

# PUBLICATION

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## The Balance of Leadership in Peer Review

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Physicians and hospitals are paying attention to a recent decision by the Florida Supreme Court to strike down a state statute as unconstitutional that granted the boards of two private hospitals almost exclusive power to run the hospitals' affairs. In *Lawnwood Medical Center, Inc. v. Seegar, Fla.*, No. SC07-1300, 8/28/08, the Florida Supreme Court found that the St. Lucie County Hospital Governance Law (HGL) violated article III, section 11(a)(12), of the Florida constitution as granting a "privilege to a private corporation."

In its opinion, the court explained that the Florida constitution prohibits special laws granting rights, benefits, and advantages to a corporation, and the term privilege is not limited to economic benefit or favoritism. The court concluded that in the case of Lawnwood Medical Center, the previously existing Medical Staff Bylaws established a framework for cooperative governing in which the medical staff played an important role in the recommendation of candidates for appointment and credentialing, peer review, and decisions on contract-based services. The framework for governing, and the medical staff's important role in it pursuant to the bylaws, were altered by the HGL in a manner favorable to the board of Lawnwood Medical Center by the many rights conferred on the corporation, in which the HGL essentially gave the board plenary power to take independent action in these areas. At a minimum, these multiple facets of the HGL granted Lawnwood a right and placed it in an advantageous position - one that it did not possess before the law was enacted.

The case grew out of a series of disputes and legal actions between Lawnwood Medical Center and its medical staff subsequent to the adoption of the Medical Staff Bylaws. These disputes were precipitated by unilateral actions taken by Lawnwood against the medical staff and the Medical Staff Executive Committee. In the end, Lawnwood sought relief from the state legislature in 2003, which enacted the HGL to provide the board with the ability to take such action in matters involving its medical staff. The legislation ultimately changed the balance of power and authority the board had over the actions of the medical staff, which was the Court's rationale for finding that Lawnwood had indeed been granted a privilege by the legislation in contravention to the Florida constitution.

While the legislation was struck down by the court on grounds specific to Florida law, it is an important case for hospitals and physicians to consider when initiating actions against members of the medical staff. At the end of the day, the hospital and the medical staff leadership should work together in compliance with the procedures set forth in the Medical Staff Bylaws.