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case came down, there was an expectation that documents considered by a peer review committee would be privileged from discovery and not admissible in a legal proceeding. With *Florida Hospital Waterman*, no longer would such documents be cloaked with the protections against discovery provided in Florida. This would be inconsistent with protections against discovery provided in most—if not all—states having peer review statutes.

And, again, according to *Florida Hospital Waterman*, the right to see such evidence can pertain to documents that existed as of the date the Florida voters passed the constitutional amendment. How far back can the documents go? The court never says.

Another problem is that, for example, an accrediting organization such as the Joint Commission—which credentials a considerable portion of our nation's hospitals and other health care facilities—may find some difficulty with the *Florida Hospital Waterman*'s majority's decision. One area the Joint Commission looks at in its accreditation process are "sentinel events"—those involving deaths or serious injuries. What if a sentinel event is intertwined with an adverse medical incident? All such information would be usable in legal cases under *Florida Hospital Waterman*, which may make hospital administrators uncomfortable if the commission asks them to produce sentinel event information during an accreditation or reaccreditation process.

Then there is the privacy issue. If privacy laws such as the Health Insurance Portability and Accountability Act (HIPAA) are to be respected, what good is producing an adverse medical incident report that is required by HIPAA but not including identifying information about the patient? HIPAA would thus destroy much of the good intended by the amendment passed by the voters. Moreover, since the amendment doesn't specify exactly who is entitled to such records, then anyone can request such information, regardless of applicable state or federal privacy laws.

Last, but certainly not least, are evidence laws relating to adverse medical incident records. The Florida high court blundered when it stated that a restriction on admitting such records in court cannot stand. Surely the decision on whether the constitutional amendment was retroactive was never intended to circumvent Florida's laws regulating the admissibility of evidence. Yet this is a conundrum that the court majority has now created.

The law is never precise, and many times its development can raise more issues than it solves. That is what has happened here. What the Florida Supreme Court has done needs fixing—by the court somehow amending its decision, or by the Florida legislature harmonizing state law with the constitutional amendment passed by Florida's voters, or by having Florida voters amend the state constitution in some fashion. Only then can physicians in Florida and elsewhere be assured that the confidential work of peer review committees and accreditation organizations will remain confidential. ■

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Resource on Health Care Innovations

The Agency for Healthcare Research and Quality has launched a new Web resource called the Health Care Innovations Exchange to share examples of both successful and unsuccessful attempts at innovation in health care.

After starting out with 100 examples, it will be updated every 2 weeks. Visit www.innovations.ahrq.gov.

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