

**THE BOND CLAUSES:**  
***PROTECTING PATIENTS AND PHYSICIANS IN***  
***HOSPITAL-PHYSICIAN CONTRACTS***

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By Charlie Bond

In 1993, I wrote an article entitled, *An Alternative to a Hospital-Dominated Future*, first published by the California Medical Assn., copy posted at PhysiciansAdvocates.com) This article was in response to the first wave of hospital acquisition of physicians' practices. That first wave did not go so well for the hospital industry.

History is repeating itself. Hospitals have again rushed headlong into acquiring physician practices and making doctors hospital employees. Because of my advocacy for the independence of the medical profession I was labeled anti-hospital. I am not. I favor strong physician-hospital relations built on a mutual respect for the necessary complementary roles played by each party in caring for patients. For at the end of the day, all that matters in health care is *the patient* and his or her care. So for the last four decades, even though I have worked for physicians, my advocacy has always been staunchly and unshakably pro-patient.

I believe that the sine qua non of great health care--the most indispensable element in that care--is **the physician's exercise of his or her independent medical judgment.**

As patients, we all rely on our doctors being able to use their medical training and skill to diagnose our problems, then be free to prescribe the same course of treatment for us that they would prescribe for their own mother, spouse, child or loved one. We depend on this ultimate exercise of informed compassion by our physicians. We trust that our doctors will do their best for their

patients. This trust is the foundational value of our health care system.

Nothing—and no one--should interfere with that trust. The doctor must be free to exercise his or her best medical judgment. The independence of medical judgment assures the *bond* of trust between patient and physician.

To protect that bond of trust, I authored two clauses that should be in every contract every doctor signs. These clauses simply assure that the physician may exercise his or her medical judgment independently without fear of retaliation, and that he or she may vote his or her conscience in medical staff affairs. They simply state:

Notwithstanding any other provision of this Agreement, nothing in this Agreement shall be construed to impose an employee/employer duty of loyalty under the law of this state or any other state. At all times, Physician may exercise his/her independent professional judgment and be guided by his/her personal and professional beliefs as to what is in the best interests of patients, the medical community and the Hospital. Nothing in this Agreement shall prevent or limit Physician's right or ability to advocate on behalf patients' interests or on behalf of good patient care, and Physician shall be free from any and all retaliation for doing so.

Likewise, Physician may use his/her personal judgment in voting, speaking, and/or advocating any view or opinion he/she may personally or independently hold on any and all matters involving the organized medical staff or physicians. In exercising his/her independence, under this

clause, Physician shall not be deemed in breach of the Agreement, nor may the Employer retaliate in any way, including but not limited to termination of the Agreement, the imposition of discipline, or any other means.

These clauses are endorsed by AMA policy. Intended to protect the *bond* between patient and physician, they are now known as “The Bond Clauses,” every physician—and every patient--- should unite behind their universal adoption. They should be inserted in every contract a doctor makes—employment contracts, hospital-based physician contracts, call contracts, medical directorship agreements—all contracts. These principles should also be embedded in every set of medical staff by-laws. Only by doing so can the independence of the profession of medicine be respected and preserved. And without that independence, we will have lost the most fundamental basis of health care in America. I urge every physician, therefore, to make these clauses NON-NEGOTIABLE!