

Wrongful Convictions of Physicians by Department of Health (NYSDOH) Linked to Patient Mortality



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Author: [Ozonics International, LLC](#)

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New York, NY – April 8, 2009. The proliferation of wrongful convictions in New York State prompted the NYS Bar Association to create a Blue Ribbon task force to study its systemic, procedural and statutory causes, and to propose solutions. Indeed, a report by the Innocence Project found New York State to be the national leader, outpacing all other states in its rate of wrongful convictions. The Blue Ribbon findings, embodied in a document entitled “ Final Report of the New York State Bar Association’s Task Force on Wrongful Convictions” was unanimously endorsed by the Association’s House of Delegates on April 4.

The findings of the Task Force provide a disturbing commentary on flagrant errors by the New York State judicial system, leading to convictions of innocent individuals. In over 50% of cases, the failures of government practices - such as misconduct by prosecutors - were to blame for the wrongful convictions.

Wrongful convictions do not solely implicate the New York State criminal justice system. They are reportedly rife in the legal practices of the NYS Department of Health (NYSDOH), known for ignoring due process and abusing power in its disciplinary actions against physicians. Several bills aiming to redress these inequities were all vetoed. Reported among many of these due process violations is the denying of witnesses for physicians’ defense, the use of tainted judges, and the coaching of plaintiffs by prosecutors to lie – indeed, “winning” cases is vital for their career advancement. Especially targeted in these malicious prosecutions are physicians practicing complementary medicine. One physician who wished to remain anonymous for fear of retribution remarked, “Convicting doctors is a

cinch: just don't allow them any witnesses; then the Department is free to make up whatever it wants."

The tragedy of wrongful convictions in matters of health care affects far more than physicians. The plight of patients suddenly obliged to forgo the continuity of their medical care by the forcible removal of their long term physicians via the challenging of their license is illustrated in press and Internet releases entitled, "Patient Mortality Linked to Judicial Errors." Noted are certain fragile patients who, "vulnerable, sick, alone, frightened and suddenly deprived of their main lifeline (their physician), became acutely demoralized, refused referrals to other doctors or failed to bond with them, eventually giving up their will to live and neglecting their medical needs." One physician reported the untimely deaths of 7 patients, including one from suicide, the rapid decline of 8 Alzheimer's and the relapses of 12 psychiatric patients leading to their serial hospitalizations."

In response, petitions have now been forwarded to agencies concerned with patient welfare, calling for independent impact studies on state-ordered patient abandonment. Agencies contacted include the U.S. Health and Human Services Administration (HHS) and the Centers for Medicare and Medicaid. The petition has also been sent to Health Commissioner Richard F. Daines, NYSDOH.

This landmark study, of major interest to medical, psychiatric and medico-legal communities and the public at large, would aim to show that abruptly severing medical and psychiatric services by state agencies has serious and sometimes fatal consequences for patients - especially patients who are disadvantaged, infirm, chronically ill or psychiatrically disabled. It would also suggest remedial action. Indeed, if state agencies assume the power of terminating the basic care to patients provided for by their physicians, they presumably also should accept the responsibility for adequately supporting said patients through crisis, by providing them with life-saving continuity of care.

For further information:

Gerard Sunnen, M.D.
President, Ozonics International, LLC
200 E. 33 St., New York, NY 10016
Ozonicsint@aol.com