

IN THE SUPREME COURT OF FLORIDA

ANIL DESAI, M.D.,

Petitioner,

Case No. SC17-1493

v.

LAWNWOOD MEDICAL CENTER,  
INC.,

Respondent.

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**MOTION FOR LEAVE TO FILE BRIEF ON BEHALF OF  
36 FLORIDA HOSPITAL FACILITIES AS *AMICI CURIAE*  
IN SUPPORT OF RESPONDENT**

Pursuant to Rule 9.370 of the Florida Rules of Appellate Procedure, the Florida hospital facilities identified below, as *amici curiae* and through undersigned counsel, hereby seek leave to file an *amicus* brief in support of Appellee in the above-captioned matter.

**IDENTITY AND INTEREST OF *AMICI CURIAE***

1. *Amici* Hospitals are 36 licensed acute care hospital facilities located in Florida. The facilities run the gamut from independently operated hospitals to hospitals affiliated with larger integrated healthcare networks, and from for-profit hospitals to non-profit hospitals. These hospitals provide to Florida residents all types of comprehensive medical services, including trauma centers, children's

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hospitals, women's institutes, neonatal units and cancer centers. The facilities are also geographically diverse, ranging throughout the state from the Florida Panhandle to the Florida Keys. Despite their diversity, each of the facilities has established, and relies on, a system of peer review and internal appeals in order to make decisions about credentialing and medical staff membership, as well as to ensure that patients are receiving the highest quality care. Individually, *amici* Hospitals are:

- a. BAYFRONT HMA MEDICAL CENTER, LLC D/B/A BAYFRONT HEALTH ST. PETERSBURG (ST. PETERSBURG, FL)
- b. BOCA RATON REGIONAL HOSPITAL, INC. D/B/A BOCA RATON REGIONAL HOSPITAL (BOCA RATON, FL)
- c. CAPE CANAVERAL HOSPITAL, INC. D/B/A CAPE CANAVERAL HOSPITAL (COCOA BEACH, FL)
- d. CITRUS HMA, LLC D/B/A SEVEN RIVERS REGIONAL MEDICAL CENTER (CRYSTAL RIVER, FL)
- e. CORAL GABLES HOSPITAL, INC. D/B/A CORAL GABLES HOSPITAL (CORAL GABLES, FL)
- f. CRESTVIEW HOSPITAL CORPORATION D/B/A NORTH OKALOOSA MEDICAL CENTER (CRESTVIEW, FL)
- g. DELRAY MEDICAL CENTER, INC. D/B/A DELRAY MEDICAL CENTER (DELRAY BEACH, FL)
- h. GOOD SAMARITAN MEDICAL CENTER, INC. D/B/A GOOD SAMARITAN MEDICAL CENTER (WEST PALM BEACH, FL)
- i. HAINES CITY HMA, LLC D/B/A HEART OF FLORIDA REGIONAL MEDICAL CENTER (DAVENPORT, FL)

- j. HERNANDO HMA, LLC D/B/A BAYFRONT HEALTH BROOKSVILLE (BROOKSVILLE, FL)
- k. HERNANDO HMA, LLC D/B/A BAYFRONT HEALTH SPRING HILL (SPRING HILL, FL)
- l. HIALEAH HOSPITAL, INC. D/B/A HIALEAH HOSPITAL (HIALEAH, FL)
- m. HMA SANTA ROSA MEDICAL CENTER, LLC D/B/A SANTA ROSA MEDICAL CENTER (MILTON, FL)
- n. HOLMES REGIONAL MEDICAL CENTER, INC. D/B/A HOLMES REGIONAL MEDICAL CENTER (MELBOURNE, FL)
- o. KEY WEST HMA, LLC D/B/A LOWER KEYS MEDICAL CENTER (KEY WEST, FL)
- p. LAKE SHORE HMA, LLC D/B/A SHANDS LAKE SHORE REGIONAL MEDICAL CENTER (LAKE CITY, FL)
- q. LAKE WALES HOSPITAL CORPORATION D/B/A LAKE WALES MEDICAL CENTER (LAKE WALES, FL)
- r. LAKEWOOD RANCH MEDICAL GROUP, LLC D/B/A LAKEWOOD RANCH MEDICAL CENTER (BRADENTON, FL)
- s. LIFEMARK HOSPITALS OF FLORIDA, INC. D/B/A PALMETTO GENERAL HOSPITAL (HIALEAH, FL)
- t. LIVE OAK HMA, LLC D/B/A SHANDS LIVE OAK REGIONAL MEDICAL CENTER (LIVE OAK, FL)
- u. MANATEE MEMORIAL HOSPITAL, LP D/B/A MANATEE MEMORIAL HOSPITAL (BRADENTON, FL)
- v. MUNROE HMA HOSPITAL, LLC D/B/A MUNROE REGIONAL HEALTH SYSTEM (OCALA, FL)
- w. NAPLES HMA, LLC D/B/A PHYSICIANS REGIONAL HEALTHCARE SYSTEM – COLLIER (NAPLES, FL)

