Potvin v. Met Life Insurance
By Henry R. Fenton, Esq.

The long-awaited May decision of the California Supreme Court in the case of Potvin v. Metropolitan Life Insurance Company represents a great victory for physicians and their patients. The case of the late Louis Potvin, M.D., Orange County OB/GYN and longtime CMA member, began in 1992 when Dr. Potvin challenged his arbitrary termination from a network of health care providers. As his attorney I appealed, and in 1997 the Court of Appeal upheld the case. I described the case and its implications in the August 1997 California Physician.

Unfortunately, Dr. Potvin died shortly after he learned of his victory in the appellate court. A physician's physician, he was considered among the finest OB/GYNs in Orange County. He was a president of the Orange County Medical Association and a CMA delegate from Orange County for 18 years.

Still, legal questions remained after Dr. Potvin's death because the California Supreme Court had granted a hearing to Met Life.

But the May decision lays those questions to rest. A majority of the Supreme Court agreed with Dr. Potvin's contention that in the managed care environment, physicians and their patients are at the mercy of managed care organizations, which not only control the ability of physicians to practice their profession, but have the power to interfere with the public's interest in preserving and protecting physician-patient relationships.

Amicus curiae briefs filed by CMA and AMA supported the contention that managed care organizations in California hold substantial economic power over physicians and their patients. This contention was adopted by the court majority, which concluded that such organizations could be considered private entities affecting the public interest, much like unions, professional societies, and hospitals—entities that the courts have held are required to provide fair procedure. In essence, the court decided that when an insurance company or any other private entity in the health care industry possesses power so substantial that the physician's removal significantly impairs the ability of that physician to practice medicine or a particular medical specialty in a particular geographic area, because of the market power of that health care entity or for some other reason, then the physician in question may not be terminated unless the decision to terminate is "substantively rational and procedurally fair."

In essence, this means that just cause must exist for termination, and the physician is entitled to specific notice of the reasons for the termination and to a fair hearing to permit the physician to challenge the termination.
The rationale of the Potvin decision extends to all sorts of health care professionals and managed care entities, including HMOs, insurance companies, IPAs, and other organizations that significantly control the ability of physicians to enter into and maintain physician-patient relationships. The rationale of the decision applies not only to termination or deselection situations, but also to initial credentialing.

The decision applies only to situations where the insurer or managed care entity possesses sufficient power that the physician's ability to practice medicine or his specialty in that particular geographical area is significantly affected. But in the current economic environment in California, that scenario is commonly the case. It is unlikely that insurers and HMOs will be litigating the matter, whether or not they have substantial power, on a case-by-case basis. More likely, throughout the state they will put into place notice and hearing procedures in compliance with the Potvin decision.

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