. The universe of hearing officers with the requisite experience and expertise needed to preside over hospital peer review proceedings is exceedingly small. Barring non-judge hearing officers from serving simply because they have experience would add to the delays, would discourage the most qualified hearing officers from serving, and would not serve the ultimate objective of ensuring patient safety.

In sum, this is not a situation "in which the probability or likelihood of the existence of actual bias is so great that disqualification of a *judicial officer* is required to preserve the integrity of the legal system." (*Andrews v. Agricultural Labor Relations Bd.* (1981) 28 Cal.3d 781, 793, fn. 5, superseded on

other grounds as stated in *Catchpole v. Brannon* (1995) 36 Cal.App.4th 237, 256, emphasis added.) Whether a hospital is private or public, its selection of qualified hearing officers does not " 'result[ ] in unfairness' " or " 'depriv[e] the physician of adequate notice or an opportunity to be heard before impartial judges.' " (*El-Attar v. Hollywood Presbyterian Medical Center* (2013) 56 Cal.4th 976, 995 (*El-Attar*).)

ARGUMENT

I. Private and public hospitals conduct peer review proceedings in largely the same way.

All hospitals, whether private or public, have a vital charge to protect their patients' safety. To that end, hospitals have a duty to withhold hospital privileges from physicians who provide substandard care and might harm patients. (See *Hongsathavij v. Queen of Angels/Hollywood Presbyterian Medical Center* (1998) 62 Cal.App.4th 1123, 1143 ["A hospital has a duty to ensure the competence of the medical staff by appropriately overseeing the peer review process"]; *Elam v. College Park Hospital* (1982) 132 Cal.App.3d 332, 342 [private and public hospitals have a "duty to guard against physicians' incompetency"].) At the same time, hospitals must treat physicians fairly. Physicians are thus entitled to a peer review—"a hearing before an independent panel" of physicians. (*El-Attar*, *supra*, 56 Cal.4th at p. 994.)

Although public hospitals are generally exempt from California's peer review statute (Bus. & Prof. Code, § 809.7), there is little difference between private and public hospitals when it comes to their peer review procedures. That is because,

whether required to or not, both types of hospitals largely adopt model bylaws that mirror the statute's core requirements—including those concerning hearing officers.

In both private and public hospitals, bylaws typically allow the medical staff's executive committee to appoint a hearing officer. (See Dignity Health MJN 166 [California Medical Association model bylaws].) But the hearing officer's role is circumscribed. Although some bylaws allow the hearing officer to participate in the peer review panel's deliberations (see *id.* at p. 168; PAR01617 [St. Joseph's bylaws]),[1] the hearing officer cannot vote on the charges brought by the medical staff and cannot issue dispositive rulings (*Mileikowsky*, *supra*, 45 Cal.4th at p. 1271). Instead, the hearing officer's role is to preside over the hearing, ensure decorum, resolve discovery questions, and control the flow of the proceedings so that everyone—especially the physician under review—has a reasonable opportunity to be heard and to present evidence. (See Dignity Health MJN 167; PAR01617.) Simply put, the physicians on the peer review panel are the judges, not the hearing officer.[2]

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[1] Typically, a hearing officer would participate in deliberations only if allowed to do so under the bylaws *and* invited to do so by the panel of medical professionals. (See, e.g., Dignity Health MJN 168.)

[2] This brief concerns only hearing officers who preside over peer review panels of medical professionals and does not address the criteria governing the disqualification of arbitrators who decide peer review matters under Business and Professions Code section 809.2.

Although the hearing officer's role is limited, both private and public hospitals forbid hearing officers from gaining any direct financial benefit from the outcome. (See Dignity Health MJN 167; PAR01617; accord, Bus. & Prof. Code, § 809.2, subd. (b).) They also allow the physician to voir dire the hearing officer and challenge the hearing officer's impartiality. (See Dignity Health MJN 167; accord, Bus. & Prof. Code, § 809.2, subd. (c).) As Dignity Health notes, these protections go above and beyond the minimum procedural standards set by federal law. (ABOM 36–37, fn. 26.)

In amici's view, hearing officers play a critical role, though it is not a judicial role. By facilitating a prompt, orderly, and fair process, hearing officers allow amici's hospitals to protect patient safety while also ensuring adequate process to physicians.

