

32nd Annual UT Health Law Conference

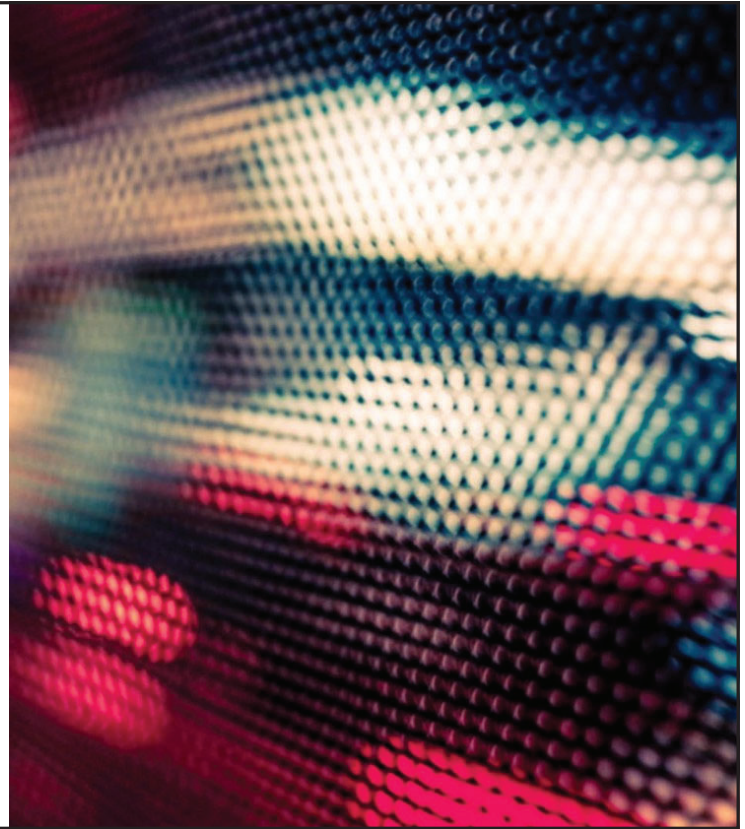
Operational impact of significant cases

Yvonne K. Puig

Chief Integration Partner, Life Sciences and
Healthcare, US
Live Webcast
April 7-9, 2021

Norton Rose Fulbright US LLP

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1

Issues affecting hospitals and healthcare providers - Physician Credentialing

Pisharodi v. Columbia Valley Healthcare System p. 1

- Madhavan Pisharodi M.D. sued his employer, Valley Regional Medical Center (“Valley Regional”), alleging breach of contract and malicious civil prosecution, arguing Valley Regional maliciously instituted civil proceedings against him and violated the confidentiality clause of its Medical Staff Bylaws
- The trial court dismissed his claims under the Texas Citizens Participation Act (“TCPA”) and Dr. Pisharodi appealed

2

2

Pisharodi v. Columbia Valley Healthcare System (cont'd)

- Dr. Pisharodi was accused of arriving to the hospital intoxicated while working as an on-call neurosurgeon
- Dr. Pisharodi refused the blood test and left the hospital
- The patient was transferred to a nearby facility for surgery without Dr. Pisharodi's knowledge or approval
- Valley Regional initiated peer review proceedings five months later to determine whether Dr. Pisharodi was under the influence of alcohol while working on-call and whether his condition delayed patient care, and whether any action should be taken against him

3



3

Pisharodi v. Columbia Valley Healthcare System (cont'd)

- The MEC did not recommend “any action or formal investigation of the matter”
- Dr. Pisharodi asserted Valley Regional breached its Medical Staff Bylaws when it relayed allegations of his intoxication to local attorneys and the patient's family
- Valley Regional asserted his claims were based on, related or in response to, a “matter of public concern,” and such communications—including those stemming from the peer review process—were protected under the TCPA

4



4

Pisharodi v. Columbia Valley Healthcare System (cont'd)

- The trial court granted Valley Regional's motion to dismiss and awarded attorney's fees and expenses, and \$20,000 in sanctions pursuant to the TCPA
- Under the TCPA, "the '[e]xercise of the right of free speech' includes a communication that is "'made in connection with a matter of public concern'"
- The Texas Supreme Court and other Texas appellate courts have uniformly held "the provision of medical services by a health care professional constitutes a matter of public concern"

5



5

Pisharodi v. Columbia Valley Healthcare System (cont'd)

- The 13th court held the communication implicated Dr. Pisharodi's ability to provide competent medical services and thus the TCPA applied to the case
- As to his breach of contract claim, unlike hospital bylaws, Medical Staff Bylaws generally do not constitute contractual and binding rights on a healthcare system
- None of the Bylaw provisions identified by Dr. Pisharodi provided evidence of the requisite contractual language that would have been binding on Valley Regional

6



6

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32nd Annual Health Law Conference session
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