

**TESTIMONY BEFORE THE US SMALL BUSINESS ADMINISTRATION
REGULATORY FAIRNESS FORUM FOR SMALL BUSINESS
US/SBA District Office
330 North Brand Boulevard #1200
Glendale, California
June 14, 2007
9:30 a.m. - 12 noon**

**Testimony of Gil N. Mileikowsky, M.D.
Founder, www.AllianceForPatientSafety.org**

Death of a Physician's Private Practice

- 1. Economics of a Private Practice**
- 2. Factors that will determine success / failure of a private practice**
- 3. My practice from 1988 to 2000 – at one time, I made over \$500,000/year**
- 4. Killing the Messenger: That's how hospitals resolve their problems**
- 5. My practice from 2000 to present, is destroyed.**
- 6. Forensic Analysis of a Crime: "How to get rid of a 'disruptive' physician ?"**
- 7. The witch hunt for "disruptive" physicians is no different than Senator McCarthy's witch hunt for "Communists."**

As a consequence, some of the finest physicians can be found in the National Practitioner Data Bank (NPDB) together with the most negligent ones. How could any patient distinguish one from the other ? How can we have "consumer" driven medicine under such circumstances ?

- 8. We have the "spirit" of the law and the "letter" of the law.**

Government has to assure that the compliance of the law is consistent with the "spirit" and intent of the law

- 9. Why would anyone in his / her right mind want to practice medicine ?**
- 10. What's the remedy ? A "black box", an "FAA," an Aviation Safety Reporting System (ASRS) equivalent, HCQIA amendments, extension of whistleblower laws to all physicians, ...**
- 11. Conclusion.**

1. Economics of a Private Practice

a. Expenses - overhead

- i. Professional liability insurance coverage**
- ii. Office space, rent / lease**
- iii. Office Staff**
- iv. Marketing**
- v. Equipment / Furniture**
- vi. Misc. (state license fee, DEA fee, hospitals' clinical privileges fee, ...,**

b. Revenues – sources

- i. Government programs: Medicare, Medicaid, MediCal, ...**
- ii. HMO's**
- iii. Private insurance plans, PPO**
- iv. Fee For Service**
- v. Financial support from hospitals and or other organizations**

2. Factors that Determine Success or Failure of a Private Practice

Referral sources, "word of mouth"

- i. Hospitals**
- ii. Physicians**
- iii. Patients**
- iv. Medical Insurance Provider Directories**

**The reputation of a physician is all he / she has to build on,
and depends on it.**

3. My practice from 1988 to 2000

Once upon a time, I made over \$500,000/year gross income.

See www.baby4you.net



**DR. MILEIKOWSKY'S 100TH MIRACLE BABY CELEBRATION
OCTOBER 8, 1994 - LOS ANGELES ZOO**

4. Killing the Messenger: That's how hospitals resolve their problem

The story of Dr. Gil N. Mileikowsky, M.D.:

- **June 12, 2000, during a routine OB/GYN department meeting, at Encino-Tarzana Regional Medical Center (ETRMC), the topic on the agenda was "what criteria should trigger review of a medical record"? I suggested that any record of a patient who was readmitted within 30 days after a surgery should be reviewed for possible complications. The department turned down my proposal.**
- **June 13, 2000, I am shocked to learn that physicians who are significant income providers at ETRMC escape the scrutiny of peer-review.**
- **June 14, 2000, I report my findings to the IMQ, DHHS and JCAHO.**
- **June 19, 2000, I became a designated expert in a battery and medical malpractice case against ETRMC due to the removal of both fallopian tubes of a patient without her consent.**
- **June 23, 2000, the CEO of ETRMC required that I be escorted by his security guards while on the hospital premises.**
- **November 13, 2000, I provided the FBI, healthcare fraud division, sensitive information regarding the loss and mishandling of embryos, eggs and sperms in the in-vitro fertilization laboratory of ETRMC.**
- **November 16, 2000, my clinical privileges were summarily suspended, by ETRMC, without any good cause, for non-existent, alleged "imminent danger."**
- **For a more detailed and updated history, please see, "How to get rid of a disruptive physician," at: <http://www.allianceforpatientsafety.org/howto.php> .**

The Need for Reform: The Health Care Quality Improvement Act (HCQIA) seeks to “improve the quality of medical care” through “effective professional peer review.” Unfortunately, a large number of hospitals have learned to exploit the unqualified immunity provisions in the peer review process to punish physician whistleblowers who speak out against hospital practices that threaten the safety of patients and the quality of medical care at the institution. Victims of “sham” or “bad faith” peer review rarely gain access to any independent due process proceeding to challenge this unique form of retaliation, which in many cases results in the end of their career as a physician. Bad faith peer review against one physician can and does persuade hundreds of others to remain silent rather than advocate on behalf of their patients. When doctors are silenced, it is the American public, as medical patients, that suffers. Congress needs to extend whistleblower protections to all physicians so that when they speak out in defense of our right to excellent medical care, they are able to defend themselves.

