



Owatonna Health Clinic Mayo Health System v. Medical Protective Company of Fort Wayne, Indiana

639 F.3d 806 (8th Cir. 2011)

Topics Covered: Confidentiality, Insurance (Liability) Coverage

Outcome: Very Favorable

Issue

The issue in this case was whether a notice of claim under a “claims made” medical liability insurance policy had to comply strictly with the policy’s notice requirements or whether substantial compliance would be sufficient.

AMA Interest

The AMA believes that, absent patient consent, information between a physician and a patient should be kept confidential.

Case Summary

Owatonna Clinic, a division of Mayo Health System, owned a “claims made” medical malpractice insurance policy, issued by The Medical Protective Company of Fort Wayne, Indiana. The policy defined a “claim filed” as

"the receipt, by [the insurer] during the term of the policy, of written notice of a medical incident from which [the insured] reasonably believes allegations of liability may result. In order to be deemed a claim, notice of a medical incident shall include all reasonably obtainable information with respect to the time, place, and circumstances of the professional services from which liability may result and the nature and extent of the injury, including the names and addresses of the injured and of available witnesses."

The policy covered the clinic and its physician employees.

The Minnesota Board of Medical Practice notified Owatonna Clinic that one of its employees may have provided substandard care to a woman immediately prior to and then during childbirth. Owatonna Clinic promptly forwarded the notice to the insurer and advised the insurer that a malpractice claim might arise. The insurer retained an attorney to represent the employee physician before the medical board.

Several years later, the infant child sued the employee physician and Owatonna Clinic in Minnesota state court, alleging medical malpractice claims arising from the incidents surrounding the child's birth. Owatonna Clinic notified the insurer, which accepted coverage for the employee physician but not for Owatonna Clinic. Following pretrial discovery, the employee physician and Owatonna Clinic settled the lawsuit for \$4.25 million. Of this sum, Owatonna Clinic paid \$3.25 million, and the insurer, on behalf of the physician employee, paid the remaining \$1 million.

Owatonna Clinic then sued the insurer in the United States District Court for the District of Minnesota, claiming that the insurer had breached its policy by denying coverage to Owatonna Clinic in the lawsuit. The insurer asserted that the notice of claim given in connection with the medical board action, although timely, had not met all of the policy requirements. The notice had identified the time, place and circumstances of the employee physician's services, and it had identified the likelihood that the employee physician had deviated from the standard of care and that the infant had been born with persistent respiratory distress and a diaphragmatic hernia. However, the notice had not specifically identified the child or the mother, the potential witnesses, or the full nature and extent of the child's injuries.

Following a jury trial, the lower court found that the notice of claim had been substantially adequate, although it had not strictly followed all of the policy requirements. The insurer could have asked for the additional information when it received the notice, but it had not. The court entered judgment in favor of Owatonna Clinic and ordered the insurer to pay the full amount of the policy, \$2 million, plus interest and attorney's fees for both the medical malpractice lawsuit and the breach of insurance policy lawsuit. The insurer appealed to the United States Court of Appeals for the Eighth Circuit.

On May 11, 2011, the Eighth Circuit affirmed the trial court, thus ruling in favor of Owatonna Clinic and against the insurer.

Litigation Center Involvement

The Litigation Center, along with the Minnesota Medical Association, filed an *amicus curiae* brief in the Eighth Circuit in support of Owatonna Clinic.

Eighth Circuit brief