



# United States v. Moon (M.D.Tenn. 2005)

Topics Covered: Criminal Law

## **Outcome: Unfavorable**

### **Issue**

The issue in this case was whether evidence collected by an overly broad, warrantless search of a physician's office by state and federal investigators should be suppressed.

### **AMA Interest**

The AMA supports legally proper search procedures in any investigation of a physician.

### **Case Summary**

Dr. Moon, a Tennessee oncologist, was indicted for fraudulent billing of pharmaceuticals to cancer patients enrolled in Medicare and TennCare (Tennessee's Medicaid program) from 1999 to 2002. Federal prosecutors alleged that Dr. Moon repeatedly billed Medicare and TennCare for the full dosage amounts of chemotherapy medication when only partial doses were administered.

Based on a tip from one of Dr. Moon's employees, the Tennessee Bureau of Investigation ("TBI") and the U.S. Health and Human Services Office of the Inspector General ("HHS-OIG") conducted an "administrative search" of Dr. Moon's office. In addition to their review of patient records, including records of patients not covered by either Medicare or TennCare, the investigators interviewed patients and staff and interfered with Dr. Moon's treatment of her patients. Following the search, the government indicted Dr. Moon for allegedly violating the federal Health Care Fraud Statute, 18 U.S.C. § 1347(1) and (2). Dr. Moon lost her hospital privileges.

The trial court ruled that at least some of the evidence derived from the search could be admitted into evidence and denied the motion to suppress.

### **Litigation Center Involvement**

The Litigation Center, along with the Tennessee Medical Association, filed an amicus curiae brief to support Dr. Moon's motion to suppress the evidence that had been obtained against her as the result of a warrantless search of her office. The brief argued that the government search had not only infringed Dr. Moon's privacy rights, but it had also infringed the rights of her patients. Although Dr. Moon had signed a "boilerplate" release in order to participate in Medicare and TennCare, the amicus brief argued that the release did not support the broad search that had actually occurred and that the government could have avoided these issues if it had obtained a search warrant.

United States District Court brief