

The ***Perilous*** Physician Licensing Landscape

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Physicians and other healthcare providers are being pulled into career threatening administrative legal challenges which have major import.

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Who we are and how we got involved:

Michael Langan, MD

www.DisruptedPhysician.com

Kernan Manion, MD

www.KernanManionMD.com

www.PhysicianRights.wordpress.com

www.PhysicianRights.net

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Spoken with hundreds of docs and other healthcare providers

Our own experience and intensive study



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At our core, we are about ***physician advocacy***

- ✓ For due process and fairness
- ✓ For transparency
- ✓ For agency accountability
- ✓ For protection of patient wellbeing

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Our purposes tonight

Provide broad overview

Empower you

Validate the reality

Offer perspective,
guidance and support

Work to change the system

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Initially, focus was on Physician Health Programs (PHPs)



PHP

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Then we realized Medical Licensing Boards (MLBs) were intrinsic to the process



State Medical Licensing Board

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But we also kept hearing issues with dishonest "peer review"



Peer Review

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Progressively, found it was **all three**, not just separately, but acting intertwined.



Medical Board



PHP



Peer Review

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And it was **country-wide !**



Medical



D



Peer

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"...rather have 10 malpractice suits than deal with this nightmare."

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"Physicians are among the most thoroughly educated, highly skilled, and sacrificially selfless professionals in the world. Our doctors work long hours, grapple with the endlessly shifting regulations imposed by the government, and sometimes even fight to get paid for their work. We owe them a debt of gratitude — not a deluge of grief."

Senator John Milkovich, La State Senator
Sponsor Physicians' Bill of Rights

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Disclaimers

Opinion

Not legal advice

Not accusatory

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Disclaimers

30 minutes is not going to be be-all-and-end-all.

Tailor this to your particular situation with a free confidential phone discussion

Be cognizant of audience

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PHPs



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Medical Licensing Boards



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Peer Review



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Racket? State-sponsored RICO ?



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Prevailing Sentiment:

The Administrative Medical Licensing / Disciplinary System is rigged against you.

Poll Question:

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Physician Health Programs (PHPs)

What are they?

How do they work?

How's one get to a PHP?

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Physician Health Programs (PHPs) *Derangements*

- ➔ False dx / dx rigging
- ➔ Denial of access to PHP assessment record
- ➔ Funneling to “preferred programs”
 - ➔ “preferred programs” utilizing non-approved methodology
- ➔ False assessment of “impairment”

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Physician Health Programs (PHPs) *Derangements*

- ➔ Prevention of exculpatory dx evidence
- ➔ Denial of access to grievance process
- ➔ Extensive “monitoring”
- ➔ No means to appeal system injustice

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Overarching Themes Behind These PHP *Derangements*

- ➔ Stolen identity as a legitimate mental health entity
- ➔ Dishonest assessment
- ➔ Dishonest referral
- ➔ Dishonest sentencing “recommendations”

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Overarching Themes Behind These PHP Derangements

- ➔ Dishonest treatment philosophy
- ➔ Medicalization of discipline
- ➔ Knowingly denying due process
- ➔ Apparent insider referral for likely profit motive

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Why Do People Continue to Refer?

Two sets of referrers

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Boards - Medical Licensing Boards (MLBs) (and others)

Authority Based on “Medical Practice Act”

“Mission creep”

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Medical Licensing Boards (MLBs) *Derangements*

Contrived anon complaints

Bypass of admin judicial safeguards

Coerced consent orders & use of unconscionable “plea deals”

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Medical Licensing Boards (MLBs) *Derangements*

Blanket acceptance and non-questioning of PHP determinations

Denial of real preliminary informal pre-charge hearing

“Board Proper” (appointed docs) may not know what “Board legal” (year-round staff of lawyers and investigators) is doing

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Overarching Themes Behind These MLB Derangements

Obfuscation both of legal processes and of legal remedy

Prosecutorial abuse

Bypass of due process via
“medicalization” of discipline

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Peer Review Committees (PRCs)

