



# Corporate Health Insurance, Inc. v. Texas Department of Insurance, 314 F.3d 784 (5th Cir. 2002)

Topics Covered: ERISA Preemption, Managed Care Tort Liability

**Outcome: Very Favorable**

## **Issue**

The issue in this case was whether the Employee Retirement Income Security Act (ERISA) preempted the Texas Health Care Liability Act (THCLA).

## **AMA Interest**

The AMA opposes preemption of state laws that regulate medical care and decision making.

## **Case Summary**

Several insurance companies sued the Texas Department of Insurance for a declaration that the THCLA was preempted by ERISA and was therefore invalid. The trial court held that certain portions of the THCLA were preempted while other portions were not. Both sides appealed.

The United States Court of Appeals for the Fifth Circuit found that THCLA was partly preempted and partly not preempted by ERISA. The court held that the following statutory provisions were not preempted because they implicated quality of medical practice, not insurance coverage: (1) the provision permitting suits against entities that failed to meet an ordinary care standard for treatment decisions; (2) the provision barring retaliation against physicians for advocating medically necessary care for patients; and (3) the provision proscribing indemnity clauses that would hold HMOs harmless for their own acts. However, the court found that ERISA did preempt certain provisions for independent review of determinations by managed care entities. The court also determined that the review provisions were severable from the remainder of the statute.

The State of Texas petitioned for rehearing en banc (i.e., by all the judges of the Fifth Circuit) and for a panel rehearing (i.e., by the some judges who had earlier ruled). Those petitions were denied. The Texas Attorney General filed a petition for certiorari with the United States Supreme Court, seeking to challenge that portion of the ruling that struck down the independent review provisions of the Texas statute.

In a two sentence order, the United States Supreme Court granted certiorari, reversed the Fifth Circuit judgment, and remanded the case to the Fifth Circuit for further consideration in light of its decision in *Moran v. Rush-Prudential HMO*, which had upheld the Illinois independent review

law. The Fifth Circuit then asked the parties for further briefing on how Moran should apply to the Texas independent review law, and it invited briefs from amici curiae.

Subsequently, the Fifth Circuit, modifying its earlier decision, held that ERISA does not preempt the THCLA independent review provisions as they apply to employees covered under insurance company-funded employee benefit plans, because the independent review law falls within the ERISA savings clause.

### **Litigation Center Involvement**

The Litigation Center and the Texas Medical Association (TMA) filed two *amicus* briefs in the Fifth Circuit and an *amicus* brief in the Supreme Court, all of which argued for a narrow scope of ERISA preemption.

United States Court of Appeals for the Fifth Circuit brief (on remand)