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TO: MEMBERS OF THE LONG ISLAND JEWISH ORGANIZED MEDICAL STAFF

We know we have written before about the unpleasant topic of what you should do if you receive a letter from the Office of Professional Medical Conduct. We are aware that this may be repetitious and for that we apologize – BUT – we have received many calls from physicians plagued with OPMC issues and know from these experiences that a repeat is needed of earlier cautions.

DO NOT and we emphasize – DO NOT – contact the OPMC person who has written a letter or a demand to you. Do not become involved in a discussion with OPMC – that office was not created to necessarily protect the rights of physicians but rather to investigate complaints brought against a practitioner – or to question certain aspects of a practice. The purpose of OPMC is clearly written out in the law creating it and it is NOT to protect the physician but rather the consumer. If you received a summons in a malpractice suit you would immediately contact your carrier. In that instance we are only talking about money – with the world of OPMC we are talking about your license being at stake! Sooo – contact your attorney who, hopefully, has had experience in this arena.

One or more patient records will be requested. Of course, you will make copies of anything sent. In reviewing the chart you may realize that there is something missing or is incorrect. This moment is full of peril. If you decide to add, delete or change something it will be apparent. If you truly must amend your chart be sure you date the change so that it is a contemporaneous amendment.

As matters proceed you will have the opportunity to meet with an OPMC physician reviewer and, in most instances, this is with the person who has pursued the matter from the beginning. You must – you must – you must be fully conversant with every aspect and nuance of the chart. We emphasize this because no matter how many times we have reviewed materials with some clients we are shocked by the cavalier attitude of some who are just too busy to know as much as the OPMC reviewer knows. Please, we are talking about your license to practice! What could be more important?

In all aspects of life impressions matter. You want the reviewer to recognize your sincerity and the fact that you are a "good doctor." If there is a question about your treatment of the patient you will have an intelligent and informed response. If you are being questioned about possible overprescribing of a controlled substance you will have a valid reason for having done so – it was not done simply because the patient continually complained of pain and you have no independent substantial tests to justify your conclusions.

Following the interview you will have an uncomfortable period of time while OPMC reviews the interview record and determines whether the matter is closed or will move forward to a further step.

If you have not ended the process at the initial level there may be a point at which your attorney is presented with a compromise proposal from OPMC. You may be asked to acknowledge some culpability but being allowed to continue your practice with or without certain restrictions. Let's discuss this aspect of the scenario.

We have been contacted too many times after physicians have accepted compromises negotiated by attorneys who had not recognized certain ramifications. Remember – all penalties imposed by OPMC are published.

You must answer questions – Will my Medicare and/or Medicaid participation be restricted because of my penalty? Will my hospital privileges be affected? If I am a member of a practice, what provision is in our partnership agreement which speaks to OPMC penalties (and Medicare participation – or lack thereof?) Will all or some carriers deny me participation as a result of the choice I made?

These issues must be considered as you decide whether or not you will continue within the disciplinary process where the next step is a formal hearing before a panel consisting of two physicians and one layperson. It is, in essence, akin to a formal trial and the panel's determination is then confirmed, or overruled, by the Commissioner of Health.

One last item which we must mention. The Department does have the right to arrive at your office – without warning – and request the production of patient charts. If this should occur – be certain to make copies before those charts leave your office.

We know this is not a topic which most like to contemplate but – to be trite – to be forewarned is to be forearmed.

Respectfully submitted,

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