

California court lifts immunity for credentialing information

The state medical society worries that the ruling could discourage physicians from freely exchanging information, ultimately jeopardizing patient safety.

By Tanya Albert, AMNews staff. Oct. 13, 2003.

Family physician Allen Hassan, MD, believed that the information one Sacramento area hospital shared with another as he was going through the credentialing process in 1993 was untrue and unfairly hurt him.

So even though courts nationwide traditionally have held that information shared during the credentialing process or peer review is absolutely immune from lawsuits, Dr. Hassan sued Mercy American River Hospital for defamation, intentional interference with prospective business advantage and negligent interference with an economic relationship.

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He didn't win any damages for himself. The court found that there was no malice against Dr. Hassan and that he didn't have grounds to go forward with his claim. But his case has opened the possibility that other doctors in California might be successful if they file lawsuits against a person or an entity, such as a hospital.

If a physician can prove that a person or entity knew that the information passed along was false or otherwise lacked a "good-faith intent" in helping with peer-review credentialing, that person or entity could now be held responsible for those actions.

The California Supreme Court ruling in Dr. Hassan's case said a California law amended in 1990 provides that a privilege protecting a physician or entity from a lawsuit is not absolute, but instead is a qualified immunity.

Dr. Hassan's attorney, Mukesh Advani, said doctors who say they've been negatively affected by false information finally have a way to fight back. "Physicians need protection," said Los Altos, Calif., attorney Advani. "Before this, they did not have any recourse. If a person starts lying about you, you want to be able to sue."