5. My Private Practice from June 2000 to Present, is Destroyed

1. How it all Started:

"Once upon a time ... on a peaceful morning on June 12, 2000 ..."

2. Mileikowsky, M.D. v. Tenet HealthSystem (Mileikowsky-I)

CA Supreme Court Case # S133894

CA Court of Appeal Case # B159733, opinion filed 4/06/05

3. Mileikowsky, M.D. v. Tenet HealthSystem (Mileikowsky-II)

US Supreme Court Docket # 05-638

CA Supreme Court Case # S134269

CA Court of Appeal Case # B168705, opinion filed 4/18/05

4. All Amicus Briefs and Letters Filed in Support of Dr. Mileikowsky

a) Mileikowsky, M.D. v. Tenet HealthSystem - I

b) Mileikowsky, M.D. v. Tenet HealthSystem - II

c) Mileikowsky, M.D. v. Medical Board of California

5. Mileikowsky, M.D. v. Medical Board of California, 2004

6. Mileikowsky, M.D. v. Cedars-Sinai Medical Center, 2000

7. Mileikowsky, M.D. v. HCA, West Hills Hospital Medical Center, 2000 to present

All Amicus Briefs and Letters Filed in Support of Dr. Mileikowsky in Mileikowsky v. Tenet Healthsystem and Mileikowsky vs. Medical Board of California

- Amicus Brief in Support of Petition to United States Supreme Court authored by **Alan Dershowitz** - Docket Number 05-638 - filed 12/19/2005
- Notice of Lodging and Request to Take Judicial Notice of Six Amicus Curiae Briefs Filed in Support of Gil N. Mileikowsky - 06/06/2005
Supreme Court of California Case # S134269, Court of Appeal Case # B168705, opinion filed 04/18/05
- Amicus Brief and Application to File of the **American Medical Association and the California Medical Association** As Sent to the Court of Appeal of the Sate of California (Exhibit 1) - 05/15/2001
Court of Appeal Case # B150337
- Amicus Brief and Application to File of the **California Academy of Attorneys for Health Care Professionals** As Sent to the Court of Appeal of the Sate of California (Exhibit 2) - 05/17/2001
Court of Appeal Case # B150337
- Amicus Brief and Application to File of the **Union of American Physicians and Dentists** As Sent to the Court of Appeal of the Sate of California (Exhibit 3) - 05/21/2001
Court of Appeal Case # B150337
- Amicus Brief and Application to File of the **Union of American Physicians and Dentists** As Sent to the Court of Appeal of the Sate of California (Exhibit 4) - 12/11/2003
Court of Appeal Case # B168705
- Amicus Brief and Application to File of the **Consumer Attorneys of California** As Sent to the Court of Appeal of the Sate of California (Exhibit 5) - 07/13/2004
Court of Appeal Case # B168705
- Amicus Curiae Brief of the **Association of American Physicians and Surgeons** As Filed with the California Court of Appeals (Exhibit 6) - 01/05/2005
Court of Appeal Case # B168705
- Amicus Letter of the **Association of American Physicians and Surgeons** As Sent to the Supreme Court of the State of California - 07/12/2005
Supreme Court Case # S134269, Court of Appeal Case # B168705, opinion filed 04/18/05
- Amicus Letter of the **California Medical Association**, As Submitted to the Supreme Court of the State of California - 07/5/2005
Supreme Court Case # S134269, Court of Appeal Case # B168705, opinion filed 04/18/05
- Amicus Letter of C. William Hinnant, Jr., M.D., J.D., President, **Semmelweis Society** As Sent to the Supreme Court of the State of California - 06/21/2005
Supreme Court Case # S134269, Court of Appeal Case # B168705, opinion filed 04/18/05
- Amicus Letter of the **Association of American Physicians and Surgeons** As Sent to the Supreme Court of the State of California - 05/31/2005
Supreme Court Case # S133894, Court of Appeal Case # B159733, opinion filed 4/06/05
- Amicus Letter of the **Union of American Physicians and Dentists** As Sent to the Supreme Court of the State of California - 05/23/2005
Supreme Court Case # S134269, Court of Appeal Case # B168705, opinion filed 04/18/05
- Amicus Brief and Application for Leave to File of the **Association of American Physicians and Surgeons** As Filed with the Superior Court of the State of California for the County of Sacramento (Mileikowsky v. Medical Board of California) Case # 04CS00969 - 8/10/200



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December 20, 2005

FOR IMMEDIATE RELEASE:

DOCTORS & LAWYERS FORM 'DREAM TEAM' TO ASK SUPREME COURT TO PROTECT MEDICAL WHISTLEBLOWERS

Dershowitz Authors Brief for Review of Secret Hospital Abuse of Power

Washington, D.C. -- In an extraordinary collaboration of parties more likely to be adversaries in a courtroom, doctors and trial lawyers have teamed with famed attorney Alan Dershowitz to urge the Supreme Court to consider a case that would protect physician whistleblowers and expose secret hospital abuses of power.

