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To: Bernard Pafunda  
Counsel for Dr. Paul Kearney

From: William E. Thro   
General Counsel

Re: Limitations on Dr. Kearney's Behavior

Date: August 28, 2015

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As you know, the University Health Care Committee permanently revoked Dr. Paul Kearney's clinical privileges effective Monday, August 24, 2015. The Committee, acting on the unanimous advice of a panel of three trustees and two panels totaling 16 physicians, determined that Dr. Kearney is unfit to perform the duties of a clinician and to represent the University of Kentucky in our hospital.

Because Dr. Kearney's status has materially changed as a result of the Committee's action, at the direction of the President a group of appropriate persons was immediately formed to comprehensively define Dr. Kearney's roles and responsibilities going forward.

At the same time, because the Committee reaffirmed Dr. Kearney's status as a tenured professor within the College of Medicine, we face the challenge of finding an appropriate role for Dr. Kearney, given his unique status as a tenured faculty member in the Department of Surgery who lacks clinical privileges.

To avoid confusion, we should have informed you Monday that such a review was underway and that we would communicate the results as soon as possible.

Because Dr. Kearney lacks clinical privileges, there are significant restrictions on his access to particular areas of the hospital and to patient information; and on his

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interaction with various members of the UK community. But because he remains a tenured professor within the College of Medicine, he retains certain rights.

The purpose of this Memorandum is to clarify both the limitations on his behavior and his rights. This Memorandum is effective immediately.

1. Under the terms of the *Association for College of Graduate Medical Education Program Requirements for Graduate Education in General Surgery*, "physician faculty must possess current medical licensure and appropriate medical staff appointment" § II.B.3. Therefore, an individual, such as Dr. Kearney, who lacks clinical privileges may not teach or interact with House staff (interns, residents, fellows, or any other person falling under the Association for Colleges of Graduate Medical Education governance) participating in an accredited training program. Moreover, as Dr. Kearney lacks clinical privileges, federal law does not authorize Dr. Kearney to have access to Protected Health Information or Patient Safety Work Product. Accordingly, the University forbids Dr. Kearney from teaching or interacting with House Staff. This prohibition includes, but is not limited to, the following clinical and teaching settings:

- Attending Mortality and Morbidity Conferences;
- Attending Grand Rounds;
- Attending House Staff Conferences;
- Attending Presentations by Visiting Professors or Named Lecture Events;
- Attending any other teaching setting where House Staff attend;
- Attending any recruitment activities for House Staff;
- Engaging in an activity that involves Protected Health Information or Patient Safety Work Product; and
- Engaging in any interaction with medical students except as authorized by the Dean of the College of Medicine.

2. While we further discuss and define Dr. Kearney's role at the University, College of Medicine Dean Fred DeBeer is reassigning Dr. Kearney to the Office of the Dean of the College of Medicine. Because Dr. Kearney may not teach or interact with house staff, it is inappropriate for him to remain a member of the Department of Surgery.

3. Because Dr. Kearney is no longer part of the Department of Surgery, it is inappropriate for his office to be in the Department of Surgery. Dr. Kearney's new office will be Room 124 of the Multi-Disciplinary Science Building. The University currently is renovating this Office and it should be ready for occupancy by September 4, 2015. University employees will pack and move Dr. Kearney's possession from his old office to his new office. In the

meantime, if Dr. Kearney wishes to access his old office, he may contact the Dean's Office.

4. Because Dr. Kearney no longer has clinical privileges, the University immediately modifies his Medical Center Badge Access so he no longer has access to restricted clinical areas.
5. Because Dr. Kearney no longer has clinical privileges at UK HealthCare, it is inappropriate for the University's Medical Malpractice Fund to cover Dr. Kearney's clinical activities in any capacity. Of course, Dr. Kearney retains coverage for his clinical activities before his suspension and revocation of clinical privileges. The Fund will cover Dr. Kearney's clinical activities until December 1 to allow him to identify other sources of malpractice coverage, should he choose to continue such activities.
6. To the extent Dr. Kearney may wish to engage in any consulting or employment outside the University, Administrative Regulation § 3:9 applies. Like all tenured faculty members, Dr. Kearney must obtain prior approval from the Dean of the College before engaging in outside consulting or employment.
7. Because Dr. Kearney's status has materially changed, the University will continue to review every aspect of his employment, including his compensation.
8. The University expects Dr. Kearney to comply with the conditions set forth above. If he fails to do so, the University will take appropriate disciplinary actions.

In light of the above restrictions, we look forward to working with you to identify ways Dr. Kearney can be a productive member of the faculty.

If you have questions, please contact me.

WET/ljs

cc: Timothy Tracy, Provost  
Bill Swinford, Chief of Staff  
Fredrick C. DeBeer, Dean of the College of Medicine  
Robert Cofield, Chief Clinical Operations Officer  
Bernard Boulanger, Chief Medical Officer  
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