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Mar 18 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Charleston County
Court of Common Pleas
The Honorable Debra R. McCaslin, Circuit Court Judge

Appellate No. 2021-000487
C/A No. 2020-CP-10-02902

Michelle Cha Holliman, individually and as personal representative of the Estate of Allen B. Holliman,Respondent,

v.

We Are Sharing Hope SC, Medical University of South Carolina, United Network for Organ Sharing, Jacqueline Honig, M.D., and Darla Welker,Defendants,

of which We Are Sharing Hope SC and United Network for Organ Sharing are the
.....Appellants.

**MOTION OF THE AMERICAN MEDICAL ASSOCIATION AND THE SOUTH
CAROLINA MEDICAL ASSOCIATION FOR LEAVE TO FILE A BRIEF AS *AMICI
CURIAE* IN SUPPORT OF DEFENDANTS-APPELLANTS**

Pursuant to Rule 213, SCACR, the American Medical Association (AMA) and the South Carolina Medical Association (SCMA) jointly petition this Court for leave to file the a Brief of *Amici Curiae* in support of the above-captioned Appellants, We Are Sharing Hope SC (Sharing Hope) and the United Network for Organ Sharing (UNOS).

Statement of Interest of *Amici Curiae*

The AMA is the only national association that convenes more than 190 state and specialty medical societies and other critical stakeholders to promote the art and science of medicine and betterment of public health. The AMA has served this mission since 1847. The AMA advances its

purpose by representing physicians and affiliated stakeholders with a unified voice in courts and legislative bodies across the nation, removing obstacles that interfere with patient care, leading the charge to prevent chronic disease and confront health crises, and driving the future of medicine to tackle the biggest challenges in healthcare and training the leaders of tomorrow.

The SCMA is the largest physician organization in the state, representing more than 6,000 physicians, residents, and medical students. It is the only membership organization in South Carolina that represents all medical specialties and all geographic locations. Like the AMA, the SCMA advocates on behalf of physicians on issues impacting the practice of medicine and quality of patient care. The SCMA is dedicated to the promotion of a high quality healthcare delivery system in which providers may freely discuss, review, and analyze cases in a confidential peer review setting for educational purposes.

Reasons Why an Amici Curiae Brief is Desirable

An amici curiae brief from the AMA and the SCMA in this matter is desirable because the issues presented to the Court directly affect the clinical and legal environment in which their members practice. The question before the Court is a novel issue as it evaluates the applicability of the Peer Review Statute's guarantee of confidentiality for materials considered by the committee when the review is conducted by an Organ Procurement Organization (OPO), rather than a hospital or medical society. To the extent such a review process may involve documentation or testimony relating to clinical services performed by physicians who are clearly protected by the statute, the interests of the physicians and the OPO are inherently aligned. Further, because OPOs are an essential component of the healthcare system and share the physicians' mutual goal of improving patient safety through post-incident root cause analysis, the AMA and SCMA's members will be impacted by the Court's resolution of the appeal.

The confidentiality of peer review is an issue that impacts both the practice of medicine and the quality of patient care. South Carolina has expressly recognized the necessity of the confidential peer review process for the refinement and advancement of the practice of medicine through its statutes and body of case law relating to physicians and hospitals. The AMA and SCMA respectfully submit that the important policy goal served by the peer review statute encompasses activities that comprise medical care and is not limited to the protection of individual instances or events. Rather, the duties of the peer review process are to address the standard of care, prevent patient harm, evaluate patient safety and quality of care, and ensure the design of systems or settings of care support safety and high quality care. Inasmuch as their physician members provide care of patients who are both organ donors and transplant recipients, directly interact with the United States Organ Procurement and Transplant Network (OPTN) operated by UNOS and OPOS as part of the healthcare system, and exchange information with them part of the post-incident peer review process, the AMA and SCMA have an interest in this matter.

Respectfully submitted,



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**American Medical Association and
South Carolina Medical Association**

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PROOF OF SERVICE

I certify that I served the Motion of the American Medical Association and The South Carolina Medical Association for Leave to File a Brief as *Amici Curiae* in Support of Defendants-Appellants by depositing copies of same in the U.S. Mail, postage paid on March 18, 2022 addressed to the following address:

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