



Texas Health Presbyterian Hospital v. D.A. (TX S.Ct.)

Topics Covered: Professional Liability, Tort Reform

Issue

The issue in this case is whether Tex. Civ. Prac. & Rem. Code § 74.153, a provision of the Texas Medical Liability Act that modifies the legally acceptable standard of care for emergency obstetric services, should be applied narrowly or broadly.

AMA Interest

Medical liability reform is a high legislative priority for the AMA, and the AMA opposes lawsuit abuse against physicians.

Case Summary

M.A. checked into Texas Health Presbyterian Hospital for induction of labor. Her obstetrician, Marc Wilson, MD, prescribed Pitocin to encourage contractions. Several hours later, the child-to-be, A.A., stopped his descent through the birth canal. Although Dr. Wilson applied forceps to deliver A.A.'s head, the rest of the body did not follow. A.A. was experiencing "shoulder dystocia," which means that his shoulder had lodged against M.A.'s pubic symphysis bone. This was an emergency situation, which placed M.A. and A.A. at risk of injury or death. Eventually, A.A. was born, but he suffered a brachial plexus injury (injury to his shoulder nerves).

On behalf of A.A., M.A. and her husband, D.A., sued the hospital, Dr. Wilson, and Dr. Wilson's medical group. They alleged that, through ordinary negligence, the defendants had caused the brachial plexus injury.

The defendants moved for summary judgment. Their motion relied on § 74.153, which states that, under certain conditions, emergency medical services rendered by a hospital obstetrical unit are not actionable unless the care deviated from acceptable medical standards with willful and wanton negligence. The motion asserted that the defendants were covered under this statute. Because willful and wanton negligence had not been asserted, the defendants argued that the plaintiffs had not alleged an actionable claim. The trial judge agreed with the defendants and granted the motion.

The plaintiffs appealed. Based on its review of the testimony of two legislators who discussed the law prior to passage, the Court of Appeals gave a narrow construction to § 74.153. It found § 74.153 inapplicable and reversed the summary judgment.

The defendants are now appealing to the Texas Supreme Court, where briefing is underway.

Litigation Center Involvement

The Litigation Center will join the Texas Medical Association and other interested organizations in an amicus brief to the Texas Supreme Court. The brief will urge a broad construction of § 74.153.