

Re: PA needs help passing Lyme legislation

Source: <http://sci.tech-archive.net/Archive/sci.med.diseases.lyme/2004-12/0031.html>

From: A_Weisman (a_weisman_at_yahoo.com)

Date: 11/23/04

Date: 23 Nov 2004 06:21:15 -0800

derdrittemann2003@yahoo.com (derdrittemann) wrote in message news:<f2af2263.0411212019.a6be28a@posting.google.com>...

> *GregGerber@hotmail.com (Greg Gerber) wrote in message news:<146041df.0411210613.13e4456b@posting.google.com>...*

> >>

> > > *What does OPMC have to do with IRS? Please "explicate".*

> >

> > *"it is a metaphor".*

>

> *No, it's an analogy. Check the peer-reviewed grammatical abstracts on this one...you'll see that I am correct.*

OK it appears that I was wrong on that point too (in that I agreed with Greg saying it was a metaphor).

But what, pray tell, is a simile?

> *"Back in the 1930s, the feds and Justice Department*

> > *lacked evidence to convict Capone for the St. Valentine's Day massacre*

> > *so they said 'let's tighten the screws on the income tax thing.' They*

> > *convicted Capone and put him in jail for unpaid taxes, literally".*

>

> *No, not really. The Capone organization was only suspected of the*

> *crime because it was assumed they had the obvious motive...to rub out*

> *the Moran gang who controlled the North side rackets. In fact, one*

> *version has it that Scalise and Anselmi...two Capone torpedoes pulled*

> *the thing without Al's approval...and he showed his job review*

> *analysis by splitting their craniums with a baseball bat (this is the*

> *scene depicted in the movie "The Untouchables"). Another version*

> *actually suggests that crooked Chicago policemen did it...and that a*

> *major robbery was involved. To this day, no one really knows.*

Yes but it was known that Al Capone was engaged in a range of illegal activities, mostly related to black market booze (just how the Kennedy family got rich too) and which included gambling, booze, speakeasys, racketeering, bribery, and murder.

Whether or not the ostensible trigger for them being targeted by law enforcement was valid, it was true that they were involved in organized crime in a big time way.

- > *Capone was sent to Alcatraz for not reporting the income from all the*
- > *booze, prostitution, vice and juice rackets. Even if your income*
- > *derives from illegal sources...you still have to declare and pay. The*
- > *St. Valentine's deal was only one of a series of violent crimes which*
- > *convinced Washington that something had to be done. Among these,*
- > *ironically, was the murder of a D.A. named McSweegan...and it was his*
- > *murder that really started the good government types after the Capone*
- > *outfit.*

That's interesting.

- > *(Eliot Ness, by the way, was a little weasel of a publicity hound who*
- > *didn't really do much of anything...except write a book).*

Yes I have heard that.

- > > *"Likewise, it appears that instead of getting Lyme doctors for*
- > > *"overtreating" Lyme disease, OPMC tries them (metaphorically) for*
- > > *unpaid taxes",*
- >
- > *Are you sure about this? I am having a hard time believing that the*
- > *OPMC has the authority to interpret the tax code and make findings on*
- > *that basis.*

Improper monitoring of patients, failure to keep adequate medical records in terms of documenting diagnosis and treatment plan, failing to respond to patient emergencies, that kind of thing all within the ambit of their power.

Pretty much whatever they find in terms of medical care, they can prosecute no matter what the initial accusations were that prompted an investigation.

- > *As I mentioned earlier, however, in regard to the standard of care,*
- > *items other than breaches of the standard of care can result in*
- > *disciplinary measures...and what I had in mind, specifically were*
- > *financial misdeeds and a number of issues relating to doctor/patient*
- > *relationship issues.*

I'm not aware that there was evidence of financial misdeeds in Orens or Burrascano. I think that ultimately the Natole case was presented as, in essence, fraud, but the fraud was based on what was considered overtreatment.

Which points to a weakness of the proposed legislation. They can call it something else and still prosecute it. What protects the doctors is NOT the words of the law but convincing people that the approach is

valid, changing their minds not the parameters of the law.

- > *If, on the other hand, it became obvious that someone was engaged in*
- > *an attempt to under-report or conceal substantial amounts of*
- > *income...then that would probably get their ticket punched...and it*
- > *probably should.*

I'm not sure if you are speaking in terms of the analogy or not here?

- > --"ie, sloppiness in filing and record-keeping and other,
- > > *far more serious issues (if they can be found) that have nothing to do*
- > > *with Lyme",*
- >
- > *Well, I suppose...but the issue is professional responsibility,*
- > *here...and when you say "have nothing to do with Lyme"...keep in mind*
- > *that it is YOUR perception that the hearings had to do with Lyme.*

Yes it is greg's perception. And greg is very naively buying into the fact that the panels claimed that the convictions weren't on the basis of Lyme treatment. Which is exactly what they wanted people to think. Yeah it wasn't about Lyme treatment, it was just that the medical care was lousy. Uh huh, sure.

