

COURT OF APPEALS OF THE STATE OF NEW YORK

Anonymous v. Bureau of Professional Medical Conduct/State Board
for Professional Medical Conduct et al.

2 N.Y.3d 663 (N.Y. 2004) · Decided June 29, 2004

SUMMARY

The New York Court of Appeals held that physician disciplinary proceedings resolved in the physician's favor remain confidential under Public Health Law § 230 (9). In a mixed-result proceeding, where only a minor record-keeping violation was sustained and more serious charges were dismissed, the court held that the Department of Health abused its discretion by publicly releasing the dismissed charges without redaction.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	R.S. Smith, J.; Chief Judge Kaye; Judge G.B. Smith; Judge Ciparick; Judge Rosenblatt; Judge Graffeo; Judge Read
JURISDICTION	New York
DECIDED	June 29, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Article 78 proceeding challenging the Department of Health's public disclosure of physician disciplinary charges and their disposition after the physician was exonerated of all but one minor charge.
STANDARD OF REVIEW	Whether the Department abused its discretion in refusing to redact and keep confidential charges that were not sustained; statutory interpretation of Public Health Law § 230 (9).
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Bureau of Professional Medical Conduct, State Board for Professional Medical Conduct, et al. v. Anonymous

TOPICS

- medical licensing
- health law
- administrative law
- statutory interpretation
- judicial review of agency action

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Public Health Law § 230 (9) requires confidentiality after physician disciplinary proceedings terminate when no charge is sustained.
2. Whether, in a mixed-result disciplinary proceeding, the Department abused its discretion by publicly disclosing dismissed charges along with a minor sustained charge.
3. Whether the Department was required to redact all dismissed charges from the publicly available disciplinary records.

HOLDINGS

1. Public Health Law § 230 (9) requires confidentiality of physician disciplinary proceedings even after termination when no charge against the physician is sustained.
2. When one charge is sustained and others are dismissed, the Department has discretion to determine whether records concerning the dismissed charges should be redacted, but it abuses that discretion when, under the circumstances presented, it publicly discloses unrelated and substantially more serious dismissed charges together with a minor sustained violation.
3. The Department may make public records of proceedings resulting in discipline, including a reprimand, after the administrative review period is complete, absent an express statutory provision requiring confidentiality.

KEY QUOTATIONS

“We therefore hold that the statutes governing physician disciplinary proceedings require confidentiality, even after the termination of the proceedings, where no charge against the doctor is sustained.” (at 671)

“On these facts, it is impossible to justify permitting a minor, “technical violation” to result in sensational, but discredited, charges of serious wrongdoing becoming available to the public.” (at 672)

FACTUAL BACKGROUND

The State Board charged a Manhattan physician with several serious forms of alleged misconduct arising from an encounter with a woman who claimed to have been his patient, including harassment, physical abuse, moral unfitness, fraud, practicing beyond the scope, and failure to maintain records. After a hearing, the committee rejected all charges arising from the encounter and sustained only a technical record-keeping violation involving a prescription issued at least a week later, imposing a reprimand. The Department publicly posted all of the charges and their dispositions, including the dismissed charges, and refused the physician's request to remove or redact them.

PROCEDURAL HISTORY

A professional conduct committee sustained only a record-keeping violation and imposed a reprimand, rejecting the remaining charges. The Department thereafter posted all charges and their dispositions on its website.

Supreme Court dismissed the physician's CPLR article 78 petition; the Appellate Division reversed and directed withdrawal of materials relating to the dismissed charges. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Doe v. Office of Professional Medical Conduct, 81 N.Y.2d 1050, 1052-1053 (1993)
- Matter of John P. v. Whalen, 54 N.Y.2d 89 (1981)
- People ex rel. Karlin v. Culkin, 248 N.Y. 465, 478 (1928)

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