Filed 9/2/26

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

STALLION SPRINGS MEDICAL SERVICES, Petitioner, v. THE SUPERIOR COURT OF KERN COUNTY, Respondent; KULJIT S. HUNDAL, Real Party in Interest.	F090834 (Super. Ct. No. BCV-21-100159) **OPINION**

ORIGINAL PROCEEDINGS; writ of mandate. Gregory A. Pulskamp, Judge.

Sheppard Mullin Richter & Hampton, Denise A. Giraudo, Kristi L. Thomas and John D. Ellis, for Petitioner.

No appearance for Respondent.

Much Shelist, Nicholas Jurkowitz and Nishka Khanna, for Real Party in Interest.

-ooOoo-

Kuljit S. Hundal is a licensed emergency room physician who was a member of the medical staff of the Adventist Health Medical Center Tehachapi (medical staff), which serves Adventist Health Tehachapi Valley (hospital). Stallion Springs Medical Services (Stallion Springs), a medical corporation that was responsible for staffing and scheduling emergency providers at the hospital's emergency department, contracted with Hundal to provide his services to the hospital as an independent contractor. After a patient complained about Hundal's conduct in the hospital's emergency department, the hospital instructed Stallion Springs to remove Hundal from the emergency department schedule. Stallion Springs did so and after its own investigation, terminated its contract with Hundal.

Hundal sued the hospital, medical staff, and Stallion Springs, alleging they failed to comply with statutory and common law procedural requirements in connection with his removal from the emergency department schedule. After the hospital and medical staff were dismissed from the action following a settlement, Stallion Springs moved for summary judgment or alternatively summary adjudication on the two claims asserted against it for violation of the common law right of fair procedure and intentional infliction of emotional distress. The trial court denied the motion for summary judgment, granted the alternative motion for summary adjudication as to the emotional distress claim, and denied the alternative motion for summary adjudication as to the claim for violation of the common law right of fair procedure.

Stallion Springs petitions for a writ of mandate challenging the denial of summary adjudication as to the common law right of fair procedure claim. Stallion Springs contends Hundal cannot maintain that claim against it because the common law doctrine of fair procedure with respect to physician discipline has been superseded by the statutes

that address the due process requirements for hospital peer review (Bus. & Prof. Code,[1] §§ 805–809.9) (the peer review statute), which does not apply to Stallion Springs. Stallion Springs alternatively contends the common law right of fair procedure does not extend to a staffing company. We agree with Stallion Springs that the right of fair procedure does not apply to Stallion Springs as a matter of law, therefore, the trial court erred in denying the summary judgment motion. Accordingly, we grant the petition for writ of mandate.

FACTUAL AND PROCEDURAL BACKGROUND

Stallion Springs facilitated the staffing and scheduling of emergency providers in the hospital's emergency department pursuant to a contract with the hospital.[2] To fulfill its staffing obligations, Stallion Springs entered into independent contractor relationships with individual emergency room providers to render professional medical services in the hospital's emergency department. Hundal, a practicing emergency room physician, entered into an independent contractor agreement with Stallion Springs to staff the hospital's emergency department. Hundal, a member of the medical staff, practiced at the hospital for "a number of years."

On March 26, 2019, a patient posted a complaint on social media about Hundal's conduct in the hospital's emergency department. The patient alleged Hundal yelled at her about wasting his time and told her twice to "get the hell out of" the emergency room after she refused to have lab work performed.

The hospital's chief of medical staff placed Hundal under investigation, alleging he violated the medical staff bylaws, the code of conduct, and regulations of the federal

---

1 Undesignated statutory references are to the Business and Professions Code.

2 Stallion Springs dissolved on March 1, 2024, and it is no longer a legal entity in the State of California. Corporations Code section 2011, subdivision (a)(1)(A) permits a cause of action to be asserted against a dissolved corporation, whether the cause of action arose before or after the dissolution.

Emergency Medical Treatment and Active Labor Act (42 U.S.C. § 1395dd). The hospital notified Stallion Springs of the complaint and instructed Stallion Springs to remove Hundal from the emergency department schedule pending the investigation. Stallion Springs complied with the demand and conducted its own investigation into the incident, which included interviewing Hundal and others who worked with him. Stallion Springs determined Hundal's conduct was unacceptable and terminated its agreement with him for cause.

The Complaint

Hundal filed this action in January 2021 against the hospital, medical staff, and Stallion Springs. The complaint alleged four causes of action: (1) violation of Health and Safety Code section 1278.5; (2) violation of section 809 et seq.; (3) violation of the common law right of fair procedure (the fair procedure claim); and (4) intentional infliction of emotional distress. Hundal alleged all four causes of action against the hospital and medical staff, while only two of them – the fair procedure claim (the third cause of action) and the intentional infliction of emotional distress claim (the fourth cause of action) – were alleged against Stallion Springs.

