

The Cost of Courage: When right can be wrong

Second in a series

Monday, October 27, 2003

By Steve Twedt, Post-Gazette Staff Writer

CHARLESTON, S.C. -- After surgeon Dr. Thomas Wieters began openly criticizing the care his patients were receiving at Charleston's storied Roper Hospital, two noteworthy developments followed.

■ Roper officials labeled Wieters disruptive, summarily removed him from the staff and then had him listed in a national data bank of wayward physicians, effectively crippling his career.

■ Federal Medicare officials, based on two unannounced state inspections at Roper, found evidence of exactly the kind of problems Wieters had reported, including a fatal medication error. They concluded that conditions at the hospital "pose an immediate and serious threat to the health and safety of patients."

A Roper spokeswoman said the hospital would not comment on Wieters or his charges of poor care, but two years later, Wieters, 56, is still paying a high price for being right.

He is shut out of two of Charleston's major hospitals and, because of the data bank listing, he cannot find work elsewhere. He has since moved to a smaller local hospital, but said his income has dropped 80 percent to 85 percent.

"My life -- both my personal life and my professional life -- is in shambles," Wieters said. "I can't make a living here, and I can't go anywhere in America and get a job."

He sued, but his legal options all but ran out earlier this year when a federal judge dismissed his appeal of an earlier district court ruling favoring the hospital. The court told Wieters that his advocacy for better patient care "was of no consequence" and "irrelevant" because he expressed it in a "disruptive" manner.

Wieters, a decorated Vietnam veteran, remains adamant: He will not compromise on his patients' care -- not today, not tomorrow, not if he could go back five years and restore his career.

"I am disruptive to anything that is harmful to the people I care for," he said. "If I do any less than be an advocate for these people, then I have no business being in this profession."

How it started

The beginning of the decline of Wieters' surgical career came on the morning of Feb. 11, 1999, after the routine admission of a male patient. The man had come to Roper Hospital so Wieters could repair a life-threatening aortic aneurysm in his abdomen.



Dr. Thomas Wieters now operates at a small community hospital outside of Charleston, S.C. View [larger image](#). (John Beale, Post-Gazette)

Also in Day Two:

- [A negative data bank listing isn't easy to erase](#)
- [Rules of fair play don't always apply](#)
- [Doctors who spoke out](#)

Day One:

- [How the tables turn on doctors](#)
- [Dispute over treatment of heart patients derails career](#)
- [Doctors who spoke out](#)
- [About the team](#)
- [Audio Clips: Steve Twedt talks about the series](#)

The operation was scheduled for the next day.

The patient, Wieters later learned, sat in the waiting room more than four hours before being admitted. When Wieters stopped by to see him at 6 p.m., he learned nothing had been prepared: There was no chart, none of his orders had been carried out, no blood typing had been done, no cardiogram was recorded, no vital signs had been taken.

The nursing staff had administered a laxative as Wieters ordered, but mistakenly doubled the dose. The resulting severe diarrhea dangerously lowered the man's potassium level and required intravenous fluids through the night before surgery could safely be done.

Wieters said that was just the latest in a series of problems at Roper that had crept into day-to-day patient care since management of the hospital had been taken over by an outside corporation in August 1998. From missed vital signs to unrecorded pain medication administration, there were growing signs that made Wieters believe patient care had slipped.

In one instance, Wieters had ordered immediate antibiotics for a woman admitted with abdominal pain from diverticulitis, an inflammation in the intestinal tract. The antibiotics were not started for 10 hours, and the woman suffered a perforated colon and spent a month in intensive care. Another patient, after colorectal surgery, had to wait six days to get the antacid that had been ordered for her.

It was a disquieting trend for Wieters and others who had invested years at Roper, a hospital with a long, rich tradition of quality care. Situated a few miles from Charleston's antebellum mansions, Roper was founded in 1850, after a former Charleston mayor, Col. Thomas Roper, presented \$30,000 to the physicians of the Medical Society of South Carolina to start the hospital.

The pride that went with a physician-run, physician-owned hospital had created a reputation of excellent care, which Wieters saw dissipating once management of the nonprofit hospital fell into others' hands.

"Our standard of quality, which I had enjoyed from 1985 to the mid-1990s, was no longer. Orders were not being taken, cleanliness went down." And he pointed that out, again and again.

