

Court case places patient-physician relationship in the balance

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Two essential elements of medical practice—patient privacy and the patient-physician relationship—are at stake in a case before a federal appeals court that involves a state prescription drug monitoring program (PDMP) and surveillance by the U.S. Drug Enforcement Administration (DEA).

The issue in question is whether the DEA as a law enforcement agency has the right to access sensitive patient data without probable cause. PDMPs collect patient prescription data to be used by doctors and pharmacists for responsible treatment and prescription practices. Allowing unfettered access to such information could dramatically affect physicians' ability to prescribe the medications their patients need and limit the role of the PDMP to allow physicians to identify other prescriptions the patient has had which can enable more informed decisions about the patient's medical needs.

In this case, a federal magistrate judge ruled the DEA could enforce a subpoena against the Oregon PDMP that allowed disclosure of protected health information without patients' informed consent. The Litigation Center of the AMA and State Medical Societies and the Oregon Medical Association earlier this month filed an *amicus brief* in support of the Oregon PDMP and the American Civil Liberties Union of Oregon, which intervened in the case.

"PDMPs were enacted by states nationwide principally to focus on the efficacious provision of health care and public health, not enhancement of federal law enforcement," the brief said.

By asserting a right to PDMP data without probable cause or judicial oversight, the DEA is taking improper advantage of the health care data system and undermining the purpose of the PDMP, the brief said.

Allowing the DEA access to the PDMP undermines the integrity and confidentiality of the patient-physician relationship, the brief said. In addition, physicians' privacy is placed in the balance.

"Physicians who treat individuals or populations with pronounced need for pain medications, for example, may feel compromised in their ability to prescribe for fear of unsupervised law enforcement



access to those patient prescription records,” the brief said.

Visit the AMA Litigation Center’s Web page to learn more about this case and others related to patient privacy.