The causes of action alleged against Stallion Springs arose entirely out of allegations that the defendants removed Hundal from the hospital's emergency department schedule without "any sort of notice or hearing." Specifically, the fair procedure claim alleged: (1) pursuant to the common law right of fair procedure, Hundal had a vested right to retain his ability to practice at the hospital unless there was a valid substantive basis for doing so, citing *Potvin v. Metropolitan Life Ins. Co.* (2000) 22 Cal.4th 1060, 1066 (*Potvin*); (2) "pursuant to *Bergeron, M.D. v. Desert Hospital Corporation* (1990) 221 Cal.App.3d 146, 152, a physician's participation on a hospital's schedule/roster/panel is a 'fundamental property right which cannot be suspended or revoked without notice and a hearing' "; and (3) "[d]efendants failed to provide [Hundal]

with any sort of notice of hearing prior to being taken off of the Emergency Department schedule, in contravention of *Bergeron* and *Potvin*, and the common law right of fair procedure, and "[d]efendants' effectuation of the removal of Dr. Hundal from the schedule indirectly, by directing a third party, [Stallion Springs], to remove him does not relieve Defendants of their obligations under the common law right of fair procedure to provide Dr. Hundal with notice and a hearing."

Hundal subsequently settled his claims against the hospital and medical staff. Hundal dismissed them from the action in July 2024, leaving Stallion Springs as the sole defendant.

The Summary Judgment Motion

Stallion Springs moved for summary judgment or, alternatively, summary adjudication in July 2025. Stallion Springs asserted the fair procedure claim was meritless because it was not legally obligated to refrain from arbitrary action under either the common law, the peer review statute, or the parties' agreement. Stallion Springs specifically argued: (1) independent contracting agencies which enter into independent contractual relationships with medical professionals to staff hospitals, such as Stallion Springs, are not subject to the requirements of the common law right of fair procedure; (2) Stallion Springs was not obligated to provide due process under the peer review statute because it is not a "peer review body" within the meaning of the statute, and because Hundal was subject to peer review investigation and disciplinary actions by the hospital, he cannot claim Stallion Springs was required by statute to provide him additional procedural protections, citing *Asiryan v. Medical Staff of Glendale Adventist Medical Center* (2024) 100 Cal.App.5th 947 (*Asiryan*); and (3) Stallion Springs did not have a contractual obligation to provide Hundal with fair procedure. As for the claim for intentional infliction of emotional distress, Stallion Springs argued the claim failed as a matter of law because Hundal could not produce evidence of " 'outrageous conduct' "

" 'so extreme as to exceed all bounds of that usually tolerated in a civilized community.' "

In his opposition to the motion, Hundal did not dispute that Stallion Springs was not a peer review body under the peer review statutes or address *Asiryan*. Instead, Hundal argued the common law right of fair procedure should extend to Stallion Springs because it effectively controlled access to hospital staffing opportunities and acted within its authority to either schedule or remove Hundal from the hospital's schedule. Hundal contended "private, non-governmental entities can trigger fair procedure obligations especially if their decisions impact a physician[']s right to practice," and it was irrelevant whether Stallion Springs had a contractual duty to provide fair procedure, as it could be found liable under the common law right of fair procedure since it controlled the scheduling of shifts. As for the intentional infliction of emotional distress claim, Hundal argued Stallion Springs' conduct met the outrageous conduct standard because it controlled Hundal's access to the emergency department shifts and then arbitrarily excluded him without fair procedure.

During the unreported hearing on the summary judgment motion,[3] the trial court permitted the parties' counsel to present argument, which tracked the parties' briefing, without interruption or comment. After the arguments concluded, the trial court announced it would grant the motion for summary adjudication as to the intentional infliction of emotional distress claim and deny the motion as to the fair procedure claim. The trial court did not explain the rationale for its decision or indicate the grounds on which it was based. The trial court directed Stallion Springs' counsel to prepare a written order reflecting the court's statements.

---

[3] In accordance with California Rules of Court, rule 8.486(b)(3)(A), Stallion Springs' appellate counsel submitted a declaration to this court "[e]xplaining why the transcript is unavailable and fairly summarizing the proceedings, including the parties' arguments and any statement by the court supporting its ruling."

