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 **NORTON ROSE FULBRIGHT**

30th Annual UT Health Law Conference Operational Impact of Significant Cases

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ISSUES AFFECTING HOSPITALS AND HEALTHCARE PROVIDERS **Physician Credentialing & HCQIA Immunity** *Community Health Systems Professional Services Corp. v. Hansen p.4*

- Dr. Henry Andrew Hansen, II, M.D. wanted to move his cardiovascular surgery practice from Lubbock to College Station
- In 2007, Dr. Hansen met with Thomas Jackson, the CEO of College Station Medical Center (the Hospital) to discuss potential employment
- Acting as an intermediary between Dr. Hansen and Regional Employee Assistance Program (REAP), a non-profit corporation certified by the TMB to employ physicians, Jackson negotiated the terms of Dr. Hansen's employment contract with REAP, under which Dr. Hansen would work at the Hospital

Community Health Systems Professional Services Corp. v. Hansen (cont'd)

- REAP and Dr. Hansen entered into a five-year employment contract
- During the first three contract years, the contract could be terminated only for cause
- After the end of the third contract year, either party could terminate the contract without cause with sixty days' notice if Dr. Hansen's "annual practice losses" exceeded \$500,000 "at the end of years three, four or five"
- The contract provided that in the event of termination without cause, Dr. Hansen would not be entitled to the due process rights established in REAP's policies and procedures, but Dr. Hansen would be entitled to such due process rights if he were terminated for cause

Community Health Systems Professional Services Corp. v. Hansen (cont'd)

- Dr. Hansen's practice at the Hospital was initially successful, and Dr. Hansen was on pace to perform 100 procedures the first year
- At the end of 2008, Dr. Hansen's cardiovascular surgeries began to decline significantly due to a series of personal disagreements with two local cardiologists, Dr. Marcel Lechin and Dr. Mario Lammoglia
- The vice president of practice management for CHS's Professional Services Corporation (PSC), Leslie Luke, became concerned and sent a letter to Jackson in February 2009 recommending Dr. Hansen's employment be terminated "without cause" at the end of the third contract year

Community Health Systems Professional Services Corp. v. Hansen (cont'd)

- In June 2009, the Hospital's CFO approached Dr. Hansen to discuss his decreased billings but the relationship between Dr. Hansen and the cardiologists continued to deteriorate and negatively impact Dr. Hansen's practice
- At the annual meeting of REAP's board of directors in November 2009, Luke discussed Dr. Hansen's refusal to accept Dr. Lechin's and Dr. Lammoglia's referrals and stated that, except for providing emergency assistance, Dr. Hansen had not worked since September 2009
- In February 2010, a PSC administrator sent an email notifying the REAP board members that Jackson had requested REAP to terminate Dr. Hansen's contract without cause due to his "past behavioral issues and his significant clinic losses"

Community Health Systems Professional Services Corp. v. Hansen (cont'd)

- The email attached the minutes from the November 2009 meeting and noted Dr. Hansen's annual losses were approximately \$1 million in 2008 and \$900K in 2009
- The REAP board voted to terminate Dr. Hansen without cause at the end of his third contract year
- In June 2010, REAP sent Dr. Hansen a letter providing sixty days' notice that it was terminating the contract without cause
- Dr. Hansen filed suit against numerous parties alleging multiple causes of action
- The trial court granted the defendants' summary judgment motions

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