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Sham Peer Review: Resources for Physicians

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AAPS Sham Peer Review Hotline Call (800) 635-1196 for a referral.

Sham Peer Review: A National Epidemic

Lawrence R. Huntoon, M.D., Ph.D., F.A.A.N.
Chairman, AAPS Committee to Combat Sham Peer Review

Ladies and gentleman we have a serious epidemic in our nation today. It isn't the swine flu and it isn't mad cow disease. It is neither bacterium nor virus. It is a disease of moral character that has infected too many of our hospitals and physicians. It is an insidious and spreading evil which threatens to destroy not only the integrity of the medical profession but quality care for all patients.

This spreading evil is known as sham peer review. And, I am here to tell you that it is eliminating some of the most competent, ethical and caring physicians from our hospitals.

Traditionally, physicians have reviewed the medical care provided by other physicians with the goal of improving the quality of care. That is known as peer review done in good faith.

Sham peer review, on the other hand, is peer review done in bad faith for some purpose other than the furtherance of quality care.

Increasingly, hospitals are retaliating against physician whistleblowers to silence them and to end their careers. Sham peer review has become the weapon of choice used by hospitals to eliminate these good, conscientious physicians from the hospital.

A typical sham peer review scenario goes something like this:

A conscientious doctor reports a quality care problem or patient safety problem to the hospital administration. This might be anything from an anesthesiologist falling asleep during surgery to a malfunctioning piece of equipment which places patients at risk for harm.

Instead of fixing the problem, some hospitals misuse the peer review process to attack and silence the physician whistleblower.

The hospital administration and unethical physician collaborators then search for some pretext upon which to attack the physician whistleblower. This might involve the hospital bringing trumped up charges against the physician or it might involve

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the process, the physician's privileges to practice at the hospital are terminated. The physician is reported to the National Practitioner Data Bank, and the physician's career is essentially over. Once a physician receives a negative report in the National Practitioner Data Bank, it is unlikely that physician will ever work in any hospital again anywhere in the nation.

Sham peer review is also being used by unethical physicians to attack other physicians so as to eliminate competition. It is a process which is being driven by money. As reimbursements to hospitals and physicians decline, sham peer review increases.

The enabling source of this insidious and spreading evil is a law called the Health Care Quality Improvement Act, otherwise known as HCQIA, which congress passed in 1986. Although the purported intent in passing this law was to improve quality health care, in reality it has had the opposite effect. The HCQIA law has invited the widespread abuse from which we now suffer, and it is doing irreparable harm to quality care.

HCQIA has provided a shield of nearly absolute immunity for bad faith, malicious peer reviewers. Absolute immunity, like absolute power, corrupts absolutely.

Although thousands of patients die every year from preventable errors which occur in hospitals, many physicians today are afraid to come forward to report problems in hospitals out of fear that their careers will be ended by a retaliatory sham peer review. Fewer and fewer physicians are willing to risk their career and livelihood to protect patients in hospitals. It is easier and far safer for physicians to simply look the other way and remain silent.

And, this is not just a "doctor problem" or a "medical profession problem." This is a serious problem which affects all of us.

Although some may have the good fortune of dying in their sleep in their own bed in their own home of old age, most of us will be a patient in a hospital at some point in our lives.

And when you become a patient in a hospital, you will have the expectation that your doctor will ensure that you receive the quality care you need.

You will have the expectation that your doctor will look out for your welfare and act as your primary advocate in the hospital.

But unless something is done to eradicate this spreading evil of sham peer review, you may not be able to count on your doctor acting as your advocate in the hospital. If hospitals eliminate the most competent, ethical and caring physicians from the hospital via sham peer review, what kind of doctor will be left? And, if physicians are afraid of reporting deficiencies in quality care and problems with patient safety, what kind of care will you receive?

President Ronald Reagan once commented that the most terrifying words in the English language are: **"I'm from the government, and I'm here to help."**

In this case, the so-called help that our government has provided to us by way of the HCQIA law has brought a virtual plague of sham peer review upon the entire nation.

It is a plague which is destroying the trust which patients place in their physicians.

Sham Peer Review

Other Links about Sham Peer Review:

- **AAPS Sham Peer Review Hotline** Call 1-800-635-1196 for a referral.
- **Center for Peer Review Justice** - www.peerreview.org. A resource for physicians who want to get back to work and avoid expensive legal battles.
- [AAPS Testifies to Congress: Private Sector Whistleblowers: Are There Sufficient Legal Protections?](#)
- May 15, 2007
- [AAPS Raises Alarm over Sham Peer Review](#) - 4/16/07
- **How to Protect Physician Whistleblower - Patient Advocates - from Retaliation to Benefit Patients**
a legal analysis regarding Summary Suspension, Retaliation, Peer Review and Remedies
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- [AAPS and the Semmelweis Society Comments to the Proposed Hospital Disruptive Behavior JCAHO Leadership Standard](#) - 1/17/07

- [British expert witness delicensed - 8/31/05](#)
- [Model Resolution Concerning Sham Peer Review - 4/8/2004](#)
- [RESOLUTION 61-01, 2004: Sham Peer Review - Passed at AAPS 61st Annual Meeting - October 2004](#)
- [Presentations by Steve Twedt and Lawrence Huntoon, Ph.D., Purchase CD or DVD from 61st Annual Meeting](#)
- [Steve Twedt - Health Care Reporter of the Year](#)
- [Sham Peer Review - Cases](#)
- [Sham Peer Review - State Medical Boards](#)
- [Sham Peer Review: Napoleonic Law In Medicine - Verner S. Waite, M.D. - from *JPandS*, Fall 2003](#)
- [Sham Peer Review - Links](#)
- [Medical Staff Bylaws](#)

Articles on Sham Peer Review from the Journal of American Physicians and Surgeons

- [Sham Peer Review: the Unjust "Objective Test"](#)
- [Abuse of the "Disruptive Physician" Clause](#)
- [The Insulting Physician "Code of Conduct"](#)
- [The Psychology of Sham Peer Review](#)
- [Sham Peer Review and the Courts](#)
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