Authorized under HCQIA

Allows medical peers to assess each other for compliance with norms of practice

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How Peer Review Committees (PRCs) Work

Opaque, varies according to each hospital's bylaws

Not appear to be a democratic process

Based upon assumed positive motivation

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Peer Review Derangements

Assembly of a "hearing" on basis of contrived evidence, personal vendettas

No opportunity to be heard

By time you can mount opposition to adverse sham peer review at hospital, your license has been reported to NPDB and you've been sent to PHP

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Overarching Themes Behind These Peer Review Derangements

Malignant way of staff discipline

Initial career derailment via denial of due process at PR level

Placed into the MLB / PHP due-process denying machine

Reporting to NPDB

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Common to All Three:

- ➔ **Profound denial of due process**
- ➔ **Abuse of policies and procedures not intended to facilitate these derivative harms**
- ➔ **SOP is protracted time, costly proceedings and using up of the SOL clock**
- ➔ **Utterly no recourse to higher authority in assertion of unfair process**
- ➔ **Lack of oversight / governance**
- ➔ **Lack of liability / immunity to suit**

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Bottom Line:

- ➔ ***You're guilty***
- ➔ ***You cannot prove you're innocent***
- ➔ ***You will suffer the consequences***
- ➔ **DEHUMANIZATION**
- ➔ **DELEGITIMIZATION**

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Treacherous landscape ...

but ...

some successes ...

and up next, some caveats ...

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HUGE CAVEATS AHEAD

The “PHP Blueprint”



Physician Health
Program Guidelines



All roads lead to PHP and
its capricious dictates

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HUGE CAVEATS AHEAD



Pseudo-legitimate right to use
state's police power if
“potentially impairing condition”

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HUGE CAVEATS AHEAD



Medicalizing Burnout
“Potentially Impairing Condition”
“... We must protect patient safety....”

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HUGE CAVEATS AHEAD

Moving into med student domain



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Some *Do's* and *Don'ts*
for Docs and Attorneys

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Do's for Docs

- ✓ respect
- ✓ map out what's what and who's who
- ✓ document, document, document
- ✓ journal everything
- ✓ active involvement
- ✓ get guidance from knowledgeable others
- ✓ do a radically honest self-appraisal
- ✓ get independent, trustworthy opinion asap

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Don'ts for Docs

- ➔ *Don't automatically defer to attorney*
- ➔ *Do not respond impulsively, brashly, defiantly*
- ➔ *Don't commit to anything, don't sign anything without thorough examination of its implications*
- ➔ *Don't incriminate yourself e.g. acknowledge you're "disruptive" or anything else*
- ➔ *Paradox: Press your case emphatically, learnedly; but don't get wrapped up in it emotionally*

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Do's for Attorneys

- ✓ Allow / encourage active informed collaborative participation by your client
- ✓ Recognize your limitations; get help
- ✓ Be aggressively assertive in holding them to rules of procedural adherence
- ✓ Get the entire process in writing

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Dont's for Attorneys

- ➔ Don't trust "due process" - the law or its execution itself may be defective
- ➔ Don't treat this as a "compromise"
- ➔ Don't treat this with a criminal defense mindset
- ➔ Don't wait for the administrative hearing as though fairness is somehow going to magically appear

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Wrap up

Very few people - close to *NO ONE* - understand the full picture, see the larger landscape

Missteps are extremely costly - and irreversible

Once you go down one pathway, your options are irreversibly limited

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Wrap up

You don't have to go this **alone**

You **shouldn't try to handle this on your own**

Approach with **utmost care and diligence**

There's **knowledgeable guidance** to help you sound out the issues and approaches

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Link to schedule free 30 min session with CPR:

<http://bit.ly/CPRmeeting>

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Thank You For Attending !

We hope our webinar's been helpful in laying out the "perilous landscape." We'll be sending out a link to the replay and, with your permission, keeping you apprised of upcoming webinars and resources.

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The ***Perilous***
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Webinar REPLAY Link !

And for colleagues whom you feel might benefit,
here's the replay link:

<http://bit.ly/CPRPhyLicLand>

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