

STATE OF MICHIGAN
COURT OF APPEALS

MACOMB HOSPITAL CENTER MEDICAL
STAFF and SAMIR M. RAGHEB, M. D.,

UNPUBLISHED
December 20, 1996

Plaintiffs-Appellants,

v

No. 182394
LC No. 94-003603

DETROIT-MACOMB HOSPITAL
CORPORATION,

Defendant-Appellee,

MICHIGAN STATE MEDICAL SOCIETY,
THE AMERICAN MEDICAL ASSOCIATION,
and MICHIGAN HEALTH & HOSPITAL
ASSOCIATION,

Amicus Curiae.

Before: Gribbs, P.J., and Saad and J. P. Adair,* JJ.

PER CURIAM.

Plaintiffs appeal the circuit court opinion and order granting defendant's, Detroit-Macomb Hospital Corporation's, motion for summary disposition. In its complaint below, plaintiffs alleged, inter alia, that defendant improperly and unilaterally amended hospital bylaws to expand podiatric privileges, and replaced the elected members of the medical executive committee and filled their positions with appointees. We affirm.

Plaintiffs argue that the medical staff bylaws constitute an enforceable contract. We do not agree. However, even assuming arguendo that the bylaws could represent a contract, defendant's actions here did not constitute a breach and plaintiffs have not suffered any compensable damage. Under the broad scope of the Public Health Code, defendant is responsible for the matters at issue and cannot delegate that statutory responsibility:

* Circuit judge, sitting on the Court of Appeals by assignment.

The owner, operator, and governing body of a hospital licensed under this article:

- (a) Are responsible for all phases of the operation of the hospital, selection of the medical staff, and quality of care rendered in the hospital. MCL 333.21513; MSA 14.15(21513).

In this case, the trial court properly granted summary disposition as to defendant's amendment of the hospital bylaws to prevent discrimination against podiatrists in compliance with MCL 333.21513(e); MSA 14.15(21513)(e), after the medical staff twice refused to amend the bylaws. Because the amendment was necessary to comply with state law, no genuine issue of material fact existed and summary disposition was proper.

The trial court did not specifically address plaintiff's claim that the replacement of the executive committee was improper, beyond the general finding that the bylaws were "essentially directed to the conduct of the medical staff." As a general rule, as the trial court noted, a private hospital's decisions regarding staff privileges is not reviewable. *Bhoganonker v Metropolitan Hospital*, 164 Mich App 563, 566; 417 NW2d 50 (1988); *Dutka v Sinai Hospital*, 143 Mich App 170, 175; 371 NW2d 901 (1986). See also *Muzquiz v WA Foote Memorial Hospital, Inc*, 70 F3d 422, 430 (CA 6 1995). Moreover, the trial court recognized in its written opinion, that, under Michigan law, defendant is charged with responsibility for *all phases* of the operation of the hospital. MCL 333.21513(a); MSA 14.15(21513). Defendant is also charged with responsibility for establishing the appropriate procedures for "effective review of the professional practices in the hospital." MCL 333.21513(d); MSA 14.15(21513)(d). The trial court did not err in granting summary disposition in this matter.

Affirmed.

/s/ Roman S. Gribbs
/s/ Henry William Saad
/s/ James P. Adair