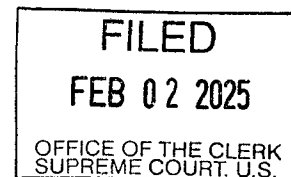


25-1301

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ORIGINAL



IN THE UNITED STATES SUPREME COURT

On Petition for WRIT OF CERTIORARI

KENNETH MATSUMURA, Petitioner

v,

CALIFORNIA SUPREME COURT, Respondent
Case S287041 Denied without comment

SAN FRANCISCO COUNTY
SUPERIOR COURT, DEPT 302,
HON. RICHARD B. ULMER, JR
SUP. CT. CASE NUMBER CPF-24-5184301,

CALIFORNIA APPELLATE COURT,

MEDICAL BOARD OF
CALIFORNIA,

Real Parties in Interest.

I. Questions Presented

United States Constitution Article III. Section 1. Judicial Power of the United States, shall be vested in one supreme court. Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; ... to Controversies between two or more states; -between a State and citizens of another States;

And the Commerce Clause of the Constitution prohibits states from interfering with traditional rights accorded Indian Tribes from benefits associated with the automatic right of a physician licensed in any state to provide medical care to any members of a federally-recognized Indian Tribe.

When an action of a state regulatory body results in depriving citizens of another state or a sovereign indigenous state of a lifesaving medical therapy, does the United States Supreme Court and the federal government have the right to intervene? If the lifesaving medical therapy blocked will result in loss of hundreds of billion dollars the federal government could have saved in Medicare expenditure, does the United States Supreme Court and the federal government have the right to intervene?

II. Table of Contents

I.	Questions Presented	
	i
II.	Table of Contents	
	ii
III.	Table of Authorities ,,,,,,,	iii, iv
IV.	Petition for Writ of Certiorari ,..	1
V.	Opinions Below.....	1
VI.	Jurisdiction	1
VII.	Constitutional Provisions Involved	
	2
VIII.	Statement of the Case	1
IX.	Reasons for Granting the Writ...11	
X.	Conclusion	12
XI.	Appendix,.....	12

III. Table of Authorities

Statutes

California Code, Business and Professions Code - BPC § 2234.1

(a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234.1 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if that treatment or advice meets all of the following requirements:

(1) It is provided after informed consent and a good-faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine that he or she practices.

(3) In the case of alternative or complementary medicine, it does not cause a delay in, or discourage traditional diagnosis of, a condition of the patient.

(4) It does not cause death or serious bodily injury to the patient.

(b) For purposes of this section, "alternative or complementary medicine," means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient's medical condition that is not outweighed by the risk of the health care method.

(c) Since the National Institute of Medicine has reported that it can take up to 17 years for a new best practice to reach the average physician and surgeon, it is prudent to give attention to new developments not only in general medical care but in the actual treatment of specific diseases, particularly those that are not yet broadly recognized in California.

Constitutional Provisions

Article 1, Section 9, Clause 3 [The Congress shall have Power...] to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes

Article III, Section 1, 6.3 inter alia.

IV. Petition for Writ of Certiorari

Petitioner Matsumura respectfully petitions this court for a writ of certiorari to review the judgment of the California Supreme Court as well as lower courts and the California Medical Board.

V. Opinions Below

California Appellate Court refused Plaintiff Matsumura's appeal over denial by San Francisco Superior Court for lack of records from lower court when such record was submitted by Matsumura with the appeal document but the appeal court clerk mistakenly refused the flashdrive containing such record.

VI. Jurisdiction

Plaintiff Matsumura's appeal to the California Supreme Court was heard on November 13 and the Court's denial without comment was posted on their website. Matsumura invokes this Court's jurisdiction under 28 USC. 1257, having timely filed this petition for a writ of certiorari within ninety days of the California Supreme Court's judgment by registered overnight United States Priority Mail.

VII. Constitutional Provisions

The Constitution including its Commerce Clause, outlines how in certain cases, as explained below in Section VIII, when states courts decides unfavorably, the United States Supreme Court shall take up an appeal from state court proceedings. The Constitution, including in its Commerce Clause, also provides that certain matters that affect the federal government shall be adjudicated by the federal courts and the U.S. Supreme Court.

