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TO: MEMBERS OF THE LONG ISLAND JEWISH ORGANIZED MEDICAL STAFF

We wish to report on an interesting case involving the provisions of the Public Health Law as it relates to alleged improper acts of a hospital accused of improper practices in denying , withholding or terminating the privileges of a physician.

The facts: Prior to his graduation from medical school the physician learned of his acceptance to the pediatric residency program at New York Presbyterian Brooklyn Methodist Hospital via the NRMP. The match agreement binds both parties, by its terms, and only the NRMP can waive the match obligation.

After the match had been made the institution learned of various anti-Semitic media posts emanating from the physician . These posts had also triggered a three month suspension from his Medical School. The hospital requested a waiver from its obligation from NRMP and when the waiver request was denied, the hospital nevertheless denied admittance to the physician into its program. Physician commenced litigation and during its proceedings asked for a preliminary injunction which would bar the denial by the hospital. The hospital claimed that the litigation was premature in that the physician had not first proceeded under the Public Health Law previously mentioned but the trial court ruled in favor of the physician. An appeal was then brought by the hospital.

On appeal the physician argued that the Public Health Law was inapplicable as he was a resident not yet actively employed by the hospital. This argument was rejected by the court which held that a medical resident is “undoubtedly a physician...” and thus the procedures established by the Public Health Law must first be exhausted , namely, file a complaint with the Public Health and Planning Council and then commence suit, if needed, seeking an injunction in court.

An observation- one would think that a medical student would be alert to the fact that in today’s world social posts are there for the world to see and that few, if any, items escape the radar.

Respectfully submitted,

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