



# Burrows v. Schug, 528 U.S. 867 (1999)

Topics Covered: Emergency Services, EMTALA and Peer Review

## **Outcome: Very Unfavorable**

### **Issue**

The issue in this case was whether physician peer review records should be discoverable in the federal courts.

### **AMA Interest**

The AMA believes that peer review data should be kept confidential.

### **Case Summary**

An eleven-month old child died while being transferred between hospitals. Dr. Schug, an emergency room physician, had ordered the transfer. The child's parents sued Dr. Schug for common law malpractice and for violation of EMTALA. Subsequently, his actions were reviewed by his hospital's peer review committee.

Under California law, the peer review records are not discoverable. However, the United States District Court held that, because part of the action was based on EMTALA, those records would be discoverable. The Ninth Circuit, in an unpublished decision, affirmed the District Court order. Dr. Schug petitioned to the United States Supreme Court for a writ of *certiorari*. The Supreme Court denied the petition.

### **Litigation Center Involvement**

The Litigation Center, the California Medical Association, and various other organizations filed an *amicus* brief to the Supreme Court urging a grant of *certiorari*.