NJ Supreme Court Rules Privilege Does Not Apply for Facilities Without a Separate Patient Safety Committee



8/29/2024

In a decision that reverses the rulings of two separate appellate courts, the New Jersey Supreme Court recently ruled that healthcare facilities may only withhold incident reports and associated documents as privileged under the New Jersey Patient Safety Act (PSA) if the facility performs their self-critical analysis of the incident in procedural compliance with the PSA and its implementing regulations. The PSA confers an absolute privilege on documents, materials and information developed as part of a healthcare facility's self-critical analysis. In the two cases before the Supreme Court, the defendant healthcare facilities refused to produce documents such as incident reports and other documents related to patient incidents because they claimed they were privileged under the PSA.

In both cases, an appellate court reversed the trial courts' determinations that the incident reports were not privileged under the PSA, finding that the defendants procedurally complied with the requirements of the PSA and that the documents are privileged. The Supreme Court reversed the appellate court decisions, finding that, in both cases, the facilities failed to follow proper procedures because their quality assurance and improvement committees also operated as patient safety committees, and in order for the PSA privilege to apply, a facility's patient safety committee must operate independently from any other committee of the facility.

Click Here to read the entire August 2024 Healthcare Law Update now!

For more information, contact:

Joseph M. Gorrell | 973.403.3112 | jgorrell@bracheichler.com
Jonathan J. Walzman | 973.403.3120 | jwalzman@bracheichler.com
Paul DeMartino | 973.364.5228 | pdemartino@bracheichler.com

Authors

The following attorneys contributed to this insight.



Joseph M. Gorrell

Member
Healthcare Law

973.403.3112 · 973.618.5512 Fax

jgorrell@bracheichler.com



Jonathan J. Walzman

Member
Healthcare Law, Corporate Transactions & Financial Services

973.403.3120 · 973.618.5561 Fax

jwalzman@bracheichler.com



Paul J. DeMartino, Jr.

Counsel
Healthcare Law, Litigation

973.364.5228 · 973.860.4221 Fax

pdemartino@bracheichler.com