The Association of American Physicians and Surgeons (AAPS) has been joined by the Association of Trial Lawyers in America (ATLA) in filing a "friend of the court" brief asking that the Supreme Court hear the case of Gil Mileikowsky, M.D. of California, who was ousted from a hospital after agreeing to testify on behalf of a patient against the facility, owned by industry giant Tenet Healthsystem. (See www.aapsonline.org/mileikowsky.)

Also adding to the "odd couple" element of the case is that the attorney who filed the original petition for review for Dr. Mileikowsky is Andrew Schlafly. *"I'm thrilled that Mr. Dershowitz is bringing his immense legal skills to shed some light on this abuse of power by hospitals,"* said **Mr. Schlafly**. *"I'm also glad that my fellow attorneys in ATLA are willing to expose these secret proceedings that rob patients of their most effective advocates through 'sham' peer review."*

Other parties joining AAPS in the amicus brief authored by Professor Alan M. Dershowitz, Amy Adelson and Nathan Z. Dershowitz are: the Union of American Physicians and Dentists (UAPD), the Semmelweis Society, the Consumer Attorneys of California (COAC), and the Government Accountability Project (GAP).

Mr. Dershowitz's office released the following statement: "...Physicians who are entrusted with the care of their patients can see their professional careers destroyed if they dare to challenge a hospital's practices. When a 'whistleblowing' physician is retaliated against, it threatens not only the physician's livelihood, but the care of all patients. This is a case, therefore, that affects every patient and potential patient in America."

"This case epitomizes why doctors are afraid to report medical errors and problems," said **Larry Huntoon, M.D., chairman of the AAPS Committee to Combat Sham Peer Review**. "To bury their own mistakes, hospitals label doctors as 'disruptive' and file trumped-up charges of wrongdoing. Then they count on the 'where there's smoke, there's fire' perception to make the doctor the scapegoat."

And it's usually the most vocal critics and patient advocates who are thrown on the fire. "[Dr. Mileikowsky] was an outspoken member of the staff and was disliked by some administrators for that reason, as he did not shirk his responsibility to publicize administrative shortcomings at the Hospital that undermined patient care," states the doctor's petition to the Supreme Court.

Writing in the brief filed late Monday, **Mr. Dershowitz et al.** point out that an accused felon would have more right to due process than do doctors: "Doctors, like the petitioner in this case, are required to defend themselves without counsel against charges that, as in this case, have been brought in retaliation for the doctor's support of a patient claiming inadequate care."

The brief explains the implications on patient safety:

The American public, as medical patients, will be the biggest loser if physicians are compelled to choose between their own livelihoods and speaking out when they witness dangerous or inadequate medical care. Few physicians will risk the dire consequences of a bad faith peer review to speak up on behalf of a single patient, and a critical prong in the checks and balances integral to a successful health care program will be silenced."

Concluded **Dr. Huntoon**: "The game is over for these hospitals and their secret star-chamber hearings. Standing up for patients should not mean the end of a career."

BACKGROUND/CASE SUMMARY:
Mileikowsky v. Tenet Healthsystem et al.
128 Cal. App. 4th 531 (2nd App. Dist. 2005)

In 2000, Dr. Mileikowsky agreed to testify as an expert witness in a case against Tenet after both fallopian tubes of a patient were removed without her consent. Four days later, Tenet retaliated by requiring that security escort the doctor while on the premises. Dr. Mileikowsky subsequently provided the FBI healthcare fraud division with evidence of the loss and mishandling of embryos, eggs and sperms in the in-vitro fertilization laboratory at Tenet's facility. Three days later Tenet summarily suspended him without cause, under allegations of "imminent danger." There had been no previous actions against him.

When Dr. Mileikowsky attempted to appeal his case to the hospital board, he was denied legal representation, and then was denied due process when the hearings were terminated by the hospital. He has yet been unable to get a hearing to reinstate his privileges to this date.

Dr. Mileikowsky sued Tenet, but lost when the California court assumed that the state could maintain its "opt out" status with respect to the 1986 Health Care Quality Improvement Act (HCQIA) which requires that a physician be represented by counsel. However, in 1989, Congress deleted the opt-out provision from the statute.

Additional information:

Text of amicus brief, Petition for Writ of Certiorari, news clips:
www.aapsonline.org/mileikowsky

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Physicians are abused by a "concert of action" between hospitals that want to get rid of particular physicians and the lawyers who represent hospitals for big fees. Quite often, prosecuting hospital attorneys also serve as hearing officers. Yet, hearing officers are supposed to be impartial, without bias, and without any conflict of interest since they are to assist and advise the medical peer review committee to evaluate the accused physician. Unfortunately, these attorneys trade-around hearing officer appointments so that hospitals will be assured, almost always, to prevail.

