

**Excerpts from:**

**The**

**WAR**

**Against**

**ALTERNATIVE  
MEDICINE**

How Mainstream Medicine  
Is Trying to Destroy  
Complementary and Alternative  
Medicine

**A Consumers for  
Medical Choice Report**

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# **From POLITICS IN HEALING**

## **by Daniel Haley**

This book puts it as a postulate that there is a war going on (of which the public is largely unaware) between toxic and non-toxic therapies, and that the non-toxic ones have been getting clobbered. There has been a long attempt to sell a bill of goods that the only real medicine is strong, toxic medicine, almost always patented, produced by pharmaceutical companies, and that only this should be used by doctors or paid for by health insurance programs either public or private....

While every other kind of freedom is fought for by both liberals and conservatives, there's strange silence when one brings up Health Freedom - freedom for anyone to consult the doctor of one's choice, to obtain any therapy of one's choice, toxic or non-toxic, and to have it paid for by one's health insurance. Our talk and preaching about free markets helped to bring down the Soviet Union. But we don't practice what we preach, for we have no free market in non-toxic therapies in the U.S., in things which by definition can't hurt us.

For a layman, it is hard to conceive that some of the most basic organizations in our health establishment would lie and cheat, but lie and cheat they have. Political pounding befell some very remarkable medicines and their proponents, with both governmental and non-governmental institutions brazenly lying as they squelched them. The late Senator Paul Douglas of Illinois declared in the Senate floor on December 6, 1963, "It's a terrible thing that we cannot really trust either the FDA or the NCI!"

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# THE CALL TO ARMS

In January 1993 an article entitled, “Unconventional Medicine in the United States; Prevalence, Costs and Patterns of Use” was published in the New England Journal of Medicine by David M. Eisenberg and colleagues (Ronald C. Kessler, Cindy Foster, Frances E. Norlock, David R. Calkins, Thomas A. Delbanco.)

This study showed that much more growth had occurred in the public’s use of alternative health care than the medical establishment realized. For example, in 1990 Americans made an estimated **435** million visits to alternative practitioners, compared with 388 million visits to primary care physicians. \$13.7 billion was spent on alternative treatments, 10.3 billion of it out of pocket; whereas \$12.8 billion was spent out of pocket for all U.S. hospitalizations.

In other words, Americans made more visits to alternative practitioners than to conventional physicians; spent more money in the aggregate for these alternative treatments than was paid for all U.S. hospitalizations; and paid three-quarters of these costs out of their own pockets.

Subsequent studies in 1994, 1998 and 1999 confirmed this trend. Moreover, *visits to alternative practitioners increased from 427 million in 1990 to 629 million in 1997.*

These startling figures served as a call to arms for organized medicine: the financial base of conventional treatment was in danger. Obviously, the health care industry could not acknowledge publicly that market share was the primary concern. Future expressions of alarm would be couched in terms like “concern for the public health and safety.”

It is remarkable that no one in the medical establishment seems to have asked the question WHY this trend has developed. However, Dr. Terry Chappell provided the answer in a White Paper prepared for the Great Lakes College of Clinical Medicine and the American Holistic Health Association. The paper was published in the most distinguished periodical for innovative medicine, the Townsend Letter for Doctors and Patients.

Dr. Chappell’s analysis, in a very condensed version: Patients care about safety, and Complementary/Alternative Medicine is far safer than conventional treatment. Patients care about being listened to and having their wishes respected, something the rushed conventional doctor may not have time for. Patients are aware of the negative side effects of many drugs and want to avoid them. And allopathic medicine, which works superbly for acute illness, does not work well for the chronic illnesses suffered by 69% of our population.

Finally, New York State health lobbyist Monica Miller put together a collection of facts that show just how much demand there really is for Complementary/Alternative medicine, from all sides.

# DECLARATIONS OF WAR

Galvanized by the Eisenberg article, the Federation of State Medical Boards included in their April 1995 annual meeting a session on “Unconventional Medicine: Watch and Be Wary.” This featured one of the most notorious Quackbusters, John Renner, M.D., chair of the “National Council Against Health Fraud,” along with several other speakers. Renner’s topic was “quackery” and techniques for combating it.

At the same meeting the FSMB’s President, Robert E. Porter, M.D. established a Special Committee on Health Care Fraud to examine “the proliferation of unconventional and unproven medical practice.”

