

Date: 08/21/2002

Attention: Senator Lieberman

Fax: 202-224-9750

Michelle Mc Murry, M.D., Ph.D.

Dear Ms. McMurry,

It was a pleasure speaking with you. Following please find the documents I provided the California Medical Board on 02/08/2002 as well as my letter dated 03/21/2002 entitled the "Rape of the Medical Peer Review Process by TENET Health System".

- 1) There is NO oversight Federal Agency Monitoring and Regulating Hospitals in the US. The JCAHO is a fraud and deception at the taxpayers' expense!
- 2) There is NO Federal Statute to protect physicians who report deficiencies, complications...to the DHS, IMQ, JCAHO...i.e. only physicians who are employees of hospitals, HMO, Managed Care Organizations...are protected as "whistleblowers".
- 3) The word "immunity" needs to be removed from the HCQIA passed by the Congress. It's because of that alleged immunity that hospitals all over the country ignore their responsibilities to our patients. See the Ken Clark's case in Nevada and Medical Economics Article.

Feel free to call me anytime I can provide you with the names of many physicians in the country.

Respectfully yours,

Dr. Gil Mileikowsky, M.D.

Date: 08/27/2002

Attention: Senator Lieberman

Fax: 202-224-9750

Michelle Mc Murry, M.D., Ph.D.

Dear Ms. McMurry,

It was a pleasure speaking with you yesterday morning. As we discussed, we agreed that our medical organizations are most conservative and shy away from any controversy.

Thus, in order for the American Medical Association and California Medical Association to get involved in a litigation on behalf of one of the parties it must be approved by the highest levels of the authoritative Committees who must determine that this particular issue is of the outmost importance for ALL members of the AMA, CMA.

Following, please find copy of the Amicus brief filed jointly by the AMA and CMA in support of my Writ in the Court of Appeal. It is not a one-page document asking the Court to please consider my appeal simply out of sympathy. It is a 40+ pages document dissecting every single Federal and State Law violated by the TENET Hospital.

In order for the AMA and the CMA to get involved, they need to be outraged by this and other hospitals' conduct and seek a published decision of the Court of Appeal in order to change the conduct of these greedy and irresponsible corporations who believe that they are the Law!

There is no difference in the attitude of the management of TENET, HCA...and the conduct of the former management of ENRON, TYCO, WORLDCOM...The only difference here is that in addition to greed, the damages are not just limited to billions of dollars but also many lives lost or damaged.

I called it the "Silent Killer" because nobody knows about it.

I also refer to it as our "Domestic Terrorism", far more devastating than the International Terrorism.

I am writing to you because you suggested transferring these documents and matter to the Committees in Congress that deal with Medicare fraud. This is just too big for any single committee to deal with and requires the input of leaders who are versed not only in billing but also in Law, Economics and Medicine.

The abuses of the Hospital Corporations in billing Fraud have a long History with NME (same management as TENET) settling their criminal charges with the Justice Department over 1 billion dollars. HCA's management paid dearly with arrests of their highest-ranking officers as a consequence of Medicare billing Fraud.

Did hospitals' managers stop?

Hell no. TENET just settled for over 55 million dollars allegations of Medicare fraud, see LA Times article Re: Tenet's Brotman Medical Center.

What I submit to you, Senator Lieberman and Congress is unfortunately far more devastating. Can you imagine for a second what would happen if the FAA learned that a commercial plane is flying in the skies of the US without a Black Box?

If that were the case, all the planes of that airline would be grounded that same day and immediately inspected to verify if their "Black Box" was removed.

How come hospitals can "fly" without black boxes?

The answer is very simple; there is no equivalent to the FAA in the Healthcare Industry. It is a very well known human conduct, "when cats are gone, the mice dance".

The cats were removed from the Healthcare Industry the day Congress inserted the word "Immunity" into the Healthcare Quality Improvement Act, on or about 1985. What an "Improvement"!

See the article of David W. Townend, JD In Medical Economics 02/07/2000, I previously provided you with.

Our country believes in the natural Market Forces and Self-Regulation. That can only work if all "forces" have an equal chance in the market. We just saw the great success story of how the stock market "self regulated" with the SPIC!

The SPIC, for the little I know, is equivalent to our JCAHO (Joint Commission on Accreditation of Hospital Organizations). Brokerage firms like Merrill Lynch fund the SPIC...

The JCAHO, much to my surprise, is a "non-profit organization" funded by the hospitals at the TAXPAYERS expense since they deduct their contributions from their Gross Income! Since the three largest chains of hospitals own over 80% of the Healthcare facilities in the US, they control the JCAHO.

Talking about the fox watching over the chickens.

I understand that 50 years ago there were 10,000 different hospitals in the US and no immunity so the JCAHO had some power. That's water under the bridge today.

