

Who Should Control Health Care?
Barbara Weissman, MD
CMA Trustee for the Specialty Delegation

Imagine coming to the hospital to work one morning, only to find you are denied admittance to your office and no longer a member of the hospital medical staff. In January of 2016 the hospital administrators terminated the entire medical staff and its elected officers and adopted new medical staff bylaws without input from the hospital's physicians. In effect, a single hospital board meeting dissolved a decades-old medical staff organization and put in a sham medical staff with hospital-appointed leaders. The previously active staff members were granted "provisional" status and the initial replacement bylaws stated that physicians could achieve active status by proving their economic value to the hospital.

The medical staff filed a lawsuit in February of 2016, but the hospital hired several lawyers and a PR firm – when the media picked up on it the hospital's message was that "the medical staff is out of control". There is existing law in California that was passed in 2004 that supports the independence of medical staffs, including the right to make and enforce medical staff bylaws and elect medical staff leaders. This law is some of the strongest in the country. And certainly initial provision about economic value, which has been since amended, could fall into the category of an illegal kickback. But even a strong law is meaningless unless it is reinforced. And the cost for the individual physicians to fight a lawsuit against the hospital was extraordinary. The medical society was able to ask CMA to get involved, and CMA also got matching financial support from the AMA. Although not the primary plaintiff in the case, the total amount spent by CMA in support of the medical staff is over a million dollars. The hope is to reinstate all the prior department committee chairs and reinstate the medical staff. The battle has already taken quite a toll – the original medical staff was around 170 members and they are now down to 60, and the hospital is filing for bankruptcy, which is especially sad in light of the fact that one of the initial issues that the medical staff was in conflict with the hospital about was lack of staffing. The cost of an adverse outcome could also have larger implications in the rest of the state. Long Do, CMA legal council and director of litigation told AMA Wire, "If the hospital is allowed to do what they did, it basically ends medical staff independence in the state of California. Our biggest concern is that some sort of legal precedent would be set if they were allowed to get away with it. Another hospital could say to its staff, 'If you don't cooperate, that's what we're going to do to you.'" (<https://wire.ama-assn.org/practice-management/lawsuit-fights-existential-threat-medical-staff-independence>).

This issue relates not only to medical staff issues, but also the larger societal issue of who should be in charge of health care and what role should doctors, hospitals, and insurances have in its delivery; a New York Times editorial explores this aspect of the case quite well. (<https://www.nytimes.com/2017/10/10/opinion/shouldnt-doctors-control-hospital-care.html>). Because doctors understand medical care, when physicians lead a healthcare facility, the overall quality of services is better.

There are several ways you can help with this fight. Continue to be a member of CMA, and urge any non-member colleagues to join. Join the AMA if you haven't already, to support healthcare issues on the national level. And check to see if your hospital medical staff is a member of CMA's Organized Medical Staff Section and encourage them to join if they have not – that section deals specifically with supporting the independence of all hospital staff's in California. And if your medical staff wishes to contribute (or you do, as an individual), the costs have been substantial and the CMA is accepting any or all contributions.

Dr. Weissman is a member of the San Mateo County Medical Association. This article is envisioned as part of a series addressing matter of interest to SMCMA that come before the CMA Board of Trustees at their quarterly meetings. Francisco Silva also discussed this issue at the House of Delegates, and his presentation provided a basis for this article. If you have questions about CMA actions, or ideas for directions that CMA should be heading, please feel free to contact Dr. Weissman at Barbara.yatesmd@gmail.com.