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Physicians face punishment for speaking out about non-physician care

The last thing Steven Maron, MD, expected when he was called into his administrator's office was to be fired. The Arizona pediatrician said he had never faced any disciplinary actions throughout his 10 ½ years with the organization, and although he had written an opinion piece about nurse practitioners (NPs), he had expressed nothing but admiration, calling them "well-trained, dedicated, popular with patients, and intelligent."

Which is why the veteran physician of 31 years was stunned when he was abruptly terminated from a Federally Qualified Health Center (FQHC) just days after the article was published in the *Green Valley News*.

Maron told me he was specifically told he was being terminated because "my article stood in opposition to the principals of the organization, specifically the principle of mutual respect." He added that his official termination letter stated, "the company exercises its right to the 90-day out clause..."

Maron wrote the op-ed in response to a pro-nurse practitioner article published the prior week

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The Effect of the Tax Cut and Jobs Act on Sexual Harassment Claims

by Bruce Cross

Thanks to the new Tax Cuts and Jobs Act passed in late 2017, sexual harassment claims have some new ground rules that employees will need to consider when it comes to settling these issues.

Section 162(q) of the new Tax Cuts and Jobs Act passed in late December 2017 states,

“PAYMENTS RELATED TO SEXUAL HARASSMENT AND SEXUAL ABUSE. — No deduction shall be allowed under this chapter for — (1) any settlement or payment related to sexual harassment or sexual abuse if such settlement or payment is subject to a nondisclosure agreement, or (2) attorney’s fees related to such a settlement or payment.”



This section, nicknamed “the Harvey Weinstein provision” by media,¹ is a big change from the prior law; formerly, businesses were allowed to deduct payments related to settling sexual harassment claims² (e.g., the settlements themselves, or payments to attorneys who represent them). Now, businesses involved in negotiations to settle a sexual harassment suit will have to choose between a nondisclosure agreement or a tax deduction – they can no longer have both; and attorney’s fees are off the table completely.

The new law is effective immediately, and has not yet been interpreted by the IRS.³ The language is simple but vague, and leaves gaps which are open to interpretation. Potential problems with the law include the following:

- Companies have stronger motivation to negotiate smaller settlements, since they can no longer deduct that amount.⁴
- A plaintiff (rather than the defendant) may want a nondisclosure agreement, but the new provision creates incentive for the company to refuse to agree to that.⁵
- Section 162(q) does not specify that the “no deductions for attorney’s fees” rule only applies to defendants; it is possible a plaintiff may not be able to deduct fees paid to his or her attorney.⁶
- If a settlement concerns multiple issues, one of which is a sexual harassment claim, is any of the settlement amount deductible?⁷ It is unclear from the language of the provision.

Neither Congress nor the IRS has provided further elucidation of this brief section, so those affected by the new law will have to wait and monitor future interpretations and agency regulations. For now, the best way to ensure a settlement amount is deductible is to not include a nondisclosure provision in the settlement agreement. Otherwise, if tax savings are not a priority, then you will not want to exclude non-disclosure language from your settlement.

¹ <https://www.forbes.com/sites/robertwood/2018/01/03/ironically-weinstein-tax-on-sexual-harassment-settlements-may-hurt-plaintiffs-too/#54bcab05463d>

² <https://www.natlawreview.com/article/tax-deduction-to-be-curtailed-some-settlements-sex-harassment-claims>

³ <https://www.jdsupra.com/legalnews/new-tax-act-affects-settlements-of-39706/>

⁴ <https://www.forbes.com/sites/peterjreilly/2017/12/17/how-to-enjoy-the-tax-cuts-and-jobs-act-part-2/#4f7989e275c0>

⁵ <https://www.forbes.com/sites/robertwood/2018/01/03/ironically-weinstein-tax-on-sexual-harassment-settlements-may-hurt-plaintiffs-too/#28001634463d>

⁶ Id.

⁷ Id.



calendar of events

APRIL 18, 2018

Lunch & Learn
Top 10 Things You Need To Know About Your Practice (For Physicians)
Rana McSpadden, SVMIC



This fast-paced program covers 10 key areas that physician owners of medical practices should understand and monitor in their practices.

MAY 30, 2018

Lunch & Learn
Coding/Billing Compliance & Self Audits
Rana McSpadden, SVMIC



CMS has stepped up the number and types of audits plaguing medical practices over the past few years. This presentation discusses these audits as well as how performing routine self-audits may help in staying in compliance.

JUNE 20, 2018

Lunch & Learn
Delivering Exceptional Patient Experience
(Physicians, Managers, Staff & Others)
Steve Dickens, SVMIC



As healthcare trends away from patient satisfaction toward the patient experience, it is important for physicians, practice executives and staff to understand how this shift is able to identify the components to patient engagement; recognize the need to transition from measuring patient satisfaction to patient experience; and understand the importance of patient experience to the practice's financial wellbeing.

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Physicians face punishment for speaking out about non-physician care

that began with the following sentence: "Going to see your family doctor for basic needs may soon be a thing of the past." In *"In My View: Are NPs same as MDs?"*, Maron presented an opposing point of view: that a physician's training of medical school, residency, and subspecialty fellowship, as well as inpatient management exposure, adds an additional dimension of care that separates physicians from nurse practitioners.