On November 5, 2025, the trial court entered a written order, prepared by Stallion Springs' counsel, which stated that "[a]fter full consideration of the papers and oral argument," the court denies the motion for summary judgment, grants the alternative motion for summary adjudication as to the fourth cause of action, and denies the alternative motion for summary adjudication as to the third cause of action.[4]

The Petition for Writ of Mandate

Stallion Springs timely filed a petition for writ of mandate in this court, contending the trial court erroneously denied the motion for summary adjudication on the fair procedure claim. We issued an order to show cause and stayed the trial of the matter. Hundal filed a return,[5] Stallion Springs filed a reply to the return, and this court heard oral argument.

---

[4] As Stallion Springs notes in its petition, the trial court's order failed to comply with the requirements of Code of Civil Procedure section 437c, subdivision (g), which requires the trial court to specify by written or oral order the reasons for its grant of summary judgment, including reference to the evidence indicating that no triable issue of fact exits. (Code Civ. Proc., § 437c, subd. (g).) The failure to provide a sufficient statement of reasons, however, is not automatic grounds for reversal. (*Santa Barbara Pistachio Ranch v. Chowchilla Water Dist.* (2001) 88 Cal.App.4th 439, 448–449 [trial court's failure to provide a sufficient statement of reasons is not automatic grounds for reversal, since it is the validity of the ruling which we review, and not the reasons therefor]; *Unisys Corp. v. California Life & Health Ins. Guarantee Assn.* (1998) 63 Cal.App.4th 634, 640.) As we shall explain, we find that Stallion Springs is entitled to summary judgment because the facts are undisputed and the issue is purely a legal one subject to our de novo review therefore, any error was necessarily harmless.

[5] Stallion Springs urges us to strike Hundal's return because the return is an unverified brief rather than a demurrer or verified answer. (See Cal. Rules of Court, rule 8.487(b)(1); *Bank of America, N.A. v. Superior Court* (2013) 212 Cal.App.4th 1076, 1084–1085.) Because the response is not verified, " 'all well-pleaded and verified allegations of the writ petition are accepted as true.' " (*Southern California Edison Co. v. Superior Court* (2024) 102 Cal.App.5th 573, 583, fn. 2.) We decline to strike Hundal's response, however, and will address the merits of the petition. (*Ibid.*; *County of San Bernardino v. Superior Court* (1994) 30 Cal.App.4th 378, 382, fn. 6 [addressing the

DISCUSSION

I. Writ Review of the Denial of Summary Judgment

Summary judgment must be granted if the papers show an absence of triable issues of material fact and that the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c).) A party challenging denial of summary judgment or adjudication may do so by writ petition. (*Id.*, subd. (m)(1).) " 'Where the trial court's denial of a motion for summary judgment will result in trial on nonactionable claims, a writ of mandate will issue. [Citations.] Likewise, a writ of mandate may issue to prevent trial of nonactionable claims after the erroneous denial of a motion for summary adjudication.' " (*CRST, Inc. v. Superior Court* (2017) 11 Cal.App.5th 1255, 1259–1260.) We review a trial court's decision on summary judgment de novo, determining independently whether the facts not subject to material dispute support summary judgment. (*Id.* at p. 1260; *Intel Corp. v. Hamidi* (2003) 30 Cal.4th 1342, 1348.)

Hundal argues Stallion Springs failed to establish that writ review is appropriate. Our issuance of the order to show cause, however, effectively determined that Stallion Springs' remedy at law was inadequate, making writ review proper. (*Bounds v. Superior Court* (2014) 229 Cal.App.4th 468, 476–477; *Marron v. Superior Court* (2003) 108 Cal.App.4th 1049, 1056.) Moreover, writ review is appropriate because the petition presents a significant issue of first impression and if Stallion Springs' contentions are correct, it would suffer irreparable injury if it were required to proceed to trial since the resolution of the issue in its favor would result in a final disposition of the case. (*Marron, supra,* 108 Cal.App.4th at p. 1056.) Accordingly, we exercise our discretion to consider the petition.

---

merits of a writ petition despite the " 'responsive brief' " not being a proper return to the court's order to show cause].)

II. The Common Law Right of Fair Procedure

"[A] private organization's decisionmaking process can, under certain circumstances, be subject to a common law right of fair procedure," which is subject to judicial review. (*Yari v. Producers Guild of America, Inc.* (2008) 161 Cal.App.4th 172, 174 (*Yari*).) As our Supreme Court explained in *Potvin*: "The purpose of the common law right to fair procedure is to protect, *in certain situations,* against arbitrary decisions by *private organizations*. As this court has held, this means that, when the right to fair procedure applies, the decisionmaking 'must be both substantively rational and procedurally fair.' " (*Potvin, supra,* 22 Cal.4th at p. 1066.) Essentially, "whenever a private association is legally required to refrain from arbitrary action, the association's action must be both substantively rational and procedurally fair." (*Pinsker v. Pacific Coast Society of Orthodontists* (1974) 12 Cal.3d 541, 550 (*Pinsker II*).)

