

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Domestic Violence Survivors' Support Group, Inc., doing business as Domestic Violence Counseling Center v. West Virginia Department of Health and Human Resources, Office of Health Facility Licensure and Certification

Domestic Violence Survivors' Support Group, Inc. v. West Virginia Department of Health & Human Resources, Office of Health Facility Licensure and Certification, 238 W. Va. 566 (2017) · No. No. 16-0146 · Decided March 1, 2017

SUMMARY

The Supreme Court of Appeals of West Virginia held that an administrative rule requiring professional staff at behavioral health centers to comply with applicable professional licensure requirements did not require all counselors employed by a nonprofit corporation to be licensed. Because the statutory exemption for counselors working for nonprofit corporations applied, the agency's contrary interpretation was unsupported and could not justify denial of the petitioner's behavioral health center license. The court reversed the circuit court's order and remanded the matter.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Workman
JURISDICTION	West Virginia
DECIDED	March 1, 2017
DOCKET	No. 16-0146
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioner appealed the Kanawha County Circuit Court's affirmance of an administrative decision denying its application for a behavioral health center license.
STANDARD OF REVIEW	De novo or plenary review applies to the interpretation of a statute or administrative rule because it presents a purely legal question. The judiciary is the final authority on statutory construction and need not defer to an administrative interpretation contrary to clear statutory or regulatory language.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

Domestic Violence Survivors' Support Group, Inc., doing business as Domestic Violence Counseling Center v. West Virginia Department of Health and Human Resources, Office of Health Facility Licensure and Certification

TOPICS

judicial review of agency action

administrative law

statutory interpretation

plain meaning rule

standard of review

PRACTICE AREAS

administrative law

health law

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether West Virginia Code of State Rules § 64-11-5.5g requires all counselors employed by behavioral health centers to be professionally licensed notwithstanding the nonprofit-corporation exemption in West Virginia Code § 30-31-11(a)(4).
2. Whether OHFLAC's interpretation of the administrative rule was entitled to deference.
3. Whether the circuit court erred by affirming the agency's denial of DVCC's behavioral health center license application.

HOLDINGS

1. The rule's requirement that professional staff and consultants comply with applicable state professional licensure requirements does not require counselors employed by a nonprofit corporation to hold professional counselor licenses when those counselors are exempt under West Virginia Code § 30-31-11(a)(4).
2. Interpretation of a statute or administrative rule is a purely legal question reviewed de novo, and an agency's construction contrary to clear statutory or regulatory language is not entitled to deference.

KEY QUOTATIONS

“Interpreting a statute or an administrative rule or regulation presents a purely legal question subject to de novo review.” (566)

“The judiciary is the final authority on issues of statutory construction, and we are obliged to reject administrative constructions that are contrary to the clear language of a statute.” (566)

“Where the language of a statute is clear and without ambiguity the plain meaning is to be accepted without resorting to the rules of interpretation.” (566)

“We therefore hold that OHFLAC’s interpretation of West Virginia Code of State Rules § 64-11-5.5g, as requiring all professional counselors to be professionally licensed, is unsupported by the language of the rule

and contrary to West Virginia Code § 30-31-11(a)(4), in which the Legislature exempted all counselors working at nonprofit organizations from having to be licensed.” (576)

FACTUAL BACKGROUND

DVCC, a nonprofit corporation providing counseling services to domestic-violence victims, obtained a Certificate of Need and applied for a behavioral health center license. OHFLAC denied the application based solely on its interpretation of West Virginia Code of State Rules § 64-11-5.5g as requiring all counselors at behavioral health centers to hold professional licenses. DVCC's executive director provided counseling services but lacked a professional counselor license; DVCC argued that the nonprofit-corporation exemption in West Virginia Code § 30-31-11(a)(4) applied.

PROCEDURAL HISTORY

The Department of Health and Human Resources, Office of Health Facility Licensure and Certification, denied DVCC's behavioral health center license application because it did not employ a licensed counselor. After an administrative hearing, the DHHR Secretary adopted the hearing examiner's decision. The Kanawha County Circuit Court affirmed the agency decision, and DVCC appealed to the Supreme Court of Appeals of West Virginia.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The January 15, 2016, order of the Circuit Court of Kanawha County was reversed, and the matter was remanded for further proceedings consistent with the opinion.

CASES CITED

- Appalachian Power Co. v. State Tax Department of West Virginia, 195 W. Va. 573, 466 S.E.2d 424 (1995)
- CNG Transmission Corp. v. Craig, 211 W. Va. 170, 564 S.E.2d 167 (2002)
- State v. Elder, 152 W. Va. 571, 165 S.E.2d 108 (1968)
- Tribeca Lending Corp. v. McCormick, 231 W. Va. 455, 745 S.E.2d 493 (2013)
- State v. General Daniel Morgan Post No. 548, V.F.W., 144 W. Va. 137, 107 S.E.2d 353 (1959)
- Consumer Advocate Division v. Public Service Commission, 182 W. Va. 152, 386 S.E.2d 650 (1989)
- West Virginia Health Care Cost Review Authority v. Boone Memorial Hospital, 196 W. Va. 326, 472 S.E.2d 411 (1996)
- Crockett v. Andrews, 153 W. Va. 714, 172 S.E.2d 384 (1970)
- English Moving & Storage Co. v. Public Service Commission of West Virginia, 143 W. Va. 146, 100 S.E.2d 407 (1957)
- Huffman v. Goals Coal Co., 223 W. Va. 724, 679 S.E.2d 323 (2009)
- Miller v. Moredock, 229 W. Va. 66, 726 S.E.2d 34 (2011)

- Allen v. West Virginia Human Rights Commission, 174 W. Va. 139, 324 S.E.2d 99 (1984)
- Simpson v. West Virginia Office of Insurance Commission, 223 W. Va. 495, 678 S.E.2d 1 (2009)
- Anderson & Anderson Contractors, Inc. v. Latimer, 162 W. Va. 803, 257 S.E.2d 878 (1979)

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