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State's medical peer-review system faces possible overhaul

Sacramento Business Journal - by [Robert Celaschi](#) Correspondent

A bill working its way through the Legislature proposes a pilot program to explore a new system for medical peer review in California. Other pending bills would allow mediation and voluntary programs instead of formal peer review.

Depending on who in health care is talking, these are efforts to fix a broken system, or adjustments to a system that already works well most of the time.

Peer review is how doctors evaluate one another's work, typically in a hospital setting and related to possible disciplinary action. The details are laid out in the state Business and Professions Code. It's a crucial part of correcting medical errors in hospitals.

Peer review is coming under scrutiny now because of a report the Legislature ordered, which was the subject of a state Senate hearing held in March.

The study was conducted in 2007 and 2008 by Lumetra, a health care consulting organization based in San Francisco. Lumetra said California's medical peer review system is broken and that it rarely leads to any action, known in the medical field as "805 reporting," after the section in the Business and Professions Code.

The Medical Board of California is too bureaucratic and slow in regulating the profession, Lumetra said.

What would be better, the report said, is a separate, independent peer review organization. Hospitals, doctors and medical groups would still handle the initial screening, but the independent agency would make the final decisions.

Lumetra had less dramatic recommendations about better public disclosure and clarifying reporting criteria.

These points and others came out at the March 9 hearing. Dr. Ian Grady, who practices in Redding, said peer review in a hospital setting is inherently ineffective.

"Before the 805 reports are filed, before this goes to the medical board, before this goes to the medical executive committee of the hospital, the doctors' committee has to sit down and say 'Yes this is a bad event.' And that, we think, just simply doesn't happen," Grady said.

And when reviews are done, the people doing them aren't disinterested, said Paul Hittelman, an attorney from Los Angeles. "There's nothing objective about being reviewed by the guys you see every day in the lunchroom."

As might be expected, hospitals aren't keen on the idea of giving up their role in peer review.

"When our folks looked at the Lumetra study, we thought it was extremely flawed," said David van der Griff, a lobbyist for the **California Hospital Association**. "I think there is a misconception in the Legislature as to what peer review is. It is not just the single time that a doctor's performance is called into question and a disciplinary action is recommended. Peer review is something that is continually going on in a health facility."

Hospitals are already good about bringing in outside people when needed to ensure impartiality, said Wendy Keegan, the association's vice president and legal counsel.

The doctors have their own take on peer review. The **California Medical Association** filed an eight-page rebuttal to the Lumetra report.

"It's not to say we don't think there are things in peer review that can be improved. It's not to say the process is perfect now," CMA spokesman Andrew LaMar said. "But we don't view it as something that needs a fundamental overhaul."

The CMA did agree with a few points in the report. Lack of impartiality is a problem in some hospitals, the association said, and an outside review body might be a good idea in cases where a doctor doesn't think he or she will get a fair shake. But the CMA urged that it be done on a case-by-case basis, not across the board.

Four bills working their way through the state Legislature propose varying degrees of change to the current system.

Senate Bill 58, introduced by state Sen. Sam Aenestad, a Grass Valley Republican, and an oral surgeon in private practice, would require the Medical Board of California to run a pilot program of outside peer review. SB 58 also would require peer review to include an early detection and resolution program. That would allow a doctor to get training, oversight or some other action short of having a formal 805 report.

Senate Bill 700 by Sen. Gloria Negrete McLeod, a Chino Democrat, would expand the definition of "peer review body" to include a medical or professional staff of other health care facilities or clinics. It also would require filing of 805 reports with the licensing board within 15 days of imposing an action, regardless of whether a hearing had taken place.

The CMA is opposing SB 700, though it is working with Negrete McLeod's office, LaMar said.

Then there's Assembly Bill 834 by Assemblyman Jose Solorio, an Anaheim Democrat. Sponsored by the hospital association, it would allow voluntary mediation in place of a formal review.

Finally, the CMA has sponsored AB 120 by Assemblywoman Mary Hayashi, a Hayward Democrat. It would encourage external peer review, would require peer review bodies to respond to each other's requests for records, and would provide some immunity for that information.

Given the balance of power in the Legislature, the associations say they don't expect the Republican-backed bill to pass.

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