



Pennsylvania Tax Reports

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NONPROFIT DID NOT UNFAIRLY COMPETE

A panel of the Commonwealth Court concluded that a hospital-related nonprofit that owned a for-profit subsidiary that operated a pharmacy did not unfairly compete with a small business in violation of the Institutions of Purely Public Charity Act, 10 P.S. § 378. *Medical Shoppe, Ltd. v. Wayne Memorial Hospital*, No.1252 C.D. 2004 (Pa. Commw. Jan. 7, 2005). The court agreed with the trial court that the pharmacy was not located in the same community as the allegedly competing pharmacy. Therefore it did not meet the definition of a *commercial business*, the operation of which by an institution is prohibited by 10 P.S. § § 373, 378(a). Furthermore, the locality had expressly requested the hospital nonprofit to maintain pharmacy in the borough. The statute permits an institution to engage in what would otherwise be a prohibited commercial business if it is formally requested to do so by a political subdivision. 10 P.S. § 378(g). Finally, the Court found no error in the trial court permitting the record to be supplemented with depositions, because the appeal to the trial court was an appeal de novo, which the court held did not differ from a de novo hearing.