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Association of American Physicians and Surgeons, Inc.  
A Voice for Private Physicians Since 1943  
*Omnia pro aegroto*

March 7, 2006

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By CERTIFIED MAIL: 7004 2510 0005 1782 5388

Dear Dr. Patrick:

On behalf of the Association of American Physicians and Surgeons (AAPS), we wish to file a formal complaint, unprofessional conduct, against the following three physicians who are licensed to practice medicine in the state of Texas:

**James Knochel, M.D. Lic. No. D6595**  
**17422 Riverhill Drive**  
**Dallas, Texas 75287**

**Charles Levin, M.D. Lic. No. E4886**  
**7150 Greenville Avenue**  
**Suite 650**  
**Dallas, Texas 75231**

**John F. Harper, M.D. Lic. No. D9485**  
**8440 Walnut Hill**  
**Suite 700**  
**Dallas, Texas 75231**

The practice address and license number for each of the above named physicians was obtained from your website.

The AAPS represents members in all states, including the state of Texas.

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JOURNAL OF AMERICAN  
PHYSICIANS AND SURGEONS

Lawrence R. Huntoon, M.D., Ph.D.  
Editor-In-Chief

**COMPLAINT: Unprofessional Conduct**

Based on the jury verdict rendered in the following case:

Lawrence Poliner, M.D. v. Texas Health Systems, A  
Texas Non-Profit Corporation d/b/a Presbyterian Hospital  
of Dallas; James Knochel, M.D.; Charles Levin, M.D.;  
and John Harper, M.D.

United States District Court for  
The Northern District of Texas  
Dallas Division 3-00-CV-1007-P (2004)

it is our belief that the three physicians listed above have engaged in unprofessional conduct, with malice directed toward Dr. Lawrence Poliner. It is our belief that the above named physicians performed a sham peer review that resulted in unwarranted, adverse action being taken against Dr. Poliner's cardiac catheterization privileges.

The evidence that the above named physicians in this complaint engaged in egregious unprofessional conduct is overwhelming.

A jury of their peers rendered the following verdict in this case:

- 1.) That all three physicians named in the complaint above "did not have a reasonable belief on or before May 14, 1998 or May 29, 1998 that Dr. Poliner posed an imminent danger to the health of any individual or that Dr. Poliner constituted a present danger to the health of his patients."
- 2.) That the adverse action taken against Dr. Poliner's privileges by the three physicians named in the complaint above was "not undertaken in the reasonable belief that the action was in the furtherance of quality health care."
- 3.) That the adverse action taken against Dr. Poliner's privileges by the three physicians named in the complaint above "was not undertaken after a reasonable effort to obtain the facts of the matter."
- 4.) That the adverse action taken against Dr. Poliner's privileges by the three physicians named in the complaint above "was not undertaken after adequate notice and hearing procedures are offered to the physician involved or after such other procedures as are fair to the physician under the circumstances."
- 5.) That the adverse action taken against Dr. Poliner's privileges by the three physicians named in the complaint above "was not undertaken...in the reasonable belief that the action was warranted by the facts known after such reasonable effort to obtain facts and after meeting the requirement of paragraph (3)."

6.) That James Knochel, M.D. “acted with malice and not in the reasonable belief” that the adverse action taken against Dr. Poliner’s privileges was warranted by the facts known to him (refers to requirements under Texas Peer Review Immunity Statutes).

7.) That Charles Levin, M.D. and John Harper, M.D. “...acted with malice and not in good faith” in reporting information to a medical peer review committee against Dr. Poliner.

8.) That all three physicians named in the complaint above “...published a defamatory statement referring to Dr. Poliner in connection with the suspension of Dr. Poliner’s cardiac catheterization privileges...”

9.) That all three physicians named in the complaint above “...published a statement referring to Dr. Poliner that was defamatory *per se* in connection with the peer review action.”

10.) That all three physicians named in the complaint above did “...with malice publish a disparaging statement regarding Lawrence Poliner, M.D., P.A.’s economic interests in connection with the suspension of Dr. Poliner’s cardiac catheterization privileges...”

11.) That all three physicians named in the complaint above “...intentionally interfered with [Dr. Poliner’s] existing and prospective contracts with patients, health care plans, insurance companies, referral physicians, third party payors, hospitals...”

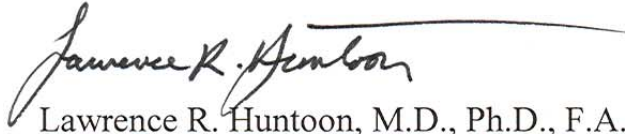
12.) That all three physicians named in the complaint above “...intentionally inflict[ed] severe emotional distress on Dr. Poliner.”

The jury awarded substantial damages in this case, including exemplary damages. It is clear from the magnitude of the award that the jury intended to send a message that such unprofessional conduct and malicious actions, disguised to look like legitimate peer review, would not be tolerated by the public.

Indeed, such professional misconduct should not and must not be tolerated by the medical profession. It is offensive to ethical physicians everywhere to allow physicians, who have so egregiously breached basic ethics of professional conduct, to practice medicine in any state.

Moreover, if the medical profession fails to take appropriate action against physicians who engage in such egregious professional misconduct by employing a sham peer review to harm a physician colleague, it will do irreparable harm to the trust that the public places in us to ensure high quality care. If we allow some physicians to maliciously attack other physicians, under the guise of legitimate peer review, the public will have no confidence in our ability to police our own profession. And, patients will have no confidence in the quality of care they receive in our hospitals.

Therefore, we strongly urge the Texas State Board of Medical Examiners to take appropriate action with respect to the formal complaint filed against these three physicians on behalf of the Association of American Physicians and Surgeons.

A handwritten signature in black ink, reading "Lawrence R. Huntoon". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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