



Carron v. Rosenthal (RI S.Ct.)

Topics Covered: Patient Safety Act, Peer Review

Outcome: Neutral

Issue

The issue in this case was whether the Federal Patient Safety and Quality Improvement Act of 2005 (PSQIA) and the analogous Rhode Island Patient Safety Act of 2008 shielded hospital incident reports, which were prepared solely for the purpose of submission to a Patient Safety Organization (PSO), from discovery in litigation.

AMA Interest

The AMA supports the protection of peer review information from litigation discovery.

Case Summary

According to her complaint, Katherine Carron was admitted to Newport Hospital for induction of labor on the morning of June 22, 2013. Randall Rosenthal, MD, a hospital employee, was her obstetrician. Dr. Rosenthal prescribed Pitocin to induce the labor, but it did not work. Twelve hours after Mrs. Carron was admitted, Dr. Rosenthal artificially ruptured her amniotic membranes to further the process. She started bleeding, but the membrane rupture did not seem to work either. Dr. Rosenthal went home, leaving a nurse in charge to monitor Mrs. Carron. No obstetricians were left at the hospital after Dr. Rosenthal went home.

Mrs. Carron continued to bleed, but the nurse assured her that the bleeding was normal. Eventually, it became clear that the bleeding was excessive. After a few hours, Dr. Rosenthal was recalled to the hospital. He performed an emergency C-section, but by then the baby had incurred irreversible brain damage.

Two of the hospital nurses, including the nurse who had allegedly assured Mrs. Carron that her bleeding was normal, prepared incident reports on forms entitled "Medical Event Reporting System," which described what had occurred. These reports were submitted to GE-MERS National Patient Safety Organization, a federally and state certified PSO. The hospital did not retain copies.

The Carrons sued Dr. Rosenthal and the hospital for medical malpractice. As part of discovery, depositions were taken of the nurses. Apparently, the nurses had trouble recalling what had happened. They did, however, mention the incident reports.

The Carrons asked the hospital for production of the incident reports, but it objected, based on PSQIA and the Rhode Island Patient Safety Act. Following a motion to compel production of the incident reports, the trial judge ordered the hospital to show the incident reports to the nurses in order to refresh their recollections, and the nurses were then to be redeposed. The hospital would not be required to provide the reports directly to the Carrons.

An interlocutory appeal of the order requiring the reports be shown of the nurses was filed with the Rhode Island Supreme Court. However, the case was settled before the Supreme Court.

Litigation Center Involvement

The Litigation Center, along with the Rhode Island Medical Society and numerous other health care organizations, filed an *amicus* brief in the Rhode Island Supreme Court to urge reversal of the trial court order requiring production of the hospital incident reports.

Rhode Island Supreme Court brief