The slippery use of language found in these presentations became a hallmark of future discussions. “Unconventional” was metamorphosed into “unproven” and then rapidly transformed into “quackery,” a term meaning “fraudulent.” The picture this rhetoric evokes is one of a medical profession frozen in time, rejecting all innovation and mistrustful of any new methods.

In October, 1996, the American Medical Association’s Council on Scientific Affairs issued a report on “alternative medicine, complementary medicine, or unconventional medicine.” Its second page extensively quotes Dr. John Renner; later on it quotes another Quackbuster, Dr. Wallace Sampson.

In a sentence reminiscent of Soviet Russia’s practice of “reeducating” dissident citizens, the report’s last paragraph advises that “Patients who choose alternative therapies should be educated as to the hazards that might result from postponing or stopping conventional medical treatment.”

In 1997, the FSMB Committee published its own “Report of The Special Committee on Health Care Fraud.” It provides a detailed plan for how State Medical Boards can harass and drive alternative physicians out of practice. This document is still considered one of the FSMIB’s major Policy Documents. A summary version was published by an excellent internet alternative health newsletter, NaturalHealthLine.

As Dr. Terry Chappell points out in his paper in *The Townsend Letter for Doctors*, “alternative” medicine has grown up in response to this shift in the patterns of illness. Consumers want gentler, less invasive techniques, and they want remedies with fewer negative side effects. They want medical practitioners who are responsive to their concerns. They want to be able to TALK to their doctor and have him/her reply. And they want to be able to choose for themselves the mode of treatment they prefer.

Consumers are not the only group desirous of broadening the methods of treatment available. Many physicians and other health care professionals are interested in CAM medicine. A White House Commission on Complementary/Alternative Medicine was established during President Clinton’s second term, chaired by a distinguished Washington, D.C. physician, Dr. James Gordon. Several medical schools have instituted alternative medical departments, and more will undoubtedly follow.

The problem will be, however, that if the Federation of State Medical Boards succeeds, there will be no one left to teach the beneficial and revitalizing techniques of CAM medicine to physicians who want to learn them. The best CAM physicians will be exhausted, bankrupt, sick or dead of stress-related diseases, stripped, of their licenses and reduced to doing other types of work - a tragedy of national dimensions.

It is time to stop the victimization of innovative physicians in this country. Please help us spread this information as widely as possible - and please do whatever you can to work towards health freedom in your own state.

# HOW THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT IS DESTROYING THE QUALITY OF HEALTH CARE IN NEW YORK STATE.

By Doctor V, M.D.

There has been a great deal of confusion about the activities of the New York state OPMC (Office of Professional Medical Conduct). In two cases which recently received publicity, where deaths occurred in hospital settings, the Department of Health censured the hospital involved, while the OPMC found that the physicians followed an acceptable "standard of care" even though the patient died. One of these was the case of Christopher Caracciolo which was published in the Sept. 24 2000 Daily News (attached); the second is the Lisa Smart case, which was published in the Nov. 21, 2000 New York Times.

The reason for this disparity is that the Board of Hospitals and OPMC are using two totally different 'standards of care.'

The Board of Hospitals relies on *patient safety* as its standard.

The OPMC has taken as its mandate to create *uniformity of medical care* -NOT safety.

**The standards of care that are being used by the OPMC are set by the LIMO's, the insurance companies and the pharmaceutical companies - NOT by doctors. The basis for these standards is profitability.**

In order for HMO's to thrive in this state, what's needed is for doctors to be indistinguishable one from another. So OPMC is being used to create uniformity of medical care - a standard of care that will leave the institution blame-free because all the "approved" procedures have been followed. In this scenario the doctor does not feel free to deviate from a very narrow protocol - even though it may not be in the best interests of the patient.

**Every doctor that is not in lock step is getting investigated. The real intention is to create conformity, regardless of any other consideration.**

Consequently, doctors are afraid to deviate from the narrow standard of care. You have doctors withholding therapy from patients because they are afraid of being investigated.

The patient is no longer the customer for health care. The customer is the insurance company, and therefore the insurance company decides what's good. The insurance company pays the doctor, sets the standard of care, publishes pamphlets and booklets, pays for speakers at conferences, etc. OPMC does not have patient benefit as a criterion. Conformity is the only criterion.

The latest figures are that 470,000 people a year die from iatrogenic causes - the third highest cause of death in the U.S. This is more than die from AIDs or automobile accidents. A lot of cardiovascular deaths are from the medications, not from the heart disease. A lot of cancer patents die from chemotherapy. If you added those to the iatrogenic death statistics, iatrogenic death would be the second leading cause of death, not the third.

