



Corporatization of Medicine Recap of AMA Litigation

Organized Medical Staff Section A-24 Educational Meeting
June 7, 2024 – 2:00 PM
Hyatt Hotel, Grand Hall K

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AMA Policies on Economic Credentialing In Hospital Medical Staffs

- The AMA opposes the use of economic criteria not related to quality to determine an individual physician's qualifications for the granting or renewal of medical staff membership or privileges.
- Policy H-230.975, *Economic Credentialing*. Accord, Policies H-230.958, *Economic Loyalty Criteria for Medical Staff Privileges*; H-230.971, *Economic Credentialing*; H-230.975, *Economic Credentialing*.

Medical Staff of Community Memorial Hospital of San Buenaventura v. Community Memorial Hospital of San Buenaventura (Ventura Cty., Cal. Super. Ct. 2003)



Medical Staff of Community Memorial Hospital of San Buenaventura v. Community Memorial Hospital of San Buenaventura (Ventura Cty., Cal. Super. Ct. 2003)

- **Issue:**

- The issue in this case was whether a hospital could encroach on the self-governance rights of the hospital medical staff.

- **AMA Interest:**

- The AMA supports medical staff self-governance, and it opposes a hospital's unilateral amendment of medical staff bylaws.

Medical Staff of Community Memorial Hospital of San Buenaventura v. Community Memorial Hospital of San Buenaventura (Ventura Cty., Cal. Super. Ct. 2003)

- **Case Summary:**

- Medical Staff of San Buenaventura Community Memorial Hospital sued the hospital, its trustees, and a medical management company that operated the hospital on allegations of violating the medical staff bylaws and California law.

- **Litigation Center Involvement:**

- Financial assistance with the California Medical Association
- Submittal of an *amicus curiae* brief alongside the California Medical Association

IHI v. Fitzgibbons

140 Cal. App. 4th 515, 44 Cal.
Rptr.3d 517 (Cal. Ct. App. 2006)



IHHI v. Fitzgibbons

140 Cal. App. 4th 515, 44 Cal. Rptr.3d 517 (Cal. Ct. App. 2006)

- **Issue:**

- Whether a physician should be allowed to make truthful statements about the financial solvency of a publicly held corporation that owned a hospital in which the physician held medical staff privileges.

- **AMA Interest:**

- The AMA believes that physicians should be entitled to express their opinions on matters affecting public health and the health of their patients, without fear that such expression will subject them to the burdens of an unfounded lawsuit.

IHHI v. Fitzgibbons

140 Cal. App. 4th 515, 44 Cal. Rptr.3d 517 (Cal. Ct. App. 2006)

- **Case Summary:**

- Michael Fitzgibbons, MD, sent an email to physicians on the WMCSA medical staff criticizing acquisitions by Integrated Healthcare Holdings, Inc. (“IHHI”) and expressing doubts on their financial viability. IHHI sued him based on this email.

- **Litigation Center Involvement:**

- The Litigation Center and the California Medical Association filed an *amicus curiae* brief in the California Court of Appeal to support Dr. Fitzgibbons.

Murphy v. Baptist Health, 373 S.W.3d 269 (Ark. 2010)



Murphy v. Baptist Health, 373 S.W.3d 269 (Ark. 2010)

- **Issue:**

- The issue in this case was whether a hospital's economic credentialing policy was illegal because it was overbroad and unnecessarily interfered with the physician-patient relationship.

- **AMA Interest:**

- The AMA opposes the "economic credentialing" of physicians. More importantly, the AMA supports the physician-patient relationship.

Murphy v. Baptist Health, 373 S.W.3d 269 (Ark. 2010)

- **Case Summary:**

- Baptist Health adopted an economic credentialing policy providing that a physician who holds a direct or indirect ownership or investment interest in a competing hospital is ineligible for medical staff privileges at any Baptist Health hospital. A number of physicians sued to have this policy declared invalid.

- **Litigation Center Involvement:**

- The AMA and the Arkansas Medical Society, representing the Litigation Center, intervened as additional plaintiffs in the lawsuit.
- The Litigation Center also financially assisted the plaintiff physicians.

Comprehensive Neurosurgical, PC v. The Valley Hospital (N.J. S. Ct.)



Comprehensive Neurosurgical, PC v. The Valley Hospital (N.J. S. Ct.)

- **Issue:**

- The issue in this case was whether a hospital had an implied covenant of good faith and fair dealing regarding maintenance of privileges for members of its medical staff.

- **AMA Interest:**

- The AMA believes that economic productivity, unrelated to quality of care, should not be a factor in medical staff reappointments.

Comprehensive Neurosurgical, PC v. The Valley Hospital (N.J. S. Ct.)

- **Case Summary:**

- For more than ten years, eleven neurosurgeons and their practice held medical staff privileges at The Valley Hospital, but in 2015, the hospital entered into an exclusive agreement with another group of neurosurgeons, revoking the original group's privileges. Understanding that it had to provide a healthcare basis for the termination, the hospital relied upon a study ("white paper") of the original group's quality and cost metrics as compared to the replacement group.

- **Litigation Center Involvement:**

- The Litigation Center joined MSNJ in an *amicus* brief to the New Jersey Supreme Court, which argued that the implied covenant claim is valid and was breached.

Allstate Insurance Company v. Northfield Medical Center 159 A.3d 412 (N.J. 2017)



Allstate Insurance Company v. Northfield Medical Center 159 A.3d 412 (N.J. 2017)

- **Issue:**

- The issue in this case was whether a medical center, which was controlled by a chiropractor, fraudulently certified to an insurance company that its bills were for services by physicians.

- **AMA Interest:**

- The AMA believes health care fraud should be narrowly defined, and the AMA opposes theories of implied certification.

Allstate Insurance Company v. Northfield Medical Center 159 A.3d 412 (N.J. 2017)

- **Case Summary:**

- A chiropractor, with assistance from his attorney, formed two corporations: a management company to purchase office equipment and rent or build a medical office, and a medical practice company, to be owned primarily by a hired physician. The physician would pre-sign an employment termination agreement and a transfer of ownership of the stock certificates in the medical practice company. Allstate Insurance Company concluded that the two companies had violated the New Jersey Insurance Fraud Prevention Act (IFPA).

- **Litigation Center Involvement:**

- The Litigation Center and the Medical Society of New Jersey filed an amicus brief in the Supreme Court on behalf of the defendants. The brief argued that IFPA should be narrowly construed, so it should apply only in the case of knowing and explicit misrepresentations.



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