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SUPREME COURT  
STATE OF WASHINGTON  
7/11/2025 2:02 PM  
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No. 104136-5

SUPREME COURT  
OF THE STATE OF WASHINGTON

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MICHAEL K. SNYDER, individually,  
*Respondent,*

v.

VIRGINIA MASON MEDICAL CENTER,  
*Petitioner,*

JARED BRANDENBERGER, MD., and JOHN  
and JANE DOE PHYSICIANS, UNKNOWN  
JOHN and JANE DOE NURSES,  
*Defendants.*

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***AMICUS CURIAE* THE UNIVERSITY OF  
WASHINGTON'S MEMORANDUM OF JOINDER IN  
SUPPORT OF PETITION FOR REVIEW OF VIRGINIA  
MASON MEDICAL CENTER**

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**A. Identity and Joinder of *Amicus Curiae* in Health Care *Amici*'s Memorandum.**

*Amicus curiae* the University of Washington, including its School of Medicine and UW Medicine (“UW Medicine”) educates physicians and physicians in training on the University campus and throughout Washington State and the Pacific Northwest and Alaska. See Declaration of Cindy A. Hamra, Associate Dean for Graduate Medical Education, UW School of Medicine (“Hamra Dec.”), Appendix hereto. UW Medicine trainees “rotate throughout Washington State at private and public hospitals which will be impacted by the recent decision by the Court of Appeals in *Snyder v. Virginia Mason Medical Center, et al.*, \_\_ Wn.App.2d \_\_\_, 566 P.3d 873 (2025) (“*Snyder*”).” Hamra Dec., ¶2.

Assoc. Dean Hamra explains that she “and the University of Washington believe the Court should be fully informed about the full context of the circumstances of the rule adopted by the Court of Appeals, the consequences of the decision as written on both these institutions and on clinical training.” *Id.*

The University plans to submit its own friend of the court brief if review is granted in which it can explain the concerns of its School of Medicine and UW Medicine more fully. *Id.* Dean Hamra emphasizes that “we want the Court to know we have these concerns, that we think review should be granted, and we would like the opportunity to address them fully.” *Id.*

In the meantime, the University of Washington, including its School of Medicine and UW Medicine, join the memorandum of the Health Care *Amici* Washington State Medical Association, Washington State Hospital Association, and American Medical Association asking the Court to grant review for the reasons stated in their memorandum, and for those set forth in the Hamra Dec., and as summarized herein.

**B. Procedural Background and Ruling.**

UW Medicine accepts VMMC’s statement of the case and the additions in the Health Care *Amici* Memorandum. In sum, the case was before the Court of Appeals on discretionary review during discovery before a trial on alleged medical malpractice at

Virginia Mason for a “multifaceted surgical procedure” including placement of a catheter which migrated into the patient’s chest. *Snyder*, ¶4, 566 P.3d at 876-877. The claims included a focus on medical residents in training at VMMC, e.g., *Snyder*, ¶1, and include a focus on representation of medical residents after they have left their training institution.

**C. Areas of Concern of *Amicus Curiae* UW Medicine.**

Residents and Fellows in the training program are employed by the University and their numbers have ranged from 1,310 per year in 2015-2016 to 1,530 for the 2024-2025 academic year. Hamra Dec., ¶6. The University covers all of its Residents and Fellows against medical malpractice claims alleged to occur during the course and scope of employment at UW Medicine, including after they have left the University training program. Hamra Dec., ¶7. This coverage is a required part of the UW Medicine’s qualification for the national ACGME, which governs its training programs. Hamra Dec., ¶¶8-10.

A major concern of UW Medicine is that,

once they leave our employment, they remain an indemnitee under the MPL policy, thus UW Medicine, through the University, would provide defense and indemnification. This defense is critical to former trainees who will also have their licensure and scope of practice at issue in any malpractice suit, not just money damages which would be covered by the medical professional liability policy.

Hamra Dec., ¶7.

An additional area of concern to UW Medicine is its belief that the *Snyder* analysis will adversely affect its ability to conduct “patient safety and quality improvement activities, such as root cause analyses, or other activities that include analysis, as well as formulation and implementation of actions” as required by national certification, *Id.* ¶8, or have a “chilling effect” on the willingness to be candid and thus “undermine the purpose of the coordinated quality improvement program to protect patients.” *Id.*, ¶9.

UW Medicine is concerned about the University’s ability to fully and properly defend their medical residents and trainees



after they have left the University when their care is at issue since under *Snyder* though they were part of the treatment team, they cannot be part of the defense team. Hamra Dec., ¶¶11-14.

