

# Court Confirms Scope Of Statutory Immunity Against Suits Related To Appointment Of Medical Staff Members

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The Fourth District Court of Appeal issued an important decision which confirms that Florida hospitals and ambulatory surgery centers and their governing bodies are immune from injunctive relief and liability for claims that arise out of the appointment or reappointment of members of the medical staff, absent a properly pled allegation of intentional fraud. *Lawnwood Medical Center, Inc. v. Desai*, No. 4D10-49 (Fla. 4th DCA Jan. 26, 2011) (slip)[1]. In *Desai*, a doctor was denied reappointment to the medical staff by the governing body of the hospital based on conduct and quality concerns. The lower court issued a temporary injunction permitting the doctor to continue to practice at the hospital during the pendency of the doctor's suit against the hospital where he claimed that the hospital's governing body had no right to deny his reappointment after the medical staff recommended him for reappointment. On appeal, the hospital successfully argued that no injunction should have been issued because the hospital governing body's discretion on decisions related to the appointment and reappointment of the medical staff is broad and the hospital is immune from such suits based on the legislative grant of immunity in section 395.0191, Florida Statutes (2009). The Court rejected the doctor's arguments that the statutory immunity is limited to initial appointment decisions, and that he could prevail by establishing the governing body's decision was not supported by good cause or valid reasons without a showing of intentional fraud. Today's decision is extremely significant and confirms the broad scope of discretion granted hospitals and ambulatory surgery centers in the appointment of members of their medical staffs as reflected by the statutory immunity granted to healthcare facilities in this area of Florida law. (Note: Thomas E. Warner and Dean A. Morande of Carlton Fields, P.A. led the appellate team representing the hospital in this appeal, and Walter Tache and Jennifer Christianson led the legal team at the temporary injunction hearing.) 1 The Fourth District's decision is not yet final and subject to rehearing.

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