After three years of legal wrangling, the news is finally good for Minnesota physicians in the case of the Avera Marshall Regional Medical Center Staff vs. Avera Marshall Regional Medical Center.

On the last day of 2014, the Minnesota Supreme Court ruled that a medical staff is a legal entity that may sue on behalf of its member physicians, and that bylaws agreed to by a hospital and its medical staff constitute a contract to which both parties must adhere.

After this favorable ruling, the high court remanded the case to the district court, which earlier ruled in favor of the hospital's administration in the lawsuit against the hospital brought by the medical staff. The district court will re-examine the case in light of the Supreme Court's decision.

The lawsuit is the result of an impasse with Avera Marshall administration and its board of directors regarding the role of the medical staff and its officers and committees as set forth in the medical staff bylaws. Both Avera Marshall and the medical staff had approved the terms of the bylaws in 2010. However, in January 2012, the hospital's board unilaterally voted to repeal the bylaws and replace them with a new set with no input or action by the medical staff. In doing so, the board did not follow the process for changing the medical staff bylaws that is described in the older bylaws, which require involvement of the medical staff.

Since February 2012, the MMA and the AMA Litigation Center have provided professional support to the Avera Marshall medical staff through friend-of-the-court briefs. The American Academy of Family Physicians, American Osteopathic Association, Minnesota Academy of Family Physicians and Minnesota Academy of Pediatrics have also supported the physicians pursuing the case.

“This is an important victory for all physicians,” says Donald Jacobs, MD, MMA president. “An independent, autonomous medical staff serves a critical role in facilitating and maintaining quality patient care in a hospital setting and should have a strong voice in the decision-making process regarding that care.” (Read Dr. Jacobs' Viewpoint on the case on page 27.)

Jacobs commended the medical staff for having the courage to stand up for its rights and the care of its patients. In particular, he cited Steven Meister, MD, and Jane Willett, DO, for championing the suit through the District Court and the Court of Appeals.

Meister and Willett said in a statement to staff: “This action was started to protect the fundamental and unique role that we physicians serve in a hospital’s decision-making process that impacts patient care, a role that is reinforced in the medical staff bylaws.”

“Patients were the big winners as the Minnesota Supreme Court re-established an appropriate balance of responsibilities between physicians and administrators at Avera Marshall Regional Medical Center,” said AMA President Robert Wah, MD, in a statement. “The ruling will help promote hospital policies that align with the best interests of patients.”
Avera Marshall lawsuit timeline:

- **January 2012** – Avera Marshall administration approves new medical staff bylaws without input from the medical staff; medical staff sues

- **February 2012** – The MMA’s Executive Committee votes to support the Avera Marshall medical staff; soon after, the AMA’s Litigation Center agrees to join the MMA in support of the lawsuit

- **March 2012** – The MMA and AMA ask permission to file an amicus (friend-of-the-court) brief in support of the medical staff

- **April 2012** – Lyon County District Court denies the MMA and AMAs amicus brief request

- **July 2012** – Lyon County District Court rules that the medical staff is not an independent legal entity that could sue or be sued by the hospital

- **September 2012** – Lyon Country District Court rules that the medical staff bylaws do not constitute a contract between the staff and the hospital and that the hospital can, in effect, unilaterally change the bylaws

- **November 2012** – The medical staff appeals the district court’s ruling

- **December 2012** – The MMA and AMA file a request seeking permission to provide an amicus brief to the Minnesota Court of Appeals

- **May 2013** – Court of Appeals hears oral arguments on case

- **July 2013** – Court of Appeals rules against medical staff

- **October 2013** – Minnesota Supreme Court agrees to hear case

- **December 31, 2014** – Minnesota Supreme Court rules that a medical staff is a legal entity that may bring suit on behalf of its member physicians, and that the bylaws agreed to by a hospital and its medical staff constitute a contract to which both parties must adhere.

**MMA in Action**

Janet Silversmith, MMA director of health policy, discussed accountable care organizations with residents and faculty from the St. Cloud Family Medicine Residency Program in early January.

Eric Dick, MMA manager of state legislative affairs, traveled to St. Cloud Ear, Nose and Throat in mid-January to offer an update on the 2015 legislative session. Dick shared his take on the political “lay of the land” at the Capitol and presented the MMA’s legislative priorities for the session.

In mid-December, Dennis Kelly, chief executive of the MMA Foundation, Ray Christensen, MD, an AMA delegate for the MMA and assistant dean at the University of Minnesota-Duluth Medical School, and Brian Strub, MMA manager of physician outreach, presented John Lundy, a reporter with the Duluth News Tribune, with the MMA Foundation's Excellence in Medical Journalism award for an article addressing the primary care physician shortage in the Duluth area.

In January, both the Twin Cities Medical Society (TCMS) and the Zumbro Valley Medical Society (ZVMS) held their annual meetings. TCMS appointed Kenneth Kephart, MD, as its president for 2015. Dave Thorson, MD, MMA president-elect, and Terry Ruane, MMA director of membership, marketing and communications, attended. ZVMS appointed Dan Maddox, MD, as its president. Ruane, Kelly and Donald Jacobs, MD, MMA president, attended.