Talking about "Free Market Forces", we now know how ENRON, DINERGY and other Energy traders manipulated those "forces" in order to artificially create Energy "crisis" in California. Thank God that Governor Davis helped survive it. But, California could not handle this problem alone. It required Federal government and Congress' intervention to take over these bulls by their horns.

It's no different with the Healthcare Industry.

No single State can control such dinosaurs.

Senator Lieberman is very familiar with such animals because he fought them when he was Attorney General of the State of Connecticut as the Oil companies like EXXON manipulated the prices and took advantage of the "Oil Embargo" crisis.

That's why I believe that Senator Lieberman has the brain and muscles needed to resolve this devastating crisis in the Healthcare Industry.

Just a few months ago, the nurses' union of a TENET facility organized a four days "Walk out" at the Queen of Angels Hollywood Presbyterian Medical Center because the hospital had only one nurse for 30 patients! How can 1 nurse watch 30 patients simultaneously? No wonder patients die.

That ratio of nurses' per patient is an outstanding violation of the existing Rules and Regulations State and Federal! Where is the JCAHO? Where is the DHS, Department of Health Services?

The Federal DHS does not intervene, not even in the State's DHS. The responsibility falls on LA County's DHS. As you may know local County DHS' offices budgets depend on the County, not on the State or Federal government and their own budgets are anemic assuming their bureaucrats even care. Obviously not, otherwise why did the nurses need to strike and walk out?

Since the California Medical Board transferred my file to the DHS of LA County for their intervention, their first move was to "pass the buck" to the IMQ on Wilshire. There is NO IMQ on Wilshire!

Dr. Weinstein who is the only physician in the DHS of LA County and responsible for oversight on Peer Review Matters and Hospitals' Quality of Care boldly told me that the IMQ stops his initiatives i.e. it has authority over him. The next day Mrs. Hanson General Counsel of CMA laughed when I told her what Dr. Weinstein told me.

You see, the IMQ is the "Institute of Medical Quality". It's based in San Francisco and has no other office let alone in LA allegedly on Wilshire! The IMQ is a subsidiary of the CMA. As I contacted the IMQ they referred me to the JCAHO.

But, guess what? In California, the task of reviewing Medical Staff matters falls on the IMQ as a joint "survey" with the DHS and JCAHO! So, naturally the JCAHO referred me back to the IMQ since they are supposed to evaluate the hospitals' medical staff matters for the JCAHO.

Kafka would be delighted to hear this.

There is better, the same way Arthur Andersen advised its clients and did their audits, the attorneys of TENET and other hospitals' administrators also represent the Medical Staffs simultaneously! That reminds me of the Wolf and the little Red Riding Hood.

Last week, the attorney of an internist shared with me the following horror story.

Our colleague discovered that the nurses of a most reputable hospital overdose some patients with morphine and proved it. The records were altered and he proved it as well.

The privileges of our colleague were summarily suspended. The Hearing Committee voted 7-0 in favor of our colleague.

The Board of Trustees of the hospital sent that decision back to that Committee because it could not believe that the vote was unanimous and they will do everything possible to prevent him from "exhausting his administrative remedies" so that he cannot go to the Court and expose the hospital. So far, this is the "routine".

Since the attorney of our colleague knows the attorney that heads the California's Attorney General's Office Division prosecuting billing fraud, he approached him in hope that he would intervene under the billing fraud angle but, he cannot because the hospital actually saved the government money!

I don't know if Kafka could have ever conceived such a brilliant loophole. Killing a patient saves us money!

Now you understand why I am most reluctant to submit this letter to a Committee dealing mostly with billing fraud. The FRAUD and the DECEPTION goes far beyond billing. I sent you the one page editorial of William W. Parmley, M.D., MACC Editor in Chief of the Journal of the American College of Cardiology entitled: "Clinical Peer Review or Competitive Hatchet Job". I believe that you should call him and possibly invite him to testify in Congress because he has tremendous exposure to these issues and suggestions on how to fix some of the problems.

The "brain" behind these superbly orchestrated character assassinations and destruction of the distinguished careers of skilled physicians around the country is the Law Firm of Horthy, Springer and Mattern from Pittsburgh, Pennsylvania.

Dr. Edward Dench, M.D. the upcoming President of the Pennsylvania Medical Association can tell you a lot about the subject. His telephone is: (814) 883-7001 and he is willing to share his knowledge with you.

It is Dr. Dench who told me that whenever any physician in the country calls the JCAHO or the DHS to inform them of a problem in a hospital, all they do is call the hospital and provide them with that information. That's exactly what Dr. Weinstein, from LA County' DHS, offered me to do. He asked me: "Do you want me to call the hospital?"

The hospitals' "problem solving methodology" is very simple. Get rid of the physician, not the problem!