II. Whether a hospital is private or public, the hearing officer in a hospital peer review should not be disqualified merely because the hearing officer might be rehired for future peer review proceedings.

A. *Haas* considered the financial bias of a *judge* and did not involve hospital peer review.

Dr. Natarajan relies extensively on *Haas*. (See, e.g., OBOM 29–33, 35, 54.) But as amici will explain, *Haas* has no bearing on the disqualification question here for fundamental reasons that compel a ruling in Dignity Health's favor regardless of its private-hospital status.

Haas involved a county's decision to revoke a massage clinic's license. (*Haas*, *supra*, 27 Cal.4th at p. 1021.) When the owner pursued administrative remedies, the county appointed an

attorney it labeled a "hearing officer" to decide the matter. (*Ibid.*) Although the owner objected that it was improper for the county to select and hire the hearing officer on an ad hoc basis, which was like "a prosecutor's being permitted to file cases before the judge of his choice," the hearing officer declined to recuse herself. (*Id.* at pp. 1021–1023.) After a brief hearing, the hearing officer issued a written decision recommending that the owner's license be revoked. (*Id.* at p. 1023.) In other words, the hearing officer acted as a judge.

In holding that the hearing officer should have recused herself, this Court applied a due process rule applicable to judges. Whether in a judicial or administrative setting, the Court explained, "due process requires fair *adjudicators*," and "courts have consistently recognized that a *judge* has a disqualifying financial interest when plaintiffs and prosecutors are free to choose their judge and the judge's income from judging depends on the number of cases handled." (*Haas*, *supra*, 27 Cal.4th at pp. 1024–1025, emphasis added; see *id.* at pp. 1031–1032 [finding guidance in fee system cases, which teach that "a direct, personal, and substantial pecuniary interest does indeed exist when income from *judging* depends upon the volume of cases an *adjudicator* hears and when frequent litigants are free to choose among *adjudicators*, preferring those who render favorable decisions" (emphasis added)].) Since the county had picked its adjudicator and held out the prospect that she could secure work judging future cases, the Court held that the objective risk of adjudicator bias required recusal. (*Id.* at p. 1029.)

But the Court took pains to note that its holding was "limited in scope." (*Haas*, *supra*, 27 Cal.4th at p. 1036.) The Court did not consider the "validity of any rule or practice not present before [it]." (*Ibid.*; see *id.* at p. 1037, fn. 22 ["we do not require any particular set of rules, or pass judgment on rules not before us"].) Indeed, the Court noted, counties or other agencies have "much freedom to experiment and adopt selection procedures" for judges so long as those procedures "suffice to eliminate the risk of bias." (*Id.* at p. 1037 & fn. 22.)

B. *Haas* should not be extended to the hospital peer review context.

1. Peer review hearing officers are not judges and should not be held to the strict standards applicable to judges.

For multiple reasons, it would be imprudent to extend *Haas* to the hospital peer review context. Most fundamentally, *Haas* does not fit because it developed a standard for judges. Indeed, the Court stressed that it was applying a rule applicable to "judges," "adjudicator[s]," and " 'decision maker[s].' " (*Haas*, *supra*, 27 Cal.4th at p. 1025; see, e.g., *id.* at pp. 1025 ["When due process requires a hearing, the adjudicator must be impartial"], 1026 ["The standard continues . . . to be . . .whether the *adjudicator's* financial interest would offer a possible temptation to the average person *as judge* not to hold the balance nice, clear and true" (emphasis added, citation omitted)], 1027 [the rule " ' "applies with equal force to . . administrative adjudicators" ' "]; accord, *Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 45 Cal.4th 731, 737 [due process

requires a tribunal "in which the judge or other decision maker is free of bias for or against a party"].)[3]

Hearing officers in hospital peer review proceedings, by contrast, are not adjudicators. While they share the same label as the "hearing officer" who acted as an adjudicator in *Haas*, their role is different. As this Court previously held, peer review hearing officers lack authority to grant dispositive sanctions precisely because they play "no part in the decisionmaking process." (*Mileikowsky*, *supra*, 45 Cal.4th at p. 1271.) Indeed, the *only* adjudicator in medical peer review proceedings is the physician peer review panel, which "resolves any conflicts in the evidence, determines its sufficiency, and determines the reasonableness of the recommended disciplinary action." (*Id.* at p. 1269.) The hearing officer, by contrast, is not even necessary to the proceeding—a peer review can be conducted by a physician panel without a hearing officer's aid. (See Bus. & Prof. Code, § 809.2, subd. (b).) At bottom, hearing officers are *not* adjudicators because they have no right to vote on the charges against the physician, they cannot issue dispositive rulings, and they do not decide the merits of the recommended disciplinary action.