UW Medicine believes that the Court of Appeals erred in extending the *Newman* analysis to physicians in training providing health care who have finished training and are “ex-employees” when the claim arises and is litigated. It is particularly inappropriate as to physicians in training who generally will not remain employed at their training facility and, as was the case in *Snyder*, do not have non-relevant patient confidences that can be inadvertently shared with defense counsel. The context of teaching hospitals training residents and physicians is unique and needs to be taken into account by the Court in addressing this issue.

#### **D. Conclusion.**

The *Snyder* decision changes the application of the *Loudon* rule as adapted in *Youngs v. PeaceHealth*. While the appellate court apparently felt bound by this Court’s decision in

*Newman*, UW Medicine joins in the Health Care *Amici's* memorandum supporting review. *Amicus Curiae* UW Medicine urges the Court to grant review so it can consider these issues with a full understanding of the current health care system and the teaching context of UW Medicine which will be directly affected by its decision.

This document contains 882 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 11<sup>th</sup> day of July, 2025.

CARNEY BADLEY SPELLMAN, P.S.

By /s/ Gregory M. Miller  
Gregory M. Miller, WSBA No. 14459  
Special Assistant Attorney General  
*Attorneys for the University of Washington*

## CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

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DATED this 11<sup>th</sup> day of July, 2025; at Seattle,  
Washington.

/s/ Elizabeth C. Fuhrmann  
Elizabeth C. Fuhrmann, Legal  
Assistant

No. 104136-5

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MICHAEL K. SNYDER, individually,  
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*Defendants.*

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**DECLARATION OF CINDY A. HAMRA, ASSOCIATE  
DEAN FOR GRADUATE MEDICAL EDUCATION, UW  
SCHOOL OF MEDICINE**

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*Attorneys for University of Washington Medicine*

1. My name is Cindy A. Hamra, I am the Associate Dean for Graduate Medical Education at the University of Washington School of Medicine. I make this declaration based on my personal knowledge and the records of my office at the University of Washington School of Medicine.

2. I am submitting this declaration to give the Court information on the medical and dental residency and fellowship training programs at the University of Washington School of Medicine. Trainees rotate throughout Washington State at private and public hospitals which will be impacted by the recent decision by the Court of Appeals in *Snyder v. Virginia Mason Medical Center, et al.*, \_\_ Wn.App.2d \_\_\_, 566 P.3d 873 (2025) (“*Snyder*”). I and the University of Washington believe the Court should be fully informed about the full context of the circumstances of the rule adopted by the Court of Appeals, the consequences of the decision as written on both these institutions and on clinical training. I anticipate that the University will submit its own friend of the court brief if review is granted where



we can explain our concerns more fully. In the meantime, we want the Court to know we have these concerns, that we think review should be granted, and we would like the opportunity to address them fully.

3. “UW Medicine” is comprised of multiple separate entities that are clinically integrated and have a common mission to improve the health of the public. Some of the entities are owned and/or operated by the University of Washington, such as the UW Medical Center, Harborview Medical Center, UW Medicine Primary Care, UW Physicians and the School of Medicine. Each is staffed completely by University employees and the University of Washington provides professional liability coverage for the hospitals, clinics, physicians and staff, including medical and dental residents and fellows (“trainees”) who train in these facilities.

4. With respect to Harborview Medical Center, King County owns the hospital buildings and King County appoints the governing board that provides hospital oversight. However,

UW Medicine has operated and managed Harborview exclusively by contract with King County since the 1970's. Under that contract, the University employs all of the Harborview staff and faculty and provides all of the professional and general liability coverage for operation and management of Harborview. The UW Medicine network also includes Fred Hutchinson Cancer Center, which is an independent entity that serves as the cancer center for UW Medicine.

5. *Snyder* involves application of the “*Loudon*” rule regarding a defendant’s ex parte contact with nominally non-party physicians who were central to the plaintiff’s care and the ability of the defendant to prepare a proper, fair, and accurate defense. As medical residents and fellows in the midst of training at the time of the care in question, those who have left their training institution at the time of the litigation are now, under *Snyder*, no longer considered part of the defense “team”

despite the fact that their future licensure and discipline are equally at risk along with the sponsoring/teaching institution.