Ask Dr. Sharon Siegel, M.D. from Northern California. She reported problems to her hospital, CHW West Bay and expected the JCAHO to find her comments in her credentials file during their "survey". Instead, her contract was terminated. The California Medical Association filed an Amicus Brief in support of her appeal on 06/11/2002. Following please find the 1st page of that document.

It may become the first legal test for the recent Law in California protecting whistleblowers that are "independent" contractors.

Sharon Siegel, M.D. authorized me to provide you with her telephone: (408) 354-8897, following please find her business card. Her saga started in 1977. She is so angry that she studied Law. What a destiny for a Cardio Vascular Surgeon!

Ken Clark, M.D. was advised by an HCA hospital in Reno, Nevada, that he was not welcomed to stay on staff due to the fact that he reported them to the JCAHO. His privileges were terminated (See published decision of Supreme Court in Nevada) after his hearing.

In my case, my privileges were summarily suspended on 11/16/2000 without any explanation for Non-existent alleged Imminent Danger. I had NO patient at the hospital nor, is there any complaint from any patient regarding my Medical Care nor, do I have any pending medical malpractice case against me!

False 805 reports and false National Data Bank Reports need to be considered under the Law the same way as a false Police Report. It is a criminal act. Otherwise, we will continue to see an avalanche of false reports that will further damage the quality of the delivery of our Medical Care.

Dr. Parmley concluded his editorial by stating that: "One thing is certain, this problem will not go away and it is likely to get worse". The quality of the delivery of the Medical Care in our country is sinking like the Titanic but, it is NOT due to external reasons: it is due to its captain and officers.

On 07/25/2002, TENET said that it would repurchase as many as 20 million shares of its common stock, which would cost 885 million dollars. Can you think of any better way for TENET to spend their money?

In summary "Life is beautiful" as in the movie of Roberto Benigni about the Holocaust. I am like the kid, waiting for the American tank to show up.

Dear Dr. Mc Murry, I apologize for my lengthy letter and am most appreciative for the time you will dedicate to these most tragic matters. I believe that with your multiple degrees as M.D. and Ph.D. in Public Health Policy and assisted by the staff of Senator Lieberman, you will be able to get this message across so that the governmental Affair Committee and other Committees of the Senate and House will seize the opportunity and cure us from cancer.

This cannot be a partisan debate. It requires both parties to reflect on these issues and act accordingly. I understand that Senator Fred Thompson is the Co-Chairman of the Governmental Affairs Committee. Senator Thompson is a Republican with a distinguished career who has the best interests of our country in mind and initiated the Political Financial Campaign Reform a long time ago.

I trust that Senator Lieberman and Thompson will be able to join forces and create the platform of the future FAA of the Healthcare Industry as well as push ahead the necessary reforms and changes in the Federal Laws that will allow an equilibrium between the "Forces of the Market" thus, achieving an increased quality of the delivery of the Medical Care in the most effective fashion. We have superb medicine available.

I am available to you 24 hours and will be ready to assist you in any way I can,

Respectfully yours,

Dr. Gil Mileikowsky, M.D.

Organizations “supposed” to monitor Hospital’s Quality of Delivery of Care

JCAHO: Joint Commission of Accreditation of Healthcare Organizations. “Non profit financed by hospitals”.

DHS: Department of Health Services. Bureaucrats headed by politicians, no brain. Federal, each State has a DHS (no money), County.

MEDICAL BOARD OF CALIFORNIA: one in every State.
Supposed to protect the consumer, yet, has only enforced powers over physicians, not hospitals.

IMQ (in California): **Institute of Medical Quality Assurance.** It is a part of CMA. Yet, the hospitals need to ask and pay for it. IMQ is part of the JCAHO survey of hospitals every three years.

MICRA: Law only passed in California assuring that patients benefit the most out of medical negligence lawsuits’ awards. The attorney’s fees (contingency=%) depend on the size of the award i.e. the higher the sum of money, the lower the % the attorney gets. Trial attorneys prevented Congress and any other State from passing such a Law thus Malpractice Insurance Premiums rose exponentially all over the country except in California. Some (many) physicians left some States because they could not afford to pay such exorbitant amounts of money.

HCQIA: Health Care Quality Improvement Act. It is a body of Laws passed in Congress in 1985 or 1986, regulating the Hospitals/Healthcare Industry.

AMA: American Medical Association.

CMA: California Medical Association.

UAPD: Union of American Physicians and Dentists.

NME: National Medical Enterprise. It was a chain of hospitals that settled billing Fraud “criminal” charges for over 1 billion dollars about 10 years ago with the Federal Justice Department. After settlement was done, they merged with another hospital chain AMI (American Medical International) and became TENET (same crooked individuals management as NME).