

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

ROBERT VILLARE, M.D.	)	
	)	
v.	)	C.A. No. 03C-12-286
	)	
	)	
JAMES P. MARVEL, M.D.	)	
	)	
Defendant.	)	

Date Submitted: January 11, 2008  
Date Decided: January 28, 2008

Dear Counsel,

I have reviewed the Trauma Variant Reports submitted to the Court for *in camera* review. Beebe Hospital claims that these reports are irrelevant to the dispute and are not discoverable under the Peer Review Statute. 24 Del. C. § 1768(b) provides:

[R]ecords and proceedings of committees and organizations described subsection (a)<sup>1</sup> of this section are confidential and may be used by those committees or organizations and the members thereof only in the exercise of the proper functions of the committee and organization. The records and proceedings are not public records and are not available for court subpoena, nor are they subject to discovery. A person in attendance at a meeting of any such committee or organization is not required to testify as to what transpired at a meeting. . . .

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<sup>1</sup> 24 Del. C. § 1768(a) provides that medical personnel who participate in professional standards peer review: “[S]hall not be subject to, and shall be immune from, claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed or recommendation made so long as such member acted in good faith and without malice in carrying out the responsibilities, authority, duties, powers and privileges of the offices conferred by law ... or duly adopted rules and regulations of the aforementioned committees, organizations and hospitals, good faith being presumed until proven otherwise, with malice required to be shown by the complainant.”

Plaintiff claims these reports are reasonably calculated to lead to the discovery of admissible evidence and are “administrative documents” not protected under the Peer Review Statute.

The Court finds that, as a general matter, such reports as utilized at Beebe Hospital are not protected by the Peer Review Statute. Having said that, however, there are certain of these reports that were clearly utilized for peer review purposes and thus are not discoverable. Those reports that are not discoverable bear bates stamp nos. VILTVR 008-009, 024-026, 040-042, 043-047, 049-052, 056-057, 064-070, 072-073, 075, 078, 080-083. All the reports submitted *in camera* will be placed under seal in the Court’s file.

**IT IS HEREBY ORDERED.**

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Jan R. Jurden, Judge