

## Full Disclosure in Physician Discipline Process - At What Cost?

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**M**uch has been written in the last two weeks about a case involving a Long Island physician who is alleged to have transmitted the Hepatitis C virus to a patient through cross-contamination of a hypodermic syringe. Ever since, the calls for reform of the NYS Physician Discipline System have been deafening.

This hailstorm of media and public outrage, while understandable, is perhaps the worst environment in which to implement meaningful reforms of the Office of Professional Medical Conduct (OPMC), which investigates and prosecutes physicians and physicians' assistants for professional misconduct. While public hearings and investigations seem inevitable, legislators are urged to use caution to avoid having the pendulum swing too far in the other direction.

Many critics have called for total transparency as it relates to patient complaints made to OPMC. This should not be the case. In 2006 and 2007, OPMC received more than 16,000 complaints about physicians. Of those, just 500 (or 3%) resulted in formal action. In fact, many complaints are made by disgruntled or ill-informed patients, medical malpractice attorneys seeking a strategic advantage, insurance investigators and various other sources, whose claims are frequently found to be without merit. Publishing every allegation against doctors would subject them to unfair scrutiny by the insurance

companies that credential them, the hospitals at which they have privileges and other credentialing bodies. It could also cause patients to change physicians because they do not differentiate between an unfounded allegation and a legitimate one.

In point of fact, investigators and prosecutors at OPMC are hardworking, diligent professionals. Any physician that has gone through the angst of an investigation would scoff at the idea that the OPMC automatically sides with physicians and fails to give proper scrutiny to allegations. Currently, a physician must defend against all complaints, regardless how far back they go. This clearly puts physicians at a tremendous disadvantage, giving them less protection than common criminals who enjoy the protections of statutory time limits. Putting tighter time constraints on physician investigations is an idea whose time has come.

New York State clearly has an interest, and an obligation, to protect patients from bad doctors. But aren't physicians entitled to a level playing field and fair treatment when they are the subject of professional misconduct complaints? While reform may be necessary, it should be done when cooler heads prevail. We should approach the issue in a comprehensive way, seeking not only to protect patients, but also to insure that physicians do not become scapegoats and careers are not needlessly destroyed. ☞

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