By the hospital's count, according to court records, there were 17 separate incidents of disruptive conduct by Wieters over a period of several months, which the hospital said could damage the hospital's reputation and leave it open to charges of creating a hostile work environment.

Demanding reports

None of these incidents, Wieters said, took place in an operating room or in any patient care area. In most cases, he would write or demand the preparation of a report when he learned of substandard care.

He'd written reports, for example, about how no one took vital signs for one patient after surgery, and how no one documented IV input, urine output or other indications of vital organ function for 32 hours on another patient.

Officials were displeased with Wieters. At one point, the hospital's risk manager sent him a letter, rebuking him for ordering nurses to complete an incident report about a nursing error.

"When you do refer to an incident report in the chart ... it allows 'discoverability' of that report," the manager wrote. In other words, the notation could be subpoenaed by a malpractice lawyer suing the hospital.

The disastrous care of the man with the abdominal aortic aneurysm, though, marked a new and dangerous low, Wieters thought.

That day, he sought out the hospital administrator and, when he found him, he let his frustration and displeasure be known, at high volume and velocity.

"The only thing I did was ask that my patients receive the standard of care that I ordered. Did I raise my voice? Yes. I raised it loud enough to be heard. But I never threatened anyone, and I've never assaulted anyone."

Two weeks later, Wieters received a certified letter from the hospital, accusing him of disruptive behavior. During the next several months, Wieters came under investigation by two hospital committees. The first committee, from the Department of Surgery, interviewed Wieters and decided the disruptive incidents were explainable, noting that one episode came after a nurse had not recorded vital signs for one of Wieters' patients for 48 hours.

But the second committee, made up of members of the medical executive committee, decided to put Wieters on probation for one year and require him to undergo psychiatric evaluation and anger management counseling. Neither committee raised any issue of negligent patient care by Wieters.

He requested a hearing on those recommendations. He was promised one, but it was never scheduled. During the subsequent two months, Wieters filed three more incident reports.

"He's a whistleblower, but he's an every-day whistleblower. He blew the whistle every time something happened," said Dr. Tom Fitts, a longtime surgeon on Roper's staff who taught Wieters early in his career. "He'd complain and, when nothing happened, he kept escalating the level at which he complained.

"I told him one time, 'Tommy, your family's at stake here. Just do what they say and don't fight it.' And he said, 'I'm right, and they're wrong, and I'm not going to do it.' "

A summary suspension

The hospital then raised the stakes.

In January 2000, Wieters was suspended, without benefit of a hearing, because of "several additional instances of disruptive behavior" -- four incidents in four days in which nurses said he'd made "condescending and unprofessional" comments about patient care at Roper. He had 48 hours to find other physicians to care for his hospitalized patients.

"I think the hospital was offended because of the implication that they weren't running a good ship," said Dr. Richard Fitzgerald, a radiation oncologist at Roper who was part of a three-person ad hoc committee appointed by the hospital that disagreed with the summary suspension.

"There was a line drawn in the sand on the part of the hospital, that 'We have a standard of behavior, of propriety, of decorum, and we feel you're in violation of that.' "

Said Dr. L. William Mulbry, who also was on the committee: "No one, not even his detractors, has ever said he did not provide his patients with top care. That's what I have a hard time with." He added that, since Wieters' departure, he knows of two other physicians who received queries from the administration about their "disruptive behavior" after they had questioned a nurse about a patient's care.

Fitzgerald said Wieters' colleagues were quietly supportive but "were grateful it was not their fight. The rest of the staff wanted the problem to go away."

Still, 36 colleagues signed a petition calling for Wieters' reinstatement, and more than 100 nurses signed their own petition. One nurse, Dixie Ellenberg, testified before the ad hoc committee that Wieters "is one of the best physicians that we have. ... He treats every patient as if it was a member of his family."

There were nurses who were glad to see Wieters leave, she granted. "He would get upset if dressings weren't done right, or labs weren't done," she said. "But it always seemed like he had a reason to get upset."

Despite the petitions, the hospital did not reinstate him. Instead, hospital officials reported him to the National Practitioner Data Bank, a national listing of physicians who have been disciplined or have lost malpractice judgments.

Wieters said he had only once before had someone complain he was disruptive, in 1994, when a nurse failed to alert him that a surgical patient had spiked a 102-degree temperature and he let the nurse supervisor know he was unhappy

"I can assure you, on every single day in every hospital in America, some surgeon does more on a single basis

than I've ever done collectively," Wieters said. "But when you ask the CEO tough questions that he can't answer, that's when you become disruptive."