If hospital administrators and their attorneys can get rid of the accused physician without the involvement of any other physician on staff, they are all the happier. See attached, published opinion of Court of Appeal of California, dated June 8, 2007, in Mileikowsky v. HCA, Westhills Hospital, et al... (See Appendix #1)

It is estimated that about 10,000 physicians careers were destroyed since Congress passed the HCQIA, i.e. about 500 physicians per year.

This process reminds me of the movie, "The Godfather" when one of the characters says, "there is nothing personal here, its only business." The same boilerplate protocol is applied to destroy all physicians.

Prominent hospital law firms such as Harty and Springer teach hospital attorneys and administrators that a "**problem physician**" is, among others, a physician on staff at the hospital who also is a **competitor** of the hospital.

In similar seminars directed to medical leaders you can find that disruptive behavior by a physician can be **political**. (See Appendix #2)

They also teach in those classes:

- protection from whistleblowers
- how to develop and implement a financial conflict of interest policy
- how to provide financial incentives to physicians
- how to regain control of the hearing process
- composition of the hearing panel: who should be excluded ?
- can hearing rights be waived ?
- what is an impaired physician: odd behavior, personality change, ...
- who should serve on the Physician Health Committee to evaluate an "impaired physician"
- how to avoid reporting a physician to the National Practitioner Data Bank.

6. Forensic Analysis of a Crime: How to Get Rid of a "Disruptive" Physician

1. Failure to provide the physician a reappointment application

2. Changing the Bylaws of the Hospital

- Include measures against "disruptive" physicians.
- Waive due process rights.
- Sanctions for reporting hospital misconduct to outside agencies.

3. Make the Physician's Life as Miserable as Possible,

e.g. "escort" by hospital security guards

4. "Go for the Jugular" - Suspend summarily physician's clinical privileges under the false pretense of "imminent danger."

This triggers automatic reporting of physician to state medical boards, National Practitioner Data Bank, malpractice insurance carriers, medical insurance carriers,

The association of a summary suspension with the required "exhaustion of administrative remedies," protracted over many years, assures the demise of the physician's career, without any possible court's intervention. The hospital wins by attrition.

5. Use State Medical Board as a proxy to suspend physician's license

6. Character Assassination and use of deceptive language.

The physician is "**crazy**," a "**drug addict**," "**impaired**," "**incompetent**," suffers from "**organic brain disorder**" ...

The physician is accused of "**assault**"...

7. Expulsion from Medical Societies

8. Initiate frivolous lawsuits against the physician

e.g. SLAPP (Strategic Lawsuit against Public Policy)

9. Attempt to physically injure and intimidate the physician and family

For details see: <http://www.allianceforpatientsafety.org/howto.php>

7. The witch hunt for "disruptive" physicians

- **Taming the Disruptive Physician by Mark T. Kawa, Esq.** - as printed in an advertising supplement to *The Los Angeles Business Journal* - October 14, 2002, submitted to the Superior Court of California, Sacramento County in Mileikowsky v. Medical Board of California as part of the administrative record.
- **Taming the Disruptive Physician by Mark T. Kawa, Esq.** - as posted on Mr. Kawa's website as a "featured article" - March 14, 2003
- **Confessions of a Serial Killer** - Taming the Disruptive Physician by Mark T. Kawa, Esq. - with comments by Gil Mileikowsky, M.D.
- **Abuse of the "Disruptive Physician" Clause** - Lawrence Huntoon, M.D., Ph.D. - *Journal of American Physicians and Surgeons* Volume 9 Number 3
- **"Rules of fair play don't always apply."** from series *The Cost of Courage* Steve Twedt. *Pittsburgh Post Gazette* 10/27/2003
- **Horty Springer Audio Seminar** - A New Approach for Dealing with the Disruptive Practitioner
- **Horty Springer Audio Seminar** - Whistleblower or Disruptive Physician: How Do You Know the Difference?
- **The Witch Hunt for "Disruptive" Physicians**
- **The "Game" for the Disruptive Physician Can be Fatal**
Study in Oregon found out that 20% of physicians with licenses on suspension committed suicide, *JAMA* May 16, 1980, Volume 243, Number 19, 1915-1917
- **How to get rid of a "disruptive physician"**
- **Excerpt from Supreme Court of Nevada published opinion in Clark v. Columbia/HCA.** Decision holds that the immunity provision of HCQIA do not apply in this case. Dr. Clark's hospital privileges were previously revoked for "engaging in 'activities or professional conduct which are *disruptive* to Hospital operations." Quote from "facts" section of opinion.
- **Letter to Dr. Mileikowsky's attorney from Tenet Counsel, Mark T. Kawa, Esq.** - stating that since Dr. Mileikowsky is neither a patient nor an employee of Tenet's facility, he is not protected by any "whistleblower" law
- **Resolutions passed by various medical societies** - supporting extending "whistleblower" and "patient advocate" state and federal laws to all physicians in the country.

8. The "Spirit" vs. the "Letter" of the Law

It is ironic that in the country of free speech, the First Amendment does not exist in hospitals, which are embedded in the most chilling "code of silence."

