



Fact that Medical Guidelines May Be Available to the Public Does Not Warrant Denial of Discovery of Such Documents from the Defendant

The Fourth Department determined Supreme Court had erred in denying certain of plaintiff's discovery demands in a medical malpractice case alleging injuries sustained by infant plaintiff during birth. The materials deemed material and necessary (and not unduly burdensome to produce) included: standards for fetal monitoring and pediatric advancement of life support; a protocol entitled "Circulating Vaginal Delivery;" interpretation and management of fetal heart rate patterns; and specified guidelines and standards published by medical associations. The Fourth Department noted that the fact that standards and guidelines may be available to the public is not a ground for denying discovery. The court explained the discovery criteria generally as follows:

...[W]e note that CPLR 3101 requires "full disclosure of all matter material and necessary in the prosecution or defense of an action" (CPLR 3101 [a]). The phrase " 'material and necessary should be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity. The test is one of usefulness and reason' " . . . "Entitlement to discovery of matter satisfying the threshold requirement is, however, tempered by the trial court's authority to impose, in its discretion, appropriate restrictions on demands which are unduly burdensome . . . and to prevent abuse by issuing a protective order where the discovery request may cause unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts" (...see CPLR 3103 [a]). In opposing a motion to compel discovery, a party must "establish that the requests for information are unduly burdensome, or that they may cause unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts" (...see generally CPLR 3103 [a]).

[Rawlins...v St Joseph's Hospital Health Center..., 659, 4th Dept 7-19-13](#)