Crossing the Line

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Editor, *Common Sense*

First, my thanks to Asst. Editor Dr. Jonathan Jones for editing this issue with little or no help from me. After 23 years in our home in Nashville my wife and I moved to Chattanooga this summer, and Jonathan saved me by taking on a lot of extra work. Second, and once again, the column below is my personal opinion — nothing more and nothing less — and not a statement from the American Academy of Emergency Medicine. And finally, I would love to hear from some of you who are members of both the Academy and the College. Why did ACEP elect someone from EmCare's upper management to its presidency? Am I a paranoid lunatic for seeing a conflict of interest in the two roles?

As perhaps the most honorable of the learned professions, medicine has had a stringent code of ethics for millenia. At some point during our entry into the profession, almost all of us swear an oath to assume ethical obligations that go far beyond those of businessmen and tradesmen. Whether it's the Oath of Hippocrates or some other pledge, we agree to put the health of our patients above our own self-interest and to maintain confidentiality, among other things. Among those other things is something that is becoming more and more forgotten or widely ignored: the pledge to treat our colleagues as family. In fact, the World Medical Association's Declaration of Geneva specifically says, "My colleagues will be my sisters and brothers." Traditionally, the most common and concrete example of that was not charging other physicians for our services, or not charging anything beyond what insurance pays, known as "professional courtesy." I still follow this custom (and extend it to all employees of the emergency department — physicians, nurses, clerks, janitors, etc.).

Does our ancient code of professional ethics mean anything in this day and age? Patients hope so. I hope so. I certainly believe it does, and I hope you do too. Which brings me to the issue I want to address: does it violate medical ethics to work for a contract management group (CMG) like EmCare, TeamHealth, the Schumacher Group (and its recently acquired ECI), ApolloMD, US Acute Care Solutions (and its subsidiary, EMP), and others? Before trying to answer that question, let's look at why I ask it at all.

It seems clear to me that CMGs prey on and exploit emergency physicians for the benefit of their managers and shareholders. If you doubt that you should go back and read Bob McNamara's article on page eight of the Jan/Feb 2010 issue of *Common Sense*, "Give a Shift a Week to the Company: An Analysis of the TeamHealth IPO" (http://www.aaem.org/UserFiles/file/commonsense0110.pdf). Or read Mark Reiter's analysis of EmCare on page 41 of the Nov/Dec 2013 issue, "EmCare Goes Public — Again" (http://www.aaem.org/UserFiles/NovDec13CommonSense.pdf). You will see that after charging emergency physicians for services provided, such as coding/billing and malpractice insurance (both usually provided by a subsidiary of the CMG, rather than shopped to outside vendors), CMGs then take another 20-25% of an emergency physician's collected professional fees — and that's on the average contract. That adds up to between one and two million dollars over the course of a physician's career. Even worse from a patient's point of view, CMGs routinely force physicians to waive their rights to due process and peer review as a condition of employment — meaning an emergency physician can be

fired and stripped of medical staff privileges for any reason, or for no reason at all — making it impossible for us to be the strong advocates for patients that our ethical code demands. If you find that hard to believe, reread the President's Message from Kevin Rodgers in the recent May/June issue of *Common Sense,* or Google "Wanda Cruz" and see what comes up. Emergency physicians are fired every day in this country, not for being bad doctors, but precisely because they are good doctors who are fighting for their patients. In addition, many CMGs still put restrictive covenants in their physicians' employment contracts — a practice considered unethical even by the legal profession.

So, is simply working for a CMG unethical? In my opinion, absolutely not. After all, if you are an ordinary emergency physician (a "pit doc") taking care of patients in a CMG's ED, you are the victim of unfair and unethical behavior — not the perpetrator. Besides, CMGs control so many jobs in our specialty — in some regions, practically all the jobs — you may have little or no choice but to work for one. But what if you are a traveling doc for a CMG, part of that group of emergency physicians called different things by different CMGs (special ops, the hit team, the strike team, the staffing support team, travel ambassadors, etc.), whose main mission is to staff newly acquired EDs for the CMG? This is more troublesome,

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because these travel teams help the CMG acquire and keep new contracts, often destroying independent, democratic emergency physician groups in the process — groups that didn't unfairly exploit their docs, deprive them of peer review and due process, or bind them with post-employment restrictive covenants. I believe that does cross the ethical line, and violates our profession's ethical demand that we treat our colleagues like family. I admit, however, that it's a close call and reasonable physicians of good will might disagree with me.

On the other hand, what about the doctors who are owners of or upper level managers in CMGs? What about the CEOs, chief medical officers, regional directors, etc. who are responsible for acquiring new contracts, growing the CMG, and increasing shareholder value — those who enrich themselves with the labor of their colleagues who actually take care of patients in the ED? I think those people have definitely crossed the ethical line. Money and self-interest have blinded them to how unfairly they are treating their fellow physicians. They have forgotten our ancient ethical code. They have abandoned the ethical legacy of our profession, adopting the role and ethics of a businessman who thinks anything short of fraud is acceptable. They should be ashamed, and in my opinion such doctors should be sanctioned by their professional societies for violating medical ethics — for exploiting their fellow physicians, depriving them (and their patients) of the protection that comes with peer review and due process, and binding them with contractual non-compete clauses.