Another paradox is that in a judicial system that promotes due process, de facto, the 14th Amendment does not apply in hospital administrative proceedings.

In other words, a **physician is** nothing but a **second class citizen**.

Fear permeates the whole system.

Yet, HCQIA and Medicare accreditation require that hospitals perform "peer review." That's the law.

Now let's see: **1. who controls "peer review" ?**

2. is the expectation of the law reasonable?

Q.: Can physicians on staff of a hospital review their peers at that same facility ?

A.: No. The "old boys network" will protect their turf against other physician competitors on staff. See "Doctors Who Hurt Doctors", "Peer Review or Competitive Hatchet Job" by William Parmley, (Appendix #3)

Q.: Can hospital administrators, governing boards and their attorneys conduct reliable peer review?

A: No, because:

There is no business case for a higher quality of delivery of care as Dennis O'Leary, President of JCAHO states. (See www.allianceforpatientsafety.org/oleary.pdf)

Professor Lucian Leape from Harvard observes that unlike other industries, there is no warranty in health care. He states, "Perversely, ... health care professionals receive a premium for a defective product; physicians and hospitals can bill for the additional services that are needed when patients are injured by their mistakes." (JAMA May 18, 2005, Appendix #4)

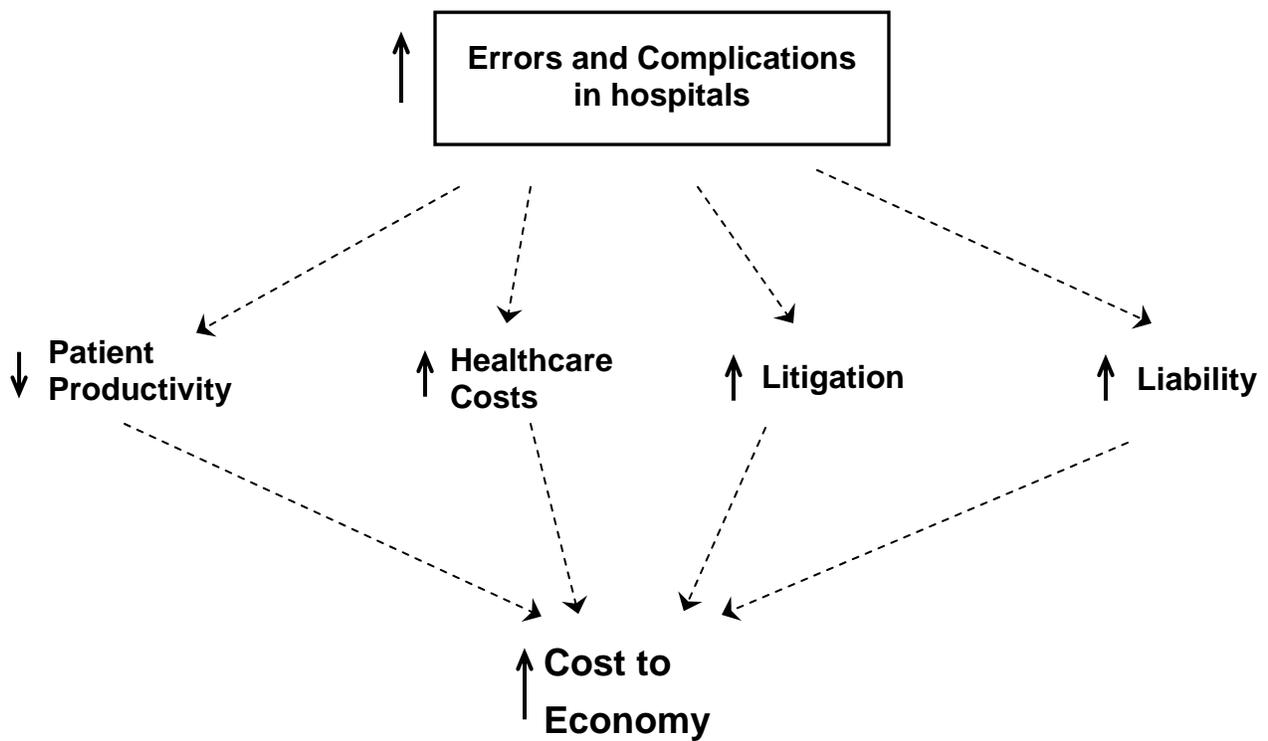
83% of heart procedures at Redding Medical Center were unwarranted. Also, 59% of the bypasses at neighboring Doctors Medical Center in Modesto were unnecessary as well. According to three independent, "double blinded" experts, overall 73% of patients evaluated did not need surgery. (TheStreet.com, 11/4/2003, Appendix, #5)



