

May 4, 2015

Andrew Slavitt  
Acting Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Acting Administrator Slavitt,

We, the undersigned organizations, are writing to express concern about the systematic violation of physician due process rights at hospitals. The threat of termination from a hospital medical staff without the right of a fair hearing may prevent physicians from advocating for patients or system changes to their hospital administration or contract holder for fear of retribution. Physicians should have the right to due process prior to termination from a hospital's medical staff and that right should not be waived by a third party. Physicians with due process rights are more likely to protest fraudulent practices by some hospitals that threaten the integrity of the Medicare and Medicaid programs.

Some hospitals and physician staffing companies attempt to deny physicians their due process rights by including a clause in employment contracts allowing hospital administrators to directly or indirectly terminate a physician with or without cause, without a fair hearing. We believe that such clauses violate the constitutional rights of physicians who work at government owned hospitals and are a threat to patient safety. These clauses also violate the Health Care Quality Improvement Act of 1986, violate protections afforded in medical staff bylaws, and conflict with standards promulgated by the Joint Commission.

Physicians have a duty to advocate for their patients, even when such advocacy requires opposition to hospital interests. Due process rights protect physician autonomy, serve as a mechanism to protect patients, and assure physicians that they will not lose their practice rights for unfair reasons.

We, the undersigned, encourage the Centers for Medicare and Medicaid Services to consider the due process rights of physicians when advancing public policy. This can be accomplished by revising Medicare's Conditions of Participation for hospitals to guarantee that physicians must be entitled to a fair hearing and appellate review through medical staff mechanisms before any termination or restriction of their professional activity or medical staff privileges, and that these rights cannot be denied through a third party contract.

Physicians are on the front lines of health care delivery, and whether it is the reporting of Medicare waste, fraud, and abuse, or advocating on local issues such as hospital crowding, resource utilization, or the care of an uninsured patient, appropriate protections will augment the physician voice in critical patient care discussions.

Sincerely,



Mark Reiter, MD MBA FAAEM  
President, American Academy of Emergency Medicine



Meaghan Mercer, DO  
President, American Academy of Emergency Medicine  
Resident and Student Association



Michael J. Gerardi, MD FAAP FACEP  
President, American College of Emergency Physicians



Thomas R. McLean, MD MS JD FCLM  
President, American College of Legal Medicine



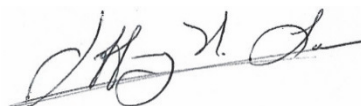
J.P. Abenstein, MSEE MD  
President, The American Society of Anesthesiologists



Matt Rudy, MD  
President, Emergency Medicine Residents' Association



William P. Moran, MD  
President, Society of General Internal Medicine



Jeffrey N. Love, MD  
President, Council of Emergency Medicine Residency  
Directors