I know AAEM would never tolerate having such a doctor in a leadership position. I wish that were true of ACEP too. However, I just received an email announcing:

> "Registration is now open for the EmCare sponsored CME Conference to be held in Atlantic City, NJ. We are extremely proud to announce that this year's conference will include lectures/presentations from both [sic] the current, past and future Presidents of ACEP:
>
> Jay Kaplan, MD FACEP
> *President, American College of Emergency Physicians*
>
> Michael J. Gerardi, MD FACEP FAAP
> *Immediate Past-President, American College of Emergency Physicians*
>
> Rebecca Parker, MD FACEP
> *President-Elect, American College of Emergency Physicians"*

Ignoring for the moment how close this makes the two organizations look, despite one supposedly existing to serve emergency physicians and the other to serve shareholders who profit from the professional fees of emergency physicians, consider ACEP's president-elect. According to EmCare's website, Dr. Parker:

"Serves as Senior Vice President of Practice and Payment Integration for Envision Healthcare and Executive Vice President for Leadership Development and Education for EmCare […] Dr. Parker has served in numerous ACEP leadership positions over her 20 years of membership including chair of the ACEP Board of Directors, chair of the ACEP's formidable Coding and Nomenclature Advisory Committee, editorial board member for Vital Care and as a member of the finance committee. She has been a leader in the Illinois College of Emergency Physicians, serving as president elect, secretary/treasurer and chair of the Educational Meetings Committee and also served on the Board of Directors of the Texas College of Emergency Physicians." (For those who don't know, Envision Healthcare is EmCare's parent company.)

"Destroying independent, democratic emergency physician groups … groups that didn't unfairly exploit their docs, deprive them of peer review and due process, or bind them with post-employment restrictive covenants. I believe that does cross the ethical line, and violates our profession's ethical demand that we treat our colleagues like family."

For more on Dr. Parker's activities in Illinois, I once again urge you to go back to the Nov/Dec 2013 issue of *Common Sense* (http://www.aaem.org/UserFiles/NovDec13CommonSense.pdf), especially Dr. Carol Cunningham's article, "Lake Emergency Services and the Road Less Traveled." Dr. Cunningham describes the end of her independent EM group and Dr. Parker's role in it as EmCare's Regional Director at the time. What makes her story relevant to ACEP, or at least ought to make it relevant, can be seen in this excerpt from the article:

"At the request of Lake Health's CEO, I met with her in January of 2011 to discuss Lake Health's emergency medical services, since I had served as EMS medical director since 1995. During our conversation she expressed surprise that nearly everyone in LES refused to work for EmCare. She thought that working for a corporation whose regional medical director was on ACEP's board of directors would be attractive to us."

Though it may have been completely unintentional, Dr. Parker's leadership role in ACEP helped EmCare acquire a contract and wipe out an independent, physician-owned EM group.

As Bob McNamara said in the editorial immediately following Dr. Cunningham's article:

"A leader of ACEP helped destroy an independent, democratic emergency medicine group. What purpose did that serve? What these emergency physicians built and nurtured over the course of 25 years was ruined. Dr. Parker was a principal agent in disrupting the careers of the LES emergency physicians. Can any EmCare bonus justify that?"

In October, Rebecca Parker will become ACEP's president. Since the interests of individual emergency physicians so often conflict with the interests of CMGs, that looks like a conflict of interest to me. But what do I know — right? ■

Letters to the Editor

An Issue that is Not Addressed by Either AAEM or ACEP

Whether you work for a mega group or a democratic group, ED physicians are not afforded the same due process as the rest of the medical staff. It takes a horror story to get a staff physician removed from the medical staff of a hospital. Not so with ED physicians. Without cause, and if the CEO tells the contracting group that he wants Dr. X off the schedule, no reason has to be given. There is no due process. All the CEO has to do is wave the group contract in the groups face and it is all over. The ED doc is off the schedule.

ABEM has been the leader in continuous certification, which although it may be cumbersome at times, it does keep us current with the literature and changes in the practice of EM.

We will never be respected, except perhaps in a hospital with an EM residency, as long as we are not treated as true peers of the rest of the medical staff of the hospital we work at. Please forward to the AAEM president. I lost my job at the end of March. Without being egotistical, I was the best physician in the group, and the highest paid. It turns out hearsay from the nurse manager of the department (too slow?) was enough to get me removed. I was never actually removed from the staff, but I am not permitted to work there.

Until ED physicians are treated with due process, we will never gain the respect for the lifesaving work that we do.

— Evan B. Tow, DO FAAEM

AAEM Works for Due Process

Thank you for writing, and I couldn't agree more. More importantly, AAEM agrees too. Our Academy has been working hard for quite some time to assure due process for emergency physicians, mainly by making it impossible for any physician to be deprived of peer review and due process by an employment contract with a third party such as EmCare, Team Health, or other contract management group. For more on this issue, see the article by Dr. Larry Weiss (attorney and former president of AAEM) in this issue of *Common Sense*. ■

— Andy Walker, MD FAAEM
Editor, *Common Sense*

Strength in Numbers
AAEM 100% ED Groups

■ AAEM 100% ED Group Membership

AAEM instituted group memberships to allow hospitals/groups to pay for the memberships of all their EM board certified and board eligible physicians. Each hospital/group that participates in the group program will now have the option of two ED Group Memberships.

- 100% ED Group Membership — receives a 10% discount on membership dues. All board certified and board eligible physicians at your hospital/group must be members.
- ED Group Membership — receives a 5% discount on membership dues. Two-thirds of all board certified and board eligible physicians at your hospital/group must be members.

For these group memberships, we will invoice the group directly. If you are interested in learning more about the benefits of belonging to an AAEM ED group, please visit us at www.aaem.org or contact our office at info@aaem.org or (800) 884-2236.

For a complete listing of 2016 100% ED Group members, go to **www.aaem.org/membership/aaem-ed-group-membership**.