OPMC is fuelling this death rate by forcing doctors to adhere to its narrow protocol and by persecuting doctors who genuinely try to help their patients. This includes alternative medicine doctors. They're putting the doctors who do good medicine out of business, but they're leaving alone the doctors who are harming people by sticking to the standard of care.

The end result is that seeing a doctor in New York State has become much more hazardous. And it will get worse. By letting the OPMC run amok, New York State is destroying its health care industry. It's like the FAA letting jumbo jets crash every day, and explaining it by saying, "Well, yes, the jet crashed, but it crashed by the rules. The pilot did everything he was supposed to do. It's unfortunate that the passengers were killed, but the pilot followed the rules."

**This trend affects or will affect everyone, even people who are rich or famous. The governor himself will eventually find it difficult to get good health care.**

There's the example of Julie Andrews, who was singing in New York, and she got hoarse. She went to see a specialist. The specialist said, You know I could do surgery to help this. Here are the plusses, here are the minuses. He didn't say, I could give you heat therapy and prescribe some remedies and we can see what happens in a few days. Basically he only gave her one option: that's the way this standard of care thing works, you lead the patient down a very narrow path. So she agreed to the surgery and her voice was permanently ruined.

But because the doctor adhered to the standard of care, his malpractice insurance will pay the cost and everything is fine - except of course for poor Julie Andrews, who will never get her voice back.

And for the public, which adores Julie Andrews and loved her singing, and now will never get to hear her sing on stage again, because she can't..

This is a national problem too. It's going on all over the country. It's just intensified at the moment in New York State.

People are starting to understand this. And they are getting fed up. Already you will find patients who refuse to go to a hospital and refuse to go to another doctor, because they don't trust the quality of the care they will get.

In Malpractice law, there is a duty owed to the patient.

- Malpractice means that there was a failure to fulfill that duty.
- Harm was done.
- The harm was caused by the failure to fulfill the duty.

The question is, WHAT is the duty?

The OPMC defines that duty as ADHERING TO THE STANDARD OF CARE. They are using an incomplete malpractice model.

But that's the glitch: the duty should be **NOT TO HARM THE PATIENT**.

You arrive at a point where you have to ask, Was there patient harm?

**If there was no patient harm, then the OPMC seeks to prove that the physician did not adhere to the standard of care. And since OPMC can pick any standard they want, the physician is in a completely no-win situation. Without patient harm the**

**physician has no defense - you can't prove that whatever OPMC says you did wasn't your fault And you can't promise that you won't do it next time.**

In short, the purpose of OPMC is to preserve the standard of care, as set forth by insurance companies, hospitals, and pharmaceutical companies; and to ensure uniformity of treatment - whether the treatment is lethal or not. To understate the situation, this is NOT an appropriate role for an agency whose ostensible purpose is to protect the public health and safety.

# INTRODUCTION

**The War Against Alternative Medicine** is a detective story. It is a paper trail of documents that prove beyond any doubt that **there is a deliberate and highly organized campaign under way to destroy complementary and alternative medicine**. The motive for this campaign is monetary: CAM medicine has become enormously popular, so much so that in the early 1990's conventional medicine's leaders suddenly recognized that CAM was a major threat to their monetary base.

This war is also directed at medical innovations which threaten established treatments (Eke Syracuse physician Dr. Charles Gant's successful treatment of hyperactive children without using Ritalin, which has drawn international praise); and at treatments which are more costly than standard protocols (like Long Island expert Dr. Joseph Burrascano's treatment of Lyme Disease). It is also directed at private independent medical practice - at doctors who are not part of a hospital staff or an HMO, and who are thus not subject to institutional control.

The war has been in process for a number of years. It is being waged in a most deceptive fashion: by deliberately destroying the doctors who practice these innovative medical technologies. The chief weapon is the filing of complaints against these doctors through state medical boards, using vague, trivial or spurious grounds. This forces the accused physicians to go through years of arduous, expensive legal battles, which bankrupt them, destroy or damage their health and reputations, and permanently injure the physicians personally and professionally. *In the vast majority of cases, these doctors have never harmed a patient in any way.*

In true Orwellian fashion, these complaints against innocent physicians are worded as efforts to "protect the public health and safety," and the physicians are deemed guilty of "gross negligence, gross incompetence, moral unfitness," etc.

