



# Miranda v. Laredo Specialty Hospital (Webb Cnty. Tex. Dist.Ct.)

Topics Covered: Due Process, Medical Staff

## Issue

The principal issue in this case is whether two hospitals violated Texas antitrust laws by suspending Dr. Eduardo Miranda's medical staff privileges without due process.

## AMA Interest

The AMA opposes the loss of medical staff privileges without due process.

## Case Summary

Since 1999 and until the incidents described below, Dr. Eduardo Miranda had medical staff privileges at Laredo Specialty Hospital and at Laredo Medical Center (different institutions).

In 2007 and 2008, Dr. Miranda purchased cancer treatment medications from a pharmaceutical supplier, which he thought was located in the United States. It turned out, though, that the supplier was actually a Canadian company. Although the medications were chemically identical to medicines available from American companies, the FDA had not inspected the drug company's manufacturing operations. Furthermore the labeling and package inserts for these drugs were not FDA approved.

Dr. Miranda used the medications on his patients, although this was illegal. 21 U.S.C. §§ 331 & 333. As he had violated "strict liability" statutes, his belief that he was ordering from an FDA-approved American company was not a defense to the crime. Likewise, his knowledge or lack of knowledge of FDA requirements was not an element of the crime.

In 2013, the United States government brought a criminal suit against Dr. Miranda. Pursuant to an agreement, he pleaded guilty to a misdemeanor. He was placed on five years' probation and was required to make restitution of slightly over \$1 million to the federal government, the money Medicare and Medicaid had paid him for the drugs. He was also restricted from participation in federal healthcare programs, including Medicare and Medicaid. However, these restrictions did not apply to Webb County, Texas, which includes Laredo, where he actually practiced.

In August 2015, Laredo Medical Center summarily terminated Dr. Miranda's medical staff privileges, ostensibly based on his criminal conviction and federal healthcare program exclusion (or restriction). Notwithstanding his request, he was not allowed a peer review hearing.

In February 2016, Laredo Specialty Hospital also terminated Dr. Miranda's medical staff privileges. As before, he was not afforded a peer review hearing.

Dr. Miranda and his clinic, Oncology & Hematology of South Texas, sued Laredo Specialty Hospital and Laredo Medical Center in the Webb County, Texas District Court. They also sued various related companies and individuals, including the chief of the medical staff at Laredo Medical Center.

Primarily, the plaintiffs alleged, Laredo Medical Center had built a cancer infusion center, through which it could provide chemotherapy drugs in a hospital setting. This made it a competitor of the plaintiffs, who could provide similar chemotherapy treatment in a less expensive, non-hospital setting. If Laredo Medical Center could devise a scheme to ruin Dr. Miranda's medical practice, it would eliminate a dangerous competitor. The termination of Dr. Miranda's medical staff privileges by Laredo Medical Center, therefore, was an anti-competitive act.

Further, Laredo Medical Center induced the termination of Dr. Miranda's medical staff privileges at Laredo Specialty Hospital to advance the anti-competitive plans of Laredo Medical Center. The misdemeanor conviction and the limitation on participation in federally funded healthcare programs were but pretexts to justify this anti-competitive scheme.

The plaintiffs asserted a violation of the Texas Free Enterprise and Antitrust Act of 1983. They also claimed tortious interference with prospective business relations, defamation, business disparagement, and civil conspiracy.

### **Litigation Center Involvement**

The Litigation Center contributed funds to the Texas Medical Association, which, in turn, used the money, plus funding of its own, to pay a portion of Dr. Miranda's legal fees and expenses.