



Doe v. Cochran, 210 A.3d 469 (Conn. 2019)

Topics Covered: Abusive Litigation Against Physicians, Physician-Patient Communications

Outcome: Unfavorable

Issue

The issue in this case was whether a physician whose office had mistakenly told a patient that the patient was not infected by a sexually transmitted disease can be found liable to the patient's girlfriend, after the patient subsequently infected the girlfriend with herpes.

AMA interest

The AMA believes physicians should preserve the confidentiality of their patients' communications and of their medical conditions. If physicians have a legal duty to non-patients, they may, to defend themselves, be incentivized to breach their confidentiality obligations. Also, the AMA opposes abusive litigation against physicians.

Case summary

Dr. Cochran's patient asked to be tested for sexually transmitted diseases. According to the girlfriend, Jane Doe (a pseudonym), the test report showed that the patient had herpes. Supposedly, however, Dr. Cochran's office mistakenly informed the patient that the test report came back negative. The patient then infected Doe with herpes. Doe sued Dr. Cochran under a variety of legal theories, all based on professional negligence.

The trial court found that Dr. Cochran did not have a professional duty to Doe, and he dismissed the complaint. Doe appealed to the Connecticut Supreme Court, which, *sua sponte*, asked the Connecticut State Medical Society (and other organizations) to submit an amicus brief to advise the Court of the policy issues.

On July 16, 2019, the Supreme Court found that Dr. Cochran owed a duty to the girlfriend, because she was an identifiable, potential victim, who could reasonably be harmed by Dr. Cochran's negligence. The order of dismissal was reversed.

Litigation Center involvement

The Litigation Center, along with the Connecticut State Medical Society, filed an *amicus* brief in the Connecticut Supreme Court to argue in favor of affirmance of the trial court dismissal.

Connecticut Supreme Court brief