

Article for SCMS News

## **OHIO COURTS UPHOLD THE CONFIDENTIALITY OF THE PEER REVIEW PROCESS**

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In separate cases, two different Ohio courts of Appeals have upheld the confidentiality of the peer review process. In the first case, a suit is filed by a plaintiff concerning a surgical procedure in which the patient ultimately died. The plaintiff filed a medical malpractice action and included a claim for negligent credentialing by the hospital. While the lower court initially ordered the production of documents that involved peer review material, the Court of Appeals reversed finding that the Ohio peer review statute prohibits the disclosure of information that was pending or had been considered by the Peer Review Committee. Because the case involves a physician in our area, we have elected not to identify the parties in this article.

In a second case, a physician filed a suit against a hospital that had sent a number of the physician's cases for outside review and then later suspended the physician because of deficiencies. In this case, the hospital asserted immunity under the Federal Health Care Quality Improvement Act (HCQIA). The Appeals Court concluded that the participants in medical peer review activities are immune from suit and that under the facts and circumstances in the case, including using an outside reviewer, the Court found the review process to meet the requirements of HCQIA and dismissed the claim against the hospital. See Fox v. Parma Community General Hospital (Ohio Court of Appeals April 7, 2005).

These are two important cases which affirm the protection afforded by the recently revised Ohio statute concerning the confidentiality of peer review processes under state law and affirming the confidentiality of peer review under the federal HCQIA revisions as applied in Ohio. If you would like copies of either of these decisions or have any questions concerning these matters, please contact Scott P. Sandrock, Brennan, Manna & Diamond, LLC, The Carnegie Building, 75 E. Market St., Akron, OH 44308, (330) 253.4367 or at [spsandrock@bmdllc.com](mailto:spsandrock@bmdllc.com).

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