Originally, the common law right of fair procedure was applied in cases involving "membership expulsions that adversely affected rights in specified funds held by the organization." (*Potvin, supra,* 22 Cal.4th at p. 1063.) Many years later, in *James v. Marinship Corp.* (1944) 25 Cal.2d 721, the Supreme Court again relied on the general principles underlying this right to hold that a union could not arbitrarily deny full membership privileges to African-American workers. (*Potvin, supra,* at pp. 1063–1064.) Thereafter, in a trio of decisions, the Supreme Court extended the right to apply to a dentist's exclusion from professional organizations and a hospital's expulsion of a surgical resident in *Pinsker v. Pacific Coast Soc. of Orthodontists* (1969) 1 Cal.3d 160 (*Pinsker I*), *Pinsker II, supra,* 12 Cal.3d 541, and *Ezekial v. Winkley* (1977) 20 Cal.3d 267. (See *Potvin, supra,* at p. 1064.)

As our Supreme Court explained in *Potvin*, "[t]he private organizations in our *Marinship-Pinsker-Ezekial* cases … all shared an attribute of significance in our determination that they were subject to the common law right to fair procedure," namely

that "[e]ach one was a private entity affecting the public interest." (*Potvin, supra,* 22 Cal.4th at p. 1070.) The Court further explained: " '[C]ertain institutions and enterprises are viewed by the courts as quasi-public in nature: The important products or services which these enterprises provide, their express or implied representations to the public concerning their products or services, their superior bargaining power, legislative recognition of their public aspect, or a combination of these factors, lead courts to impose on these enterprises obligations to the public and the individuals with whom they deal, reflecting the role which they have assumed, apart from and in some cases despite the existence of a contract.' " (*Ibid.*)

In *Potvin,* the Supreme Court determined that an insurer that wants to remove a doctor from one of its preferred provider lists has an obligation to "comply with the common law right to fair procedure … only when the insurer possesses power so substantial that the removal significantly impairs the ability of an ordinary, competent physician to practice medicine or a medical specialty in a particular geographic area, thereby affecting an important, substantial economic interest." (*Potvin*, *supra*, 22 Cal.4th at p. 1071.)

III. California's Peer Review Statute

"Under [California] law, a licensed hospital facility must have 'a formally organized and self-governing medical staff responsible for "the adequacy and quality of the medical care rendered to patients in the hospital." (Cal. Code Regs., tit. 22, § 70703, subd. (a).)' (*Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 10, italics omitted; *Oliver v. Board of Trustees* (1986) 181 Cal.App.3d 824, 826–827.) The medical staff acts primarily through a number of peer review committees, which, along with other responsibilities, assess the performance of physicians currently on staff … (Cal. Code Regs., tit. 22, § 70703, subds. (b) & (d).)" (*Unnamed Physician v. Board of Trustees* (2001) 93 Cal.App.4th 607, 616 (*Unnamed Physician*).)

Originally, "[a] hospital's duty to provide certain protections to a physician in proceedings to deny staff privileges" derived from "the common law doctrine of fair procedure." (*El-Attar v. Hollywood Presbyterian Medical Center* (2013) 56 Cal.4th 976, 986 (*El-Attar*).) As we have explained, the doctrine generally "provides that 'judicial intervention in a private association's membership decisions is warranted " 'where considerations of policy and justice [are] sufficiently compelling' " ' [citations] [and that] "[w]henever a private association is legally required to refrain from arbitrary action, the association's action must be both substantively rational and procedurally fair." ' " (*Asiryan, supra,* 100 Cal.App.5th at p. 965, quoting *El-Attar, supra,* 56 Cal.4th at p. 986.) "Courts began applying this broad doctrine in the context of hospital credentialing and peer review decisions in the late 1970s." (*Asiryan, supra,* 100 Cal.App.5th at p. 965.)

The Legislature codified the common law fair procedure doctrine in the hospital peer review context when it enacted the peer review statute in 1989. (*El-Attar, supra,* 56 Cal.4th at p. 988; *Asiryan, supra,* 100 Cal.App.5th at p. 965; *Weinberg v. Cedars-Sinai Medical Center* (2004) 119 Cal.App.4th 1098, 1108 [the peer review statute " 'essentially codifie[s] the requirements previously recognized in case law governing a physician's right to a hearing regarding the termination of his or her staff privileges' "].) The peer review statute, which was enacted in response to the federal Health Care Quality Improvement Act of 1986 (42 U.S.C. §§ 11101–11152), "established the minimum procedures that hospitals must employ in certain peer review proceedings." (*El-Attar, supra,* 56 Cal.4th at p. 988.)

