



Willard v. State of Iowa, 893 N.W.2d 52 (Iowa 2017)

Topics Covered: Peer Review

Outcome: Very Favorable

Issue

The issue in the case was whether the Iowa Morbidity and Mortality Study Law (MMSL), a type of peer review statute, creates a privilege against legal discovery of a hospital's incident reports and related documents.

AMA Interest

The AMA supports the peer review privilege.

Case Summary

Dennis Willard was injured in a motorcycle accident and was taken to a hospital in Davenport, Iowa for treatment. Because of the seriousness of his injuries, he was transferred to the University of Iowa Hospital, which is an agency of the State of Iowa. Willard was under heavy sedation at the time of the transfer. He believed the University of Iowa Hospital handled him negligently during the transfer process and he suffered further injuries as a result.

Willard sued the State of Iowa for the injuries he allegedly suffered during the transfer. During discovery, he sought production of various documents pertaining to his care, including the hospital's incident report. The hospital objected to the discovery, claiming, inter alia, the requested documents were privileged under MMSL.

The trial court heard testimony from the hospital regarding the nature of the contested documents, and it ordered their in camera review. Following such review, the trial court concluded that the hospital's witness "simply was unable to provide any information that the [incident report] and related materials ... were created for use in the course of any [morbidity and mortality] study." The trial court ordered the State to produce the documents.

The State appealed to the Iowa Supreme Court. Production of the disputed documents was stayed pending resolution of the appeal.

On April 7, 2017, the Iowa Supreme Court reversed the trial court, holding that the MMSL was sufficiently broad to afford a privilege against discovery of the requested documents.

Litigation Center Involvement

The Litigation Center, with the Iowa Medical Society, filed an *amicus* brief to support the State of Iowa and the University of Iowa hospital. The brief discussed the importance of peer review confidentiality for the health care system and argued that the statutory privilege against discovery should apply in this case.

Supreme Court of Iowa brief