Losing in court

Because that national data bank report noted that Wieters had been summarily suspended -- the most serious sanction, usually reserved only for those who present an immediate danger to patients -- the listing amounted to "a death sentence" professionally, Wieters said.

He sued, but a U.S. District Court judge ruled against him in November 2001, saying the federal Health Care Quality Improvement Act of 1986 "gave hospitals a considerable amount of discretion, a great amount of authority in dealing with matters of discipline."

The judge said Wieters had been disruptive, and added:

"The fact that that eruption by the physician takes place in an attempt to correct improper care, or with a sincere belief that he is serving the patient's rights and needs by trying to correct those health problems, is of no consequence."

After Wieters appealed, the 4th U.S. Circuit Court of Appeals ruled in February that Wieters' evidence of substandard care at the hospital, corroborated by the state inspection, was "irrelevant" and affirmed the district court decision.

Irrelevant? Wieters disagrees.

"This is about a physician's obligation to his patient. It's not about anything else," he said. "If you come into the hospital, and I'm responsible for your care, and if I see something wrong, do you want me to look the other way?"

He also believes the court ruling means hospitals "are not accountable. They can hide everything under 'peer review.'"

As his own legal case proceeded, Wieters did not let up in his effort to expose poor care of patients.

In the spring of 2000, he gave a sworn affidavit on behalf of a patient who'd been given an injection in the wrong location, causing permanent paralysis in his left foot due to damage to his sciatic nerve. He also wrote a detailed memo to Roper's new administrator about what he believed were other lapses in care.

When that did not produce results, Wieters sent a packet of letters and memos detailing "continuing negligent patient care practices at Roper Hospital" to the South Carolina Department of Health and Environmental Control. He cited two specific instances where patients' records had been altered to cover up poor care, and another case in which the body of a patient who had been given an overdose of a medication for schizophrenia was sent to the coroner with the notation that he'd "died of natural causes."

Surprise inspections

During the next two months, state inspectors made two unannounced visits to Roper and found problems in both the nursing and pharmacy services that they said "pose an immediate and serious threat to the health and safety of patients."

The findings mirrored what Wieters had been reporting -- failure to administer and document medications, incomplete nursing notes, physician orders that weren't followed. One patient, whose heart stopped after removal of his prostate, had received a morphine overdose, the state inspectors noted.

Eugene Grasser, a regional administrator with the federal Medicare agency, told hospital officials that Roper's Medicare funding would be halted unless the hospital took corrective action. The hospital agreed to implement quality assurance procedures and make other changes, and, based on a follow-up inspection, the Medicare funding continued.

By then, Wieters' practice had slowed to a trickle. In May 2001, CIGNA HealthCare of South Carolina notified

Wieters it would terminate its contract with him because of his listing on the National Practitioner Data Bank. The company also sent letters to Wieters' patients, telling them they needed to find a new doctor.

Two months ago, he received notice from the appeals court ordering him to pay \$357,000 in attorney fees to Roper Hospital. "I have no choice but to declare personal bankruptcy," Wieters said.

In the past four years, he has had to sell two houses because of his lost income. He and his wife now live 22 miles outside Charleston as he tries to rebuild his practice. He said he was offered a position in North Carolina but, because of his data bank listing, the North Carolina state medical board attached restrictions, including a one-year period of investigation before it would consider licensing him, that made the offer untenable.

He also has looked farther away for work, but the data bank listing is still a major hurdle.

Wieters talked with physician recruiters in San Francisco, Salt Lake City, Chicago and Atlanta and they agreed the listing would make it hard for him to find a job. One recruiter told him the listing was as damaging as if he had been a convicted felon just released from prison. "Another one asked me, 'Have you ever considered employment outside the U.S.?'

"I've paid a hell of a price to do what I believe in ... putting patients number one on the list," Wieters said. "But I practice medicine one way -- with the patient at the top of the pyramid."

Fitzgerald thinks the rest of the medical staff has paid a price, too, and, by extension, so will their patients.

"I do see a lowering of expectations on the part of physicians," he said. "There is an acquiescence, or resignation, that things are different. "

Tomorrow: Doctors face reprisals in State College

(Steve Twedt can be reached at stwedt@post-gazette.com or 412-263-1963.)

[Back](#)

Copyright ©1997-2002 PG Publishing Co., Inc. All Rights Reserved.