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[3] The same is true of the due process precedents that *Haas* relied on, all of which involved adjudicators. (See, e.g., *Tumey v. Ohio* (1927) 273 U.S. 510, 523 [47 S.Ct. 437, 71 L.Ed. 749] (*Tumey*) [mayor acting as judge]; see also *Gibson v. Berryhill* (1973) 411 U.S. 564, 571 [93 S.Ct. 1689, 36 L.Ed.2d 488] [state optometry board acting as judge]; *Ward v. Village of Monroeville, Ohio* (1972) 409 U.S. 57, 60 [93 S.Ct. 80, 34 L.Ed.2d 267] (*Ward*) [mayor acting as judge].)

This distinction matters because judges—whether judicial or administrative—are subject to the " 'rigid requirements' of *adjudicative* neutrality," whereas non-judges are not. (*Vasquez*, *supra*, 39 Cal.4th at p. 64, emphasis added; accord, *Marshall v. Jerrico, Inc.* (1980) 446 U.S. 238, 248 [100 S.Ct. 1610, 64 L.Ed.2d 182] (*Marshall*) [the "rigid requirements of *Tumey*" were "designed for officials performing judicial or quasi-judicial functions"].) Unlike other personnel such as prosecutors and legal advisors, judges " 'make the final decision,' " which means their impartiality " 'serves as the ultimate guarantee of a fair and meaningful proceeding.' " (*Vasquez*, at p. 64.) In short, the buck stops with judges.

In *Marshall*, for example, the United States Supreme Court declined to apply "the strict requirements of *Tumey* and *Ward* . . . to the determinations of [an] assistant regional administrator," who assessed child labor violations and fines against a company and then advocated those assessments before an administrative law judge. (*Marshall*, *supra*, 446 U.S. at p. 243.) The Court explained that the administrator's role was closer to a prosecutor's and "simply [could not] be equated" with the "decisionmakers" in *Tumey* and *Ward*. (*Id.* at p. 247.) The Court explained: "He is not a judge. He performs no judicial or quasi-judicial functions. He hears no witnesses and rules on no disputed factual or legal questions." (*Ibid.*) Rather, it was "the administrative law judge, not the assistant regional administrator, who perform[ed] the function of adjudicating child labor violations." (*Id.* at p. 248.)

The same is true here. Peer review hearing officers preside over the hearing by calling it to order, arranging logistical matters, and promoting a sense of decorum and gravity. But they make no decisions on the merits. Rather, it is the peer review panel that hears witnesses, rules on disputed factual and legal questions, and decides the merits. (Cf. *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1281–1282 [legal advisor to a city personnel board did not have a disqualifying financial bias under *Haas*, since there was "no showing" that the legal advisor was "an adjudicator on the merits of the disciplinary action or tantamount to one"].) *Haas*'s rule for judges thus has no place here.

This does not mean, of course, that no standard guards against potential hearing officer bias. To the contrary, model bylaws bar hearing officers from gaining a direct financial benefit from the hearing's outcome. (See Dignity Health MJN 167.) Our point, rather, is that hearing officers are not subject to the *stricter* requirements that apply to judges. (Cf. *County of Santa Clara*, *supra*, 50 Cal.4th at pp. 51, 56, fn. 12 [although "[i]t is well established that the disqualification rules applicable to adjudicators are more stringent than those that govern the conduct of prosecutors," prosecutors cannot receive "a direct pecuniary interest in the outcome of a case"].)

2. Standards for judges need not be imported here because hospital bylaws impose safeguards to reduce the risk of hearing officer bias.

