



Mileikowsky v. West Hills Hospital, 203 P.3d 1113 (Cal. 2009)

60 Cal.Rptr.3d 657 (Cal.App. 2007)

Topics Covered: Peer Review

Outcome: Very Favorable

Issue

The issue in this case was whether a hearing officer could terminate a peer review proceeding on his own authority, after the accused physician violated a prehearing discovery order.

AMA Interest

The AMA believes that physicians should be ultimately responsible for all peer review of medical care.

Case Summary

Dr. Mileikowsky applied for reappointment to the medical staff at West Hills Hospital, but his reappointment was denied. He appealed the denial of his reappointment privileges to a peer review panel. The prosecuting attorney asked Dr. Mileikowsky to produce documents in discovery, but he failed to do so. The prosecuting attorney then asked the hearing officer to dismiss Dr. Mileikowsky's appeal. The hearing officer granted the motion and dismissed the peer review action, based on his own authority (not the authority of the peer review panel). Dr. Mileikowsky appealed to the hospital governing board, but the governing board rejected his appeal and adopted the hearing officer's decision.

Dr. Mileikowsky then sued the hospital, the medical staff, and the hearing officer. He asserted that the hearing officer had been unauthorized to terminate the peer review without the explicit approval of the peer review panel. The trial court rejected Dr. Mileikowsky's objection and entered judgment for the hospital. Dr. Mileikowsky appealed to the California Court of Appeal.

The Court of Appeal reversed and remanded, finding that only a peer review committee can render a decision on the merits of the peer review, and the decision to deny the peer review, although taken on purely procedural grounds, had been a decision on the merits. The hospital then appealed to the California Supreme Court.

By a split decision, the California Supreme Court ruled in Dr. Mileikowsky's favor, finding that the applicable California statute did not empower the hearing officer to terminate the peer review.

Litigation Center Involvement

The Litigation Center, along with the California Medical Association, filed an *amicus curiae* brief to the California Supreme Court, arguing that only the peer review body itself can terminate a peer review.

California Supreme Court brief