

Pennsylvania Superior Court Upholds and Clarifies Crucial Privileges for Health Care Providers

OVERVIEW:

On July 17, 2025, the Pennsylvania Superior Court issued an [opinion in *Boyle v. Main Line Health, Inc.*](#) addressing critical privilege protections under Pennsylvania's Medical Care Availability and Reduction of Error Act (MCARE) and the federal Patient Safety and Quality Improvement Act (PSQIA).

Background

Before the Court was the issue of whether the Montgomery County trial court erred in ordering Main Line Health ("the hospital") to produce certain patient safety related materials sought by the Plaintiffs, parents of a child injured at birth. The hospital claimed the documents - a Patient Safety Occurrence Worksheet (PSOW), Situation Background Assessment/Recommendations (SBAR), and the Patient Safety Reporting System (PSRS) - were privileged under MCARE, Section 311(a) (regarding "prepared materials") and 311(d) (regarding "received materials") and the PSQIA. In support, the hospital provided affidavits of a patient safety officer and system manager for risk.

Superior Court's Opinion Explained

Regarding the MCARE privilege, while the Superior Court concluded that the PSRS was created *solely* for reporting purposes under MCARE - an essential element to assert the privilege - they then held that there was no evidence before them that the incident in question had been *reviewed* by the patient safety committee. While the Court rejected the trial court's holding that Section 311(a) requires the documents themselves to be reviewed by a patient safety committee, it held that the incident itself must have been reviewed to meet the requirement that the documents "arose out of a matter" reviewed. Thus, the Court ruled that the PSRS was discoverable.

Notably, the hospital filed a supplemental affidavit stating that the Boyle incident was reviewed by the committee, but because it was filed *after* the trial court had issued its ruling, the appellate Court refused to take the supplemental affidavit into consideration. The Court did not analyze the hospital's alternative argument that the PSRS was further privileged under Section 311(d).

Next, the Court held that the PSOW and SBAR documents were privileged under the PSQIA as "deliberations and analysis" of an established patient safety evaluation system and therefore constituted as privileged "patient safety work product" under the federal privilege. The Court's majority also found that the hospital's general invocation of the PSQIA statute in the privilege log produced in Discovery was sufficiently detailed to allow for appeal on all aspects of the PSQIA. It is important to note, however, that the Honorable Judge Lane

opined in a dissenting opinion that she believes the hospital waived its invocation of the privilege under subsection (ii) "deliberations and analysis," since it was only explicitly argued for the first time in their motion for reconsideration of the trial court's ruling.

The Superior Court's decision confirms the strength of the federal privileges under the PSQIA. Contrary to prior decisions (see *Ungurian v. Beyzman* (Pa. Super. Ct. 2020)), the Court in *Boyle* gave full recognition to the fact that deliberations and analysis of a patient safety evaluation system for the purpose of reporting are privileged, regardless of whether those materials are reported to a patient safety organization.

Similarly, the Court corrected the trial court's faulty interpretation of the MCARE Act at section 311(a), noting that the court had imposed an additional burden on the hospital by requiring proof that the privileged documents themselves had been reviewed by a patient safety committee, and not merely the event as a whole.

Lessons for Health Care Providers

The *Boyle* decision highlights the importance of ensuring that medical malpractice defense counsel is well-versed in all potential privileges, which is essential to the proper drafting of privilege logs and the creation of affidavits containing the appropriate language in support of claimed privileges. Ideally, counsel should be able to assess which privileges apply to which documents and precisely cite any applicable provision of the privilege statutes in preparation of a privilege log.

This opinion also underscores how important it is for hospitals to have clear procedures for conducting incident reviews that align with the frameworks described in both MCARE and the PSQIA to further ensure that documents created in connection with those processes are privileged.

Barley Snyder is actively monitoring the developments of privilege law as it relates to health care providers. If you need assistance with the requirements for asserting privilege under the Medical Care Availability and Reduction of Error Act or the Patient Safety and Quality Improvement Act, please reach out to attorneys [Katherine Kravitz](#), [Lauralee Baker](#), [Asahel Church](#), [Shane Brackup](#), or any member of Barley Snyder's [Health Care Industry Group](#).

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