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## PROFESSIONAL ISSUES

## Florida high court rejects curb on medical staff rights

**Judges found a county law unconstitutional, saying the statute undermined the "balance of power" outlined in medical staff bylaws.**

By [Amy Lynn Sorrel](#), AMNews staff. Oct. 6, 2008.

The Florida Supreme Court delivered a significant victory to physicians that safeguards medical staff bylaws and halts what doctors feared was a dangerous precedent for hospitals to use to eviscerate medical staff autonomy.

Doctors said the decision in the decade-long battle affirmed, once again, that staff bylaws are a binding document hospitals cannot ignore.

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Justices on Aug. 28 nullified a St. Lucie County law that allowed hospital board bylaws to supersede medical staff bylaws in any conflicts over privileging, contracting and quality. The 2003 St. Lucie County Hospital Governance Law applied to all hospitals in the county, but the only two facilities there are run by a single corporation, Lawnwood

Regional Medical Center & Heart Institute.

The high court unanimously found the statute unconstitutional. Justices said the law granted a special privilege to Lawnwood by "altering the balance of power" agreed upon under the bylaws by the hospital board and the medical staff.

The bylaws "established a framework for cooperative governing in which the medical staff plays an important role," the opinion states. The law, however, gave Lawnwood "almost absolute power in running the affairs of the hospital, essentially without meaningful regard for the recommendations or actions of the medical staff."

**Case law in many states recognizes bylaws as an enforceable document between medical staffs and hospital boards.**

The ruling marks the third win for doctors in the case and upholds similar decisions reached at the trial and appellate court levels.

The state Supreme Court decision confirms "precisely why these documents are an important part of preserving patient safety," AMA Board Trustee Cecil B. Wilson, MD, said in a joint statement with the Florida Medical Assn. Medical staff involvement is key to ensuring "that hospital policies related to financial management do not conflict with the best interests of patients."

The Litigation Center of the American Medical Association and State Medical Societies and the FMA filed a friend-of-the-court brief supporting the medical staff. The two organizations also contributed to the doctors' legal expenses.

"The rights, duties and responsibilities of the medical staff must be respected by hospital boards, not circumvented using legislative influence," FMA President Steven R. West, MD, said. The FMA lobbied against the 2003 measure.

Lawnwood spokeswoman Synetta Armstrong said the hospital was disappointed with the ruling and is reviewing it to determine the next steps. The hospital had argued the law was

aimed at ensuring patient safety and quality care. The state Supreme Court rejected that rationale.

"Assuming patient safety was the initial driving force, the provisions of the hospital governance law extend far beyond actions relating to peer review and discipline," justices said.

### **Dispute sparked power struggle**

The governance law was passed following a dispute dating to 1998 between the medical staff and hospital board over the medical executive committee's peer review duties. The St. Lucie County Hospital Governance Law stated that hospital board bylaws prevailed over medical staff bylaws in conflicts over "medical staff privileges, quality assurance, peer review and contracts for hospital-based services."

After the medical staff rejected the hospital's unilateral amendments to medical staff bylaws to reflect the statute's requirements, Lawnwood sued the medical staff in December 2003 to have the law upheld. A month later, the medical staff sued Lawnwood, asking the court to find the statute unconstitutional. Courts at all three levels rejected the law as a special privilege. The high court did not address the status of the medical staff bylaws as a contract, but it left intact a 2007 finding by the 1st District Court of Appeal that the county law violated physicians' contract rights under the bylaws.

As in many states, Florida case law has recognized bylaws as an enforceable document between medical staffs and hospital administrations. However, the governance law was aimed at eroding that standard, said Richard H. Levenstein, an attorney who represented doctors in the Lawnwood case.

"A [state Supreme Court] opinion such as this is going to have persuasive authority for other [state] courts evaluating efforts that detract from or eliminate medical staff rights and duties granted under the medical staff bylaws," he said.

Some hospital representatives disagree and said the law was an aberration. While hospitals generally abide by medical staff bylaws, if both sides reach an impasse or medical staffs fail to uphold their duties, hospital boards have ultimate authority to take action, said Michael R. Callahan, a hospital attorney and partner with Chicago-based Katten Muchin Rosenman LLP.

Courts often take into account public policy concerns when evaluating whether a hospital board's actions were reasonable, he said.

"This [St. Lucie County statute] clearly was special legislation," a restriction most states recognize, Callahan said. "There are right and wrong ways [to address disputes]." Hospitals -- not medical staffs -- bear ultimate responsibility for their fiduciary duties as well as quality of care, he said.

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#### **ADDITIONAL INFORMATION:**

### **Prolonged power struggle**

**July 2003:** Florida Legislature passed St. Lucie Hospital Governance Law, allowing hospital bylaws to override medical staff bylaws in conflicts over quality, privileging and contracting issues. Lawnwood Regional Medical Center & Heart Institute lobbied for the county statute after a dispute between the hospital board and medical staff that began in 1998.

**December 2003:** Lawnwood sued to have the law declared constitutional after the medical staff rejected the hospital's unilateral amendments to the medical staff bylaws reflecting the statute's requirements.

**January 2004:** Medical staff sued Lawnwood to have the law declared unconstitutional.

**March 2006:** Leon (Fla.) County trial judge found the law unconstitutional because it granted Lawnwood a special privilege and infringed on the medical staff's contract rights pursuant to the bylaws.

**June 2007:** Florida's 1st District Court of Appeal affirmed the trial court decision.

**August 2008:** Florida Supreme Court ruled the law an unconstitutional special privilege, but did not address contract issues.

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