The perpetrator of this war is the **Federation of State Medical Boards** and its state chapters - a national association of medical licensing and disciplinary boards from every state in the union. Behind the FSMB is their parent body, the **American Medical Association** and its affiliated state medical societies.

Another opponent of CAM medicine is a former AMA covert affairs office called the **Quackbusters**. The **Quackbusters** were spun off from the AMA in 1976 in response to a racketeering lawsuit filed by a group of chiropractors. They are now professional propagandists - debunkers of any type of health care other than conventional drugs and surgery, with enormous web sites, a publishing house with an inventory of 900-plus titles, and a network of fifteen to twenty affiliated organizations. And yes, they are still sniping at chiropractic whenever they can.

Finally, behind these three groups are financial interests - what Dr. Terry Chappell, former head of the American College for the Advancement of Medicine, calls the “medical-pharmaceutical-industrial complex” - insurance companies, pharmaceutical companies, hospitals and other health care organizations whose profit base is threatened by changes in consumer health care preferences.

The documents in this book may seem outrageous to you, even horrifying. That is the reaction of the people who have contributed to this anthology. That is why we are publishing it.

It is shocking that state agencies would martyr good doctors who have never been guilty of harming a patient. It is **that IN MOST STATES, DOCTORS WHO ARE BROUGHT BEFORE STATE MEDICAL BOARDS RECEIVE NO DUE PROCESS WHATSOEVER.**

Physicians who are subjected to this ordeal are treated as if they were prisoners in a totalitarian state. They are not allowed to know who accused them or what is the real reason for the accusation; they are not allowed to have a CAM physician among their reviewers or on their hearing panel. In many of these hearings - in New York State at least - physicians are not even allowed to enter evidence on their own behalf, *because everybody in the room except the accused physician, including the administrative law judge and the hearing panel, works for the prosecutor!!* It is a true kangaroo court - a Kafka-esque scenario that can only be equated with practices in Nazi Germany or the Russian KGB.

The toll for the doctors is dreadful. Two physicians we know spent a million dollars each on legal fees because of state medical board harassment. They will never be able to recoup their losses in their lifetimes; they were in fact lucky to have enough money to outlast their persecutors. Many other physicians are not so lucky. I have heard of several bankruptcies, two suicides, two cases of cancer, two cases of heart disease, several cases of complete physical

breakdown. Their ordeals go on for ten, fifteen, twenty years. As one (anonymous) physician said, once the state medical board (in this case the N.Y. State Office of Professional Medical Conduct, OPMC) goes after a physician. they never drop the case - except in the rare instances in which they were defeated. (Then they immediately set to work to eliminate the loophole that permitted their defeat.)

This process, which can deprive a physician of his/her livelihood, reputation, even health and life, for no legitimate medical reason whatsoever, surely must be unconstitutional. Using government-based harassment which lasts in many cases for decades to settle a philosophical argument internal to the medical profession itself is appallingly inappropriate.

It is also a horrendous waste of taxpayer money. For example, the case against New York City family practice physician Dr. Warren Levin, which was completely unfounded and resulted in the charges against him being dropped after twenty years of harassment, was said to have cost **taxpayers over one million dollars**. Which of us, as consumers, would choose to spend *more than a million dollars of our money* persecuting an innocent physician for more than fifteen years -simply because he got his patients well in most cases without using drugs or surgery?

If we cannot find a fair system of ensuring safety in medicine, then we no longer live in the America which is renowned for its democracy and its constitutional rights.

It is important to emphasize here that this campaign is directed and run by a few people within these organizations, not by all doctors or all members of the organization. Most physicians probably do not know that the campaign to wipe out CAM medicine exists.

It is also important to state here that his book is not in any way to be construed as an attack on medicine itself. Most of the contributors are themselves physicians; the remainder are persons who are deeply devoted to the concept of excellence in medical care. Traditional medicine in the U.S. does many things extremely well, Its acute care is superb, even miraculous. Its advances have given us access to better health and longer lives, to feats of healing that are both astonishing and wonderful.

Acute care, however, is not the only valid healing system that exists. Increasingly, many Americans suffer from chronic diseases or other conditions such as pain that do not respond well to acute care but need chronic care instead.

# **A DOCTOR'S GUIDE TO THE OPMC'S INVESTIGATIVE PROCESS: Advice to My Colleagues by Doctor X**

## ***Level # 1: The Complaint.***

You get a call from the OPMC that there is a complaint against you. The OPMC requests a copy of one or more patients' charts.

