Kaiser Doctor Blows Whistle on Patient Care

PHILIP A. JANQUART February 28, 2012

LOS ANGELES (CN) – A doctor is suing Kaiser Permanente in state court claiming the nonprofit HMO fired her for complaining about patient care and blowing the whistle on Kaiser's "for-profit" agenda.

Barbara Zipkin, who had 30 years with Kaiser Foundation Hospitals as an OGBYN surgeon before being terminated, says hospital administrators retaliated against her following a meeting where she complained about inadequate staffing levels and substandard patient care due to inadequate examination time allotments.

Kaiser Permanente, one of the largest integrated managed care consortiums in the U.S., consists of three separate entities: Kaiser Foundation Health Plan, Permanente Medical Groups and Kaiser Foundation Hospitals. Each independent Permanente Medical Group operates as a separate for-profit partnership and does not publicly disclose financial status, but is mainly funded by reimbursements from Kaiser Foundation Health Plan.

The doctor says in her court complaint that other doctors were refusing to see patients and that an increase in staff would result in "more time with patients and an emphasis on care and not profits."

A hospital doctor and supervisor met with Zipkin on July 6, 2011 and told her that her comments were "unprofessional and disruptive," says the complaint, giving her the option to either retire early, or take a 20 percent cut in pay.

"Despite the fact that five other doctors spoke out against the current administration at the June 9, 2011 meeting, plaintiff was singled out because her comments focused on inadequate patient care, while the other doctors were not disciplined," the suit claims. "For example, Dr. Lance Chu called Dr. Smalls a 'vile, vindictive bitch.' However, to plaintiff's knowledge, Dr. Lance Chu was not disciplined for this comment.'

Zipkin refused to accept early retirement and by July 13 was placed on administrative leave, according to her complaint.

She sent a letter that same day to The Department of Managed Health Care, The Medical Board of California, The California Department of Insurance and the Franchise Tax Board, disclosing that doctors were not paid overtime hours, and lost vacation time and had clinics cancelled for spending too much time with patients. Her letter also claimed that doctors' compensation was reduced for non-compliance of patient schedules.

"Plaintiff's advocacy was seeking care for her patients and other Kaiser patients that is consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care," the suit stated.

"Kaiser did not wish to provide plaintiff with sufficient time to see patients because such proper care would decrease Kaiser's profits by increasing the number of necessary tests ordered by plaintiff and decreasing the number of patients that plaintiff could see in a day," said the suit. "By such patient examinations, Kaiser wanted Plaintiff (and other doctors) to provide perfunctory examinations and rush to the next patient in order to maximize profits at the expense of appropriate patient care."

Zipkin attended a meeting with Kaiser administrators July 22, 2011 and was told her salary had been cut by 20 percent for six months. She was also given an ultimatum demanding she either retire or be subjected to a set of conditions required for her to return to work, including a psychiatric evaluation and competency assessment. She refused both options and was finally terminated November 22, 2011.

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An article by the San Francisco Business Times reported February 10 Kaiser Permanente's 2011 net income to be approximately $2 billion while operating revenue jumped 8.3 percent from $44.2 billion in 2010 to $47.9 billion last year.

The company has 8.9 million health plan members, approximately 167,000 employees and more than 14,500 physicians, according to the article.

The San Francisco Business Times reported that Kaiser added 249,000 members to its health plan in 2011. Kaiser senior vice president and treasurer Tom Meier told The San Francisco Business Times that half of the enrollment growth came from adult dependents of enrollees eligible for coverage under "Obamacare." The other half, he said, came from 2 to 3 percent growth in "various markets."

Kaiser and its various entities are sued regularly by employees and patients.

In her complaint, Zipkin is alleging violations of the California Business & Professions Code, the California Health & Safety Code, the

California Labor Code, disability discrimination, age discrimination, wrongful termination and violation of California Penal Code.

Charles Mathews, George Azadian, Zack Domb and Jeffrey Nakao of The Mathews Law Group are representing Zipkin.