



Whalen v. Roe

429 U.S. 589 (1977)

Country: United States

Region: Americas

Year: 1977

Court: Supreme Court

Health Topics: Controlled substances, Health information

Human Rights: Right to privacy

Facts

The Respondents, a group of individual patients, doctors and physician associations, challenged the constitutionality of the New York State Controlled Substances Act of 1972 (the "Act"). Certain provisions of the Act required that all prescriptions for Schedule II drugs (dangerous but permissible medication) be prepared by the physician in triplicate on an official form. The completed form identified the prescribing physician; the dispensing pharmacy; the drug and dosage; and the name, address, and age of the patient. One copy of the form was retained by the physician, the second by the pharmacist, and the third was forwarded to the New York State Department of Health in Albany.

The District Court enjoined enforcement of the provisions of the Act which dealt with the reporting of patients names and addresses, finding that such recording violated the doctor-patient relationship and the constitutionally protected right of privacy.

Decision and Reasoning

The Court first indicated that there were two different privacy interests: the "interest in independence in making certain kinds of important decisions," (often termed decisional privacy) and the interest "in avoiding disclosure of personal matters" (often termed informational privacy). However, it failed to comment as to whether either was constitutionally protected.

The Court then determined whether patient identification requirements of the Act were constitutionally valid. After weighing the State's interests against the alleged invasion of privacy, the Court held that the Act "evidence[d] a proper concern with, and protection of, the individual's interest in privacy." This was held to be the respondent's concerns about the impact that unwarranted disclosure might have on the reputation and independence of patients being prescribed such drugs.

In finding a balance between the State and individual's interests, the Court emphasized that the patient identification requirement could aid in the enforcement of laws designed to minimize the misuse of dangerous drugs. It qualified the right to privacy, stating that "disclosures of information to representatives of the State having responsibility for the health of the community, [did] not automatically amount to an impermissible invasion of privacy." It further added that "disclosures of private medical information to doctors, to hospital personnel, to insurance companies, and to public health agencies [were] often an essential part of modern medical practice even when the disclosure may reflect unfavorably on the character of the patient."

The Court recognised a duty to avoid unwarranted disclosure of personal information collected for public purposes but did not decide the issue because an unwarranted disclosure had not yet occurred in this instance. It acknowledged that the "right to collect and use such data for public purposes [was] typically accompanied by a concomitant statutory or regulatory duty to avoid unwarranted disclosures" and "that in some circumstances that duty arguably ha[d] its roots in the Constitution."

Decision Excerpts

"Even without public disclosure, it is, of course, true that private information must be disclosed to the authorized employees of the New York Department of Health. Such disclosures, however, are not significantly different from those that were required under the prior law. Nor are they meaningfully distinguishable from a host of other unpleasant invasions of privacy that are associated with many facets of health care. Unquestionably, some individuals' concern for their own privacy may lead them to avoid or to

postpone needed medical attention. Nevertheless, disclosures of private medical information to doctors, to hospital personnel, to insurance companies, and to public health agencies are often an essential part of modern medical practice even when the disclosure may reflect unfavorably on the character of the patient. Requiring such disclosures to representatives of the State having responsibility for the health of the community, does not automatically amount to an impermissible invasion of privacy.â€• 429 U.S. 602

â€œNor can it be said that any individual has been deprived of the right to decide independently, with the advice of his physician, to acquire and to use needed medication. Although the State no doubt could prohibit entirely the use of particular Schedule II drugs, it has not done so. This case is therefore unlike those in which the Court held that a total prohibition of certain conduct was an impermissible deprivation of liberty. Nor does the State require access to these drugs to be conditioned on the consent of any state official or other third party. Within dosage limits which appellees do not challenge, the decision to prescribe, or to use, is left entirely to the physician and the patient.â€• 429 U.S. 603

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