

BACKGROUND: Kentucky is currently one of only two states in the nation NOT to provide confidential peer review privilege to health care providers.

- Kentucky has one of the nation's most litigious legal environments, making us a prime and profitable target for aggressive personal injury lawyers preying upon health care providers.
- The Kentucky Supreme Court has made the Commonwealth an outlier by restricting the federal and state privilege of peer review and allowing personal injury lawyers to use information and opinions from these confidential inquiries in medical malpractice claims.
- Kentucky's lack of peer review protection puts Kentucky providers in legal jeopardy for agreeing to help advance medical science and improve patient care.

THE ISSUE: Peer review is a reasonable, commonsense and necessary practice.

- Providing critical legal protections for confidential peer review encourages physicians, hospitals and other care providers to review and learn from past performances, improving the future of patient care.
- Medical peer review privilege allows care providers to effectively review their own performance in an open manner without fear that candid opinions will be used against them in a lawsuit.
- Protecting peer review is overwhelmingly acknowledged as a reasonable means of improving patient safety and quality because it encourages robust analysis and conversations to improve future care quality.
- Peer review protects from discovery in a medical malpractice lawsuit the disclosure of information and opinions acquired or produced during the peer review process that is not independently discoverable.
- Peer review privilege does NOT prohibit the discovery of any other information, facts or outside medical opinions that would typically be part of the legal process.
- Protecting peer review was empirically established as essential to improving health care safety and quality by the Institute of Medicine in the publication *To Err is Human*, a publication acknowledged by Congress as a seminal research compendium for improving patient safety and quality.

THE SOLUTION: Provide confidential medical peer review in Kentucky.

- Allow Kentucky physicians to confidentially review their own performance without the chilling effect of lawsuits by adopting legislation to clarify Kentucky's existing peer review statute.
- Passing this important legislation, free of unnecessary and damaging amendments, will ensure Kentucky physicians, hospitals and other caregivers are able to freely discuss opinions on adverse outcomes with their peers to advance the overall practice of care.
- Peer review is constitutionally sound as it does not deny a plaintiff any factual evidence or limit damages.
- Peer review protections do not limit a plaintiff's right to know the facts of what happened in a patient encounter. The underlying facts cannot be protected and remain available to a plaintiff.

**Granting Peer Review Privilege Puts the Focus Where it Belongs:
HELPING Patients and Providers, NOT Personal Injury Lawyers.**