The peer review statute serves two purposes: (1) " 'to protect the health and welfare of the people of California by excluding through the peer review mechanism "those healing arts practitioners who provide substandard care or who engage in professional misconduct" ' "; and (2) " 'to protect competent practitioners" from being barred from practice for arbitrary or discriminatory reasons.' " (*El-Attar, supra,* 56

Cal.4th at p. 988.) Like the common law fair procedure doctrine that preceded it, the peer review statute " 'establishes minimum protections for physicians subject to adverse action in the peer review system' " and "guarantees, among other things, a physician's right to notice and a hearing before a neutral arbitrator or an unbiased panel." (*El-Attar, supra*, at p. 988.)

"Several code sections address the efforts of such 'peer review bod[ies,]' a term statutorily defined to include the 'medical or professional staff of any health care facility or clinic' (§ 805, subd. (a)(1)(B)(i)), regarding the discipline and oversight of licensed physicians and other health care provider ' "[l]icentiate[s]" ' (§ 805, subd. (a)(2)) affiliated with the facility or clinic. (See generally §§ 805–809.9.) The code defines '[p]eer review' in this context as, inter alia, the process of the staff reviewing 'the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates' " for disciplinary, investigatory, or quality improvement purposes. (§ 805, subd. (a)(1)(A)(i).)" (*Asiryan, supra,* 100 Cal.App.5th at p. 956.)[6]

"A peer review body or the administration of the body's affiliated hospital must file [an] ' "805 report" ' (§ 805, subd. (a)(7)) to the 'relevant [licensing] agency' regarding a licentiate when, 'for a medical disciplinary cause or reason,' it takes any of several actions outlined in the statute. (§ 805, subd. (b)(1)–(3).)" (*Asiryan, supra,* 100 Cal.App.5th at p. 956.) Such a report "is required when a licentiate's 'application for staff privileges or membership is denied or rejected' (§ 805, subd. (b)(1)), [or] a

---

6 The other statutorily defined "peer review bod[ies]" are: (1) a health care service plan or disability insurer that contracts with licentiates to provide services at alternative rates of payment; (2) a professional society, such as a medical, psychological, or dental society, that have as members at least 25 percent of the eligible licentiates in the area in which the society functions; and (3) "[a] committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity." (§ 805, subd. (a)(1)(B)(ii)–(iv).)

licentiate's 'membership, staff privileges, or employment is terminated or revoked,' (§ 805, subd. (b)(2))." (*Asiryan, supra,* 100 Cal.App.5th at pp. 956–957.)

"The statute also sets forth certain notice and hearing rights for licentiates 'who [are] the subject of a final proposed action of a peer review body for which a report is required to be filed under [s]ection 805.' (§ 809.1, subd. (a); see *Unnamed Physician, supra,* 93 Cal.App.4th at p. 616.)" (*Asiryan, supra,* 100 Cal.App.5th at p. 957.) For example, a licentiate is entitled " 'to written notice … [of] the "final proposed action" ' " (§ 809.1, subd. (a)), the " 'licentiate has the right to request a hearing on the final proposed action' " (§ 809.1, subd. (b)(3)), and "several elements of due process" are incorporated into the hearing, "such as the right to call and confront witnesses and to present evidence, and the right to a written decision by the trier of fact." (*Asiryan, supra,* 100 Cal.App.5th at p. 957; see, *Unnamed Physician, supra,* 93 Cal.App.4th at p. 617 [" '[t]he statutory scheme delegates to the private sector the responsibility to provide fairly conducted peer review in accordance with due process, including notice, discovery and hearing rights, all specified in the statute' "].) A peer review body, however, "may immediately suspend or restrict clinical privileges of a licentiate where the failure to take that action may result in an imminent danger to the health of any individual, provided that the licentiate is subsequently provided with the notice and hearing rights set forth in [s]ections 809.1 to 809.4, inclusive." (§ 809.5, subd. (a).)