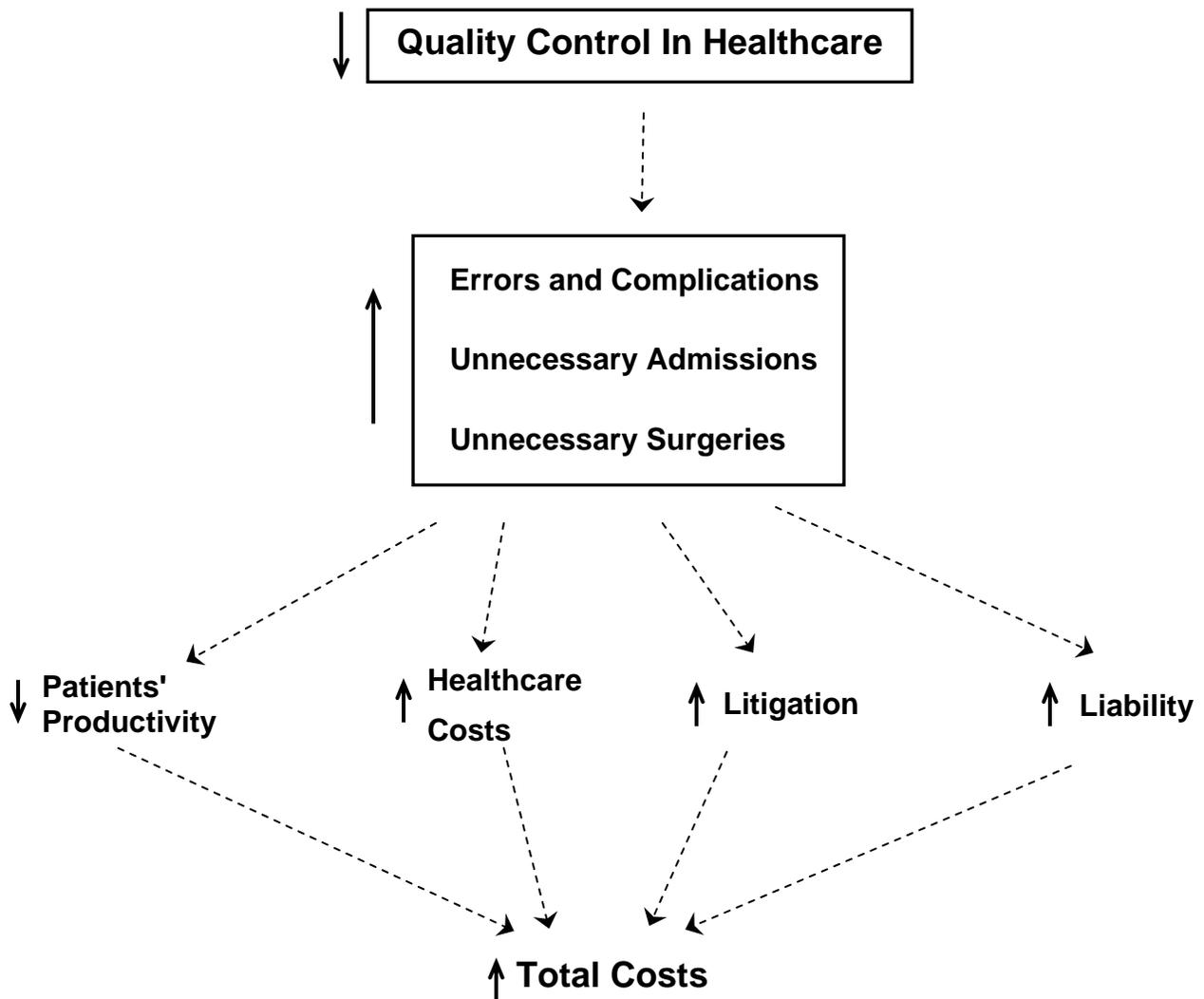
"We've upgraded your condition from 'critical' to 'costly'."