VIII. Statement of the Case

The Petitioner is a medical scientist, a Time magazine Inventor of the Year (2001). Petitioner Kenneth Matsumura invented a powerful cancer therapy that has no side effect. His therapy is compliant with the U.S. FDA regulations. The head of the FDA Oncology Division, inspired by his therapy, expedited an FDA approval. The therapy's stunning achievements are published at the Journal of Medicine & Biology (ISSN 0732-7692), which is a peer-reviewed publication. Conf. Attachments below.

In 2017, Petitioner Matsumura opened a clinic on federally recognized Indian reservation near Lake Tahoe, Nevada. While a California licensed physican, he was privileged to practice on any Indian reservation of any state. Petitioner Matsumura, who already practiced his therapy in his own clinic in Berkeley, California, wanted to share revenue from

cancer therapy with indigenous tribes. He believes that Indian tribes offering a powerful cancer therapy would garner more respect for themselves than gambling offers. Because America's cancer business already delivers billions of dollars to drug companies, oncologists, and hospitals, Matsumura felt Indian tribes offering cancer therapy can be independent of federal handouts, and the federal government, already overtaxed with welfare spending, would have one less area of expenditure.

However, Matsumura's therapy began to take patients away from ordinary oncologists and move patients away from lucrative products offered by drug companies. Once people heard about Matsumura's therapy, people began to realize they did not have to feel worse in order to treat their cancer. They became even more resistant to conventional therapy when they understood long term remission was more achievable with Matsumura's therapy.

California's medical licensing board, under pressure from the state's attorney general's office, began to harass Matsumura. They finally revoked his medical license forcing Matsumura to close not only his clinic in Berkeley but also the cancer clinic inside the Washoe Reservation. Revoking his license stopped him from opening clinics on other federally-recognized Indian reservations throughout California and all other states. Ultimately it denies the Indian tribes of United States billions of dollars which would have made them independent of federal subsidies.

Other than to protect state tax revenue, there is no basis for the most severe of penalties, accorded plaintiff Matsumura, the penalty to prohibit him from practicing medicine. Loss of his license prohibits Matsumura, a good doctor, from practicing any medicine. For 45 years, his medical record reflects a perfect practice.

In 1971, immediately upon securing his medical license, Matsumura volunteered to take care of the poor in one of America's worst ghettos, West Oakland. He courageously opened a night urgent care clinic, even after a doctor's dead body was found in a nearby dumpster. In 1969, the Johnson Administration funded 57 such clinics across America to bring private healthcare to the poor. West Oakland Health Center became one of only two clinics to survive longer than a few years.

Most of these clinics could not find enough doctors willing to work for the meager pay they offered. But West Oakland Health Center survived because of its Executive Director, a local pediatrician Dr. Robert Cooper. Dr. Cooper recently wrote an extensive review in praise of Dr. Matsumura's performance over 45 years at WOHC.

Dr. Cooper said, "...I also know that his patients complained less about his services than they did about other providers and he provided patient oriented and disease outcome directive, being very adamant and direct and refusing requests for narcotic pain relievers and [instead] promoting healthy diet."

Contrary to the California Medical Board's statement, Dr. Matsumura expanded from his urgent care duties to take over all hospital admission of the WOHC. He never received any complaints from hospital administration, staff, or patients despite the huge volume he managed.

Dr. Cooper was so upset about Dr. Matsumura's license revocation that he wrote he is "willing to testify (on behalf of Dr. Matsumura) under penalty of perjury if asked or required to do so." His letter can be found in Attachments below.

The California state Deputy Attorney General Greg W. Chambers and the Medical Board based revoking Dr. Matsumura's license on: 1) poor medical record keeping, 2) practicing cancer chemotherapy incorrectly on three patients, and 3) excessive charges.

- 1) On poor medical record keeping, Dr. Matsumura submitted 26 pages written about his findings on Patient One's dramatic improvements over the 9 months period the medical board was asked to evaluate. In it, Dr. Matsumura quoted the patient's own observation of her drastic improvement.

The adjudication system at the California medical board is designed to provide fairness by assigning an unbiased superior court judge to conduct a hearing and write a decision entirely on her own, but she did not, despite her signature.

