

# 2023 UT Health Law Conference

## *Operational Impact of Significant Cases*

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## Issues affecting hospitals and healthcare providers Physician credentialing

### ***EEOC v. Yale New Haven Hospital Inc. p. 1***

- The Plaintiffs' Complaint seeks to end unlawful employment practices on the basis of age; redress interference with rights protected under the ADA; stop medical examinations in violation of the ADEA and ADA; and provide appropriate relief to aggrieved employees and individuals who were adversely affected by such practices
- "because YNHH medical staff privileges are a condition of employment as a clinical faculty member of the Yale School of Medicine and other local employers, the Policy interferes with the enjoyment and rights protected by the ADA of Yale School of Medicine employees and other local medical employees"

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## ***EEOC v. Yale New Haven Hospital Inc. (cont'd)***

- Per the Complaint, all Yale School of Medicine faculty with appointments, must obtain medical staff privileges and YNHH with appropriate clinical privileges
- At the time of initial appointment and every two years thereafter, all physicians and other practitioners who are members or affiliated members of the YNHH Medical Staff must have an evaluation of their skills and competence
- Since March 2016, YNHH imposed an additional condition on the granting of privileges only for those age 70+ through the Policy
- Only those 70 and older are subject to the Policy without any particular suspicion of decline in eyesight or neuropsychological ability

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## ***EEOC v. Yale New Haven Hospital Inc. (cont'd)***

- The EEOC asks the court to, among other things:
  - Enjoin YNHH from engaging in any employment practice which discriminates on the basis of age
  - Order YNHH to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals 70 years old and older, and which eradicate the effects of its past and present unlawful employment practices

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## ***EEOC v. Yale New Haven Hospital Inc. (cont'd)***

- Grant a permanent injunction prohibiting YNHH and all other persons from utilizing the Policy
- Require YNHH to pay back wages
- Provide compensation for past and future nonpecuniary losses resulting from the unlawful practices, including emotional pain, suffering, loss of enjoyment of life, and humiliation
- Order YNHH to pay punitive damages

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## ***EEOC v. Yale New Haven Hospital Inc. (cont'd)***

- As of March 2022, the parties are engaged in discovery
- The trial court recently ordered the Hospital to produce:
  1. Excel spreadsheets that track matters considered by the Hospital's peer review committees from 2010 through 2014,
  2. Meeting minutes of its Professional Practice Evaluation Committee from 2010 onward, and
  3. Documents sufficient to show the number of Serious Safety Events, Precursor Safety Events, and Near Miss Safety Events occurring at the Hospital in each month from January 2010 to present day

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34<sup>th</sup> Annual Health Law Conference session  
"Operational Impact of Significant Cases"