

Siegel v. CHW West Bay

Initial CMA Participation: June 2002

(Physicians' right to advocate for appropriate medical care without fear of retaliation)

*Issue:* In this case, the trial court ruled that Business & Professions Code §2056, the CMA-sponsored legislation that prohibits retaliation against all physicians for advocating for appropriate medical care, only applied to employed physicians. On June 13, 2002, CMA filed an AC brief in this case, as any limiting of Business & Professions Code §2056's protection to employees, as opposed to independent contractors, greatly reduces the value of the law's critical safeguards.

CMA's AC brief explained that as the administration and delivery of health care in this country has evolved from a patient directed to a managed care system, physicians are often trapped between their ethical and legal duty to remain dedicated to, and vigorously advocate for their patients' health care needs and the practical necessity to protect their relationship with the entities that control their ability to practice medicine, such as hospitals and managed care plans. To ensure that physicians not compromise their obligations to their patients, both the California Supreme Court and the California Legislature in Business & Professions Code §2056 recognize that judicial protection for all physicians victimized by improper exclusions/expulsions from hospitals (and medical staffs), managed care organizations and other organizations must exist. Without such protections, at best physician/patient relationships are needlessly destroyed; at worst, the provision of quality medical care is jeopardized. The law countenances neither result.

The brief further explained that the fundamental societal goal of preserving the proper standards of medical care depend upon a physician's right to seek judicial redress for improper exclusions/expulsions from organizations that, by virtue of their control of important economic interests, are clothed with the public interest. Particularly in this era of cost containment, physicians must be able to speak freely about potentially unsafe conditions or other matters which impact their patients' care. But to be able to speak freely, physicians must also know that their right to do so, and at the same time continue to provide quality medical care is not illusory. Physicians must know these rights will be safeguarded by the courts. Without judicial recourse against wrongful exclusions/expulsions, CMA explained, physicians will never be able to truly and completely fulfill their professional obligations to their patients.

*Outcome:* On November 20, 2002, the California Court of Appeal, First Appellate District, Division One ruled in favor of CMA's position by properly interpreting Business & Professions Code §2056 to allow independent contractor physicians, as well as employed physicians, to assert its protection against retaliation for advocating for medically appropriate health care. The Court's opinion directly cites and agrees to CMA's requested interpretation of the law, expressly identifying CMA as the sponsor of this legislation and, again at CMA's request, taking judicial notice of the legislative intent of the statute. On February 19, 2003, the California Supreme Court denied the hospital's petition for review and the case is now concluded.