

March 12, 2020: Judicial Advocacy Update

AMA-brokered deal secures coverage for Hahnemann residents, fellows

Residents and fellows affected by last year's record-breaking closure of Philadelphia's Hahnemann University Hospital liken the highly disruptive experience to a nightmare.

First they went through the turmoil of searching for and switching to new training positions elsewhere in the City of Brotherly Love and throughout the country. Then came the news that the 1,400-plus residents, fellows and Hahnemann training alumni would soon be left without the long-tail medical liability insurance coverage they needed to continue practice. Randol Hooper, MD, a pulmonology and critical care fellow formerly of Hahnemann and now training at Temple Health in Philadelphia, received annual premium quotes for long-tail coverage that were as high as \$30,000. Yet even quotes in the four-digit range were out of the question financially. "It was a substantial amount of money to come up with that I don't have, and pretty much every other Hahnemann resident I know is in the same position," Dr. Hooper said. Now at least one part of the Hahnemann closure-related nightmare has ended. A federal bankruptcy judge has approved a settlement with Hahnemann's owners to pay for the long-tail coverage. The AMA is underwriting legal representation of the orphaned residents and fellows in the case. The settlement, approved in Chapter 11 proceedings in the U.S. Bankruptcy Court for the District of Delaware, also will provide the legally required coverage for the 100 attending physicians who lost their jobs when Hahnemann closed in the summer of 2019. Legal representation on behalf of displaced residents and fellows in the case is being conducted by Jeremy Ryan and the firm of Potter Anderson & Corroon. "I am thrilled with how the AMA has handled this," Dr. Hooper said. "They acted decisively in the direct interest of physicians who were in distress. You can't ask for more than that."Read the full story.

Ruling threatens essential physician attorney-client privilege

In an era when a rising number of physicians are employed by companies affiliated with hospitals, a court ruling in Washington state threatens to upend the important guarantee of privileged conversations between physicians and hospital attorneys. If a lower-court decision is allowed to stand,

physicians and their employers would not be able to enter a joint defense agreement with the hospital where they practice. Additionally, hospital attorneys would be unable to have any contact with physicians whose conduct is at the center of a case unless opposing counsel is in the room. The decision by the Court of Appeals would have "a serious negative impact" on physicians and hospitals, argues an amicus brief filed in the Washington Supreme Court by the Litigation Center of the American Medical Association and State Medical Societies, the Washington State Medical Association and the Washington State Hospital Association. The brief urges the court to overturn the Washington Court of Appeals ruling in *Hermanson v. MultiCare Health System* that would take away the attorney-client privileged communication, also known as "ex parte." "In the health care setting, many hospitals and health systems in Washington employ physicians through separate but affiliated entities. Most often these affiliated physician groups receive legal services from the same lawyers who advise the hospital or system. They may also have the same insurance," the AMA Litigation Center brief explains. The appellate court decision allows "plaintiffs to name hospitals as the sole defendant and thereby to preclude the involved parties from effectively defending themselves," the brief says. Find out more about the cases in which the AMA Litigation Center is providing assistance and learn about the Litigation Center's case-selection criteria. [Read the full story.](#)

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