

There is No Other Love Like the Love Between a Hospital and Its Medical Staff

By Anne S. Kimbol, JD, LLM

Physician-hospital relations are notoriously tricky. The two entities need each other to a certain extent, but they are also something of competitors and are often at odds on what role medical staffs should play in running a hospital. No case sums up the possible animosity between these groups like *Lawnwood Medical Center, Inc. v. Seeger*,¹ a Florida case that recently made its way to the Florida Supreme Court.

Lawnwood Medical Center, Inc. (Lawnwood), a for-profit corporation, owns Lawnwood Regional Medical Center and Heart Institute (Hospital) in St. Lucie County, Florida. In 1988, the Hospital's Board of Directors adopted its bylaws, which required the Board to consider the Medical Staff's recommendations when making decisions regarding credentialing, peer review, and quality assurance. The Medical Staff Bylaws were adopted in 1993 and approved by the Board.² That appears to have been one of the last moments of peace between the Board and the Medical Staff.

Lawsuits were filed over the peer review actions taken – or more accurately not taken – by the Medical Staff with respect to two pathologists. Lawnwood requested the Medical Executive Committee conduct peer review on the two doctors based on allegations of health care fraud and multiple misdiagnoses. The parties to the suit could not even agree on whether a peer review action was commenced by the Medical Staff, although it was agreed that the Medical Staff did not recommend disciplinary action. In response, the Board summarily suspended the physicians' privileges, which were reinstated following the lawsuits. The court at one of the trials recommended actions Lawnwood could legally take if it believed the Medical Staff were not properly conducting peer review.³

Lawnwood's next step was to summarily remove the elected Medical Staff officers and the Medical Executive Committee and replace them with physicians hand-picked by Lawnwood. Again the issue ended up in court, and again Lawnwood lost.⁴

This time, the Board adopted new bylaws. One major change allowed the Board to unilaterally amend the Medical Staff Bylaws after reasonable attempts were made to gain Medical Staff support. This provision conflicted with the Medical Staff Bylaws, and therefore the Medical Staff deemed it invalid.⁵

Continuing its fight to gain more control over the Hospital, Lawnwood sought and received passage of a special law from the Florida Legislature in 2003; this law is known as the Hospital Governance Law (HGL). The law affected only the two private hospitals

¹ *Lawnwood Medical Center, Inc. v. Seeger*, No. SC07-1300 (Fla. August 28, 2008).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

in St. Lucie County, both of which are owned by the same parent company. The Board then presented the Medical Staff with proposed Bylaw amendments, which the Medical Staff again rejected.⁶

Lawnwood returned to court, seeking to obtain a declaratory judgment regarding the constitutionality of the HGL. The Medical Staff president opposed, and both sides filed motions for summary judgment. The trial court found the HGL unconstitutional on four grounds: it provided a privilege to a private corporation; it impaired the contract between the Medical Staff and the Board; it amended another Florida statutory section by implication without reference thereto; and it violated the Equal Protection clauses of the Federal and State Constitutions.⁷

Lawnwood appealed the decision to Florida's First District Court, which agreed with the trial court that the HGL impermissibly impaired the contract between the Medical Staff and the Board and provided a privilege to a private corporation. Lawnwood in turn appealed this decision to the Florida Supreme Court.⁸

The Florida Supreme Court first acknowledged that legislation is assumed constitutional. It then turned to the language in the Florida Constitution regarding private corporations, which states, “[t]here shall be no special law or general law of local application pertaining to ... private incorporation or grant of privilege to a private corporation.”⁹

The HGL's scope was explicitly limited to St. Lucie County and the private hospitals located in the County; the Court therefore held it was a special law affecting a private corporation.¹⁰

The question then turned to the definition of “privilege” – did any privilege count or did it have to be a financial benefit? Since there was no existing case law on the subject from the Florida Supreme Court, it looked to general and legal definitions of the word, all of which encompassed more than merely economic benefits. The Court also noted that several other states with similar constitutional prohibitions had read the word to include any privilege, whether economic in nature or not. The Court therefore held that privilege meant “a special benefit, advantage, or right.”¹¹

The Court then analyzed the Board's new Bylaws, which stated that the Board's Bylaws would always prevail over the Medical Staff's Bylaws with respect to staff privileges, peer review, quality assurance, and contracts for hospital-based services. The Bylaws also gave the Board the right to reject or modify any Medical Staff recommendation or take independent action with respect to staff membership, clinical privileges, peer review, and quality assurance under certain circumstances. Detailed procedures were described

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*, citing Florida Constitution, Article III, Section 11(a)(12).

¹⁰ *Id.*

¹¹ *Id.*

to be used when the Board sought to modify a Medical Staff recommendation or act without Medical Staff involvement.¹²

The Court noted that the Board had none of these rights before the HGL was passed and that the HGL in effect eliminated the role of the Medical Staff in the area of staff membership, quality assurance, and peer review. These new rights for the Board amounted to privileges it was granted by the HGL. The Court also found that the unconstitutional provisions could not be severed to save the HGL.¹³

Physicians said the decision reaffirmed the importance of medical staff bylaws, while Lawnwood said it was considering next actions.¹⁴

So many aspects of this case are horrifying, and in many ways it is easier to ignore the case and believe that it is either just another sign of the pounding peer review is taking in the Florida Legislature or a wild case of an out-of-control board and a rebellious medical staff. In many ways, however, it is a sign of the extent to which we have lost sight of the need to improve doctor-hospital relations. While the physicians claimed a victory after three rounds of lawsuits and growing animosity between themselves and their hospital board, it is clear that the turmoil between the two groups will only further alienate them and have negative impacts on patient care and satisfaction with service in St. Lucie County. The case also shows a growing willingness of hospital boards to seek judicial and legislative help to medical staff issues rather than negotiating and attempting to compromise with the medical staff in a manner that supports patient safety, the importance of medical staff bylaws, and the need for cohesion in the hospital. If this sort of us against them mentality is embraced by physician groups and hospital executives, there is no telling how disastrous patient care in hospitals might become. It is certainly hard to imagine the folks in St. Lucie County who are aware of the hospital-doctor issues feel comfortable walking into the Hospital for any sort of care.

Health Law Perspectives (October 2008), available at:
<http://www.law.uh.edu/healthlaw/perspectives/homepage.asp>

¹² *Id.*

¹³ *Id.*

¹⁴ Amy Lynn Sorrel, *Florida high court rejects curb on medical staff rights*, AMNEWS, Oct. 6, 2008, available at: <http://www.ama-assn.org/amendnews/2008/10/06/pr1121006.htm> (last accessed Sept. 30, 2008).