



Being Accountable

by Richard Grossman

A September 7, 2005 article in the *Des Moines Register* reported that a doctor in Iowa had been disciplined by the Iowa Medical Board for seriously mishandling “at least four patients between 1994 and 1999.” It was also reported that two other doctors in Iowa have been listed for mishandling medical cases of several patients in the past several years.

Iowans can be grateful that there are disciplinary boards in our State for monitoring those in professional occupations such as doctors, lawyers, dentists, etc.

But when we read that a doctor is being disciplined in 2005 for improper conduct in 1994 to 1999, we can't help but wonder how many patients did he mishandle from 1999 to 2005. Also, in looking at the record of the State Medical Board that handles doctor complaints, it shows that last year there were almost 600 complaints and only 43 complaints received any formal action. We can't help but ask: Does this record really reflect strong discipline? Should citizens of Iowa be entitled to better medical protection than this? If there needs to be stronger accountability for wrongful acts in a profession, what needs to change?

The State Medical Board has ten members; seven are doctors and three are lay persons. Suppose that Board was made up of four doctors and six lay members. No longer would an accused doctor be appearing before primarily his peers. Now he would be judged primarily by impartial citizens. There would be no favoritism, which is a temptation for fellow doctors.

Let's look at the lawyers' profession. Some years ago, I was appointed to serve as a lay member of the Grievance Commission of the Iowa Bar Association to consider complaints against lawyers. In a particular case reported to this Commission, a lawyer in a small town in Iowa was found to be a persistent opportunist in handling estates by keeping them open beyond a reasonable time and also assessing many special charges not justified. All members of the Commission agreed that the lawyer was committing a serious wrongful act. My recommendation to the Commission was to amend his license to prohibit him from handling any further probate cases in his practice. But the lawyer members of the Commission (a majority of the Commission), despite agreeing this was a serious violation, voted to just suspend his license for six months and then allow reinstatement without any restrictions. After all, he was a fellow lawyer. I had to wonder how many folks in that small town were going to be cheated in the future when that lawyer would revert to his previous practices.

Earlier this spring, a new board called the Attorney Disciplinary Board was created by the Iowa Supreme Court. It will consist of seven lawyers and three lay persons. As a result, lawyers being accused of improper professional conduct in their practice will be facing a “jury” of fellow lawyers.

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600 North Jackson Street

Mt. Pleasant, Iowa 52641-1328

Phone: 319-385-3462 Fax: 319-385-3799

E-Mail: public.interest.institute@limitedgovernment.org Website: www.limitedgovernment.org

Even with the best of intentions, favoritism creeps in when the accused person is a peer member of your occupation. If we want true accountability by our disciplinary boards, then those boards of the professional organizations in our State must have a dominate number of lay citizens on their boards. Is there such a board in Iowa now? Yes.

I was one of the original members of the Iowa Judicial Qualifications Commission (the Iowa Judges disciplinary board). Membership on the Commission consisted of three legal members and four lay members. Decisions regarding Judges' misconduct did not come easily. There were many split votes. But in my seven years on this Board, there was never a split vote with the lay members on one side and the legal members on the other side. It was a very just and fair-minded Board, a Board Iowa citizens could be proud of.

Many of us would have difficulty in assessing a punishment against a member of our occupation. This is why all disciplinary boards for professionals must have a dominate lay membership on their boards. This is the only sure way to eliminate favoritism.

The citizens of Iowa are entitled to this kind of protection within our many professional occupations. It's the kind of protection that the framers tried to build into our original Constitution for our society. The disciplinary board of our Iowa Judges offers a shining example.

Richard Grossman is a member of Public Interest Institute from Marshalltown, Iowa.

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