H.L. Schwadron for Barron's

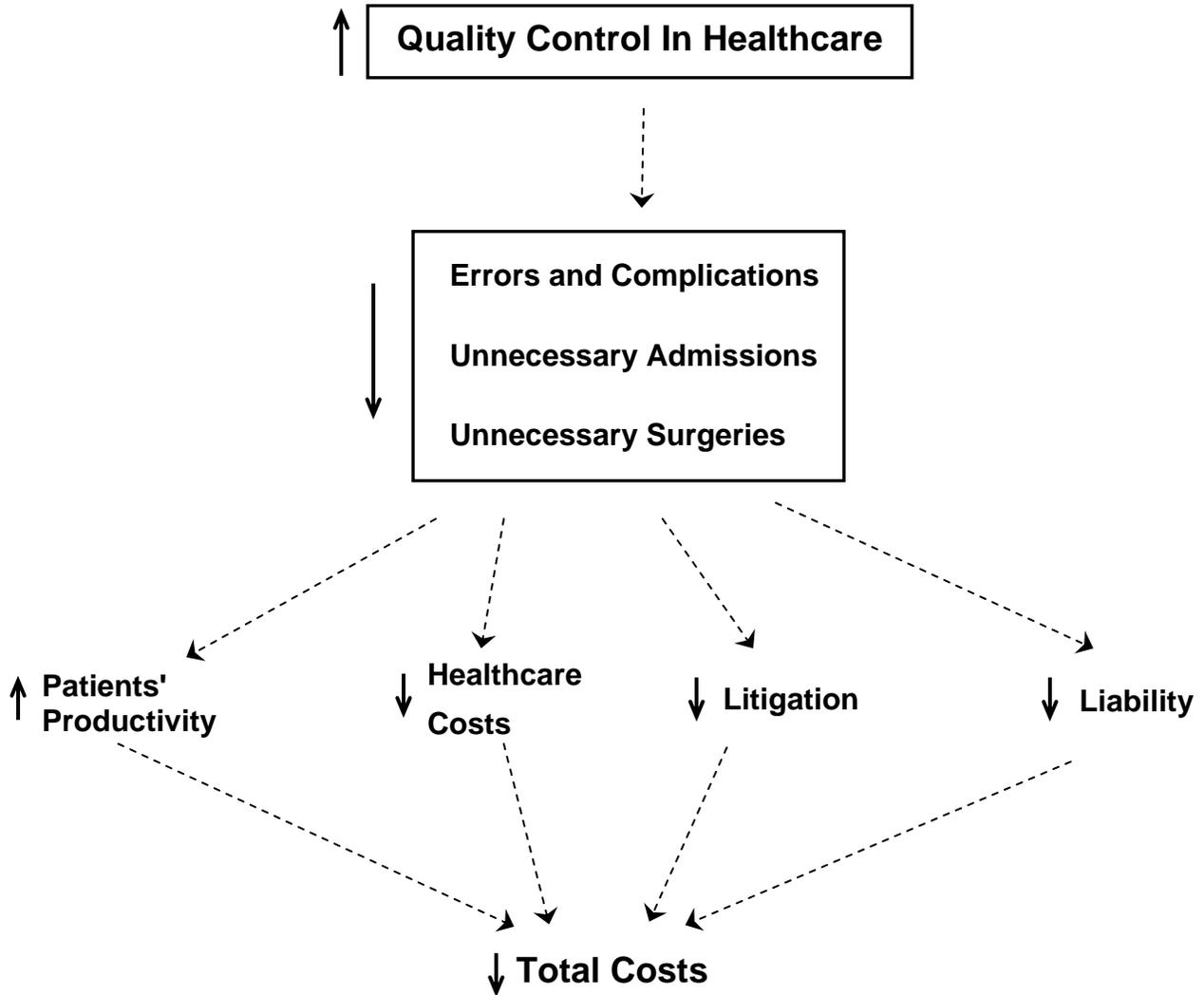
The Economic Impact of the Lack of Patient Safety



No Peer Review or Sham Peer Review



Legitimate Peer Review



9. Why would anyone in his / her right mind want to practice medicine ?

The fact is that many physicians retire prematurely, i.e. they "throw in the towel." On top of it, the number of applications to medical schools are falling and requirements for admission are dropping even faster.

I would not be here today, if I did not firmly believe that the "house of medicine" has the ability to perform far better. What we have is a **21st Century medical technology** with many dedicated and superb physicians entangled in a **Middle Age environment**.

Professor Brody, President of Johns Hopkins, proved that it is possible to reduce certain errors and complications down to **zero** at his university. Thus confirming that, "Where there is a will, there is a way."

We need to release the "house of medicine" from this organized sabotage.

10. What's the Remedy?

A hospital that runs a kangaroo court should not be able to benefit from its own wrongdoing. Such "peer review" should not enjoy immunity from any damages action.

Each and every **false** National Practitioner Data Bank (NPDB) report should be rejected by the NPDB. Bad faith peer review should:

1. not be privileged,
2. be enjoin-able in equity in state or federal court,
3. give rise to a damages action including attorneys' fees.

There needs to be checks and balances; we have neither. The process must be fair, reasonable, afford due process of law and implement adequate legal remedies for those who are injured by wrongdoing, including attorneys' fees for intentionally or negligently injured or wronged physicians.

I suggest a simple and direct way to solve this abusive conduct:

1. **The Health Care Quality Improvement Act**, 42 U.S.C. Section 11112(b)(3) provides the loophole hospitals and their lawyers slime their way through:

"A professional review body's failure to meet the conditions described in this subsection shall **not**, in itself, constitute failure to meet the standards of subsection (a)(3) of this section."

All we need to do is amend this section to read :

"A professional review body's failure to meet the conditions described in this subsection **shall, in itself**, constitute failure to meet the standards of subsection (a)(3) of this section."

Accordingly all we need is to take out the word, "**not.**"

2. We need to extend existing state and Federal whistleblower laws to all physicians

See letter to Congressman Ron Paul from Washington Whistleblower Week Coalition (WWW) (See Appendix #6) including a legal analysis entitled: "How to Protect Physician Whistleblower – Patient Advocates – From Retaliation To Benefit Patients"

What's the Best Solution ? : a) A Single payor system ? or

b) A Consumer driven healthcare ?

