



Southern Baptist Hospital of Florida v. Charles, 209 So. 3d 1199 (Fla.2017)

Topics Covered: Patient Safety Act, Peer Review

Outcome: Somewhat unfavorable

Issue

The issue in this case was whether the federal Patient Safety and Quality Improvement Act (PSQIA) privilege against non-disclosure of patient safety information preempts Florida state law, which would otherwise allow a plaintiff in a medical injury lawsuit to discover information voluntarily reported to a Patient Safety Organization (PSO).

AMA interest

The AMA supports federal legislation that will enhance protection of peer review information.

Case summary

Jean Charles, on behalf of her disabled sister and her sister's children, sued Southern Baptist Hospital of Florida and several medical personnel, including physicians, for malpractice. The trial court ruled that the hospital had to produce all documents pertaining to the sister's care, despite an objection that certain of those documents were privileged from discovery under PSQIA.

Florida law requires the hospital to prepare and maintain the documents in question, but it does not require the hospital to provide them to a state administrative agency unless specifically requested. In this case, no such request had been made. The claimed PSQIA privilege depends on a close reading of the PSQIA regulations. The plaintiffs read those regulations one way (not to create a privilege), but the hospital read them another (to create a privilege).

The hospital asked the Florida District Court of Appeal to accept jurisdiction in order to decide the discoverability question on an interlocutory, expedited appeal.

On October 28, 2015, the District Court of Appeal accepted jurisdiction and found PSQIA to be "clear and unambiguous such that the language must be given its plain and obvious meaning." Under this plain and obvious language, the hospital reports were privileged under the PSQIA. Moreover, a provision of the Florida Constitution, which would have otherwise made the documents discoverable, was preempted and thus invalid in this case, as it was inconsistent with PSQIA. The District Court of Appeal therefore quashed the order requiring production of the hospital reports. The case was appealed to the Florida Supreme Court.

On October 4, 2016, the parties informed the Supreme Court that the case had been settled and they stipulated to its dismissal. Notwithstanding such notification, however, the Supreme Court heard oral argument on October 5, 2016.

On January 31, 2017, the Supreme Court, in an advisory opinion, held that PSQIA did not preempt the Florida Constitution. It reversed the District Court of Appeal and affirmed the trial court ruling. A dissenting opinion indicated that it was error for the Supreme Court to render an advisory opinion. Once the parties stipulated to dismiss, the Supreme Court should have honored their decision and dismissed the appeal.

Litigation Center involvement

The Litigation Center, through the AMA and the Florida Medical Association, filed amicus briefs in both the Florida District Court of Appeal and the Florida Supreme Court. The briefs supported the hospital and urging acceptance of the appeal. The brief also urged an expansive reading of the PSQIA privilege.

Florida Supreme Court brief

District Court of Appeal brief