

Hospital credentialing process to come before lawmakers

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Christine Neuhoff

Lawmakers will be asked this winter to preserve a key component of physician credentialing: the peer review carried out by physicians' colleagues.

At issue is the confidentiality of the reviews.

A 2009 Idaho Supreme Court decision took hospitals by surprise when it revealed that results of credentialing decisions could be used in lawsuits. That ruling came in the wake of a 2004 lawsuit against two physicians and the then-[Saint Alphonsus Medical Center](#).

The plaintiffs, H. Ray Harrison and his partner, Julie Anderson, claimed the physicians and hospital were negligent in their treatment of Harrison. The following year, they amended the complaint to say the hospital had been negligent in granting credentials to one of the physicians

involved, Jeffrey Hartford.

A District Court judge denied the pair's motion to amend the case, saying they couldn't sue for negligent credentialing in Idaho because under state code, hospitals were immune from such claims. The court said because the information and opinions that went into credentialing were privileged, or could not be revealed, the decision itself was private.

But last year the [Idaho Supreme Court](#) reversed the District Court ruling. It said while the information in the credentialing decision should stay immune from discovery, the decision itself could be used in a claim of negligent credentialing. The Supreme Court did not find the hospital had been negligent in credentialing the physicians in the Harrison case.

The immediate impact of the case was slight. It didn't open the door to negligent credentialing claims, because other barriers still exist to such claims, said Kim Stanger, a Boise attorney who regularly represents hospitals.

But the ruling was significant enough to groups such as the [Idaho Medical Association](#), which represents physicians, and the [Idaho Hospital Association](#) that both of them are now lobbying for legislation to amend the code.

The lawsuit revealed that the physician peer review decisions held by hospitals

weren't as secure as the hospitals had believed, said Steve Millard, the president of the Idaho Hospital Association.

And that in turn could damage the peer review process, Millard said Nov. 1.

"I haven't heard directly, but in the IMA House of Delegates meeting last July this was debated at length and there were many physicians who expressed their reluctance to participate in peer review without the immunity afforded by the statute prior to the Supreme Court decision," Millard said.

Hospitals need physicians to conduct peer reviews - and physicians need to know they can evaluate their peers in a totally confidential setting, said Christine Neuhoff, a lawyer for [Saint Luke's Health System](#), Idaho's largest hospital group.

"They are supposed to be able to do this without fear that anyone else is going to review the opinions and look at the information they've gathered," Neuhoff said. "You get more candor from people who believe that they are providing information confidentially."

Millard's group, the IHA, last year introduced legislation that would make the peer review process more secure in the event of a legal challenge. That bill, S1373, passed the Senate and died in the House Health and Welfare committee. IHA will introduce similar legislation in 2011, Millard said, though details of the bill haven't yet been worked out.

"You don't have peer review if doctors don't participate," Millard said. And without peer review, he said, "there will be one less mechanism to control quality. It's that simple."

There are concerns that hospitals could use the privacy of peer review decisions to shield credentialing decisions that were made not because of a physician's qualifications, but because the reviewers wanted to block competitors from working at the hospital, said Rep. John Rusche, D-Lewiston, the House minority leader in the Idaho Legislature.

But Rusche, a retired pediatrician, said he voted for the measure last year anyway because confidentiality is vital to the peer review process.

"Allowing medical staff in hospitals to question and control the quality was a greater issue to me than the concern about economic credentialing," Rusche said of his vote.

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