6. Residents and Fellows in University of Washington School of Medicine clinical training programs are employed by the University during their training. While many University of Washington School of Medicine medical residency and fellowship program graduates are hired as School of Medicine faculty in a given year (over 800 in the past 10 years), that number is only a fraction of the trainees who work and train with University faculty and are covered by the University's professional liability program. The number of trainees participating in Accreditation Council for Graduate Medical Education (ACGME)- and Commission on Dental Accreditation (CODA)- (dentistry) accredited clinical training programs at the University of Washington School of Medicine over the last 10 years are:

2024-2025: 1530+

2023-2024: 1500+

2022-2023: 1470+

2021-2022: 1480+

2020-2021: 1380+

2019-2020: 1360+

2018-2019: 1350+

2017-2018: 1330+

2016-2017: 1320+

2015-2016: 1310+

7. UW Medicine, through the University of Washington's professional liability policy, will cover a trainee who has graduated and gone on to other employment, so long as the alleged medical negligence occurred in the course and scope of employment at UW Medicine. And that is our issue – once they leave our employment, they remain an indemnitee under the MPL policy, thus UW Medicine, through the University, would provide defense and indemnification. This defense is critical to former trainees who will also have their licensure and scope of practice at issue in any malpractice suit, not just money damages

which would be covered by the medical professional liability policy.

8. The ACGME's Common Program Requirements, which govern the University of Washington School of Medicine and training programs, require that residents "participate as team members in real and/or simulated interprofessional clinical patient safety and quality improvement activities, such as root cause analyses or other activities that include analysis, as well as formulation and implementation of actions." (ACGME Common Program Requirements VI.A.1.a).(2).(b)).

9. The potential that the former trainee will be or feel separated from the training site in the event of litigation will have a chilling effect on both the hospital and trainee's willingness for candid and open quality improvement processes and ultimately undermine the purpose of the coordinated quality improvement program to protect patients.

10. Additionally, the ACGME Institutional Requirements, which govern the University of Washington

School of Medicine as the sponsoring institution for our 125+ ACGME accredited residency and fellowship training programs state the following with regards to Professional Liability Insurance: “[t]he Sponsoring Institution must ensure that residents/fellows are provided with professional liability coverage, including legal defense and protection against awards from claims reported or filed during participation in each of its ACGME-accredited programs, or after completion of the program(s) if the alleged acts or omissions of a resident/fellow are within the scope of the program(s). The Sponsoring Institution must ensure that residents/fellows are provided with: official documentation of the details of their professional liability coverage before the start date of resident/fellow appointments; and, written advance notice of any substantial change to the details of their professional liability coverage.” ACGME Institutional Requirements, IV.F.1.- IV.F.2.b).

11. The law as it now stands under *Snyder* will be extremely challenging, if not impossible, to provide the defense

and indemnification in accordance with the University's Standing and Executive Orders which provide the authority, obligation, and procedure to defend and indemnify regents and employees, as well as those former trainees. It will impose the high cost of paying for separate counsel for the former trainee, and the defense of the matter cannot be well coordinated due to the inability to communicate freely.

12. While it also is unclear to UW Medicine how the rule will apply to our ability to conduct patient safety and quality reviews, it appears without further guidance from the Court that the new rules will compromise our ability to do the patient safety and quality improvement activities required by the ACGME, which accredits the majority of our clinical training programs. Additionally, it hinders the University's ability to meet the ACGME requirements as the sponsoring institution to provide

professional liability insurance and an adequate defense to trainees after completion of their training.

13. The bottom line for the University of Washington and UW Medicine is that we need to be able to fully defend cases that allege the former trainees' malpractice and for which University may be responsible.

14. From the University's perspective, this means considering such former trainees, who were integral to the treatment team, as part of the legal defense team along with the UW Medicine providers for the limited purpose of the litigation over the case involving their care so that the University can mount the best defense both for itself and for the former trainee.

15. The University is bound by its Standing and Executive Orders to defend the former trainees for the care they provided while in training and those former trainees typically are no longer treating the former patient-plaintiff. As noted, the former trainee's licensure is also at risk in the litigation and they deserve a full and complete defense for their professional future.



The current application of the *Loudon* rule as stated in *Snyder* will compromise that defense as well as make it dramatically more expensive to the University, as the facts in the *Snyder* case demonstrate given the separate counsel required.

16. If review is granted, the University intends to present more detailed information to the Court on the practical effects of the *Snyder* decision on operating its state-wide and regional medical and dental clinical training programs, including the practical costs and the potential for compromising the defense that both the University and the former trainees are entitled to have, and threatens the processes required for accreditation in our training programs.

Dated this 2 day of July, 2025, at Seattle, Washington.

Cindy A. Hamra, JD, MA, FACHE



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Cindy A. Hamra, JD, MA, FACHE, Associate  
Dean, Graduate Medical Education, University of  
Washington School of Medicine

# CARNEY BADLEY SPELLMAN

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