



Public Citizen, Inc. v. United States Department of HHS, 332 F.3d 654 (D.C. Cir. 2003)

Topics Covered: Peer Review

Outcome: Very Unfavorable

Issue

The issue in this case was whether regulations of the United States Department of Health and Human Services (HHS) providing that peer review investigations of Medicare patients were to be kept confidential were valid.

AMA Interest

The AMA believes that peer review proceedings should be kept confidential.

Case Summary

The Medicare Act provided that, when there was some indication of substandard care for a patient covered by Medicare, the situation was to be investigated by a Peer Review Organization ("PRO"). The statute further provided that the results of such investigations were to be submitted to the patient (or a representative of the patient) whose care was at issue, in accordance with HHS regulations. The HHS regulations provided that, when such investigations were made, the patient was to be notified when the investigation had been completed. However, the PRO was not to notify the patient of the actual findings (e.g., proper care, substandard care, or negligence) unless the person or the persons being investigated consented to such disclosure. Public Citizen contended that the HHS regulations were invalid, because the statute required disclosure of the actual finding and not merely the completion of the investigation. It sued to have the regulations declared invalid.

The trial court ruled in favor of Public Citizen, holding that HHS had misconstrued the statute and the regulations were invalid. The trial court ordered HHS to notify the various PROs to disclose their findings of physician misconduct to patients who seek such information. HHS appealed, but the Court of Appeals affirmed.

Litigation Center Involvement

The Litigation Center, along with the American Hospital Association and the Federation of American Hospitals, filed *amicus curiae* briefs in both the District Circuit and the Court of Appeals. The briefs supported the government regulations and emphasized the desirability of maintaining peer review confidentiality.