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OPINION

William Osler discipline of doctor an egregious abuse of power

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The decision by the William Osler Health System to strip a physician of a medical director role after he criticized the province's handling of COVID-19 is an egregious abuse of power by hospital leadership.

All public hospitals are governed by provincial legislation, allowing them to make operational decisions. But Osler managers are overstepping their bounds by assuming they have the power to infringe on a physician's constitutionally protected right to freedom of expression.

As the [Toronto Star](#) reports, Dr. Brooks Fallis was removed as interim medical director of critical care at William Osler Health System, despite his efforts to lead them through the pandemic. The reason? He says it was because hospital management disliked his public remarks on Twitter about how the province was dealing with COVID-19, and threatened that his comments could endanger the funding relied on by the hospital.

Physicians are not the hospital's pawns in whatever funding game may or may not be going on. As reported in the Star, the premier's office has categorically denied that it threatened to withhold hospital funding in this circumstance (it would otherwise be an abuse of power in public office). To be clear, Fallis's allegation is that the *hospital* told him that the government would withhold funding.

According to the Star article, Fallis was let go from his position as interim medical director because of his "outspoken, public statements regarding Ontario's pandemic response." For a hospital to punish a physician for exercising his freedom of expression in this context is outrageous and nothing short of misconduct on the part of hospital leadership.

Physicians are not hospital employees. They are independent, self-regulated health professionals *appointed* to a hospital, for a specified term, under the Public Hospitals Act. The structure that governs a physician's hospital privileges means that a hospital cannot simply "fire" a physician; revocation of hospital privileges must follow certain procedures and be based on specific grounds. But their independence also means that physicians lack certain protections within a hospital structure, unlike nurses who are unionized.

Stripping a physician of his position based on his exercise of his freedom of expression is appalling, and seemingly meant to silence him and others who dare to render an independent public opinion. It also suggests that hospital leadership thinks it owns and can control physicians.

Intimidating physicians against publicly voicing their concerns about a pandemic, is not how our *publicly funded* hospitals ought to run.

Simply because the hospital does not like his comments about the government's handling of the pandemic, does not mean it is within the hospital's jurisdiction to control. This physician has every right to air his viewpoints on his personal social media, or

other public platforms, and for the very basic reason that he is in a free and democratic society. Moreover, he is on the front lines of the pandemic, in one of the hardest-hit regions of the province.

Any physician has the constitutionally protected freedom to express their views on social media or in other news channels, as long as the person does not represent themselves as a spokesperson for the hospital, does not say anything specifically about the hospital, remains professional, and the comments or viewpoints do not interfere with delivery of patient care.

Physicians also have every right to build their public profile and they do not need hospital approval to do so, and they certainly do not need approval from HR. HR has no jurisdiction over physicians and certainly no legal basis for interfering with a physician's public profile.

The fact that the hospital has attempted to intimidate physicians against doing media without hospital approval raises the question of whether it is trying to prevent physicians from establishing an independent public profile, so that physicians feel beholden to the hospital and fear their job security. For if physicians have an independent, professional profile, they may be less afraid to stand up to hospital leadership.

This kind of attempt by a hospital to silence a physician speaking publicly about our public health resources is illegal. And a physician's refusal to submit to this disgraceful abuse of power is also not grounds to refuse to renew their privileges when the time comes.

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