This is a bad sign. The only reason they request a chart is to find incriminating evidence.

At this point, you have to make a pretty cold dispassionate assessment: did I screw up, or didn't I? Did I harm a patient? Is the patient dead?

If the patient isn't dead and you didn't screw up, then the only other valid explanation is that the OPMC is out to get you.

## ***What If You Did Screw Up?***

If the patient is dead, cop a plea. Spare yourself the expense, the time, the trouble of a hearing. Find a lawyer and authorize him to negotiate in your behalf, preferably with you remaining very very silent.

**COPPING A PLEA DOES NOT MEAN CONFESSING TO ANYTHING.**

Under NO CIRCUMSTANCES should you ever confess to anything. Agree to additional training, probation supervised by a doctor who is your best friend, who will report periodically to OPMC. DO NOT agree to probation monitored by the OPMC. If you really are guilty - so guilty that you've been judged guilty in other jurisdictions before going to OPMC - pack your bags and leave town. There is life in other places besides New York State and in other careers besides medicine. If you fight this, you will lose all your moving money.

## **PLEASE NOTE:**

The OPMC never drops a complaint. They will sometimes let it sit for years and years, and then, for no logical reason anyone can fathom, they will come after you. If you hear nothing more from them after the complaint, then you should go into a capital accumulation mode: cut down on your expenses, pay off your mortgages, get the kids out of private school, send them to a state college instead of a private college, drive an old car. This is not the time to renovate your office or your home, or to join the country club. The OPMC will be back. Doctors have had their licenses suspended as long as fifteen years after the original complaint.

I repeat: once the OPMC has pulled a chart, they will be back. In the case of OPMC, **the very fact that they have asked for a chart means that somebody wants you out of business.** It could be three months; it could be ten years. It's important to accumulate as much in assets as possible during the interim period, so that you will have enough money either to fight, to retire or to start over in a state other than New York. It takes less money to flee than it does to retire.

## ***Level #2: The Informal Hearing.***

You are called in for an informal hearing. The OPMC invites you to come to their office to discuss your therapy. Unless you have legal training, it's a good idea to bring a lawyer.

The great majority of complaints to OPMC are settled by a phone call to the doctor. We have a complaint against you. You didn't do this, did you? No, we didn't think so. Thanks very much, goodbye.

Once you get the invitation to the informal hearing, the OPMC is out for blood. From that moment on your life can change radically.

Usually the OPMC picks up cases in the emergency room. Dr. Nasty down the street saw one of your patients in the emergency room and turned you in. You should request every other piece of information on that patient that is in the OPMC's possession: the case file, hospital charts, emergency room records, etc. The identity of the complainant is always kept secret.

At the informal hearing you should ask, very politely, to see all the information that they have. This is your last chance to see their evidence, so you must take advantage of it.

This is also a time when an OPMC-experienced lawyer is very useful. An OPMC-experienced lawyer is one who makes his living from the victims of the OPMC; consequently he has a long history of selling doctors down the river in OPMC hearings. Because he has a longstanding relationship with the OPMC they will probably honor his wishes.

One very good reason for asking to see all the information is that it is very common for OPMC evidence to be fabricated. It is also very common for OPMC to send a fake patient, a "shopper," to your office at some point to try to trap you in some way, so be wary of patients who have strange complaints or behave oddly. For example, if you have your nurse call a new patient into your office and she says, she has to make a phone call first, and then she spends twenty minutes on the phone talking in a whisper so no one around can hear what she is saying, she is probably an OPMC plant.

Once the information hearing has taken place, if you have a multi-physician practice, it is a good idea to withdraw from that practice, as your partners will likely be coerced by OPMC into testifying against you. If you are in solo practice, close your practice so no further complaints can be manufactured.

The reason for this is that during the information gathering phase, the OPMC goes into overdrive collecting information about what goes on in your practice. If your practice is closed, they will have no way of generating further complaints.

**The kind of mental activity required for a legal defense is radically different from the intellectual and mental concerns of a physician treating patients.** You will find it very hard to switch modes five or six times a day from medical to legal and vice versa. This is one of the ways in which the OPMC tries to exhaust and deplete the physicians that it investigates: the stress will grind you into hamburger meat eventually. Closing your practice, if you have enough money saved up to live on, will considerably reduce the strain while you go through the torturous and unjust OPMC process.