IV. Stallion Springs Did Not Have a Duty to Provide Fair Procedure

Here, it is undisputed that Stallion Springs, an entity that engages physicians as independent contractors to provide emergency services to hospitals, is not required to comply with the peer review statute because it is not a peer review body within the meaning of the statute. Specifically, it is not a "medical or professional staff of any health care facility or clinic," a health care service plan or disability insurer, a professional society, or a committee organized by an entity that reviews the quality of

professional care provided by the entity's members or employees. (§ 805, subd. (a)(1)(B).) Therefore, the peer review statute did not require Stallion Springs to provide Hundal with notice and a hearing before removing him from the emergency department schedule. (See *Economy v. Sutter East Bay Hospitals* (2019) 31 Cal.App.5th 1147, 1160 ["section 809.05 makes clear that review of physician performance is committed to a hospital's medical staff"]; *Mileikowsky v. West Hills Hospital & Medical Center* (2009) 45 Cal.4th 1259, 1267 [licensed hospitals are "required to have an organized medical staff responsible for the adequacy and quality of the medical care rendered to patients in the hospital"].)

While Hundal acknowledges the peer review statute does not apply to Stallion Springs, he contends he can still bring an action against it under the common law right of fair procedure for failing to provide him with notice and a hearing before it removed him from the emergency department schedule at the hospital's direction. Stallion Springs responds that Hundal cannot maintain a common law claim against it because the peer review statute is the exclusive source of fair procedure rights in the context of physician discipline, citing *Asiryan, supra,* 100 Cal.App.5th 947.

In *Asiryan*, the plaintiff, a physician whose hospital medical staff privileges were suspended without prior notice or hearing, sued the hospital and its medical staff alleging the defendants failed to comply with statutory and common law procedural requirements. (*Asiryan, supra,* 100 Cal.App.5th at p. 954.) On appeal from a judgment in favor of the medical staff, the plaintiff challenged the trial court's grant of a motion for nonsuit on her common law right of fair procedure claim. (*Ibid.*)

The Court of Appeal affirmed the grant of nonsuit, holding "the trial court correctly concluded the code is the sole source of procedural protections in connection with hospital peer review, and that the common law doctrine of fair procedure does not supplant those protections with additional guarantees." (*Asiryan, supra,* 100 Cal.App.5th

at p. 955.) In so holding, the appellate court concluded that "the California peer review statute is such general and comprehensive legislation ' "indicat[ing] a legislative intent that the statute should totally supersede and replace the common law dealing with the subject matter." ' " (*Asiryan, supra,* 100 Cal.App.5th at p. 966.) The court based this conclusion on the following: (1) the Legislature "described the law as creating not just a handful of procedural rights, but an entire medical 'peer review *system*' for California"; and (2) the process required in connection with hospital peer review procedures, which is articulated in detail the California peer review statute, demonstrates the statute's general and comprehensive nature, as it "methodically delineates specific and detailed procedural requirements for each step of a peer review proceeding." (*Asiryan, supra,* 100 Cal.App.5th at pp. 967–968.) Accordingly, the appellate court "conclude[d] that the California peer review statute replaces, rather than supplants, the due process guarantees of the common law of fair procedure in the specific factual context of the due process owed a licensed physician subject to peer review investigative and disciplinary actions." (*Id.* at p. 969.)

Relying on *Asiryan*, Stallion Springs contends Hundal's fair procedure claim, which is based on the allegation that he was removed from the emergency department schedule without notice and a hearing, is exclusively governed by the peer review statute. Stallion Springs reasons that because the fair procedure claim implicates rights the statute protects and arises from the due process owed a physician subject to peer review investigative and disciplinary actions, Hundal's only recourse was to sue under the peer review statute and since Stallion Springs was not a peer review body as defined in the statute, Hundal cannot maintain a statutory or common law claim against it. Therefore, Stallion Springs argues, it did not owe Hundal a duty of fair procedure.

Hundal contends that *Asiryan* does not eliminate the fair procedure claim in this context because the case does not address "whether a separate, non-peer review actor that

independently removes and terminates a physician may owe common law fair procedure duties." Hundal argues he can still bring a common law fair procedure claim against Stallion Springs because, at a minimum, there is a triable issue whether Stallion Springs exercised sufficient control over his access to hospital practice to trigger fair procedure obligations under the common law.

