

Key Credentialing Cases

Legal cases are provided for additional background to help you to understand legal issues that shaped some of the current credentialing and privileging practices. This resource is not intended to be memorized for the purpose of the exam.

CASE NAMES & CITATIONS	FACT SUMMARY	KEY ISSUE
<u>Darling v. Charleston Memorial Community Hospital</u> , 211 N.E. 2d 253 (Ill. 1965)	Hospital liable for negligent treatment resulting in amputation of teenager's leg nurses failed to monitor; physician failed to consult; hospital claimed that charitable immunity doctrine limited damages to its insurance.	Failure to have proper supervision; Case set aside the Charitable Immunity Doctrine.
<u>Johnson v. Misericordia Community Hospital</u> , 294 N.W. 2d 501, 97 Wis. 2d 521 (Wis. 1981)	Hospital liable to patient injured by physician who had failed to disclose pending malpractice cases and lied about privileges at other hospitals; should have verified information.	Negligent credentialing; Failure of initial credentialing process.
<u>Elam v. College Park Hospital</u> , 132 Cal. App. 332, 183 Cal. Rptr. 156 (Ca. 1982)	Hospital liable for podiatrist's negligence; failed to obtain malpractice claims data although medical records department aware of claims.	Negligent Credentialing
<u>Patrick v. Burget</u> , 800 F. 2d 1498 (1986) (9th Cir); 108 S. Ct. 1658 (1988)	Physicians conducted peer review for anti-competitive reasons liable for violating federal anti-trust laws.	Anti-competitive peer review; HCQIA; Violation of Federal Anti-trust Laws
<u>Robinson v. Magovern</u> , (3rd Circuit Court of Appeals, 1982)	MD brought antitrust suit because he was denied privileges. Hospital did this based on shortage of OR space, unfavorable recommendation, failure to publish MD on seven other staffs and would probably not be able to contribute to hospital teaching program.	Hospitals May Determine Proper Limitation on Competition Within the Hospital and Surrounding Areas - careful and thorough adherence to bylaws that contain objective criteria required. Denial of application is not a restraint of trade.
<u>Miller v. Eisenhower Medical Center</u> , 166 Cal. Rptr. 826 (Ca. 1980)	Denial of application based on inability to work with others; no quality of care problems.	Disruptive Behavior Must be Patient Care Related

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<u>Rao v. Auburn General Hospital</u> , 573 P.2d 834 (Washington Court of Appeals, 1978)	Hospital denied privileges to MD after receiving reports from other hospitals on termination/ restriction of privileges. Other hospitals also reported substandard work and emotional instability	Disruptive Behavior. Personality May Be Considered If Affects Ability to Practice or Hospital Operations - personality problems must affect the workings of the hospital.
<u>Boyd v. Albert Einstein Medical Center</u> , 547 A.2d 1229 (Pa. 1988)	IPA-type HMO advertised as providing medical care held liable for member MD's negligence.	Ostensible agency; MCO liable for practitioners action.
<u>Harrell v. Total Health Care, Inc.</u> , 781 S.W. 2d 58 (Mo. 1989)	State law granted immunity to non-profit health plans; MCO not liable for negligent credentialing.	Negligent Credentialing; Failure to Credential
<u>McClellan v. Health Maintenance Organization of Pennsylvania</u> , 604 A.2d 1053 (Pa. 1992)	MCO liable for provider's action.	Duty to select and monitor providers; Negligent Credentialing; Ostensible Agency.
<u>Mathews v. Lancaster General Hospital</u> , 87 F.3d 624 (Pa. 1996)	Committee including competitors found substandard care; outside consultant agreed; surgeon challenged summary judgment applying HCQIA immunity; HCQIA presumption of good faith upheld.	HCQIA burden on physician to prove bad faith peer review.
<u>Bell v. Sharp Cabrillo Hospital</u> , 212 Cal. App.3d 1034, 260 Cal. Rptr. 886 (Ca. 1989)	Hospital liable for physician's actions due to its failure to request data from other hospital about basis for its summary suspension. No deficiencies had occurred at Sharp Cabrillo.	Negligence in Reappointment; Negligent Credentialing
<u>Hongsathavij v. Queen of the Angels Hollywood Presbyterian Hospital</u> , 62 Cal App. 4th 1123, 73 Cal. Rptr. 2d 695 (Ca. 1998)	Physician taken off back-up panel for failing to accept patient; Board overturned hearing committee recommendation to reinstate call panel membership due to lack of substantial evidence.	Governing Body is Ultimate Authority.
<u>Mahmoodian v. United Hospital Center</u> , 404 S.E. 2d 750 (W.Va. 1991)	Hospital can revoke otherwise competent physician's privileges when physician's disruptive behavior may adversely affect patient care.	Disruptive Behavior

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<p><u>Oskooi v. Fountain Valley Regional Hospital and Health Center</u>, 42 Cal. App. 4th 233, 49 Cal. Rptr. 2d 769 (Ca. 1996)</p>	<p>Ophthalmologist did not disclose all prior hospital affiliations on application; Hospital's summary suspension upheld.</p>	<p>Failure to Disclose.</p>
<p><u>Webman v. Little Company of Mary Hospital</u>, 39 Cal. App. 4th 592; 46 Cal. Rptr. 2d 90 (Ca. 1995)</p>	<p>Physician refused to authorize release of information by prior hospital; new hospital denied application; court held for hospital.</p>	<p>Duty to credential; Reasonable application requirements; Burden of Proof.</p>
<p><u>Kadlec v. Lakeview Anesthesia Assoc. and Lakeview Medical Center</u></p>	<p>Hospital granted privileges to an anesthesiologist, Dr. Robert Berry, who had a history of substance abuse and performance issues after his previous employer and the hospital he worked for, failed to disclose those issues in reference letters. When Berry's negligence severely injured a patient resulting in a multimillion dollar lawsuit against the hospital, Kadlec sued Lakeview Anesthesia Associates and Lakeview Medical Center for failing to disclose Berry's known impairments. The hospital won it's case against both, but the U.S. Court of Appeals for the Fifth Circuit reversed the Kadlec decision in part. Although the court found that the reference letters from Berry's former partners were false and patently misleading, it felt that Lakeview Medical Center's letter was not materially misleading. The court also opined that because the hospital did not have a legal duty to disclose its investigation of Dr. Berry and its knowledge of his drug problems, the judgment against Lakeview Medical must be reversed.</p>	<p>Reference letters from Berry's former partners were false and patently misleading, leading to liability on their part.</p> <p>Hospital did not have a legal duty to disclose its investigation of Dr. Berry and its knowledge of his drug problems.</p>

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<p><u>Frigo vs. Silver Cross Hospital (IL 2007)</u></p>	<p>Patient alleged that podiatrist negligence in performing bunionectomy on an ulcerated foot resulted in osteomyelitis and subsequent amputation of the foot.</p> <p>Podiatrist did not meet initial or revised criteria for Level II surgical privileges, but was granted privileges regardless.</p> <p>No grandfathering. Frigo claimed hospital's breach of duty caused her amputation because of Dr. Kirchner's negligence.</p> <p>The jury agreed and awarded her over \$7.75 million</p>	<p>Doctrine of Corporate Negligence - Negligent Credentialing – Breach of duty</p>