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Provide your perspective on the following story about an outpatient surgery:

The source for this story is “Lap band patients operate in the dark,” published in the Sunday *Los Angeles Times*, April 18, 2010.

The “Top Surgeons” surgical facility in Beverly Hills (sponsors of “1-800-GET-SLIM”) kept their practice open and continued doing surgeries after being cited and put on probation by the California Medical Board in 2009 for gross negligence. They had previously had their accreditation revoked (in April 2009, reasons not disclosed), and after the federal inspectors produced 22 pages of health violations and terminated the use of Medicare and Medicaid at the clinic.

Now that a lawsuit has been filed over a wrongful death, the **MEDICAL BOARD** is deliberating over a requirement to put a sign in every doctor’s office directing patients to its website (www.medbd.ca.gov) where you can find disciplinary records on every doctor in the state. The regulation will go into effect in June.

The **LEGISLATURE** is also working on regulations to create oversight of these clinics. They had passed a law instructing the Public Health Departments in each county to oversee doctor’s clinics, but this was overturned by the Third Appellate District **COURT** in Oct 2007. The suit was supported by the California chapter of the American Medical Association (AMA) because the regulation was seen as a threat to physician autonomy. In *Capen v. Shewry*, the court ruled that the **DEPARTMENT OF PUBLIC HEALTH** (then called the Department of Health Care Services) did not have the authority to license a surgery center that is wholly or partially owned by doctors. The agency also doesn’t have authority to adopt regulations that define which clinics are subject to licensure. And as of 2012, no agency had legal authority to license these kinds of clinics (i.e., outpatient surgical).

Finally, state law requires a facility to be **ACCREDITED** by just one of four nongovernmental agencies recognized by the California Medical Board. This facility was rejected by 3 out of the 4, but retained accreditation with the fourth agency, thus remaining open for business. How did that happen? This particular agency doesn’t, as a rule, examine a facility’s prior accreditation history as part of its approval process. A bill proposed in the Assembly would make a rejection of accreditation by one agency binding on all 4, so clinics can’t go accreditation-shopping.

Look into updating this case from more recent (2011—present) sources. Has California's policies toward outpatient surgeries changed at all through legislation, court decisions, or AMA policies?

Let's also note that while frivolous malpractice suits get the headlines and create a negative image, that many legal cases are needed, as this wrongful death suit is, to not only address a serious medical error but to address the entire tangle of inconsistent policies that left space for error to happen.

What would you identify as a priority in creating policy regarding outpatient surgeries?



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