



Alliance for Patient Safety

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

Edmund Burke

SECOND REQUEST - URGENT CONFERENCE CALL REQUEST

Subject: OPPOSITION to AB 655

Sent by E-mail and Fax to: [916-319.33.06](tel:916-319-3306), on July 20, 2011.

ATTENTION: Ross Warren, Chief Consultant, CA Assembly B & P Committee.

Dear Mr. Warren,

Thank you very much for taking my call this afternoon.

Kindly, provide a copy of this letter to Assemblymember Hayashi, forthwith, and incorporate this letter in the official legislative history of AB 655.

The following will memorize our brief conversation.

You advised me that our opposition to AB 655 was duly noted and that any future correspondence would be recorded. Would you please provide us the link to that record.

I asked you if you had the opportunity to review the correspondence Dr Weinmann and myself addressed to your office, but you did not respond.

I asked you to direct your attention to my letter, dated July 13, 2011, to share with you the analysis of Harvey Frey MD PhD JD and the proposed amendment of Jeffrey White Esq, Senior Amicus Counsel of the American Association for Justice, the umbrella organization of the Consumer Attorneys Of California ?

Unfortunately, you did not want to discuss the merits of these comments and proposal.

I asked you for your understanding of section (e) of AB 655 and you refused to discuss it with me.

You stated that you have been working on this bill for 3 years with CMA because of your desire to protect the consumer from bad physicians hoping from one hospital to the next.

In response, I pointed out to you that Bell does it,... but you rudely interrupted me and did not want to listen to me.

Are you aware of the fact that *Bell v. Sharp Cabrillo Hosp.*(1989) 212 Cal.App.3d 1034 is the original law that protects the CA consumers ?

In that published opinion, the court of appeal went on to hold that the hospital was under a duty to seek out the peer review information from a hospital that had withdrawn the doctor's privileges.

Indeed, the court upheld a medical malpractice verdict against the hospital based on the hospital's negligent failure to do so.

Furthermore, in *Webman v. Little Co. of Mary Hospital (1995)* 39 Cal.App.4th 592, the court clearly stated the following:

“In order for LCMH to fulfill *its legal duty to its patients*, it was obliged to investigate any disclosures made in an application for reappointment, or uncovered in the ensuing review process, which raised questions about a professional staff member's quality of care at another hospital.” (emphasis added).

You also stated that you were comfortable with the peer review system in California, sic.

I was shocked by such an outlandish statement.

As you would not let me respond, I couldn't ask you if you were aware of the fact that the CA Senate Business & Professions Committee actually questioned the integrity and validity of the medical peer review system in CA, see:

"Is Physician Peer Review a Broken System?"

Hearing of California Senate Business, Professions and Economic Development Committee, Sacramento, CA, 3/9/2009

<http://allianceforpatientsafety.org/ca-senate.php>

You then proceeded to tell me that you intend to pursue this bill and have no desire, nor any intention to entertain any amendment.

When I asked you once again to explain to me how does section (e) protect the consumer, you refused to discuss it with me.

You stated once again that you were very confident that AB 655 protects the consumer and benefits from the support of CMA that represents all physicians in CA, sic.

When I told you that all CMA members do not support AB 655 and I asked you to familiarize yourself with CMA's President concerns regarding AB 655, as documented in the letter I submitted to you, dated June 12, 2011, you interrupted me and told me that AB 655 has the support of CMA from the bottom all the way to the President.

Nevertheless, you acknowledged that I am a CMA member and that not all CMA members support AB 655.

You then abruptly advised me that it was the end of our conversation and that you did not wish me to call your office again. In response, I advised you that it was only the beginning of our conversation and you hang up !

Basically, your position can be best summarized as follows:

" Please do not confuse me with the facts, as I have already made up my mind."

Needless to say that I was shocked by your attitude, due to your stubborn refusal to entertain any question, however legitimate it may be. You did not even pretend to listen to me !

I am very sorry that you had such a hostile conduct, as you did not even hesitate to willfully and knowingly ignore the significant issues raised by multiple prominent CA physicians.

I find your behavior bizarre, to say the least.

I am sorry to inform you that AB 655 section (e) facilitates and promotes the " Code of Silence " which is the reason FEAR permeates through the whole " House of Medicine ".

That does not enhance the CA Consumer's interests, let alone our Patients' Safety, see:

Many docs have kept quiet on errors, incompetence: study from Modern Physician Online, December 3, 2007

The survey of primary-care and specialty physicians found that:

- 45% weren't always reporting impaired or incompetent colleagues in their practices, and
- 46% of physicians who knew of a serious medical error were not reporting the error " at least once" to authorities.

<http://allianceforpatientsafety.org/modernphys.pdf>

The fact that insurance companies are purchasing physicians' groups should be of great concern to the consumers, as their best economical interests run in the opposite direction of the best interests of our patients, see:

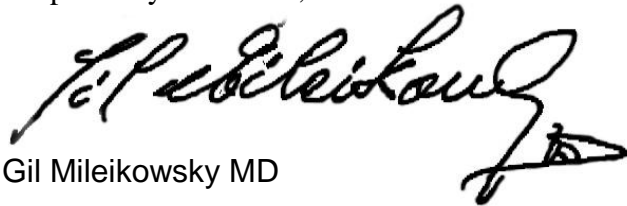
"Managed care enters the exam room as insurers buy doctors groups"

By Christopher Weaver, July 1, 2011.

http://www.washingtonpost.com/insurers-quietly-gaining-control-of-doctors-covered-by-companies-plans/2011/06/29/AG5DNftH_print.html

I sincerely hope that after you consult with Assemblymember Hayashi, you will reconsider your posture regarding AB 655, so that we can entertain a civilized and professional conversation regarding the most significant shortcomings and dangers of AB 655, in order to remedy these issues to the best interests of our Patients' Safety.

Respectfully submitted,



Gil Mileikowsky MD

- President and Founder,
- Alliance For Patient Safety, AFPS, <http://allianceforpatientsafety.org/>
- <http://allianceforpatientsafety.org/socalphysgm.pdf>
- <http://allianceforpatientsafety.org/blackbox.pdf>

