



# Bayside Oncology/Hematology v. Fong, 2001 Cal. LEXIS 4753 (2001)

Topics Covered: Physician-Patient Relationship, Restrictive Covenants

## **Outcome: Very Unfavorable**

### **Issue**

This suit defends a physician's right and obligation to notify his patients when he leaves one practice and starts another.

### **AMA Interest**

The AMA believes that when a physician leaves a group practice to start a new practice the physician's patients should be informed of the physician's new address and offered the opportunity to have their medical records forwarded to the departing physician.

### **Case Summary**

Dr. Fong contracted to serve as an oncologist for Bayside Oncology/Hematology Associates, a medical corporation ("Bayside"). Bayside fired him, and he then notified his former patients that he had opened an oncology practice in the same office complex in which Bayside was located.

Learning of the notice to the patients, Bayside sued Dr. Fong. Dr. Fong counterclaimed. Ultimately, the jury rendered a verdict on two of the counts in favor of Bayside and against Dr. Fong in the total amount of \$1,256,500. On Dr. Fong's counterclaim, the jury verdict, based on one of the counts, was \$473,000. One element of the jury's verdict against Dr. Fong (in the amount of \$756,500) was based on a finding that he had violated the California statute against unfair competition by "soliciting" patients from Bayside.

The Court of Appeal affirmed in part and reversed in part. It found that Dr. Fong had improperly solicited his former patients.

### **Litigation Center Involvement**

The California Medical Association (CMA) and the Litigation Center filed an amicus brief supporting Dr. Fong. The brief argued that Dr. Fong's actions, which conformed to the ethical standards of the CMA and the AMA, did not constitute wrongful solicitation.