

# Physician Wellness: Just a Dream without Due Process

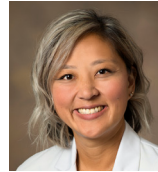
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The culture of medicine is increasingly recognizing physician well-being as essential to any quality medical practice. However, due process continues to be threatened in emergency medicine (EM) and wellness cannot exist without due process. At its core, physician well-being is dependent upon meaning, autonomy and control over one's own work environment. No physician can possibly attain these prerequisites if they have waived their rights to due process.

As emergency physicians (EPs), we witness the effects of social determinants of health and challenges in access to care, while being simultaneously tasked to see as many patients as possible in universally crowded emergency departments (EDs) in under-resourced settings. According to the Institute for Healthcare Improvement's Triple Aim, we are charged to provide cost-effective, efficient care and improve the health of the patient and the community.<sup>1</sup> Many of us chose EM because we want to advocate for change, improve the health and wellbeing of our communities, and address health disparities. Many factors impact physician wellness, including time at the bedside and perceived ability to make an impact for individual patients.

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Unfortunately, despite our best efforts, our work may conflict with the expectations from senior leaders in the hospital or healthcare organizations. We are increasingly beholden to metrics such as door to provider time, turnaround time, return visits, and more. These metrics do not always align with optimal patient care. Physicians are mainly incentivized via relative value units (RVUs), and the EP's ability to advocate for patients may be in conflict with throughput metrics designed to increase these units. In an increasingly efficiency-focused and metric-driven environment, we need to be especially leery of contracts that include due process waivers. Due process protects EPs who may be advocating patient safety or providing value for patients in a way that is not reflected in these metrics, who in turn, may find themselves in conflict with managers and/or hospital leadership. This problem has the potential to be exacerbated when corporations managing ED contracts are also beholden to shareholders and need to prove their value—mainly through increased volume and RVUs. Perhaps this is one reason why the American Medical Association cautions that physicians should consider the potential impact of corporate investor partnerships on physician and practice employee satisfaction and future physician recruitment.<sup>2</sup>



Imagine you're an independent contractor (IC) with the expectation of seeing well above two patients per hour, disposition them appropriately, chart well to maximize billing, sign charts from midlevel providers for patients you haven't even seen, along with many other responsibilities. Imagine you missed a subtle

EKG finding, or a patient complained because they have been waiting longer while you were resuscitating in a single coverage setting. Imagine you are told you cannot admit a patient because they are heavy ED utilizers and that they do not have insurance. In the midst of the COVID-19 pandemic, reports of physicians in the frontlines infected with the virus after providing care for their patients were forced to use their own vacation time to recover and self-quarantine.<sup>3</sup> Imagine then that as an IC, your medical director can fire you without due process because you signed a contract allowing that to happen.

Here's an example of such language from a corporate management group contract with its physician independent contractor relinquishing due process:

“(g) Company in its sole discretion determines that Contractor is committing, or has committed during the term hereof, unfair and/or unethical practices, or practices which are or could be harmful to patients, or in violation of law

...

(o) Inadequate or unsatisfactory quality of medical practice or performance of professional medical services of Contractor in the sole discretion of the Company”

Due process waivers are commonplace. Is there language in your contract that relinquishes your right for due process as above? Lack of due process in hospitals and contract management group (CMG) settings affect EPs, and many jobs have been lost without recourse because of these waivers in physician contracts.

In addition to impact on practicing EPs, we need to be aware of how a metric-driven environment impacts the training environment for our residents. The AAMC task force Sponsoring Institution 2025 identified corporatization as one of the three major forces shaping the future of healthcare, and as a result graduate medical education (GME). The task force report concluded that “in 2025 almost all newly graduated residents and fellows will enter practice under the employment of large corporate systems” and went on to identify a need for changes to the GME model to ensure acquisition of skills necessary for practicing in this environment.<sup>4</sup> This is concerning considering the data linking type of practice environment to physician well-being. A 2013 AMA-RAND study on professional satisfaction found that physicians in physician-owned practices



were more satisfied than physicians in other ownership models (hospital or corporate ownership). In addition, work controls and ability to be part of strategic decision making mediated the effect of practice ownership on overall professional satisfaction.<sup>5</sup> Hospital Corporation of America (HCA), the nation's largest for-profit hospital chain, currently operates the largest GME network in the U.S. with its 230 training programs. HCA programs are focused on attaining the unique needs of the future corporate-employed physicians. The opening slide of HCA's GME Resident Guide highlights their "unique emphasis on the individual resident's performance." The VP goes on to explain that "we work on competencies that a physician will face once he or she enters practice, such as core measures and patient satisfaction".<sup>6</sup> What impact will a focus on these measures have for EPs in training?

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In addition to advocating for patients, EPs should be able to advocate for residents and other learners in the setting of a training program to ensure educational objectives are met without threat to their livelihood. We have seen residency programs dismantled secondary to changes in ED contract management such as the case in Summa Akron Ohio. A recent publication from the Council of Residency Directors in EM (CORD) Due Process Task Force outlines several initiatives that may anticipate and prevent disruptive changes in the setting of an EM training program.<sup>7</sup> Until recommendations like these are more broadly implemented, we will continue to see the disruption that occurs without safeguards in place. It is clear that as stewards of patient safety and health, we must be protected in our duty to advocate for our patient's best interest despite conflict with other stakeholders' priorities. We must also be protected when we advocate for the rights and safety of our trainees and other members of our team.

Our institutions are striving for the Quadruple Aim, which includes physician well-being.<sup>8</sup> The AMA, ACEP, AAEM, and others have continued to affirm the need for due process protections for physicians, recognizing its critical link to satisfaction. Most important in addressing physician burnout is addressing the larger systems issues that contribute to physicians' perceived loss of autonomy, meaning, and control. Dismantling the systems barriers that threaten the physician-patient relationship is key to building a cadre of fulfilled, well physicians, who can in turn care better for our patients. Due process is a linchpin in this important mission. ●

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