The judge completely ignored the 26 pages of medical notes submitted by Dr. Matsumura on Patient One and said, " A physician's failure to maintain adequate and accurate patient care records is unprofessional conduct ,, constitut(ing),,,,,cause to revoke respondent's [Matsumura] physician's and surgeon's certificate."

Dr. Matsumura initially declined to take Patient One, because her breast cancer was so severe and had spread everywhere. She begged Dr. Matsumura to take her "on compassionate basis." After eight months, she became so much better she felt she didn't need further care from Dr. Matsumura and decided on her own to leave against his advice. She later apologized for that decision and thanked him for "extending [her] life without making [her] sick."

The judge showed further bias in multiple other instances. In 2016, a cancer patient, who was declared hopeless by Stanford University Medical Center, but subsequently saved by Dr. Matsumura from his stage 4 bladder cancer, wrote a three page testimonial. His cancer was diagnosed and his remission verified by his urologist, a doctor independent of Matsumura's therapy. He also testified that two years later, Dr. Matsumura saved him from stage 3 colon cancer. The judge, who is supposed to be unbiased, belittled these outstanding achievements. She summarized his three page testimonial by merely stating, "He believes himself currently to be cancer-free."

As for medical record-keeping habit of Dr. Matsumura,

West Oakland Health Center Executive Director Dr. Robert Cooper said, "Dr. Matsumura's records were periodically reviewed [over 45 years] by internal staff and representatives from federal, state, and city and met the specific documentation standards designed to protect to the extent possible all entities from significant liability for malpractice incidents. I know Dr. Matsumura's records were never a cause of concern as regards standard compliance."

- 2) On the charge by the California state deputy attorney general Chambers that Dr. Matsumura practiced cancer chemotherapy incorrectly on three patients, Chambers completely ignored the facts presented by Dr. Matsumura and his attorneys over an entire day of testimony. Their testimony explained how Dr. Matsumura's revolutionary therapy is not ordinary chemotherapy.

Because medical leaders showed there is, to the detriment of the public, a lag of 17 years before new a medical treatment is adopted by the profession, the California legislature had passed the California Business & Professional Code section 2234.1 (conf. III. Table of Authorities above).

By this law, the California medical board was not to interfere with doctors who are practicing an alternative medical therapy like the one Dr. Matsumura developed.

Matsumura expounded at length how his **alternative** methodology does not rely entirely on chemo chemicals to kill cancer cells like ordinary chemotherapy does. His methodology uniquely protects and preserves the body's immune cells called white blood neutrophils. During ordinary chemotherapy, these immune cells are usually decimated. But keeping these immune cells alive, like Dr. Matsumura does in his therapy, augments the killing of cancer cells. This was a major discovery made by Dr. Matsumura.

Thanks to this discovery, Matsumura's therapy ends up killing far more cancer cells with each treatment than ordinary chemotherapy that depend killing only chemically. For this reason, even cancer that has become advanced and spread widely can now be eradicated into complete long term remission.

Despite Matsumura showing his therapy was not ordinary chemotherapy, the medical board presented only testimonies by three experts who were ordinary chemotherapists. They showed no understanding of immune therapy, and stated Matsumura's therapy deviated from "standard practice" [of chemotherapy]. Judge Julia Cox referred only to their comments in her order to revoke Dr. Matsumura's license.

3) On California Medical Board and California Deputy Attorney General Greg Chambers charge of excessive overcharging of Patient One and three, Chambers insisted Matsumura was "profiteering" by charging \$4,800.

But in fact, this was a discounted cost. Dr. Matsumura's therapy for other patients is at least \$6000. But these two patients asked Dr. Matsumura to discount his fee down to what it was five years prior, \$4,200. Patient One was an established attorney with an active practice in Phoenix. Regardless, Dr. Matsumura gave her the discount.

Patient Three was also given the discount. She had been treated with ordinary chemotherapy long after it became evident it was not helping her, and Matsumura knew she would need extensive treatment by him to turn her condition around. She was recently divorced, and her ex-husband was not interested in helping her financially. She didn't have funds. Dr. Matsumura lost money taking both Patient One and Three.

