

Earning Peer Review Immunity

Lessons from Federal and State Courts



MEDICAL STAFF SEMINAR 2025

Empowering Medical Staff. Enabling Excellence.

DECEMBER 4-5, 2025



Brian C. Betner
Attorney
Hall, Render, Killian, Heath
& Lyman, P.C.
Bbetner@hallrender.com
(303) 802-1298



Mayo B. Alao
Attorney
Hall, Render, Killian, Heath
& Lyman, P.C.
Malao@hallrender.com
(720) 282-2026

Agenda

- Sources of Peer Review Immunity
- Comparing Federal and State Immunity Doctrines
- Key Lessons from Case Law
 - Reasonable Investigations
 - Reasonable Belief That an Action Was Warranted by the Facts
 - Good Faith Under State Law
- Takeaways



**MEDICAL STAFF
SEMINAR 2025**

Peer Review Immunity Doctrine: Federal v. State Law

Federal HCQIA Immunity

- Elements
 - ***Action Taken in the Reasonable Belief It Was in Furtherance of Quality Health Care***
 - After a Reasonable Effort to Obtain the Facts
 - After Adequate Notice and Hearing Procedures (or Fair Alternatives)
 - ***With the Reasonable Belief That the Action Was Warranted by the Facts***
- Objective Standards, Focused on Process

State Law Immunity

- Elements
 - ***In Good Faith or Absence of Malice***
 - Reasonable Belief That Action Was Warranted
 - Compliance with Procedural Fairness
 - No Improper Motive
 - Adequate Investigation or Basis for Action
- Subjective Standards, Focused on Why Action Was Taken

What is Reasonable Investigation?

Common Elements of a Reasonable Investigation

- Collection of Relevant Information
- Use of Expert Opinions
- Opportunity for Physician Input
- Documentation of the Investigation
- Consistency and Fairness

Potential Red Flags

- Failure to Review Key Evidence
- Prejudgment or Bad Faith
- No Opportunity for Physician Response
- Undocumented or Vague Process
- Selective or Biased Fact Gathering

When is there a Reasonable Belief the Action was Warranted?

Common Elements of Objectively Reasonable Actions

- Objective Belief Based on Known Facts
- Proportionality of the Action Taken
- Consistency with Peer Review Standards or Policies
- Review Body Acts as a "Reasonable Body" Would

Potential Red Flags

- Actions Driven by Retaliation or Personal Animus
- Disproportionate or Overblown Response
- Lack of Logical Connection Between Facts and Action
- Inconsistent or Selective Application of Standards
- Evidence of Anti-Competitive Motive

When Good Faith Matters (State Law Immunity)

Common Elements of Objectively Reasonable Actions

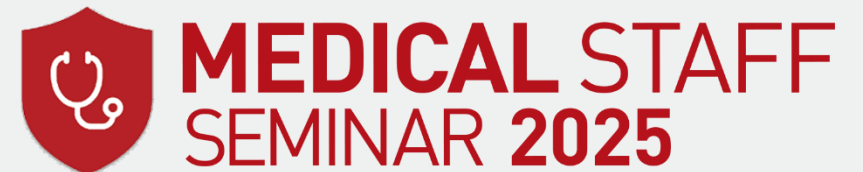
- Honest Intent or Absence of Malice
- Reasonable Belief That Action Was Warranted
- Compliance with Procedural Fairness
- No Improper Motive
- Adequate Investigation or Basis for Action

Potential Red Flags

- Retaliation or Personal Animus
- Economic or Competitive Motives
- Lack of Fair or Adequate Investigation
- Procedural Irregularities and Bias
- Malicious or Reckless Statements
- Ignoring Applicable Law or Regulations

Practical Takeaways

- Immunity is Generally Presumed – But Assume it Must be Earned
- Process Matters More than Perfection
- Substantial Fairness Can Bridge Gaps
- Good Faith is the Gatekeeper at the State Level
- Courts Look Beyond Labels to Real Conduct



Questions?



For more information on these topics
visit hallrender.com.

Brian C. Betner

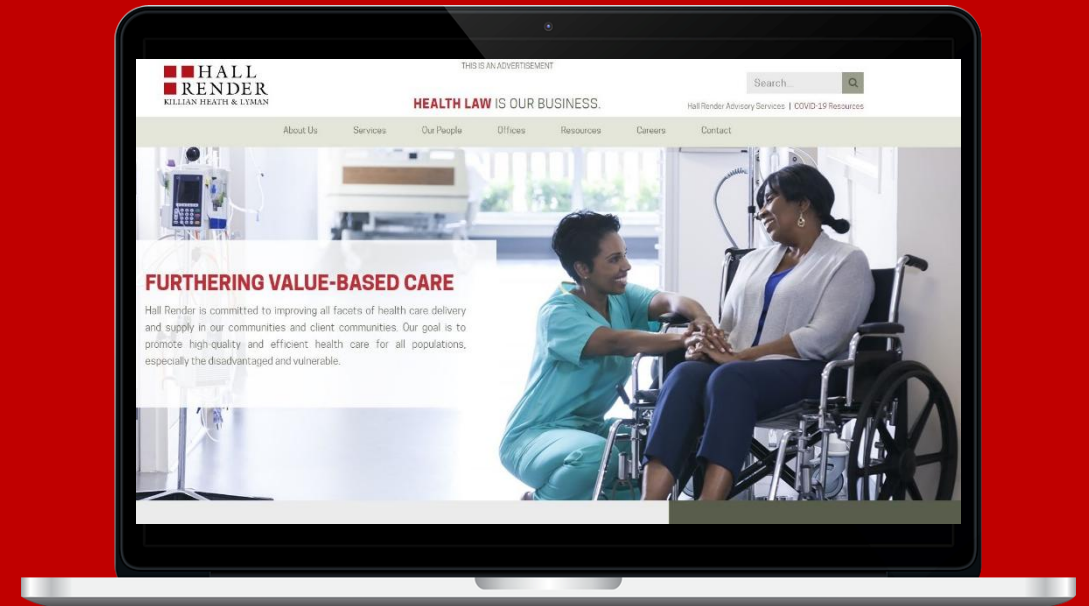
(303) 802-1298

BBetner@hallrender.com

Mayo B. Alao

(720) 282-2026

MAlao@hallrender.com



This presentation is solely for educational purposes and the matters presented herein do not constitute legal advice with respect to your particular situation.