We need not decide the scope of the holding in *Asiryan* because the common law right of fair procedure does not apply to Stallion Springs as a matter of law. It is undisputed that Stallion Springs was a staffing company that facilitated the staffing and scheduling of emergency providers in the hospital's emergency department pursuant to a contract with the hospital. As Stallion Springs points out, a staffing company is not like the private organizations to which the common law right of fair procedure has been applied since, unlike a labor union, hospital, medical or dental licensing organization, or health insurer, it is not an organization that is " 'tinged with public stature or purpose,' … or that occupies a 'position[] of special importance in society.' " (*Flaa v. Hollywood Foreign Press Assn.* (2022) 55 F.4th 680, 695 (*Flaa*), quoting *Salkin v. California Dental Assn.* (1986) 176 Cal.App.3d 1118 and *California Dental Assn. v. American Dental Assn.* (1979) 23 Cal.3d 346, 353.) Rather, Stallion Springs simply contracted with qualified physicians and staffed them at its client hospitals pursuant to client needs. As shown by its contract with Hundal, Stallion Springs did not have power over Hundal's ability to practice medicine or his retention of medical staff privileges at the hospital. Rather, Hundal was responsible for obtaining and retaining medical staff membership and if the hospital informed Stallion Springs that Hundal was no longer permitted to provide services there, Stallion Springs was required to inform Hundal of that.

Courts have refused to expand the common law doctrine of fair procedure in similar circumstances. In *Flaa*, the Ninth Circuit Court of Appeal held that California law did not impose a duty of fair procedure on an association of journalists in part

because the association "[was] not open to all qualified members of a profession (as a labor union or medical association is)," and did not " 'foreclose from practice one who had already obtained a professional license.' " (*Flaa, supra,* 55 F.4th at p. 695.) In *Yari*, the Court of Appeal held that decisions of the Academy of Motion Picture Arts and Sciences and the Producers Guild of America were not subject to the right of fair procedure because those organizations were not quasi-public institutions and the right of fair procedure "applies only to private decisions which can effectively deprive an individual of the ability to practice a trade or profession." (*Yari, supra,* 161 Cal.App.4th at pp. 177, 179–180.) Finally, in *Blatt v. University of Southern California* (1970) 5 Cal.App.3d 935, the Court of Appeal held the right of fair procedure did not apply to a law student's membership in the Order of the Coif, distinguishing cases that held certain professional medical and dental associations must provide fair procedure because "they are expressly limited in application to situations affecting the right to work in a chosen occupation or specialized field" thereof those associations. (*Id.* at pp. 941–942; see *Kim v. Southern Sierra Council Boy Scouts of America* (2004) 117 Cal.App.4th 743, 746 [Boy Scouts' decision to deny rank of Eagle Scout is not subject to right of fair procedure]; *King v. Regents of University of California* (1982) 138 Cal.App.3d 812, 817 [university's tenure decision is not subject to the right of fair procedure].)

Like the organizations in these cases, Stallion Springs was not a quasi-public organization, as it was not open to all qualified members of a profession, it did not "foreclose from practice one who had already obtained a professional license" (*Ezekial, supra,* 20 Cal.3d at p. 272) as a contractor relationship with Stallion Springs was not necessary to practice medicine, Stallion Springs did not have the ability to deprive Hundal of the ability to practice a trade or profession like a union or professional licensing organization could, and Stallion Springs' removal of Hundal from the emergency department schedule did not affect Hundal's right to work in his chosen

occupation or specialized field. Rather, Stallion Springs merely facilitated staffing at the hospital's emergency department by contracting with physicians to provide such services.

Hundal asserts there is a triable issue as to whether Stallion Springs exercised sufficient gatekeeping authority over his access to hospital practice to trigger fair procedure obligations because the evidence shows Stallion Springs: (1) staffed and scheduled emergency physicians at the hospital and entered into independent contractor agreements with them to provide services to the hospital; (2) selected the physicians scheduled to work in the emergency department and had the ability to remove them from those assignments; (3) removed Hundal from the schedule after the hospital demanded his removal; and (4) conducted its own investigation and terminated his contract for good cause. Hundal claims this evidence shows that he was effectively excluded from practicing emergency medicine at the hospital through the entity responsible for staffing that facility, which distinguishes this case from the cases Stallion Springs relies on. Hundal argues that at a minimum, the evidence creates a triable issue of material fact on whether Stallion Springs' role rose to the level of a quasi-public gatekeeper.

In support of this argument, Hundal relies on *Potvin*, which he asserts holds that the common law right of fair procedure applies to public entities that are " 'quasi-public in nature,' " (*Potvin, supra,* 22 Cal.4th at p. 1070), which Hundal describes as "entities that possess the practical power to substantially impair an individual's ability to practice a profession." Hundal ignores, however, that to be subject to the common law right to fair procedure, the private organization must be one that affects the public interest. (*Ibid.*) For example, in *Potvin*, our Supreme Court determined the relationship between insurance companies, which have fiduciary obligations to their insureds, and their preferred provider physicians significantly affect the public interest because "medical services are provided through the unique tripartite relationship among an insurance company, its insureds, and the physicians who participate in the preferred provider

network." (*Ibid.*) Here, although Stallion Springs was responsible for staffing the hospital's emergency department, it was the hospital that granted those physicians medical staff membership. Hundal fails to explain how a staffing agency that provides physicians to a hospital significantly affects a public interest and does not cite any case applying the right of fair procedure to an organization even remotely similar to Stallion Springs.