While he referred to nurse practitioners as "a great asset" and even asserted that some could "teach some of us physicians a thing or two about bedside manner," Maron had the audacity to make the following statement: "I am quite concerned about the implications that NPs completely replace physicians. It was never the intent when NP programs were begun to replace physicians, but to function as supervised physician 'extenders.'" Uh oh. Apparently, those are fighting words. Or more accurately, firing words.

Unfortunately, the biggest losers in this situation are the patients of Maron's former employer—patients who utilize FQHCs are some of the neediest and most underserved in the country - who have now lost a dedicated and experienced pediatrician.

Other physicians have reported job loss for speaking about patient safety issues and non-physician provider care.

Republished with permission of Dr. Rebekah Bernard, MD, a family physician at Gulf Coast Direct Primary Care in Fort Myers, Florida.

Note: The author spoke with all physicians involved in this blog. All four physicians reviewed the text and approved the details.

Annual Match Day 2018

The annual “Match Day” event places medical students who will graduate from the UAMS College of Medicine in May in physician training programs and positions around the state and across the country. The matches are created through a computerized process on a nationwide basis. Seniors at other medical schools around the country participate in similar events at the same time, and some will undoubtedly be matched to a residency position at UAMS.



Logan Rice, from left, Trey Fish and Blake Whicker pose for a photo.



From left, Karen Hall, matched in psychiatry at the University of Arkansas for Medical Sciences; Nathan Green, urology at UAMS; Cody McLeod, orthopaedic surgery at UAMS; and Jonathan Lowery, anesthesiology at UAMS.



Elisabeth Martin, left, and Taylor Salyer smile for the camera at Match Day. Martin matched in emergency medicine at Carolinas Medical Center. Salyer matched in obstetrics-gynecology at East TN State University.



Keely Robinson, left, poses for a photo with her husband, Stuart Robinson. Keely matched in obstetrics-gynecology at Abington Memorial Hospital in Abington, Penn.



Jennifer Severson, left, poses for a photo with her husband, Michael Severson, who matched in the emergency medicine program at Baylor-Scott & White in Temple, Texas.



INTERVIEW WITH DR. BRIAN WAYNE

What motivated you to choose medicine as a career?

It seemed a natural progression from being a biology major in college. I love the biological sciences and medicine seemed a natural choice. I enjoyed medical school and realized quickly that I liked the doctor-patient interaction. A career in medicine for me is about helping others.

Why did you choose your specialty?

I didn't know much about dermatology as a profession until my fourth year of medical school during a dermatology rotation. Immediately I loved everything about it. Dermatology allows me to see patients, perform surgeries and cosmetic procedures, and understand pathology under the microscope. Dermatology is a visual specialty and this suits me well.

Who are the people who influenced you the most in your professional life and why?

Many people helped me professionally. My love for biology was initially spurred on by my Hendrix College anatomy professor Dr. Keith Sutton. All my former dermatology professors were instrumental in my career, including Dr. Tom Horn and Dr. Daniel Davis. A specific thanks would go to Dr. Patrick Carrington, my dermatology professor at the VA Hospital at the time of my training. His knowledge of medicine and his approach to patient care still help me daily.



What advice would you give a medical student in school right now?

My advice to current medical students would be to pick a specialty that is interesting to you, challenging to you, and one you can see yourself doing in 20 years. Also, I suggest spending some time learning about the business side of medicine, including running a business, insurance billing and coding, and managing an office.

UAMS RECEIVES INTERNATIONAL RECOGNITION AS BABY FRIENDLY FOR ENCOURAGING BREASTFEEDING



UAMS Medical Center is the only hospital in central Arkansas to have received international recognition as “baby friendly” for its policies and procedures encouraging new mothers to breastfeed as a healthier way to feed their babies.

The World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF) launched the Baby-friendly Hospital Initiative in 1991 as a global program to assist hospitals in giving all mothers the information, confidence and skills necessary to successfully initiate and continue breastfeeding

The University of Arkansas for Medical Sciences (UAMS) delivers more than 3,000 babies a year. To achieve the baby-friendly designation, UAMS completed rigorous requirements in each of four phases and passed an on-site assessment.

The effort was initiated by Ginny Smith, R.N., M.S.N., women and infants nursing director, and neonatologist Misty Virmani, M.D., and led by Becky Sartini, D.N.P., assistant director of nursing for the neonatal intensive care unit.

“This shows that UAMS stands behind evidence-based efforts to promote breastfeeding,” said Sartini. “Breastfeeding is the foundation for a healthier life, not just for the baby but for the mother.”

An advertisement for ProAssurance Healthcare Professional Liability insurance. The background is a blurred image of a hospital room with a patient in bed. In the foreground, there is a framed graphic that looks like a medical monitor displaying an ECG. The text on the monitor includes: "Healthcare Professional Liability", "ProASSURANCE", "Ward's 50/2007", "A.M. Best A+ (Superior)", "76%", "73%", "500+", "78K+", "50", "\$5B/\$3B", "40+", and "11K+".

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