We have in the United States three healthcare systems.

1. A single payor: for anyone over 65 and all government facilities
2. A socialist system: HMOs, Kaiser, ...
3. A capitalist system: private insurance, fee for service

Let's look at the Rand Corporation's study to tell us which sector performs best?

"All adults in the United States are at risk for receiving poor health care, no matter where they live; why, where, and from whom they seek care; or what their race, gender, or financial status is." (The First National Report Card on Quality of Health Care in America, 2006, Appendix #7)

In other words, whichever health care system you chose, you are guaranteed full compliance with the federal anti-discrimination laws.

In Canada, where there is a single payor system, the third leading cause of death is errors and complications.

3. Let's look for an American solution. **Why is it so safe to fly in the US?**

Because safety in airline transportation depends on a "black box" and an "FAA." There is no "single payor" system, nor any "free market" competitive forces to assure passengers' safety.

The risk of an accident is the same whether you fly a low-cost carrier such as Southwest Airlines or a higher cost carrier such as American Airlines.

In the healthcare industry we have **no black box** (i.e. peer review) and **no FAA**.

Similarly to the FAA and FDA, which are not exclusively funded by the government, I believe that such a "black box" (see Appendix #8) could be funded jointly by multiple interested parties who would benefit from the black box:

1. professional liability insurance companies
2. medical insurance companies
3. Medicare
4. HMOs
5. all hospitals
6. all healthcare providers: physicians, pharmacists, nurses, ...
7. healthcare device manufacturers
8. charitable foundations such as Steve Case's Revolution Health Group

All hospitals and healthcare providers need to participate in order to get a license.

I believe that Alliance for Healthcare Research and Quality (AHRQ) could be the nucleus for an FAA equivalent in the healthcare industry and NASA's Aviation Safety Reporting System could provide a model for a patient safety reporting system, where anonymous information could be reviewed regarding errors and complications in the health care industry.

As we all know, "When there is no cat, the mice dance."

In other words, **we need cats, so that the mice won't dance anymore.**

11. Conclusion.

The question we need to ask ourselves is what odds do we wish to have the next time anyone of us will be admitted to a hospital ?

At the present time going to a hospital is a little like going to a casino. What are your odds of winning in a casino?

No wonder patients **fear** a visit to the doctor or hospital

At his inaugural address on January 20, 1961, John F. Kennedy said:

"My fellow Americans: ask not what your country can do for you – ask what you can do for your country."

Mr. Owens you asked me: " **What can the government do ?** "

Well the government has three (3) branches: the Executive, the Legislative, and the Judiciary.

The government appears, at best, disoriented, and at worst, controlled and manipulated by multiple interest groups who benefit from this turmoil.

We are living in a daily "**healthcare holocaust**". Over 6 million patients died in our country over the last 30 years from "errors and complications," not their disease. What is the government going to do to stop it ? What are we going to do ?

The "status quo" is not an option. This healthcare system suffers from a most advanced metastatic cancer and requires a radical surgery, followed by chemotherapy and radiotherapy. I agree with Dennis O'Leary, M.D. who said, "There are some who believe that this whole system has to be blown up and start over again. I happen to be one of those advocates."

(See www.allianceforpatientsafety.org/oleary.pdf)

The situation is so dramatic that cynics claim that the *uninsured* are actually lucky, because they are less likely of falling victim to errors and complications.

Irish philosopher and statesman Edmund Burke once said:

"All that is necessary for the triumph of evil is for good men to do nothing ."

Appendix: list of documents attached

1. Published Court of Appeal Opinion, dated June 8, 2007
in Mileikowsky v. HCA, West Hills Hospital Medical Center, et al...
2. Excerpts from Harty and Springer's courses, website, educational material, ...
3. – "Doctors Who Hurt Doctors", by Jeff Chu, *Time* magazine, 8/15/2005
– "Clinical Peer Review or Competitive Hatchet Job.", by W. Parmley, M.D.,
Journal of the American College of Cardiology Vol. 36. No. 7, 2007
4. "Five Years After to Err Is Human, What Have We Learned" by L. Leape, M.D.
JAMA, May 18, 2005.
5. "Tenet Tangles with California Blue Cross" by Melissa Davis
The Street.com, 11/4/2003
6. Letter to Congressman Ron Paul, M.D., May 16, 2007 from
Washington Whistleblower Week Coalition (WWW)
7. "How To Protect Physician Whistleblower – Patient Advocates – From
Retaliation To Benefit Patients" by Gil Mileikowsky, M.D. and B. Lee, Esq.
8. RAND Corporation Study –
The First National Report Card on Quality of Health Care in America, 2006
9. "In Search of the Black Box
for a Reliable and Cost Effective Quality Control of Care"
by Gil Mileikowsky, M.D.