



Behar v. Pennsylvania Department of Transportation (M.D. Pa.)

Topics Covered: Patient Privacy, Confidentiality

Outcome: Very Unfavorable

Issue

The issue in this case was whether Pennsylvania laws that require physicians to report impaired patients to the Department of Transportation (DOT) conflict with various provisions of the United States and Pennsylvania Constitutions and with federal laws and are therefore invalid.

AMA Interest

The AMA believes that the reporting of impaired patients to departments of transportation should be a matter of professional judgment, undertaken after discussion between physicians and their patients.

Case Summary

The statutes and regulations of the Pennsylvania Department of Transportation require physicians to report certain physical and mental impairments of their patients to the DOT. This obligation extends to patients over the age of 16 (and even some patients under the age of 16), even if they do not have and have no intention of applying for a driver's license. In this lawsuit, David Behar, MD contending that those laws conflict with various provisions of the United States and Pennsylvania Constitutions and with federal statutes and are therefore invalid.

Pursuant to a DOT motion, the trial court dismissed most of the counts in Dr. Behar's complaint. It held that several claims are barred under the Eleventh Amendment to the United States Constitution (which prohibits lawsuits being brought in federal court against a state by citizens of another state or citizens of a foreign country), as well as various other considerations, some substantive and some technical. One of the counts survived the DOT motion, but the court ultimately entered summary judgment against Dr. Behar on that count.

Litigation Center Involvement

The Litigation Center and the Pennsylvania Medical Society (PMS) filed an *amicus* brief to support Dr. Behar.

District Court brief