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Authors:

[Christopher Walsh](#)

NJ Supreme Court Holds That Hospital's Medical Staff Bylaws Do Not Create Implied Duties of Good Faith

Pursuant to New Jersey Department of Health [regulations](#), New Jersey hospitals must implement bylaws to govern the hospital's medical staff. Those bylaws typically address the qualifications and procedures for being admitted to the hospital's medical staff and often include a right to a hearing and other procedural protections for a physician who has been denied privileges to the hospital. Though it has long been [resolved](#) that a physician may compel a hospital to comply with the procedures set forth in its bylaws, it was less clear whether a hospital's bylaws created a contract between the hospital and its medical staff, which in turn would give rise to an implied duty of good faith and fair dealing, as well as a right to monetary damages for breach of contract.

In [Comprehensive Neurosurgical, P.C. v. Valley Hospital](#), the New Jersey Supreme Court resolved this open issue, holding that a hospital's bylaws do *not* amount to a contract and thus do not, without more, give rise to implied duties or monetary damages. The Supreme Court, however, also recognized that an *implied* contract, which itself would include an implied duty of good faith, can arise from the course of dealings between a hospital and a physician group.

In *Comprehensive Neurosurgical*, a group of neurosurgeons that held longstanding privileges at Valley Hospital sued the hospital after it granted certain exclusive privileges to a competing neurosurgery practice, thus adversely affecting the plaintiff neurosurgeons' ability to practice at the hospital. Two claims were ultimately tried to a jury: 1) a breach-of-contract claim based on the hospital's alleged failure to follow its bylaws and give the plaintiffs a hearing before granting the rival practice exclusive privileges, and 2) a claim for breach of the covenant of good faith and fair dealing. The jury delivered a no-cause verdict on the

breach-of-contract claim but found in favor of the neurosurgeons on the implied-covenant claim, awarding the neurosurgeons \$24.3 million in damages. The Appellate Division affirmed.

The central issue before the Supreme Court was whether a contract existed between the hospital and the neurosurgeons that supported an implied duty of good faith and fair dealing. If there was no contract, there could be no implied duty. In resolving that issue, the Supreme Court rejected the neurosurgeons' contention that the hospital's medical staff bylaws created a contract between the hospital and the neurosurgeons because "the fundamental elements of contract formation," such as offer, acceptance, and consideration, do not exist in connection with medical staff bylaws. Consequently, because the bylaws are not a contract, they cannot give rise to an implied duty of good faith and fair dealing.

The Supreme Court, however, also found sufficient evidence in the trial record to support a historical course of dealing between the hospital and the neurosurgeons, including that the neurosurgeons had invested substantial time and resources in modernizing the hospital's neurosurgical department, which could create an implied contract with rights and obligations beyond those in the bylaws. That implied contract would also include an implied duty of good faith and fair dealing. Because of ambiguities in the jury instructions and verdict sheet, it was unclear whether the jury had found the existence of such an implied contract or whether the jury's implied-covenant verdict was based, erroneously, on the hospital's bylaws. The Supreme Court, therefore, vacated the verdict and remanded for a new trial.

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