## ***The Comprehensive Medical Review***

If the OPMC wishes to make a "comprehensive medical review" - going through every single one of your charts 0 refuse to comply. I repeat: ***Do not agree to go through a comprehensive medical review.*** It is a fishing expedition for future persecution. The OPMC will pick out 30 charts, prosecute you on ten, and then several years later, pick out 10 more charts and prosecute you again. And so on (if you survive that long.)

Secondly, the Comprehensive Medical Review is your red flag that they have absolutely no evidence on which to call you up. So it is a very bad sign: they are determined to find something

wrong in your practice, anything, and they will stop at nothing to do it. At that point, you should decide whether to stand and fight, or leave the state.

The Comprehensive Medical Review should be outlawed. The OPMC is supposed to be protecting the public from bad doctors, not harassing physicians who have harmed no one in order to take sides on medical arguments, or to eliminate innovative doctors whose techniques cost the insurance companies more money than do the standard techniques.

### ***Level 3 The Formal Hearing***

The formal hearing consists of an administrative law judge and three panel members. All of them “work for” or report to the prosecutor. Two of the panel members are physicians; one is supposed to be a lay person but is usually a hospital employee or a physician’s assistant, in other words someone who won’t blow the whistle on the unfairness of the process because their livelihood is involved with the medical world.

There’s no justice at this level. The conclusion has already been decided before you got there. (One prominent attorney in this field says that the conclusion is decided before the panel is selected, and that there are panels that give suspensions, panels that give fines, and “hanging panels” whose job is to revoke your license.)

Any exculpatory evidence will be omitted from the hearing. The Administrative Law Judge takes orders from the prosecutor, who will admit all his own evidence and exclude yours. The term “kangaroo court” comes to mind.

This is really an opportunity to gather information for your Administrative Review Board Appeal. You want to introduce as much evidence on the record as possible. You want to document and demonstrate their violations of due process, constitutional law, civil rights and human rights. That’s what you want the transcript to show. You want to ask questions and ask for the court to grant you every courtesy the law provides. ***All the requests will be denied, but you want the denials on the record.*** Whenever you submit evidence that they reject, have them tag it, label it, and seal it, so it can be referred to in future proceedings.

All of this prepares you for the appellate and circuit court records, You’re simply creating a record that will show the gross unfairness of the OPMC’s proceedings against you.

You want to ask the court for every single right to which you are entitled: discoveries, admitting papers into evidence, etc.

Expect to spend \$20,000 to \$200,000 in legal expenses at this level,

### ***Level 4 Administrative Review Board Appeal***

Penalties are generally reduced at this level; in fact, substantial reductions are customarily made.

Example: revocation can be downgraded to a suspension. A \$100,000 fine can be downgraded to a \$30,000 fine. You should have someone helping you here, either an attorney or a forensic consultant. All papers have to be formally prepared in precise ways, and their language is stylized and archaic.

You have to get the laws right and you have to observe exactly all the different deadlines.

If you make it to the ALB level, the ALB usually reduces your fine to under \$100,000 - a level that is generally lower than the cost of going to the Circuit Court level. So even though the fine and the penalty are unjust, you have no financial incentive to clear your name and exonerate yourself by going on to the Circuit Court level (which costs about \$100,000) - and your record is marred by a conviction of some sort.

This level runs between \$5,000 and \$10,000. So obviously this is well worth the effort.

### ***Level 5 Article 78***

An Article 78 is a petition for relief filed with the State Supreme Court.

There's no justice at this level either. It's futile, but necessary. Just cross your i's, dot your t's and get through it. Little yield in terms of doctor benefits; it's an opportunity to fortify your case for the circuit court.

***No doctor has ever won at the Article 78 level. The process is stacked against the doctor because the judge is a state employee.*** There is a rule that the judge may not interfere with the administrative process. If the Judge violated this rule, he would lose his job; he would not be supported for reelection.

This level runs \$2,000 to \$10,000.

### ***Level 6: Appellate Court***

This level is pretty much the same as Article 78 in terms of whether any justice is possible. There's some yield, but it's very small. The Appellate Judge is also an employee of New York State. There's a 98% loss rate at this level. You have to not only be right but have compelling case law and technicalities to prove it.

This level will run about \$20,000.

