

This new court ruling will be of interest to physicians, nurse managers, risk managers and hospital executives.

Federal Court Upholds Peer Review Documents as Privileged

Recently, a Houston federal court granted a defendant Hospital's motion for protection regarding several peer review documents. The court applied Texas privilege law to protect the internal documents and determined that they were not relevant to Emergency Medical Treatment & Labor Act ("EMTALA") claims brought against it.



Memorial Hermann Hospital System ("Memorial Hermann") in Houston had treated Tristan Guzman in the emergency room. Later, he and his mother Wendy sued the hospital, making claims based on state law and federal EMTALA allegations related to inappropriate medical screening examination, failure to stabilize Tristan's condition before discharge and failure to transfer him appropriately to another hospital. Guzman also asserted state law negligence claims against Memorial Hermann.

The hospital removed the case from state to federal court. In discovery, Ms. Guzman sought internal peer review documents about the emergency room care that Tristan received. Because disclosure would be disastrous to the hospital's peer review system, it refused, arguing they were confidential and privileged. It filed a Motion for Protection, asking the judge to review the documents "in camera," in the privacy of the judge's chambers.

When state and federal law conflicts, usually the federal law preempts state law. But in this case, Guzman argued that a federal law, the Health Care Quality Improvement Act, did not create a medical peer review privilege. Memorial Herman argued that the privileged documents were not relevant to her federal EMTALA claims, and that Texas privilege laws should be applied. The federal court agreed with the hospital that the peer review documents were privileged and their production could not be compelled.

If you would like to read the opinion regarding Guzman v. Mem'l Hermann Hosp. Sys., 2009 U.S. Dist. LEXIS 13336 (S.D. Tex., Feb. 20, 2009), it can be found on Lexis Nexis or Westlaw.

The case includes a detailed discussion of the important protections for Texas hospitals' peer review documentation. If you would like more information on this case -- or would like a free presentation on the laws you need to know governing peer review -- please contact me at 214-712-9510 or [email me](#).

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