



# Mahan v. Avera St. Luke's, 621 N.W.2d 150 (S.D. S.Ct. 2001)

Topics Covered: Medical Staff, Economic Credentialing and Hospitals

## **Outcome: Very Unfavorable**

### **Issue**

The issue in this case was whether a hospital could refuse medical staff applicants based on economic criteria.

### **AMA Interest**

The AMA opposes the “economic credentialing” of physicians. More generally, the AMA supports the protection of the physician-patient relationship.

### **Case Summary**

The South Dakota Supreme Court, reversing the trial court, found that the hospital administration was entitled to refuse applicants to the medical staff based on economic criteria, including the hospital’s concern that physicians in one specialty. In South Dakota, therefore, physicians may be subject to economic credentialing by hospitals.

In a footnote, the court also questioned the legal right of certain members of the medical staff to open an ambulatory surgery center in competition with the hospital. The court observed that, although physicians are not necessarily employees of the hospital, their role is sufficiently similar to that of an employee that they should not be allowed to compete with the hospital.

### **Litigation Center Involvement**

The Litigation Center joined a brief of the South Dakota State Medical Association opposing the hospital’s decision to consider applicants to its medical staff based on economic considerations. The brief argued that the bylaws created a binding contract between the hospital and its staff under which staff membership should depend on medical competence, rather than economic profitability. The brief also argued that the bylaw provisions apply to applicants for staff membership as well as current members.