

# Pennsylvania Supreme Court Decision Broadens Medical Peer Review Protections in *Leadbitter v. Keystone Anesthesia Consultants*

## WRITTEN BY

Sara B. Richman | Alexandra Lilly Milios | Kimberly Hughes Gillespie | Barak A. Bassman | Leah Greenberg Katz

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The Pennsylvania Supreme Court issued an order and opinion on August 17 holding that medical peer review documents do not need to be generated by a “peer review committee” to be protected under the Pennsylvania Peer Review Protection Act (PRPA), and that documents from committees performing a peer-review function are protected as well.<sup>[1]</sup> This decision is a win for hospitals conducting credentialing activities, as it overturned the lower court’s ruling that would have had a chilling effect on hospitals’ ability to obtain much needed candid feedback from physician peers on their colleagues’ performance, quality, and safety.

## The Peer Review Privilege

Enacted in 1974, the PRPA protects the “proceedings and documents of a review committee” from discovery or introduction into evidence. The act provides immunity from liability for individuals providing information to a review organization<sup>[2]</sup> and ensures that review committee records “shall be held in confidence.”<sup>[3]</sup>

In enacting the PRPA, the Pennsylvania legislature had the goal of “providing for the increased use of peer review groups by giving protection to individuals and data who report to any review group.”<sup>[4]</sup> Pennsylvania courts have further commented that the legislature’s intent in enacting the statute was to “(1) improve the quality of care rendered, (2) reduce morbidity and mortality; and (3) keep within reasonable bounds the cost of healthcare.”<sup>[5]</sup> The immunity and confidentiality provisions are based on the belief that, “the medical profession itself is in the best position to police its own activities,”<sup>[6]</sup> and were enacted to “foster free and frank discussions by review organizations.”<sup>[7]</sup>

## Background of the Case

The *Leadbitter* complaint was first filed in January 2015. James *Leadbitter* and his wife brought claims against his treating physician for negligence and loss of consortium.<sup>[8]</sup> As part of the lawsuit, the plaintiff requested the physician’s credentialing file. The hospital produced only the portions of his file that it deemed discoverable, while removing and redacting certain portions, asserting privilege under the PRPA.<sup>[9]</sup> Plaintiffs filed a motion to compel the documents, seeking the entire unredacted file, and the trial court granted the motion.<sup>[10]</sup> The Superior Court later affirmed the decision, holding that, because the documents in question were from the hospital’s credentialing committee, which the court considered a “review organization” but not a “review committee” as required by the statute, the documents were not protected under the PRPA.

## The Supreme Court Decision in *Leadbitter v. Keystone Anesthesia Consultants, Ltd.*<sup>[11]</sup>

The Pennsylvania Supreme Court vacated both lower court rulings, finding that the documents in question were protected under the PRPA.<sup>[12]</sup> In its holding, the Court reasoned that any hospital committee that engages in a form of peer review can be considered a “review committee” for purposes of the PRPA.<sup>[13]</sup> The Court stated:

“[W]e agree with the hospital’s core position that a committee which performs a peer-review function, although it may not be specifically entitled a ‘peer review committee,’ constitutes a review committee whose proceedings and records are protected under Section 4 of the act . . . It follows that a hospital’s credentials committee enjoys such protection if (and only if) it engages in peer review.”<sup>[14]</sup>

The Court emphasized that though this interpretation may prevent civil plaintiffs from obtaining some documents, “the legislative body is presumed to have balanced that considerations against others...and to have intentionally used language applying to a variety of committees whose proceedings and records involve peer review.”<sup>[15]</sup>

### Implications

This decision provides sufficient clarity into the interpretation of the PRPA and also provides added protections for hospitals in seeking candid peer feedback regarding medical staff members. This furthers hospitals’ important interest in maintaining robust peer review processes, ultimately contributing to improved overall quality and safety for patients.

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<sup>[1]</sup> *Leadbitter v. Keystone Anesthesia Consultants, Ltd.*, No. 19 WAP 2020, 2021 WL 3628734 (Pa. Aug. 17, 2021).

<sup>[2]</sup> 63 P.S. §425.3.

<sup>[3]</sup> 63 P.S. §425.4.

<sup>[4]</sup> 63 P.S. § 425.1, Historical and Statutory Notes.

<sup>[5]</sup> *Robinson v. Magovern*, 83 F.R.D. 79, 86 (W.D.Pa. 1979).

<sup>[6]</sup> *Reginelli v. Boggs*, 181 A.3d 293, 300 (Pa. 2018).

<sup>[7]</sup> *Sanderson v. Frank S. Bryan, M.D., Ltd.*, 522 A.2d 1138, 1140 (Pa. Super. Ct. 1987).

<sup>[8]</sup> *Leadbitter v. Keystone Anesthesia Consultants, Ltd.*, 229 A.3d 292, (Pa. Super. Ct. 2020).

<sup>[9]</sup> *Id.*

[10] *Leadbitter v. Keystone Anesthesia Consultants, Ltd.*, G.D. No. 16-10700, *slip op.* (Sept. 17, 2018).

[11] *Leadbitter v. Keystone Anesthesia Consultants, Ltd.*, 229 A.3d 292 (Pa. Super. Ct. 2020).

[12] *Leadbitter v. Keystone Anesthesia Consultants, Ltd.*, No. 19 WAP 2020, 2021 WL 3628734 (Pa. Aug. 17, 2021).

[13] *Id.*

[14] *Id.* at \*11

[15] *Id.*

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