- x. NAPLES HMA, LLC D/B/A PHYSICIANS REGIONAL HEALTHCARE SYSTEM – PINE RIDGE (NAPLES, FL)
  - y. NORTH SHORE MEDICAL CENTER, INC. D/B/A NORTH SHORE MEDICAL CENTER (MIAMI, FL)
  - z. OSCEOLA SC, LLC D/B/A ST. CLOUD REGIONAL MEDICAL CENTER (ST. CLOUD, FL)
  - aa. PALM BAY HOSPITAL, INC. D/B/A PALM BAY HOSPITAL (PALM BAY, FL)
  - bb. PALM BEACH GARDENS COMMUNITY HOSPITAL, INC. D/B/A PALM BEACH GARDENS MEDICAL CENTER (PALM BEACH GARDENS, FL)
  - cc. PORT CHARLOTTE HMA, LLC D/B/A BAYFRONT HEALTH PORT CHARLOTTE (PORT CHARLOTTE, FL)
  - dd. PUNTA GORDA HMA, LLC D/B/A BAYFRONT HEALTH PUNTA GORDA (PUNTA GORDA, FL)
  - ee. ST. MARY’S MEDICAL CENTER, INC. D/B/A ST. MARY’S MEDICAL CENTER (WEST PALM BEACH, FL)
  - ff. STARKE HMA, LLC D/B/A SHANDS STARKE REGIONAL MEDICAL CENTER (STARKE, FL)
  - gg. VENICE HMA, LLC D/B/A VENICE REGIONAL BAYFRONT HEALTH (VENICE, FL)
  - hh. VIERA HOSPITAL, INC. D/B/A VIERA HOSPITAL (MELBOURNE, FL)
  - ii. WELLINGTON REGIONAL MEDICAL CENTER, INC. D/B/A WELLINGTON REGIONAL MEDICAL CENTER (WELLINGTON, FL)
  - jj. WEST BOCA MEDICAL CENTER, INC. D/B/A WEST BOCA MEDICAL CENTER (BOCA RATON, FL).
2. *Amici* Hospitals believe that an essential ingredient in effective peer

review is the requirement that physicians who believe they have been aggrieved by adverse peer review credentialing or disciplinary decisions must exhaust available administrative remedies provided by hospitals before being permitted to sue in court.

3. Petitioner has taken positions in this litigation that would effectively undermine the exhaustion requirement for physicians challenging adverse credentialing decisions.

**ISSUES TO BE ADDRESSED AND HOW *AMICI* HOSPITALS CAN ASSIST THE COURT IN THE DISPOSITION OF THIS CASE**

4. In their proposed brief, *amici* Hospitals engage in a review of the history, structure, and policy considerations underlying the Florida and federal peer review systems. *Amici* Hospitals argue in their proposed brief that relaxing the requirement of administrative exhaustion in for physicians who receive adverse credentialing decisions would undermine the legislative purposes in enacting the peer review statute because (1) it would contradict blackletter law in Florida; (2) it would eliminate an additional stage of expert review from adverse credentialing decisions; (3) it would undermine judicial economy by increasing the number and complexity of lawsuits; (4) and it would increase healthcare costs overall. Additionally, *amici* Hospitals argue that there is no unfairness in requiring administrative exhaustion in light of the procedural standards established in Florida

and federal law.

5. *Amici* Hospitals believe that it would be helpful for the Court to have this information at hand to frame the issues and to provide an important perspective from the point of view of hospitals, which are required by law to establish and maintain administrative appeal mechanisms for physicians challenging adverse credentialing decisions.

6. *Amici* Hospitals also believe that it is vitally important to show the Court that a wide swath of acute care hospital facilities in this state stand in agreement on the importance of an intact exhaustion requirement for peer review disciplinary and credentialing decisions.

7. *Amici* Hospitals further believe their participation will balance the presentation of the issues to the court by two other *amici* – the American Medical Association and the Association of American Physicians & Surgeons – that have already been granted leave to participate in this case in support of Appellant.

#### **CONSENT OF THE PARTIES**

8. Undersigned counsel has communicated with counsel for both of the parties to this appeal.

9. Counsel for Petitioner consents to *amici* Hospitals' participation.

10. Counsel for Respondent consents to *amici* Hospitals' participation.

WHEREFORE, undersigned counsel respectfully requests that leave be granted to file a brief on behalf of *amici* Hospitals.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-mail on this 28th day of June, 2018, to the following:

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