

In one state, certain advanced diagnostic medical technologies were located only in hospitals, where they provided a major source of revenue. In many other states, such technologies were also available at "diagnostic centers" that were not affiliated with hospitals.

A group of physicians announced its plan to immediately open in the state a diagnostic center that would not be affiliated with a hospital. The state hospital association argued to the state legislature that only hospitals could reliably handle advanced diagnostic medical technologies. The legislature then enacted a law prohibiting the operation in the state of diagnostic centers that were not affiliated with hospitals.

The group of physicians filed suit challenging the constitutionality of the state law. What action should the court take?

- A. Dismiss the suit without reaching the merits, because the suit is not ripe.
- B. Invalidate the law, because it imposes an undue burden on access to medical services in the state.
- C. Uphold the law, because the legislature could rationally believe that diagnostic centers not affiliated with hospitals would be less reliable than hospitals.
- D. Uphold the law, because the provision of medical services is traditionally a matter of legitimate local concern that states have unreviewable authority to regulate.

Explanation:

The constitutionality of a **discriminatory law** can be challenged under the **equal protection clause**. Such challenges are generally reviewed under the **rational basis test**, which requires that the law be **rationally related** to any **legitimate state interest**. And since **any reasonable, conceivable purpose** that may have motivated the legislature to pass the law will satisfy this test, laws subject to the rational basis test are usually upheld.

Here, a state law discriminates against physicians who wish to operate an unaffiliated diagnostic center by requiring that diagnostic centers be affiliated with hospitals. Since the legislature could rationally believe that unaffiliated diagnostic centers would be less reliable than hospitals, the law is rationally related to a legitimate state interest—providing safe medical services. Therefore, the law satisfies the rational basis test and should be upheld.

(Choice A) A court will dismiss a suit without reaching the merits if it is not ripe—ie, if the plaintiff has yet to suffer actual harm or an imminent threat thereof. But since this law threatens the physicians' immediate plan to open a diagnostic center in the state, their suit *is* ripe for litigation.

(Choice B) Discriminatory laws that unduly burden a **fundamental right** are presumptively invalid and reviewed under strict scrutiny, which requires that the law be necessary to serve a compelling state interest. But access to medical services is *not* a fundamental right, so this law need only survive rational basis scrutiny.

(Choice D) State laws and regulations are always subject to constitutional limits, so the state does not have the unreviewable authority to regulate the provision of medical services—even if it is traditionally a matter of legitimate local concern.

Educational objective:

Under the equal protection clause, discriminatory laws are generally reviewed under the rational basis test—ie, the law must be rationally related to *any* legitimate state interest. And any reasonable, conceivable purpose that may have motivated the legislature in passing the law will satisfy this test.

References

- U.S. Const. amend. XIV (equal protection clause).
- *Heller v. Doe*, 509 U.S. 312, 319–20 (1993) (explaining that any reasonable, conceivable legislative purpose will satisfy rational basis scrutiny).
- *Barsky v. Board of Regents*, 347 U.S. 442, 449 (1954) (finding that a state has broad power to regulate the health profession).

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Levels of scrutiny under equal protection clause

