

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 190*
Committee Substitute Favorable 3/24/99
Senate Health Care Committee Substitute Adopted 6/9/99

Short Title: State Hospitals/Peer Review/AB.

(Public)

Sponsors:

Referred to:

March 1, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE CERTAIN FACILITIES TO SHARE PEER REVIEW
3 INFORMATION WITH ACCREDITING ORGANIZATIONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 122C-191(e) reads as rewritten:

6 "(e) For purposes of peer review functions only:

7 (1) A member of a duly appointed quality assurance committee who acts
8 without malice or fraud shall not be subject to liability for damages in
9 any civil action on account of any act, statement, or proceeding
10 undertaken, made, or performed within the scope of the functions of the
11 ~~committee; and committee.~~

12 (2) The proceedings of a quality assurance committee, the records and
13 materials it produces, and the material it considers shall be confidential
14 and not considered public records within the meaning of G.S. 132-1,
15 "Public records' defined,"and shall not be subject to discovery or
16 introduction into evidence in any civil action against a facility or a
17 provider of professional health services that results from matters which
18 are the subject of evaluation and review by the committee. No person

1 who was in attendance at a meeting of the committee shall be required
2 to testify in any civil action as to any evidence or other matters
3 produced or presented during the proceedings of the committee or as to
4 any findings, recommendations, evaluations, opinions, or other actions
5 of the committee or its members. However, information, documents or
6 records otherwise available are not immune from discovery or use in a
7 civil action merely because they were presented during proceedings of
8 the committee, and nothing herein shall prevent a provider of
9 professional health services from using such otherwise available
10 information, documents or records in connection with an administrative
11 hearing or civil suit relating to the medical staff membership, clinical
12 privileges or employment of the provider. A member of the committee
13 or a person who testifies before the committee may be subpoenaed and
14 be required to testify in a civil action as to events of which the person
15 has knowledge independent of the peer review process, but cannot be
16 asked about his testimony before the committee for impeachment or
17 other purposes or about any opinions formed as a result of the
18 committee hearings.

19 (3) Peer review information that is confidential and is not subject to
20 discovery or use in civil actions under subdivision (2) of this subsection
21 may be released to a professional standards review organization that
22 contracts with an agency of this State or the federal government to
23 perform any accreditation or certification function. Information
24 released under this subdivision shall be limited to that which is
25 reasonably necessary and relevant to the standards review organization's
26 determination to grant or continue accreditation or certification.
27 Information released under this subdivision retains its confidentiality
28 and is not subject to discovery or use in any civil actions as provided
29 under subdivision (2) of this subsection, and the standards review
30 organization shall keep the information confidential subject to that
31 subdivision."

32 Section 2. G.S. 131E-95 reads as rewritten:

33 **"§ 131E-95. Medical review committee.**

34 (a) A member of a duly appointed medical review committee who acts without
35 malice or fraud shall not be subject to liability for damages in any civil action on account
36 of any act, statement or proceeding undertaken, made, or performed within the scope of
37 the functions of the committee.

38 (b) The proceedings of a medical review committee, the records and materials it
39 produces and the materials it considers shall be confidential and not considered public
40 records within the meaning of G.S. 132-1, "'Public records"defined,' and shall not be
41 subject to discovery or introduction into evidence in any civil action against a hospital or
42 a provider of professional health services which results from matters which are the
43 subject of evaluation and review by the committee. No person who was in attendance at a

1 meeting of the committee shall be required to testify in any civil action as to any evidence
2 or other matters produced or presented during the proceedings of the committee or as to
3 any findings, recommendations, evaluations, opinions, or other actions of the committee
4 or its members. However, information, documents, or records otherwise available are not
5 immune from discovery or use in a civil action merely because they were presented
6 during proceedings of the committee. A member of the committee or a person who
7 testifies before the committee may testify in a civil action but cannot be asked about his
8 testimony before the committee or any opinions formed as a result of the committee
9 hearings.

10 (c) Information that is confidential and is not subject to discovery or use in civil
11 actions under subsection (b) of this section may be released to a professional standards
12 review organization that performs any accreditation or certification function. Information
13 released under this subdivision shall be limited to that which is reasonably necessary and
14 relevant to the standards review organization's determination to grant or continue
15 accreditation or certification. Information released under this subdivision retains its
16 confidentiality and is not subject to discovery or use in any civil actions as provided
17 under subsection (b) of this section, and the standards review organization shall keep the
18 information confidential subject to that subsection."

19 Section 3. This act is effective when it becomes law.