



# Doctor claims breach of contract Hildyard files lawsuit against hospital

By **Patty Decker**  
*Free Press Editor*

A Colby doctor filed a lawsuit Tuesday against Citizens Medical Center claiming a breach of contract.

According to documents in Thomas County District court, Dr. Victor H. Hildyard, a family practice physician at Colby Medical and Surgical Center, is alleging the hospital failed to follow its own bylaws adopted by the board when it denied his privileges April 10, 2003.

Hildyard alleges this has created economic damages, loss of income from his medical practice, disruption of patient care, legal defense costs and loss of other economic options.

"Most states agree that hospital bylaws, once adopted by the board, become binding and contractual such that a doctor may sue for breach if not followed," said Mike O'Neal of Hutchinson, Hildyard's attorney.

Janice McCart, chief executive officer for Citizens Medical Center, said today she is aware of the lawsuit.

"The (hospital) board was made aware of the petition," she said, "and we (the admin-



Dr. V Hildyard



J. McCart

istrative staff) have reviewed the documents and passed them along to our insurance carrier."

McCart did not want to offer further comment.

"We (the hospital) have been beat up in the paper enough," she said.

Citizens Medical Center board of trustees attorney Carol Bonebrake did not return telephone calls today.

O'Neal said he speculates the hospital will take the position since it is a private, non-profit facility, "It has no obligation to follow its own rules and can do whatever it wants regarding the granting or suspension of privileges and that Hildyard has no contractual rights."

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Mike O'Neal, Dr. Hildyard's attorney

Prior to the hospital's suspending Hildyard's privileges in 2003, two other attempts to summarily suspend the doctor's privileges were reversed by the Thomas County District Court.

In April 2002, Hildyard's hospital privileges were suspended following an employee complaint, which was handled by the hospital as an issue under the hospital's "Hostile Work Environment Policy," according to the petition.

"Notwithstanding the procedural provisions and safeguards contained in the hostile work environment policy, plaintiff's (Hildyard) hospital privileges were summarily suspended without an investigation

or with the defendant (hospital) following its internal operating procedures . . ."

That suspension was reversed by the District Court of Thomas County on May 2, 2002. The employee who originally filed the complaint with then Chief Executive Officer Michael Boyles, recanted.

On Sept. 3, 2002, using the same employee's complaint from April, the board again suspended Hildyard's privileges.

Two days later, Thomas County District Court again denied the suspension. Hildyard then sought for his due process rights outlined in the medical staff bylaws of the hospital, according to the petition.

The hospital suspended Hildyard's privi-

leges in April 2003 based on what O'Neal alleges was a "flawed composition of the hearing panel," which took place in Colby from Nov. 20-22, 2002.

According to the petition, not only was the hearing panel flawed, but also alleges testimony from hospital representatives, investigation and the complaining witness (in the initial suspension) was "flawed" as well.

"The bylaws (at Citizens Medical Center) have some gratuitous language in them that says nothing in the bylaws shall be construed as a contract but courts generally ignore that language and look to the law of contracts to determine the party's rights," O'Neal said.

As for damages, the petition states that Hildyard is entitled to recover on the breach of contract and other violations in excess of \$75,000 that include the damages sustained, costs, and reasonable attorney fees.

O'Neal said the hospital has 20 days to answer and may file for a 10-day extension.

"Then we (hospital and Hildyard) go through the process of written discovery and depositions, if necessary, of key witnesses," he said.

# College still undecided about president

By **Patty Decker**  
*Free Press Editor*

No decision was made at Monday's Colby Community College board meeting in choosing a new president to replace Dr. Mikel Ary, who resigned in October 2005.

After almost three hours in closed session, the Colby Community College Board of Trustees took no action.

"This is very important and taking a little more time than a lot of people expected," said Chairman Don Kready. "We are trying to be thorough in what we are doing and, at this point, working through the process," he said.

In addition to the two presidential candidates, Dr. Lynn Kreider of Monroe, La., and Clayton Tatoo of Garden City, Kready said he could not comment if anyone else is being considered for the position.

