



WHAT IS A SHAM PEER REVIEW?

What is a Sham Peer Review?

For good reason, professional peer review was created with the purpose of providing a confidential environment within which feedback could be communicated to health care providers to improve patient care. It increases accountability and promotes integrity among practicing physicians. However, those expectations of integrity and accountability must extend in both directions—to the physicians being reviewed and the panel or individuals performing the review.

When dishonest behavior and abuse of power take over the review process, this is referred to as a “sham peer review.” Such unethical reviews are often the result of a personal bias or unrelated professional conflict involving a review committee member. Athan Papailiou has extensive experience representing physicians targeted with frivolous or vindictive peer reviews.

What Are Signs of a Sham Peer Review?

There are a few signs that may indicate that a peer review process is being used for sham or improper purposes:

- **Personal or professional conflicts of interest:** If the individuals conducting the peer review have a personal or professional conflict of interest with the physician or health care provider being reviewed, it may be more likely that the review is not being conducted objectively.

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- **Lack of transparency:** If the peer review process is not conducted transparently and is not open to scrutiny, it may be more likely that it is being used for improper purposes.
- **Unfair or biased evaluation:** If the evaluation of the physician or health care provider is not based on objective criteria and is instead biased or unfair, it may be a sign of sham peer review.
- **Disproportionate consequences:** If the consequences of the peer review process are disproportionate to the issues being addressed, it may be a sign of a sham peer review.
- **Unexpected or unusual outcomes:** If the outcome of the peer review process is unexpected or unusual, it may be a sign that the process is being used for improper purposes.

It is important to note that not all peer review processes that exhibit one or more of the above signs are necessarily sham. It is important to carefully evaluate the circumstances and evidence to determine whether a peer review process is being used for improper purposes.

What Rights Do I Have During Peer Review?

The importance of knowing your rights cannot be overstated. Read or reread your hospital or medical facility's bylaws to ensure you understand the

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procedures for disciplinary and corrective actions. The rules vary between facilities, but the burden of proof will often lie with the surgeon or physician under review. This is essentially a guilty-until-proven-innocent approach and having expert legal counsel during this process can be beneficial for a favorable outcome. Not only is the accused doctor faced with showing that the claim against them is invalid, but they must also prove that the disciplinary decision made as a result of the sham peer review was unreasonable.

Gathering evidence in support of your case can be difficult and, if you don't know what you need in order to prove your innocence, it often seems impossible. For instance, if your due process¹ was limited or interfered with in connection with the peer review process, you may want to attempt to document and collect any evidence of such limitation or interference. Any evidence that shows your rights throughout this process were violated may be helpful to your case. Athan Law can be a valuable ally in this fight. We will advise you on the best approach and help you ensure the necessary documentation is prepared.

¹ American Medical Association. Peer Review and Due Process. <https://www.ama-assn.org/delivering-care/ethics/peer-review-due-process>

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Facing a Sham Peer Review?

If you believe you are currently being subjected to a sham peer review, or have already experienced such a process, contacting experienced legal counsel sooner rather than later will be beneficial. When you are ready to secure experienced legal counsel for your sham peer review case, reach out to Athan Law. We advocate for physicians and surgeons during their peer review process. Contact our office today at (509) 215-4679.

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