Because we all know that they are out there scrutinizing the files of every doctor and that everyone else is doing such a bang up job, is just soooo careful, and sooooo responsive to their patients, and sooooo good at documenting their patient charts in the five minutes the HMO gives them to see a patient. Yup.

It wasn't about Lyme at all. Sure. LOL

- > *"...like failing to recognize an adverse reaction or failing to*
- > > *dx another serious medical problem. Since there is enough in the*
- > > *literature to support treating Lyme long term, according to most of*
- > > *the judging panels, from Natole's to Burrascano's, who have looked at*
- > > *this --since most judges and panels have ended up recognizing two*
- > > *standards of care after examining ALL the evidence"--*
- >
- > *Yes. See, despite all the internet talk...it is extremely difficult to*
- > *"get someone" for not following evidence-based guidelines when their*
- > *empirical observations tell them that the patient is responding to*
- > *continued treatment.*

Yes which is EXACTLY why the legislation isn't protective at all. Because in the end they'll pay lip service to a second school of thought (one that they'd never use themselves and one which they'd happily testify is not efficacious in a dispute over whether the insurance company should cover it).

- > *"...disciplinary boards have attempted to find these doctors guilty*
- > *of "not paying taxes" instead".*

- >
- > *That's a fairly serious charge. Is that just your personal*
- > *conclusion...your opinion?...or are you in possession of evidence to*
- > *show this? You are saying that since they couldn't "get them"...they*
- > *"got them" on what they could?*

I think that IS actually true. See below.

- > *" Sometimes the effort has been successful, but in the*
- > *> case of Burrascano the taxes were, upon audit, by and large paid for*
- > *> those records pulled, and there was nothing the OPMC could do about*
- > *> it. For Orens, the medical records examined revealed "unpaid taxes,"*
- > *> and that was his undoing".*
- >
- > *Was he guilty of just non-payment?*

No.

"Joseph James Burrascano Jr., M.D.

Action: License suspension for six months, stayed with probation for two years

Effective Date: April 25, 2002

Nature of Misconduct: The Review board sustained the Hearing Committee's determination finding the physician guilty of negligence on more than one occasion and ordering excessive tests and/or treatment not warranted by the condition of the patient. The Review Board modified the Hearing Committee's penalty by extending the physician's term of probation from six months to two years."

In its findings in the Orens case, the medical conduct office's hearing committee, comprised of two physicians and a physician assistant, noted that "the fact that the disease involved may have been Lyme was of little significance. . . . the facts. . . evidenced an overall pattern of substandard medical care. . . ."

Dr. Orens was charged with 34 specifications of misconduct, including negligence and incompetence, fraud, and ordering excessive tests and treatment. He was found guilty of six acts each of gross negligence, negligence, fraud, excessive testing, and failing to maintain accurate records.

- > *Or did he also just not declare the income? Was he shielding or*
- > *under-reporting, by any chance?*

See above.

And a note to Gregg. Look at what it says above here. As much as you might say that the panels "found" that it wasn't about Lyme, and criticize me because you think their view is broader than mine, well what was disingenuous was THEM saying it wasn't about Lyme.

And what was either naive or disingenuous is you saying that my view is narrower than theirs taking their "finding" at face value but then arguing that you realize it wasn't, that they really did convict both orens and burrascano and natole for their treatment of Lyme whether or not that is what they said it was about. Of course it was.

> *I mean, I think it is fair to say that the general perception around
> Lyme message boards was that this was a "witchhunt"...and as you
> say...they nailed him on the taxes...*

Well they really were witchhunts. The problem for the llmds is that they know they live in Salem and it is the late 17th century but they still have brooms and cauldrons in their closets.

They do NOT avoid the appearance of being "witches" even knowing that they will be burned at the stake.

Thus they use Bowen labs and Mattman and Gensys before that. Thus some of them have taken kickbacks from infusion companies, some were even owners of them early on before medicare prohibited doctor/owners of such companies. Thus some of them don't keep adequate records and don't adequately document things etc.

You could get any doctor on this type of stuff but the ones who know they are targets are the ones who really need to be careful, to be as innocent as a minister's wife and as virginal as the minister's teenage daughter.

But the llmds don't bother.

> *...but is that accurate?*
>
> *Wud if some of dese guys wuz da Capones uv da IV rackets?*

Yes, if that is the point, I agree. They've not only failed to avoid the appearance of impropriety but a few of them have been exactly what they were said to be.

Caught taking kickbacks.

And worse.

> *Hey...I'm sure we have all heard stories...*
>
> *I don't know, myself.*

sci.med.diseases.lyme: Re: PA needs help passing Lyme legislation

I know for a fact that this is true, that more than one were caught red handed. Which is a shame not for them because they deserve what they get, but for the others who were doing what they thought was right in the best way they could., And a shame for the patients who were made to suffer as a result.