



# Murphy v. Baptist Health, 373 S.W.3d 269 (Ark. 2010)

226 S.W.3d 800 (Ark. 2006), 209 S.W.3d 360 (Ark. 2005), 189 S.W.3d 438 (Ark. 2004)

Topics Covered: Medical Staff, Economic Credentialing and Hospitals

## **Outcome: Very Favorable**

### **Issue**

The issue in this case is whether a hospital's economic credentialing policy is illegal because it is overbroad and unnecessarily interferes with the physician-patient relationship.

### **AMA Interest**

The AMA opposes the "economic credentialing" of physicians. More importantly, the AMA supports the physician-patient relationship.

### **Case Summary**

Baptist Health, the largest hospital system in Arkansas, adopted a policy which it entitled "BAPTIST HEALTH CONFLICT OF INTEREST POLICY (Economic Credentialing)." The economic credentialing policy provided that a physician who holds a direct or indirect ownership or investment interest in a competing hospital is ineligible for medical staff privileges at any Baptist Health hospital. It broadly defined an indirect ownership or investment interest as including any unbroken chain of attributional relationships between the physician and the person or entity with the ownership or investment interests.

A number of physicians, in apparent violation of the economic credentialing policy, sued to have it declared invalid. The AMA and the Arkansas Medical Society on behalf of the Litigation Center intervened in the lawsuit as additional plaintiffs. Following a two-week trial, the court ruled in favor of the plaintiffs, declaring the Baptist Health policy unconscionable and illegal and enjoining its enforcement. The opinion stated: "The heart of this case is the patient-physician relationship. The relationship is entitled to special protection." Baptist Health appealed that ruling to the Arkansas Supreme Court.

On September 30, 2010, the Arkansas Supreme Court affirmed, finding that the hospital economic credentialing policy tortiously interfered with the physicians' existing and prospective business relationships. It reversed on the finding of a violation of the Arkansas Deceptive Trade Practices Act, because, it held, there was no private right of action for injunctive and declaratory relief under that statute.

#### **Litigation Center Involvement**

The AMA and the Arkansas Medical Society, representing the Litigation Center, intervened as additional plaintiffs in the lawsuit. In addition to its direct participation in this case, the Litigation Center financially assisted the plaintiff physicians.