### ***Level 7: Circuit Court***

Here's your chance first chance for justice. This is the lowest level of the Federal courts, your first opportunity to appear before someone who is not a New York State employee. Generally you can expect some relief

No doctor has gone beyond the Circuit Court Level as far as we know. There are two other levels beyond this: District Court and U.S. Supreme Court.

At the Circuit Court Level you can expect to spend about \$70,000.

The price tag for the entire process is conservatively \$313,000 soup to nuts, from the hearing to the lowest Federal Court level. However there is wide variability. Many physicians have spent \$1,000,000 just to get to the ARB level.

**NOTE: This System Is Deliberately Rigged Against the Doctor At All Levels of the State Process.**

### ***What's the Purpose of All This?***

**1. To sufficiently cripple a doctor financially so that he/she will never make it to the Circuit Court level and get his conviction reversed.**

In most cases, this process strips the doctor of so many resources that he never makes it even to the ARB level.

The net effect of this deliberate financial exhaustion on you is that your conviction is never overturned. As a result, there are currently a number of very good and very innovative doctors who have convictions on their records. In other words they have been punished for being good and innovative - and punished in an extraordinarily harsh and inhumane way.

**2. To control as completely as possible the practice of medicine in New York State, by controlling the information transmitted from the doctor to the patient; and To maximize the predictability of the doctor's use of technology and drugs, so that the profits of the industries which are dependent on doctors are predictable.**

For industries such as the drug and hospital industries, unpredictability is worse than anything else. You don't know how many employees to hire, how many plants to build, how many supplies to purchase; how much to charge for insurance premiums. These decisions cannot be made with any accuracy unless the doctor's behavior is totally predictable.

The health of the patient really plays no role in this process; it's given lip service but it is simply not considered. The patient's health, his life, death, illness or recovery, are completely subordinate to maximizing profits. Witness the doctors who operate on the wrong side of the brain **or remove the** wrong kidney and are not disciplined at all by the OPMC, which finds that "they followed the standard of care."

### **3. To prevent change.**

The industries that make money from medicine like things kept just the way they are. They resent, dislike, and fear alternative/complementary medicine, because they cannot control it.

Interestingly, *the public does not want the conventional organizations to control complementary/alternative medicine*. So the establishment is forced to do things like fund rigged studies and run articles in the newspapers and magazines on how dangerous herbs are, in an effort to make people believe they would be better off if the "usual suspects" took over complementary/alternative medicine. Did you notice the recent study which says that St. John's Wart does no good for depression? Who do you think benefited from THAT article? Three guesses - but I can tell you right now it was NOT the public. *Any time you see an article deploring the dangers or the worthlessness of herbs and vitamins, it was probably paid for by the people who are losing business because of herbs and vitamins.*

### **4. To get the doctor to revert to the drugs and surgery mode of practice and no longer give the patient a choice.**

Persecuting successful alternative and innovative **physicians** will intimidate younger physicians from going into complementary/alternative medicine or from thinking too hard about how to get their patients well. What the OPMC wants is physicians who keep their heads down, **do** everything by the book and jump when a drug company yells "frog."

### **5. To increase the number of doctors punished so that the OPMC can show "results" and appease legislators without interfering with the drugs/surgery/radiation/chemotherapy industries that donate so much to political campaigns.**

If you've read this far, this item is self-explanatory.

#### **Question:**

**Does Anybody in This System Care About the Patient's Health?**

#### **Answer:**

Individual physicians do - perhaps not all of them, but certainly many of them do.

The Department of Health is concerned about keeping traditional medicine profitable and about controlling how doctors treat their patients. If you succeed in getting your patients well with minimal use **of** drugs and invasive techniques, they won't be happy that your patients improves - they'll be furious.

The OPMC has absolutely NO concern for your patients' well being or for the public health and safety, despite their self-righteous rhetoric to the contrary. They follow orders from "higher ups" who target for extinction any alternative /complementary physician whose results are good. The most prominent "higher ups" are the state AMA branch organization, the Medical Society of

New York. But you can also include here the hospital industry, HllvtO's, the pharmaceutical industry. All of them have a stake in keeping the status quo unchanged.

## **Conclusion**

The OPMC and its methods bring to mind another court from the distant past - a court that won a lasting place in history because of its abuses and unfairness.

