



Alerts

A Recent Illinois Decision Explains How to Deal with Medical Staff Claims

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Health Care Alert

The Illinois Supreme Court released a decision on May 19, 2016 that provides useful guidance in defending and protecting a claim by a medical staff member against a hospital for improperly failing to appoint or reappoint or for imposing discipline on the disgruntled physician. In the case of *Steven I. Valfer, MD v. Evanston Northwestern Health Care, n/k/a Northshore University Health System*, the Court upheld an appellate court's ruling that the hospital was immune from damages under the Hospital Licensing Act, and that it did not violate its bylaws in connection with deciding not to reappoint the plaintiff.

The Trial Decision

The plaintiff claimed that the hospital's medical staff bylaws were, in essence, a contract, and that the hospital breached that contract by failing to follow the bylaws when deciding not to reappoint him. The hospital disagreed, arguing that it had, in fact, complied with the applicable portions of its medical staff bylaws. Further, the hospital argued that pursuant to Section 10.2 of the Illinois Hospital Licensing Act, the hospital was immune from liability for civil damages, and was likewise immune under the Federal Health Care Quality Improvement Act of 1986.

The trial court concluded that the plaintiff had taken advantage of all the protections of the bylaws that governed the reappointment process, and never invoked the protections available to doctors under the peer review process. Further, the trial court found that the immunity set forth in Section 10.2 of the Illinois Hospital Licensing Act applied because the hospital put forth unrebutted evidence that the plaintiff was afforded adequate notice and hearing procedures, and that the hospital's decision upon reviewing the plaintiff's request for reappointment was based on patient safety concerns. Finally, the trial court determined that the plaintiff provided insufficient evidence to support his allegation that the hospital's decision to discharge him was really a product of one doctor having an economic conflict with plaintiff and another doctor having moral objections to his practices.

The Lesson: Assessing Medical Staff Actions

The appellate court and the Supreme Court upheld these findings. Having found in favor of the hospital on all three issues, the decision guides lawyers on both sides of failure to appoint, reappoint or disciplinary cases in Illinois. If they are concerned about their treatment under the bylaws, physicians may:

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- Bring injunctive and declaratory actions to force compliance with hospital bylaws,
- Bring tort actions where physical harm is alleged as part of the wilful and wanton component misconduct language of the Licensing Act, and
- Maintain other kinds of civil damages against the hospital where the hospital's acts or decisions can be said to be a sham rather than in furtherance of quality health care.

For further information, please contact [Roy M. Bossen](#) or your regular [Hinshaw attorney](#).

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