



Florida Medical Association v. United States Department of HEW, 947 F.Supp.2d 1325 (M.D. Fla. 2013)

Topics Covered: Freedom of Information Act, Physician Privacy Rights

Outcome: Very Unfavorable

Issue

The issue in this case was whether the Freedom of Information Act (“FOIA”) authorized the federal government to release information that could be used to calculate the amounts received by specific physicians under the Medicare program.

AMA Interest

The AMA seeks to protect physicians’ privacy interests.

Case Summary

In 1979, an injunction was entered against the United States Department of Health, Education and Welfare (the predecessor to the Department of Health and Human Services) and in favor of the Florida Medical Association, the AMA, and a class of physicians. This injunction prohibited HEW/HHS from making information public that would identify specific physicians and disclose how much those physicians received in Medicare payments.

In 2011, Dow Jones & Company, the publisher of the Wall Street Journal, moved to reopen this case, intervene, and have the judgment vacated. It asserted that the public interest in disclosure of governmental activities outweighed the physicians’ privacy interest. Two less prominent persons, Jennifer Alley and her company, Real Time Medical Data, LLC (RTMD), also sought to intervene and reopen the case for the same purpose.

On September 26, 2011, the court reopened the case and allowed Dow Jones (and Alley and (RTMD) to intervene. On May 31, 2013, the court vacated the injunction, but without reaching the merits of whether the public interest in disclosure outweighed physicians’ privacy interests. Rather, the court held, a continuing injunction against future disclosure of documents was improper. Instead, each FOIA request would have to be considered separately, with the competing interests for and against disclosure weighed anew for each such request.

The AMA and FMA elected not to appeal from the court’s order of vacature, so this case is now concluded.

AMA Involvement

The AMA, along with the Florida Medical Association, sought to prevent the judgment from being vacated.