

## Insurer Must Produce Quality of Care Review in a Medical Malpractice Case

Article By:

Edward S. Shensky

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The plaintiff in a medical malpractice lawsuit in **Pennsylvania** recently attained a victory against one of the largest health insurance companies in the state: **Blue Cross of Northeastern Pennsylvania**. Plaintiffs sought to obtain records from Blue Cross which related to the plaintiff's underlying medical malpractice claim against various defendants, including an orthopedic surgeon, a nurse and a hospital. In addition, plaintiff sought any records of the insurer's investigation of the surgery that gave rise to the malpractice lawsuit.

Blue Cross of Northeastern Pennsylvania refused to provide the plaintiff with its investigative materials, claiming that those records were protected by the confidentiality provisions of the **Peer Review Protection Act**. This Act protects internal records of health care providers that relate to quality of care reviews. The purpose of the Act is to protect the confidentiality of certain proceedings from public disclosure in order to encourage health care providers to review their practices and procedures. This is overall done in an effort to improve morbidity and mortality within the health care setting.

The Superior Court of Pennsylvania found that, "A corporation that provides health insurance and not medical care, is not a professional care provider, under the Act." The Superior Court went on to explain that, unless an entity is a professional health care provider, it does not conduct peer reviews, and any review conducted by the health insurer is not confidential pursuant to the Act.

The plaintiff's victory in this matter is likely to lead to further requests from plaintiffs' attorneys, directed to various health insurers doing business in the Commonwealth, in connection with medical malpractice litigation.

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