The trustees will revisit this issue at their regular meeting 5 p.m. Thursday in the board room of Thomas Hall.

The president selection is not

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listed as an action item on the agenda.

Other agenda items include approval of agreements, resignations, administrative and classified staff contracts, dormitory proposal, tuition and fees schedule, and a report from swim club personnel.

Other items include approving the college's strategic plan, negotiations and reports from interim president Skip Sharp, along with deans, and trustees.

All meetings are open to the public. For questions or to receive an agenda, call 462-3984.

# Thar she blows



TISHA COX/Colby Free Press

Colby Fire Department firefighter Don Phillips watched water spray from a hydrant at Range and Fifth Wednesday. Phillips said

the department is flushing the hydrants to clean them out and perform routine maintenance.

# Museum meeting yields future strategy

By **Tisha Cox**  
*Colby Free Press*

The meetings are done. Now is the time to act.

The third of three meetings to decide the future of the Prairie Museum of Art and History in Colby concluded Monday.

"The board of directors and staff will go over the information from the meetings and prioritize the goals they would like to pursue," said Museum Director Sue Taylor said.

Duane Cheney, of Western Prairie RC and D, who acted as facilitator, said the museum board will have a copy of the goals and use them as a blue print for the future.

"It's up to them to pick and choose what they want to do," he said.

Everyone who went to the meetings will receive a copy of the plan. "You need to be able to see that plan as well," he said.

The museum board of directors include: President Cindy Cersovsky, Vice President Rex Van Horn, Secretary Sarah Saddler,

Treasurer Mike Baughn, Shelli Bielser, Bev Eicher, Lon Frahm, Cal Mahin and Naomi Ward.

Taylor said it will probably be May before they can begin to go over all the information.

"We had a lot of great ideas but without more help, we can't do some of it," she said. "Finance will be the first thing."

Much of the meeting time from the three gatherings was spent on goals for the museum's five areas of operation — facilities, finances, programming, public relations/marketing and personnel.

The groups presented their goals, and how to accomplish them.

Taylor said some of that information will be in the museum's next newsletter, and at the annual meeting Sunday, April 23.

"The people who attended the meetings need to talk to people in the community about what came out of the process," Taylor said.

The average attendance for the three meetings held March 27, April 3 and April 10 was about 50 people.



TISHA COX/Colby Free Press

Prairie Museum of Art and History board member Bev Eicher presented goals from the programming group Monday during the last of three meetings to decide the museum's future. The information from the gatherings will be given to Eicher and other board members, as well as the museum's staff to see where they want to go in the future.

# Commissioners ban smoking at courthouse

By **Jan Katz Ackerman**  
*Colby Free Press*

There's no ifs ands or butts about it. Smoking near Thomas County Courthouse is no longer allowed.

Deputy Thomas County Clerk Barbara Hopper told Thomas County Commissioners Monday she and Clerk Shelly Harms have received numerous complaints about smoke making its way into the building through open doors and windows. She said they both would like the commissioners to resolve the problem.

Late last year, Commissioners Ron Evans, Paul Steele and Ken Christiansen talked about building a small lean-to shed on the east side of the building for smokers. That action never took place.

After only minutes of talking about the problem, the board came to a consensus and banned smoking next to the building.

Effective immediately, anyone who works at the courthouse or wants to smoke while doing busi-

ness there will have to walk across the east parking lot and smoke next to the lawn mower building or smoke in their vehicle.

In other business: Road and Bridge Supervisor Clair Schrock met with the commissioners about the need to repair one of the county's loaders. Schrock said the loader was accidentally submerged in water for a short period of time when a chain broke while it removed from a sediment pond. Damages to the loader included sand and water getting into the transmission. The estimated cost is \$21,813 and it's hoped insurance will pay a portion of the bill.

Commissioners reviewed the March work report as submitted by Dianna Gatz of the highway department; a letter from Milco Environmental Services of McCook, Neb. Regarding two proposed monitoring wells at the landfill; and a list of employees who attended a Kansas Workers Risk Cooperative for Counties meeting on Feb. 1.