



Thomas v. Henry Ford Macomb Hospital Corp., 2010 Mich. App. LEXIS 1811 (Mich. Ct. App. 2010)

Topics Covered: Medical Staff

Outcome: Very Unfavorable

Issue

The issue in this case was whether two critical care physicians could enforce a provision in a hospital's medical staff bylaws that would prohibit the hospital from entering into an exclusive contract with a physician group to "close" its intensive care facility.

AMA Interest

The AMA believes that medical staff bylaws should be enforced as a contract between the members of the organized medical staff and the hospital.

Case Summary

Henry Ford Hospital, with the approval of the Medical Executive Committee (MEC) of its medical staff, entered into an exclusive contract to staff its intensive care unit (ICU). Under this contract, the ICU was to be closed to any physicians outside the group with the exclusive contract. The medical staff bylaws did not provide for such exclusive contracts.

When the physicians learned of the planned closing of the ICU, they circulated a petition signed by more than 10 percent of the medical staff to schedule a full meeting of the medical staff to discuss and possibly disapprove the closing.

Under the medical staff bylaws, the MEC was required to hold a meeting of the full medical staff when more than 10 percent of the membership demands such a meeting in writing. However, the MEC refused to call the meeting. Therefore, the physicians sued the hospital, asserting that it was aware of the wrongful refusal of the MEC to call a meeting of the full medical staff, that without such meeting the exclusive contract was unauthorized. They further asserted that the medical staff bylaws established a contract between the individual members of the medical staff and the hospital and that the hospital was in breach of this contract.

The trial court ruled that the physicians could not enforce the medical staff bylaws against the hospital, and the physicians appealed to the Michigan Court of Appeals.

The Michigan Court of Appeals affirmed, but for a different reason than the trial court had stated. The Court of Appeals noted that the hospital had changed its credentialing standard for

the ICU. Under the new standard, only physicians board-certified in critical care would be allowed to staff the ICU. The physicians who were protesting the closure of the ICU were not board-certified in critical care, but they had not challenged the hospital's upgrade of its credentialing requirement. Thus, the court held, even if the hospital were wrong to close its ICU, these physicians could not have been granted the relief they sought - ICU privileges. The Court of Appeals did not reach the breach of contract issue.

Litigation Center Involvement

The Michigan State Medical Society filed an *amicus curiae* brief to support the plaintiff-physicians and the Litigation Center contributed toward the cost of the brief.

Michigan Court of Appeals brief