



## Your (Not So) Confidential Communications

Although the law provides certain communications are confidential and therefore not subject to discovery by parties to litigation, there are various exceptions. When you bring a claim for injuries, the “confidentiality” between you and your doctor is generally waived.

That means lawyers hired by insurance companies may speak with your doctor. In a recent case, New York's highest court, the Court of Appeals, ruled that such a conversation can now take place without your lawyer or other representative being present, or even being made aware of a contact to your doctor.

Although the court ruling puts limits on what can be properly discussed between your doctor and the insurance company's attorneys, without you or your lawyers being a party to the conversation, the insurance company's attorneys may go far afield of the Court's guideline. If you are treating with a medical provider as a result of an injury that is the subject of a lawsuit, your doctor should be made aware of those important limitations. In the case of *Arons v. Jutkowitz*, decided on December 5, 2006, the court stated specifically that the insurance company's lawyer may **not** discuss any privileged information that is not waived by a pending lawsuit, and he or she is to avoid discussing anything other than the particular medical condition at issue in the litigation. It is also abundantly clear that your doctor does not *have* to talk to those attorneys, and it is at your doctor's option to do so.

If you are treating with a doctor as a result of an accident, be sure you let him or her know about these significant limitations. You may print out a copy of this article and provide it to your doctor.

If you have any question feel free to pose it to us by clicking on our “[contact us](#)” button and sending us an e-mail. We will update this page if we receive commonly asked questions.

Keegan & Keegan, Ross & Rosner, LLP  
147 N. Ocean Avenue  
Patchogue, New York 11772

Phone: 631-475-9400

Fax: 631-475-0601

Website: <http://www.keeganlaw.us>