

Opinion

DUE PROCESS

First things first in peer review

The summary suspension of a physician's hospital privileges is a crisis response to patients put in peril. In California, where an important legal case is being played out on the issue, the standard set by law is one of "imminent danger" to patients.

So how does it figure that a summary suspension — the abrupt barring of a doctor from practice at a hospital — can be based on a list of allegations that rapidly grew to 37 items, some going back as far as 10 years and including charges with no direct connection to recent patient care? ("Suspended California physician's hearing put on hold" *AMNews*, June 18).

That question is at the heart of a friend-of-the-court brief by the California Medical Assn. and the AMA in connection with an appeal filed by ob-gyn Gil N. Mileikowsky, MD. He has gone to court to finally get a peer review hearing on his November 2000 summary suspension from Tenet HealthSystem's Encino-Tarzana Regional Medical Center. (Tenet has said it does not comment on pending litigation. In a recent court filing, Tenet and the other defendants strongly stand by the appropriateness of their actions in this matter.)

The CMA-AMA brief takes no sides on the underlying disputes of the case but strongly contends that a two-part process is required. Start with an expedited, limited-scope hearing — in this case there are charges

proximate to the time the doctor was suspended — on whether the drastic step of a summary suspension is warranted. Unless, at the expedited hearing, there is a finding of imminent danger, the physician could continue to practice until a full hearing is held on termination of staff privileges.

Peer review is a fact of life in medicine. In fact, the profession often takes pride that it can effectively police itself. But if not conducted fairly and in accordance with the law, peer review can wrongfully exclude physicians from medical staffs and deprive patients of access to care.

The CMA-AMA brief paints a broad context for physician concerns over the current state of peer review and why this case may set an important precedent. Over the years, largely due to hospital vulnerability to lawsuits, peer review has changed. It has gone from an informal system of review to one often driven by legal liability considerations. The result, says the brief, "is added pressure on hospitals to make conservative staff credentialing decisions," to bring in lawyers early and often, and to use the tactic of "piling on" charges to overwhelm a doctor's ability to dispute a disciplinary action.

Certainly, some doctors should be kept away from patients. But this remedy can come at a very high price. It breaks apart the patient-doctor relationship and may delay treatment (Dr. Mileikowsky is a fertility specialist with patients who presumably are already fighting the biological clock). Clearly, such a result also can destroy a doctor's reputation and livelihood.

Such high stakes demand high standards. Are 37 charges across over 10 years a sign of thoroughness or an intimidation tactic inconsistent with the abrupt nature of a summary suspension? The medical community awaits an answer from the California Court of Appeal. ♦