



Gilbert v. Commonwealth of Kentucky, 291 S.W.3d 712 (Ky. Ct. App., 2008)

Topics Covered: Certificate of Need

Outcome: Very Unfavorable

Issue

The issue in this case was whether an MRI clinic should be considered a physician's office under the Kentucky Certificate of Need (CON) law.

AMA Interest

The AMA believes that CON laws should not be extended to physician-owned offices.

Case Summary

This case was an appeal of an administrative order, which found that a physician and his wholly owned corporation had failed to obtain a CON before opening three MRI facilities. The physician contended that the facilities were a part of his private office, and he therefore fell within a statutory exemption to the CON law.

Dr. Gilbert first appealed to the Franklin County Circuit Court, but the court affirmed the administrative decision, deferring to the agency's factual determinations and legal conclusions. Dr. Gilbert appealed to the Kentucky Court of Appeals, but the Court of Appeals also affirmed.

Litigation Center Involvement

The Litigation Center, along with the Kentucky Medical Association, filed a memorandum of law on Dr. Gilbert's behalf in the Franklin County Circuit Court. The Kentucky Court of Appeals denied leave to the Kentucky Medical Association and the AMA to file an amicus curiae brief.