Prosecuting Deputy Attorney General Greg Chambers criticized Matsumura's charges. He did not compare them to what insurances and Medicare pay for traditional immune cancer therapy. Traditional immune therapy costs \$54,000 to \$90,000 annually for Ipilimumab and \$103,000 to \$160,000 for Nivolumab. Car-T cell immunotherapy costs \$373,000 for each treatment. Often they are used together, which means patients are charged \$157,000 to \$250,000 or more. Unlike Matsumura's SEF Immuno-chemotherapy, the traditional immune therapy doesn't work most of the time. Sometimes traditional immune therapy even accelerates cancer growth. Nor did Chambers compare it to ordinary chemotherapy which often costs between \$5,000 to \$36,000 a month and may take many months to complete. Matsumura's patients often completed his therapy after 8

to 10 treatments, making his therapy cost less than \$50,000. They were much more likely to reach remission with Matsumura's therapy too. A recent compilation of 11 patients, 7 of which had been given terminal prognosis, who were treated solely by Matsumura, between 2015 to 2021, shows 89% remain in remission today. The one patient who was not saved had undergone prior extensive ordinary chemotherapy, which damaged her immune system.

If Matsumura's therapy became "standard of [oncological] care" for the state of California, California's treasury would lose substantial amounts of tax revenue, because patients would no longer use therapies that cost hundreds of thousands of dollars. But the federal government would enjoy drastic savings in Medicare expenditure.

Plaintiff Matsumura could not receive fair adjudication by California's state judicial system which is evidenced by what happened at the appeal stage. Matsumura personally brought his appeal document plus a USB drive containing proceedings at the lower court. A desk clerk refused to take the USB drive saying that the lower court will be sending those proceedings. Subsequently, the supervisory staff of the Appeal Court denied Matsumura's petition stating he didn't provide lower court proceedings, despite Matsumura's reason why the court did not receive the USB drive. The State Supreme Court refused to remand the case back to the Appeals Court. Matsumura believes that the state court judges don't want to go against the state's attorney general. Plaintiff Matsumura prays that the

United States Supreme Court will grant the Writ of Certiorari so that the U.S. Supreme Court can vacate the Decision of the California Medical Board confirmed by the Superior Court of San Francisco.

IX. Reason for Granting the Writ

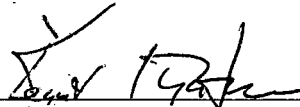
Revocation of Dr. Matsumura's medical license was based on ulterior financial motives by California state and this revocation blocks the natural spread of Matsumura's breakthrough cancer treatment technology. For purely public benefit reasons, Matsumura had planned to open more cancer clinics on Indian reservations as he did so in 2017 so that he can gift/share cancer therapy revenues with the indigenous population. While it is true that Indians possess healthcare autonomy and Matsumura could open such clinics without a valid state license, for practical intent and purposes, historically the indigenous population has become very suspicious and skeptical of non-natives offer of assistance. While Matsumura was welcomed by the Washoe Tribe when Matsumura leased an office on Washoe reservation and opened a clinic and Matsumura ended up "gifting" substantial amounts of money to the Washoe Tribe, it is not likely that he can open another clinic on another Indian Reservation if his medical license revocation is not reversed. Since based on the record of the recent past, there is likelihood of many Indian Reservations throughout America receiving hundreds of billion dollars which will make these Indian Reservations not need federal welfare assistance, the reversal of Matsumura's license revocation is not a small matter.

X. Conclusion

For the foregoing reasons, Dr. Matsumura respectfully requests that this Court issue a writ of certiorari to review the judgment of the California court system and its Medical Board.

Dated: originally submitted signed on 10th day of February, 2025 and current resubmission signed on 11th day of June, 2025.

Respectfully submitted,



Kenneth Matsumura, Petitioner

Appendices:

1. Notarized letter signed by Robert Cooper, MD, former Executive Director of the West Oakland Health Center, Oakland, California
2. Testimonial letter from a patient whose life was saved by Plaintiff Kenneth Matsumura.
3. Peer-reviewed Medical article published in the Journal of Medicine & Biology ISSN 0732-7692
4. California Supreme Court Appeal Denial