

Court: Peer Review by Any Other Name Still Peer Review

PUBLISHED ON

August 19, 2021

Pennsylvania hospitals have some new guidance on what constitutes a protected "peer review" document after a recent Pennsylvania Supreme Court ruling.

The case, [*Leadbitter v. Keystone Anesthesia Consultants*](#), involved a question of whether a hospital was required to produce an unredacted credentialing file for an orthopedic surgeon who was accused of medical malpractice. The hospital sought to withhold certain review documents that were created by its credentialing committee in considering whether to award the surgeon privileges. According to the decision, all documents that are a result of peer review activity by a hospital committee, whether it is performed by an officially deemed "peer review committee" or not, are protected and do not need to be turned over in subsequent litigation, including in medical malpractice cases.

Before the decision, only the documents of a specified "peer review committee" were protected and shielded from discovery under the Pennsylvania Peer Review Protection Act. The new decision distances itself from the high court's formalistic analysis in the much-discussed [*Reginelli v. Boggs*](#) case, which held that peer review protection only applied to documents of a "review committee" but not those of a "review organization."

The new guidance provides a pragmatic approach that focuses on whether a hospital committee is engaged in a peer review function rather than whether the hospital committee meets the formal requirements of being a "peer review committee." Consistent with the goals of increasing the quality of health care in Pennsylvania, the approach in *Leadbitter* supports greater flexibility in performing peer review activities while maintaining the confidentiality needed to encourage a candid discussion.

Additionally, the Pennsylvania Supreme Court provided much needed reassurance that information provided by the National Practitioner Data Bank is protected under the federal Health Care Quality Improvement Act. The ruling aligns the federal and state obligations to maintain the confidentiality of Data Bank reports.

If you have any questions about this decision or how it could affect your health care organization, please [contact me](#) or any member of the [Barley Snyder Health Care Industry Group](#).

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