In *Haas*, this Court found the county violated the massage clinic's due process rights in part because the county had no meaningful restrictions in place to reduce the risk of bias. (*Haas*, *supra*, 27 Cal.4th at pp. 1036–1037; see *id.* at p. 1036 [noting that "specific statutory standards governing temporary hearing officers" can "greatly reduce the specific risk of bias"].)

Here, in contrast, hospitals *do* impose such restrictions. In keeping with model bylaws, private and public hospital bylaws—including amici's hospital bylaws—take various measures to reduce the risk of hearing officer bias. (See Dignity Heatlh MJN 167.) For example, they allow peer reviewed physicians to voir dire the hearing officer and challenge the hearing officer's impartiality, and they forbid hearing officers from gaining a direct financial interest in the hearing's outcome.[4]

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[4] Amici agree with Dignity Health that "a speculative possibility of future employment . . . is not a 'direct' financial benefit gained from the outcome." (ABOM 17.)

Indeed, this Court has held other non-judges (like prosecutors) to the same standard. (See *County of Santa Clara*, *supra*, 50 Cal.4th at p. 51 [it is improper for a public prosecutor to receive "a *direct pecuniary interest in the outcome of a case*" because such an arrangement makes it" 'unlikely that the defendant would receive a fair trial' " (emphasis added)].) That means prosecutors should not *directly* benefit for winning a case, as would be the case if the prosecutor worked on a contingency basis or owned a stake in one of the parties. (See, e.g., *People ex rel. Clancy v. Superior Court* (1985) 39 Cal.3d 740, 747–748 [prosecutor had an

What's more, physicians under review can challenge the hearing officer's impartiality by appealing to the hospital's governing board and, if that fails, seeking writ relief. (Cf. *Commonwealth Coatings Corp. v. Continental Cas. Co.* (1968) 393 U.S. 145, 149 [89 S.Ct. 337, 21 L.Ed.2d 301] [due process concerns are greater when the adjudicator has "free rein to decide the law as well as the facts" without any opportunity for appellate review].) Given that the peer review process often takes months or years to complete, hospitals and hearing officers have every incentive to provide *more* fairness to physicians, not less, so that the lengthy process is not overturned on appeal.

Whether required by statute or self-imposed (see *ante*, pp. 11-12), these industry-standard procedures distinguish the medical peer review at issue here from *Haas*. Indeed, if anything, the Legislature's approval of those procedures shows that the scheme passes fair procedure and due process muster. (See *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 91 ["to the extent citizens generally are entitled to due process in the form of a fair trial before a fair tribunal, the provisions of the [Administrative Procedure Act] are helpful as indicating what the Legislature believes are the elements of a fair and carefully thought out system of procedure for use in administrative hearings"].)

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improper "interest in the result of the case" because his hourly rate doubled if the city prevailed in the litigation].) So too with peer review hearing officers.

Beyond those industry-standard measures, the hearing officer here also agreed not to serve for the same hospital for three years. (See ABOM 23.) That precaution makes this case especially clear cut. (See *Haas*, *supra*, 27 Cal.4th at p. 1037, fn. 22 [suggesting that making temporary hearing officers "[in]eligible for a future appointment until after a predetermined period of time" could "suffice to eliminate the risk of bias"].) But this Court should not hold that such a term is key. As explained below (pp. 21-22, *post*), hospital peer review proceedings are nonlinear and can span multiple years. Requiring all hospitals to impose multiyear freeze-out periods on hearing officers would just make matters worse. In any event, as we have already explained, *Haas* is inapplicable whether or not the hearing officer agrees to such a limitation.

III. Restricting hospitals' ability to hire hearing officers would cause delays and undermine patient safety.

Despite hospitals' best efforts, peer review is often onerous. The process can be enormously expensive, and in amici's experience, it is not uncommon for a peer review hearing to go on for years. (See, e.g., *El-Attar*, *supra,* 56 Cal.4th at p. 985 [peer review took "nearly two years and approximately 30 sessions"]; *Sadeghi v. Sharp Memorial Medical Center Chula Vista* (2013) 221 Cal.App.4th 598, 608–611 [peer review took almost three years].)

Not all delays are for bad reasons. Lining up the schedules of the physician under review, attorneys, a hearing officer, and a panel of busy, volunteer medical professionals is no easy task.

