

Rulings spell out specifics for peer review immunity

State supreme courts in Colorado and Nevada say peer review has to strive to improve quality of care if it wants to enjoy the protection that goes with the process.

By Tanya Albert, AMNews staff. Aug. 6, 2001.

Two recent conflicting state supreme court decisions provide guidance as to when physicians serving on peer review boards can expect some protection from lawsuits filed by the colleagues they are reviewing.

Although the rulings were different, neither threatened the sanctity of peer review in most circumstances.

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The Colorado State Supreme Court in late June said hospital reviewers involved in a peer review case could not be held liable when the colleague they suspended tried to sue them for damages.

But the Nevada State Supreme Court in late June said a peer review board there could be liable for revoking a physician's staff privileges.

The key difference in the two cases: In Colorado, the peer review took place to improve the quality of the health care the hospital was providing. In Nevada, the peer review didn't revolve around quality, the court said. Instead, it centered around punishing a physician for being a whistle-blower, and that's not protected.

"Good faith has to be behind the peer review action; it has to be a real quality-of-care issue," said health care lawyer Julia Krebs-Markrich, a partner at Reed Smith in Falls Church, Va. "If you make it fair, you can remove liability."

The Colorado and Nevada cases don't necessarily establish any new rules, legal experts say. But it is rare for these cases to make it to the state supreme court level.

The two cases set a uniform standard for lower courts in each state to follow when asked to determine if members of peer review boards should be immune from lawsuits. [...]