



# Desai v. Lawnwood Medical Center (FL S.Ct.) 219 So. 3d 869 (Fla. Dist. Ct. App. 2017) 54 So.3d 1027 (Fla. Dist. Ct. App. 2011)

Topics Covered:      Hospitals, Medical staff

## **Issue**

The issue in this case is whether a hospital could lawfully refuse to renew the medical staff privileges of a physician, after the medical staff itself had approved that renewal.

## **AMA interest**

The AMA supports medical staff self-governance, and it opposes retribution against physicians who advocate on matters regarding the profession or regarding medical staff self-governance.

## **Case summary**

Anil Desai, MD, is a strong advocate of medical staff self-governance and a fervent supporter of the AMA. He has urged other members of the Lawnwood Medical Center medical staff to join the AMA. In fact, he offered \$10,000 from his own pocket to pay the membership dues of Lawnwood physicians who would join the AMA. Unfortunately, only a few of the physicians took him up on the offer, and he ended up donating most of the money to the AMA Foundation.

Dr. Desai spoke at a Litigation Center Open Meeting about a lawsuit involving Lawnwood. He was also featured prominently, with his picture, in the AMA's 2007 Annual Report.

Dr. Desai had held medical staff privileges at Lawnwood since approximately 1990. His privileges had never been questioned until 2009, when he routinely applied for their renewal.

The medical staff recredentialing committee (RC) and the medical executive committee (MEC) both recommended that his renewal application be granted. The hospital administration, however, protested that recommendation. Purportedly based on its own investigation of Dr. Desai's record, including reports from outside consultants, the hospital claimed several examples of deficiencies in his patient care and also instances of "disruptive behavior." The administration may have been motivated by a desire to exact retribution against Dr. Desai on account of his advocacy for medical staff self-governance.

The RC and MEC reconsidered Dr. Desai's application for recredentialing in light of the hospital's claims, but they found those claims factually unconvincing. The RC and MEC renewed their recommendation in favor of recredentialing. The hospital administration again protested the RC/MEC recommendation.

As a result, the renewal request was brought to the attention of the hospital board of trustees for decision. The board of trustees rejected Dr. Desai's application, based on the same charges which the RC and MEC had found unconvincing.

Subsequent to its rejection of Dr. Desai's renewal application, the hospital offered him what it characterized as a "fair hearing." Dr. Desai was required to notify the hospital within 30 days to accept the fair hearing offer, but he declined to do so.

Dr. Desai sued the hospital to have his privileges renewed, asserting that the hospital had violated his right to be recredentialed under the procedures of the medical staff bylaws. He maintained that he was not obliged to accept the hospital's fair hearing procedure because that procedure was not contemplated under the medical staff bylaws. He argued that both the hospital and he were bound under the medical staff bylaws, under which he had been found suitable for recredentiaing.

The trial court dismissed Dr. Desai's lawsuit, because he had not exhausted the administrative remedies available to him under the fair hearing procedure. Dr. Desai appealed that dismissal to the Florida District Court of Appeal, Fourth District, which affirmed.

Dr. Desai has appealed to the Florida Supreme.

### **AMA involvement**

The AMA filed *amicus* briefs to support Dr. Desai in the District Court of Appeal and in the Florida Supreme Court. The principal argument in the briefs was that the hospital's "fair hearing" procedure was, in fact, unfair.

Florida District Court of Appeal brief

Florida Supreme Court brief