

## New twist on hospital staff reappointment: No due process

**R**egarding "Federal court lets Texas peer review ruling stand" (*AMNews*, May 22): This short piece by *AMNews* does not fully explain this important issue.

A doctor in the United States receives a medical staff reappointment notice annually from each hospital where he or she has privileges to practice. After cutting a check for the several-hundred-dollar fee and signing a page or two, the doctor is usually free to continue practicing there if no new competence or disciplinary issues arise.

One of the reappointment letters that came to my office last year had this astonishing message on it: "You agree that if, in the Hospital's judgment, you violate any provision of the Medical Staff Bylaws or Code of Conduct Policy, you are deemed to have voluntarily resigned your medical staff membership and privileges without any right to a fair hearing or other due process of any kind." This was sent to all members of the hospital's medical staff. Why would any physician give up his or her due process rights just to be on the staff of a given hospital?

Hospitals are taking unprecedented steps to control doctors and the expenditures associated with their work in hospitals. Powerful law firms that represent hospitals give seminars that teach hospital officials how to remove physicians who do not serve the hospital's interests (for raising quality-of-care issues, for example). The peer-review process, in the past used to weed out impaired or incompetent physicians through doctors policing other doctors, is being abused in this process.

When outside assistance is requested, the courts often look only at the procedure (whether proper notice was given, hearings held, medical staff by-laws followed). The courts presume that if a hospital hearing is held, it is a fair one. The presumption of fairness and due process is backed up by our Health Care Quality Improvement Act. Stacks of accusations can be accumulated or even fabricated to bolster a sham case against a physician.

A successful sham peer review attack on a physician often results in a professional death sentence for the doctor being targeted. The resultant adverse entry in the National Practitioner Data Bank can prevent him or her from obtaining medical staff privileges at any other hospital in the country, and often places the doctor's license to practice medicine in jeopardy. Trying to fight using the legal system can deplete savings and take many years, and even the best physicians are not immune to attack.

If a physician gives up his or her due process rights by signing an agreement with any institution, that doctor is fully at the mercy of that institution. No sham peer review case would even be necessary; that doctor could just be "fired."

Our group unanimously decided not to renew our privileges at the hospital mentioned above. How could we trust our professional reputations to what an administrator or paid department head might choose to say about us on a whim? We had been loyal to that institution for 14 years prior to the new policy. We had felt a duty to provide the best care possible to the residents of our area prior to these developments, but could not risk compromising our reputations or practice.

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