In medieval England, the King's Privy Council evolved into a high-level court called the Star Chamber. At first it was popular for its ability to enforce the law when other courts were corrupt. However, its freedom from any system of checks and balances allowed it eventually to become more corrupt than the ordinary court system. It became arrogant, arbitrary and dictatorial. It was guilty of numerous abuses, including being an instrument of political persecution. It would throw people in prison, torture them, ruin their whole family financially, and never give any explanation as to what that individual had done to merit such treatment. It never revealed the complainant's identity to the defendant. It heard its cases without a jury and had none of the protections for the defendant's rights that were present in English common law.

It became a feared and hated symbol of oppression to the parliament and the people, and eventually it was abolished.

# **SLOW TORTURE AND FINANCIAL RUIN: How Alternative Physicians are Treated In New York State**

The New York State Office of Professional Medical Conduct has chosen to destroy physicians by pursuing them over long periods of years - a kind of Chinese Water Torture technique - and by filing trivial or generalized charges against them, thus subjecting them to extraordinary legal costs to defend themselves. They developed this technique and honed it to a fine point long before the 1997 FSMB recommendations made it a national standard.

In one famous New York state case, Warren Levin, M.D., was investigated by the Office of Professional Medical Conduct during a period of almost twenty years. During that time, he developed cancer in one kidney and had to have it removed; spent so much on legal costs that he had to declare bankruptcy; and lost a \$1 million state-of-the-art office facility because after declaring bankruptcy he could no longer get credit. He survived through his own innate courage and determination; the concern of his many patients and Mends; and the unfailing support of his wonderful wife Susan Levin and their daughter Erika.

Dr. Levin, a superb physician who is widely respected for his ability, is fortunately alive, in good health, and still in practice in New York City and in Connecticut.

Other Complementary/Alternative physicians in New York State who have been the object of harassment include Dr. Robert Atkins, Dr. Michael Schachter, and Dr. Nicholas Gonzalez, to name a few.

## TEST-BASHING

In a related enterprise, the New York State Department of Health is systematically prohibiting the use of many of the sophisticated medical tests that CAM physicians use to diagnose and treat their patients.

Here is a list from one of the preeminent laboratories that does CAM tests, Great Smokies Laboratory in Asheville, N.C., of tests that are now banned or limited in New York State.

Note that the New York State Department of Health (the agency which houses the OPMC) appears to PROHIBIT NEW YORK STATE RESIDENTS FROM HAVING TESTS PERFORMED IN OTHER STATES IF THEY ARE TESTS THAT THE DOH DISAPPROVES OF.

This is an unbelievably repressive stance. Is it the start of DOH initiated trend towards medical fascism? If you are a New York State resident, do you have any rights to your own body or your own decision making process?

Apparently not if the New York State Department of Health has its way.

# WARNING.

## YOUR STATE MEDICAL BOARD MAY BE DANGEROUS TO YOUR HEALTH

In 1993 mainstream medicine suddenly awakened to the fact that Americans were paying more visits to Complementary / Alternative health care providers than to conventional medical practitioners. What followed is one of the most shameful chapters in medical history: the Federation of State Medical Boards and the AMA put together a plan to exterminate CAM medicine by destroying the medical doctors who practice it. Their preferred technique, perfected by the New York State medical board (called the Board / Office of Professional Medical Conduct) is to file spurious, misleading, or trivial charges against these physicians, drag them through years or decades of hearings and legal costs, and bankrupt them or drive them out of business. At present SEVENTY-TWO PERCENT of all N.Y. State CAM physicians either are or have been under investigation by the OPMC.

The results have been devastating. Physicians who are guilty of *no patient injury whatsoever* have lost their life savings, their health, and years of their lives fighting these unjust persecutions. The OPMC has succeeded in wiping out *every CAM physician in the city of Syracuse except one*. They are now working diligently to destroy CAM medicine in New York City and the rest of New York State.

Although in Orwellian language the FSMB and its members profess to be protecting the “public health and welfare,” their real motive is to maintain the profits and power of conventional medicine. To quote Deep Throat’s famous remark:

“Follow the Money”

Contemporary conventional medicine can do miraculous things: repair damaged heart valves, replace blocked arteries, reattach severed limbs, implant new cells into damaged parts of the brain. The list is long. But most of its techniques are either invasive, or involve pharmaceutical treatments which can have negative side effects. The health consuming public has been drawn to CAM medicine by the search for safe, non-invasive remedies that maintain health without negative side effects.

Until now the health-conscious public has been unaware that their access to innovative health care is threatened. The collection of “smoking gun” documents in this book has been assembled to let Americans know about this vicious and illegal campaign to destroy holistic medical care - before it is too late.