

Doctor drops patient for not backing cause

By Carol M. Ostrom

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Jamie Chavez knew her Richland obstetrician felt strongly about limiting medical-malpractice awards. He bent her ear and offered pamphlets every time Chavez, pregnant with her first baby, visited him for prenatal care.

But she couldn't believe Dr. Mark Mulholland's reaction in November when she refused to sign a petition at the doctor's office for an initiative to limit jury awards in malpractice cases.

"I was kind of fired as a patient," she said.

Mulholland, whose malpractice-insurance premiums jumped 30 percent last year, said he told her he couldn't in good conscience provide medical care to someone with such contrary views on the issue.

"She basically expressed that people ought to be able to sue for everything they can," he recalled. "And that is just so philosophically different than how I feel, I didn't want to continue the doctor-patient relationship."

Chavez, an elementary-school special-education teacher, says she left Mulholland's office in tears, worried that she might not find a doctor she trusted to help her through pregnancy and delivery. "I was four months pregnant. I had no idea where to go."

Mulholland emphasizes that he didn't abandon Chavez: He promised to provide emergency care for 30 days, and offered to refer her to one of his partners or to another physician in the community.

Even so, for medical-ethics experts, Mulholland's action raises issues about how far doctors should go in support of a political cause. Some worry about the effect that exam-room lobbying might have on the doctor-patient relationship — or on the perception of the profession as a whole.

"Physicians ought not to lobby patients on political issues — or any other issues," said Dr. Wylie Burke, chairman of the Department of Medical History and Ethics at the University of Washington. "In my view the discussion of tort reform should never have occurred."

Chavez's story is being circulated by lawyers and others opposing Initiative 330, which would limit the money patients could receive for pain and suffering caused by malpractice.

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Mulholland, past president of the Benton Franklin Medical Society, is proud of his support for the initiative: His practice delivered more than 2,000 signatures for I-330, which the Legislature will consider this session.

He put petitions in the waiting room, on the front desk, in the exam rooms, and at the exit from his office at Associated Physicians for Women in Richland, he said. Every week, he worked an extra seven or eight hours lobbying patients. "I asked every one of them to sign."

Some patients didn't, but they were "empathetic with the positions physicians are in," he said, and he kept them as patients. But Chavez went over the line, Mulholland believes.

He asked her specifically why she didn't support the initiative's key point: to limit jury awards for pain and suffering and other non-economic damages.

He doesn't remember her exact words, but he and Chavez agree on the essence of the conversation: "The gist of it was that she opposed Initiative 330. That in itself was fine. But when I asked her why, she said she or anybody should be able to sue for whatever they could recover," he said.

"I'm not penalizing her for being honest," said Mulholland, 37. "I'm just being honest with her in return. She will have a better doctor-patient relationship with someone who is not as committed to this cause as I am."

He never felt that she was personally threatening to sue him, said Mulholland, who said he has never been sued by a patient. (Washington court records show no cases against him in the state.)

But, he added: "She belongs to a group of thinkers who may not be litigious themselves, but that school of thought is bankrupting American medicine. They're making it more and more difficult for me to stay in business, to stay in Washington state."

Last year, Mulholland said, his insurance went from \$44,000 to more than \$57,000. "I'm not able to offset that by working harder — I already work 80 hours a week," he said. Although the state's largest insurer reduced rates this year, his raised them, he said.

"People have to realize that physicians are human, and we make mistakes," he said. The legal system should make injured patients whole, he said, but should not award unlimited non-economic damages.

Burke, the UW ethicist, says it's OK for doctors to have strong political views. But, she said, they must always act "in the patient's interests."

"To me, this means that in the course of patient care, the doctor's focus should be on the patient's health and well-being, and not on extraneous political issues," she said.

Dr. Thomas Gallagher, a UW internist who has written extensively on the doctor-patient relationship, said a doctor should be free to educate a patient about an issue of importance to him or her. But "pressuring the patient" is off-limits, Gallagher said.

"When a doctor starts to lobby a patient aggressively in this way, it puts the patient in a very awkward position," he said. "They may worry, 'The doctor isn't going to take good care of me, because I don't agree with him on this issue.'"

On the other hand, like a Jewish doctor he knew who discovered his patient was a neo-Nazi, once a doctor realizes he or she cannot honestly provide the best care to a patient, "it is in the patient's interest for the doctor to help them find someone else [to provide care]."

Mark Firmani, spokesman for I-336, a competing malpractice initiative sponsored in part by the Washington State Trial Lawyers Association, said Chavez's experience calls into question the signatures on I-330.

"How many patients have felt subtle pressure to sign?" he asked.

Tom Curry, spokesman for the Washington State Medical Association, which sponsored I-330, said there have been no complaints to the association from patients feeling overly pressured by doctors, who helped collect the 315,000 signatures by "engaging their patients in this exercise in civic responsibility."

Chavez, 26, found another doctor. But the more she thought about what had happened with Mulholland, the angrier she became.

She didn't know anything about the initiative, she said, until Mulholland brought it up over the course of several visits. He'd been her doctor for three years, so she thought she could be honest with him, she said.

After a friend relayed her story to a local attorney, Chavez swore an affidavit about the incident.

She's not pursuing legal action, she said. And while she said she's filed a complaint with the state disciplinary board, she considers Mulholland an excellent doctor.

"But he needs to be reprimanded ... a scolding, or whatever. He needs to be spoken to," she said.

"You don't have the right [to say], 'If you sign the referendum, I'll deliver your baby.'" Carol M. Ostrom: 206-464-2249 or costrom@seattletimes.com