ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY

ESTATE OF WYATT v. VANGUARD HEALTH SYSTEMS
and
PATRICIA KUHFUSS v. JOHN C. LINCOLN HEALTH NETWORK
CV-13-0272-PR

PARTIES:

Petitioners: Vanguard Health Systems, Inc. (dba Phoenix Baptist Hospital)
John C. Lincoln Health Network (dba John C. Lincoln Hospital Deer Valley);

Respondents: Robert Wyatt, personal representative of the Estate of Helen Wyatt;
Patricia Kuhfuss, personal representative of the Estate of Karl H. Kuhfuss, Jr.

Amicus curiae: Dignity Health (formerly known as Catholic Healthcare West)

FACTS:

Robert Wyatt and Patricia Kuhfuss, personal representatives of relatives who died, sued Phoenix Baptist and John C. Lincoln Hospitals, respectively. For purposes of the issues in this case, it is undisputed that each representative's relative was a vulnerable or incapacitated adult.

The hospitals moved for partial summary judgment on claims alleging liability under Arizona's Adult Protective Services Act, or APSA. A.R.S. § 46-451 *et seq*. Each hospital argued that the APSA does not apply to acute care hospitals, but to longer-term care facilities, like nursing homes. Each representative argued that summary judgment was not appropriate because the hospital had provided his/her relative "care" within the meaning of the APSA. The representatives reasoned that the term "care" is plain and the statute is unambiguous. Without an ambiguity, a court need look no farther than the language of the statute to find that the legislature's intent in enacting the APSA was to apply it to all persons or facilities/enterprises that provide care to vulnerable or incapacitated adults, unless they are exempted.

Each trial court granted partial summary judgment in favor of the hospital, holding that the APSA is not applicable to acute care facilities. The representatives appealed.

The court of appeals consolidated the appeals and reversed in a published opinion. *In re Estate of Wyatt*, 232 Ariz. 506, 307 P.3d 73 (App. 2013). The appellate court looked to the plain language of A.R.S. § 46-455 (B), which it recognized was a statute designed to create a cause of action for a vulnerable individual who is injured as a result of abuse, neglect, or exploitation, and a statute intended to be broadly construed to effectuate the legislature's purpose. The court applied the ordinary meaning of "care" taken from a dictionary definition ("charge, supervision, management: responsibility for or attention to safety and wellbeing") and determined that the

hospitals had provided "care." It rejected the hospitals' arguments that the term "provide care" is ambiguous and in need of statutory construction with reference to outside sources (for instance, legislative history relevant to the creation of and revisions made to the APSA, and a more precise dictionary definition specific to medical terminology). Referring to the statute again, the court of appeals found that acute care hospitals are not exempted from APSA application, and to hold otherwise would mean ignoring the plain and unambiguous language of the statute – in other words, the legislature could have exempted acute care facilities if it had wanted, but it did not. The court of appeals also rejected an argument that its construction of the term "provide care" created an overly broad scope of liability not intended by the legislature.

ISSUES:

In John C. Lincoln's Petition

1. Did the Court of appeals error [sic] in concluding that the term 'care' as used in A.R.S. § 46-451 *et seq*. is unambiguous?

2. Did the Court of Appeals error [sic] in concluding that the Legislature intended for acute care hospitals to be subject to the APSA liability?"

In Vanguard's Petition

1. Does the Opinion err in concluding that the term 'care' as used in A.R.S. § 46-451 *et seq.* is unambiguous?

2. Does the Opinion err in concluding that the Legislature intended the acute care hospitals to be subject to the APSA liability?

3. Does the Opinion err in extending APSA's scope, which extension, if any, should be left to the Legislature?

DEFINITIONS:

A.R.S. § 46-455(B) provides (in pertinent part):

> B. A vulnerable adult whose life or health is being or has been endangered or injured by neglect, abuse or exploitation may file an action in superior court against any person or enterprise that has been employed to provide care, that has assumed a legal duty to provide care or that has been appointed by a court to provide care to such vulnerable adult for having caused or permitted such conduct. A physician . . . , a registered nurse practitioner . . . or a physician assistant . . . , while providing services within the scope of that person's licensure, is not subject to civil liability for damages under this section unless either:

1. At the time of the events giving rise to a cause of action under this section, the person was employed or retained by the facility or designated by the facility, with the consent of the person, to serve the function of medical director as that term is defined or used by federal or state law governing a nursing care institution, an assisted living center, an assisted living facility, an assisted living home, an adult day health care facility, a residential care institution, an adult care home, a skilled nursing facility or a nursing facility.

2. At the time of the events giving rise to a cause of action under this section, all of the following applied:

(a) The person was a physician licensed pursuant to title 32, chapter 13 or 17, a podiatrist licensed pursuant to title 32, chapter 7, a registered nurse practitioner licensed pursuant to title 32, chapter 15 or a physician assistant licensed pursuant to title 32, chapter 25 [and]

(b) The person was the primary provider responsible for the medical services to the patient while the patient was at one of the facilities listed in paragraph 1 of this subsection.