(See *Mileikowsky*, *supra*, 45 Cal.4th at p. 1272 [noting "the burdens the hearing process imposes on busy practitioners who voluntarily serve on a reviewing panel"].) And hospitals often put the proceedings on hold to try to rehabilitate the physician or to try to settle the dispute. (See Bus. & Prof. Code, § 809, subd. (a)(7) [declaring that peer review should "be done efficiently, on an ongoing basis, and with an emphasis on early detection of potential quality problems and resolutions through informal educational interventions"].) But whatever the reason, these delays are all too common and undermine hospitals' prime directive of protecting the public.

That is why hospitals need to hire experienced hearing officers who can maintain the proceedings and forge ahead with a process that is efficient and fair. (See Dignity Health MJN 168 [CMA model bylaws: hearing officers "promote the swiftest possible resolution of the matter, consistent with the standards of fairness set forth in these bylaws"].) Preventing hospitals from rehiring hearing officers would force them to choose increasingly novice, nonlocal hearing officers. That would only exacerbate delays, which would in turn make it harder to fill peer review panels with qualified physicians. (See *Kibler v. Northern Inyo County Local Hospital Dist.* (2006) 39 Cal.4th 192, 201 ["membership on a hospital's peer review committee is voluntary and unpaid, and many physicians are reluctant to join peer review committees so as to avoid sitting in judgment of their peers"].) Worse, Dr. Natarajan's proposed disqualification rule would discourage potential hearing officers from serving or ever

becoming certified—making the small pool of certified hearing officers even smaller.

In the end, these obstacles undermine hospitals' ability to meet the " 'overriding goal' " of peer review: protecting public health by restricting or denying privileges to physicians who provide substandard care. (*Ellison v. Sequoia Health Services* (2010) 183 Cal.App.4th 1486, 1498.)

CONCLUSION

This Court should hold that fair procedure and due process are satisfied when hospitals—whether private or public—select peer review hearing officers who have no direct financial interest in the outcome. Absent a showing of actual bias, such hearing officers should be allowed to serve. This Court's decision in *Haas* has no place in the analysis.

November 30, 2020

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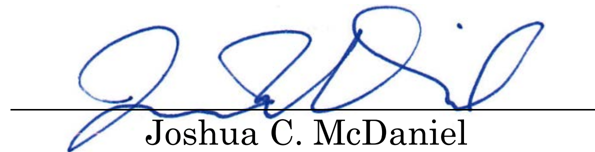
By: 
Joshua C. McDaniel

Attorneys for Amicus Curiae
SCRIPPS HEALTH and REGENTS OF THE UNIVERSITY OF CALIFORNIA

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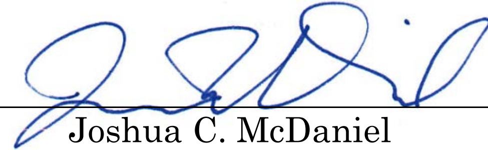

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At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.

On November 30, 2020, I served true copies of the following document(s) described as **APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF OF SCRIPPS HEALTH AND REGENTS OF THE UNIVERSITY OF CALIFORNIA IN SUPPORT OF RESPONDENT** on the interested parties in this action as follows:

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Jill Gonzales

SERVICE LIST
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Case No. S259364

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Office of the Clerk Court of Appeal Third Appellate District 914 Capitol Mall, Sacramento, CA 95814	Case No. C085906 *Via TrueFiling*

Hon. Barbara Kronlund San Joaquin County Superior Court 180 E Weber Avenue, Dept. 10D Stockton, CA 95202	Trial Judge Case No. STKCVUWM20164821 *Via U.S. Mail*

Supreme Court of California
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Electronically FILED on 12/1/2020 by Florentino Jimenez, Deputy Clerk

STATE OF CALIFORNIA
Supreme Court of California

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Case Number: **S259364**
Lower Court Case Number: **C085906**

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2. My email address used to e-serve: **jmcdaniel@horvitzlevy.com**

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Filing Type	Document Title
BRIEF	Application for Leave to File Amicus Curiae Brief and Amicus Curiae Brief of Scripps Health and Regents of the University of California in Support of Respondents

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

11/30/2020

Date

/s/Joshua McDaniel

Signature

McDaniel, Joshua (286348)

Last Name, First Name (PNum)

Horvitz & Levy LLP

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