

Hospital Can't Fire for Conduct During Peer Review

In order to provide the highest quality of care, and to ensure patient safety on



the premises, hospitals throughout the country use a system of peer reviews to assess medical staff. Specifically, a group of employed medical professionals, acting as a professional review board, may bring a peer review action against physicians based on prior conduct. Further, communications conducted during the peer review process are deemed confidential. This notion of confidentiality became the centerpiece of a lawsuit between a physician and a hospital recently, when the former was fired for his conduct during a confidential peer review. And, in fact, the outcome of the case helped protect these private proceedings, and should serve as a cautionary story for hospitals throughout the nation. **Specifics of the Case** The origin of the lawsuit centers around Dr. Emre Yedidag, a physician who was employed at Roswell Clinic Corp. and Roswell Hospital Corp. (collectively known as Roswell), located in Roswell, New Mexico. Dr. Yedidag was tasked with performing a peer review proceeding against Dr. Akbar Ali. Other physicians who were present at the proceedings alleged that Dr. Yedidag's conduct during the peer review proceeding was not extraordinary; nevertheless, a hospital representative who was in attendance at the proceeding claimed that Yedidag "attacked" Dr. Ali. As a result, the hospital dismissed Yedidag. **Physician Files Lawsuit** In response to his firing, Dr. Yedidag subsequently filed a lawsuit against Roswell, claiming that the hospital's dismissal of him was unlawful. Specifically, Yedidag asserted that the information presented within the peer review proceeding was confidential, and thus could not be used as grounds for firing him. Ultimately, a jury sided with Yedidag, and awarded him both compensatory and punitive damages. The case was appealed, and eventually came before the New Mexico Supreme Court, which, again, ruled in favor of the physician. **Why Did the Supreme Court Side with Yedidag?** In justifying its ruling, which sided with the position of Dr. Yedidag, the Court asserted that the applicable law established a right of action for the violation of peer review confidentiality, which ultimately led to Yedidag's dismissal. The Court further provided that this law acts as a covenant between the parties, protecting the physician-reviewers from any adverse actions based on their participation in a peer review. **Impact on Hospitals and Employed Physicians** Overall, this ruling, if mirrored by other states, could have a significant impact on both hospitals and their employed physicians. Hospitals and their administrative staff would be unable to take any adverse action towards physicians who participate in peer review hearings. Hospitals may initiate a peer review proceeding against a previous reviewer whose conduct was questionable, but they may not fire him or her outright. And physicians, as a result of this ruling, would be able to participate in peer review hearings openly and honestly without fear of termination, or at least knowing that damages are available should a hospital breach the policy of confidentiality. Of course, the ruling in this case will only directly influence both hospitals and physicians in New Mexico. That being said, should a similar case arise in the rest of the U.S., other courts may

examine this case and use it as a precedent when coming to their own decisions. Every medical group faces unique challenges when compared to other businesses but all businesses face legal issues regarding employment and confidentiality matters. If you have employment law questions for your medical practice, be sure to contact the [Health Care Attorneys at Seigfreid Bingham](#). Image: Thinkstock/Spotmatik (177337349) *This article is very general in nature and does not constitute legal advice. Readers with legal questions should consult with an attorney prior to making any legal decisions.