



# Gluscic v. Avera St. Luke's, 649 N.W.2d 916 (S.D. S.Ct. 2002)

Topics Covered: Medical Staff, Economic Credentialing and Hospitals

## **Outcome: Very Unfavorable**

### **Issue**

The issue in this case was whether a hospital could terminate a physician's staff privileges for reasons not set forth in the medical staff bylaws.

### **AMA Interest**

The AMA supports the enforceability of medical staff bylaws by medical staff members.

### **Case Summary**

Dr. John Gluscic applied to the medical staff at Avera St. Luke's Hospital. Although he satisfied the pertinent professional standards, the hospital denied his application because he did not meet its economic requirements. The trial court ordered the hospital to admit him to the medical staff, and the hospital appealed.

The South Dakota Supreme Court reversed the lower court's ruling and held that, because the medical staff bylaws did not specifically prohibit it, the hospital could use economic credentialing in its staffing determinations. After the decision, Avera St. Luke's terminated Dr. Gluscic's medical staff privileges.

Dr. Gluscic sued for reinstatement of those privileges, contending that, under the medical staff bylaws, he could not be discharged except for certain specified causes, none of which applied to him. The trial court, however, dismissed his complaint, finding that he had been admitted to the staff only by virtue of an injunction that was later found to have been erroneously entered. Therefore, although the medical staff bylaws did not explicitly state that Dr. Gluscic could be terminated because the injunction had been overturned, implicitly the appointment to staff privileges had been conditional on the viability of the lower court decision. That decision was found to have been improper, and so, according to the trial court, he should never have been appointed to the staff.

Dr. Gluscic appealed the trial court decision to the South Dakota Supreme Court, but the Supreme Court affirmed the trial court decision that Avera St. Luke's was entitled to terminate his staff privileges.

### **Litigation Center Involvement**

The South Dakota State Medical Association and the Litigation Center filed an amicus curiae brief in the South Dakota Supreme Court to support Dr. Gluscic.