



Levin v. WJLA-TV, 564 S.E.2d 383 (Va. 2002)

Topics Covered: Peer Review, Physician Privacy Rights

Outcome Very Favorable

Issue

The issue in this case was whether peer review proceedings should be privileged from legal discovery.

AMA Interest

The AMA seeks to preserve the confidentiality of the peer review process.

Case Summary

Following a supposed expose of his medical practices, Dr. Levin sued a television station and others for defamation and related common law claims. The trial court judge ordered that the peer review records of three hospitals be produced in pre-trial discovery at the request of the television station, notwithstanding a statutory privilege against production of such records. She believed that the privilege applies only to medical malpractice suits. The judge also felt that Dr. Levin had waived the privilege by filing suit. Because of their failure to produce the records, she found the hospitals in contempt of court and fined them \$150 per day until they complied with her order.

The Virginia Supreme Court reversed the trial court's decision. Consistent with arguments advanced by AMA/VMS, the court held that (1) the peer review statute grants an unqualified privilege to peer review records, (2) the privilege belongs to the hospital and cannot be unilaterally waived by a physician and (3) the facts of this case did not constitute "extraordinary circumstances" sufficient to warrant disclosure of the privileged information.

Litigation Center Involvement

The Litigation Center, along with the Medical Society of Virginia filed an amicus brief in the Virginia Supreme Court, supporting the hospital and a broad reading of the peer review privilege.