Moreover, *Potvin* held that not every insurer wishing to remove a physician from a preferred provider list must comply with the common law right to fair procedure. (*Potvin, supra,* 22 Cal.4th at p. 1071.) Rather, that obligation "arises only when the insurer possesses power so substantial that the removal significantly impairs the ability of an ordinary, competent physician to practice medicine or a medical specialty in a particular geographic area, thereby affecting an important, substantial economic interest." (*Potvin, supra,* 22 Cal.4th at p. 1071.) Here, Hundal's ability to practice emergency medicine was not significantly impaired, as he lost privileges at only one hospital. Hundal does not cite to any evidence that Stallion Springs could impair his ability to practice in a geographic area or that maintaining a contract with Stallion Springs was "a practical necessity" to practice emergency medicine by virtue of a "virtual monopoly" power, as in *Pinsker I, supra,* 1 Cal.3d at page 166.

Indeed, our Supreme Court noted in *Potvin* that its "decision here does not apply to employer-employee contractual relations." (*Potvin, supra,* 22 Cal.4th at p. 1071, fn. 2.) Hundal asserts Stallion Springs had a duty to provide him fair procedure because it removed him from the schedule at the hospital's direction and "subsequently conducted its own assessment and terminated his contractual relationship." While Hundal claims Stallion Springs effectively excluded him from practicing emergency medicine at the

hospital, Stallion Springs was merely complying with its contractual obligations.[7] As Stallion Springs asserts, if that were enough to give rise to a duty of fair procedure, any termination of a contractual or employment relationship with a physician would implicate the common law right of fair procedure. Moreover, Hundal fails to explain what procedure Stallion Springs should or could have provided him when it implemented the hospital's direction to remove him from the emergency department schedule. Since the hospital determined whether Hundal could retain his medical staff membership, Stallion Springs had no power to restore that membership on its own. Put another way, even if it held a hearing and determined Hundal was improperly removed from the schedule, it could not return him to the schedule unless the hospital restored Hundal's medical staff privileges.[8]

---

[7] While Hundal points out in his return that Stallion Springs terminated his contract for good cause, his fair procedure claim is based entirely on his removal from the hospital's emergency department schedule, not Stallion Springs' termination of his contract.

[8] At oral argument, Hundal compared the present case to *Economy v. Sutter East Bay Hospitals, supra,* 31 Cal.App.5th 1147, and asserted it supports a finding that the common law right of fair procedure applies to Stallion Springs. We disagree. There, the Court of Appeal held that a hospital cannot "avoid its obligation to provide notice and a hearing before terminating a doctor's ability to practice in the hospital for jeopardizing patient quality of care, by directing the medical group employing the doctor to refuse to assign the doctor to the hospital." (*Id.* at pp. 1151–1152.) The appellate court concluded that in those circumstances, the hospital will be liable for damages when it causes such a termination without complying with the peer review statutes. (*Id.* at p. 1152.) While the plaintiff doctor in that case sued both the hospital and the medical group, his claims against the medical group were settled prior to trial. (*Id.* at p. 1155 & fn. 6.) Thus, the decision does not help Hundal, as it did not address the medical group's obligations in this context. Rather, the appellate court acknowledged there was no evidence the medical group had any policies or procedures for the conduct of peer review and determined that the peer review statutes made clear that review of physician performance was committed to a hospital's medical staff. (*Id.* at pp. 1159–1160.) Similarly in the present case, there is no evidence Stallion Springs had any policies or procedures to conduct peer review,

In sum, we conclude that the common law right of fair procedure does not apply to a staffing agency such as Stallion Springs, as it is not a quasi-public institution. Accordingly, the trial court erred in denying Stallion Springs' motion for summary adjudication of this claim. Instead, the trial court was required to grant the summary judgment motion in its entirety.

DISPOSITION

The petition for writ of mandate is granted. Let a peremptory writ of mandate issue directing the trial court to vacate its order denying the summary judgment motion and enter a new order granting the motion in its entirety. The stay issued on March 4, 2026, is lifted. Stallion Springs shall recover its costs in this proceeding. (Cal. Rules of Court, rule 8.493.)

DESANTOS, J.

WE CONCUR:

FRANSON, Acting P. J.

HARRELL, J.

---

which supports the conclusion that it was the obligation of the hospital, not Stallion Springs, to review physician performance.