Court Rulings Stress the Importance of Physician Metrics

Performance-based reimbursement and two recent court holdings underscore the importance of patient care, as well as the notion that physicians can be fired.

In a few weeks, the comment period will end on the proposed rule for implementation of Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), which will directly affect physician reimbursement models. Appreciating that patient care, outcomes, and satisfaction scores can contribute to reimbursement rates, physicians should also be aware that much more could be at stake, such as their employment status with a hospital.

Recently, both the Eighth Circuit U.S. Federal Court of Appeals and the Washington State Court of Appeals both upheld the actions of different hospitals/health systems when they terminated the physician in each case.

In Elkharwily v. Mayo Holding Co., the Eighth Circuit indicated, “Mayo [Clinic] articulated a legitimate, nondiscriminatory reason for terminating Dr. Elkharwily’s employment; namely, his poor job performance.” The physician had worked as a hospitalist at the Mayo Clinic Health System – Albert Lea and an evaluation at the end of his new-hire probationary period showed that his performance and consideration for patient safety were below the standard of care. He was placed on administrative leave and decided to resign. The Court of Appeals upheld the District Court’s ruling on the motion for summary judgment — dismissing the case as prejudice.

Likewise, in Shibley v. King County Pub. Hosp. Dist. No. 4, a hospitalist was terminated for unprofessional conduct. Snoqualmie Valley Hospital (SVH) reported the conduct to the National Practitioner Data Bank (NPDB). Again, the appellate court upheld the findings of the trial court —the report to the NPDB was not defamatory, the NPDB report was accurate and the hospital was entitled to immunity for its NPDB reports.

In sum, physicians should be sure to do the following:
-Read their employment contracts;
- Conduct themselves in a professional manner; and
- Make patient-centered care a priority.