

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 423  
Human Resources Committee Substitute Adopted 4/17/89  
House Committee Substitute Favorable 7/19/90

Short Title: Quality Assurance Committees.

(Public)

Sponsors:

Referred to:

March 14, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CONFIDENTIALITY OF THE PROCEEDINGS OF  
QUALITY ASSURANCE COMMITTEES IN MENTAL HEALTH, MENTAL  
RETARDATION, AND SUBSTANCE ABUSE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-191 is amended by adding the following new  
subsection:

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

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

(2) The proceedings of a quality assurance committee, the records and materials it produces, and the material it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records" defined, and shall not be subject to discovery or introduction into evidence in any civil action against a facility or a provider of professional health services that results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters

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

12           Sec. 2. Chapter 122C is further amended by adding a new section to read:

13          "**§ 122C-30. Peer review committee; immunity from liability; confidentiality.**

14          For purposes of peer review functions of a hospital licensed under the provisions of  
15          this Chapter:

16           (1)   A member of a duly appointed peer review committee who acts  
17           without malice or fraud shall not be subject to liability for damages in  
18           any civil action on account of any act, statement, or proceeding  
19           undertaken, made, or performed within the scope of the functions of  
20           the committee; and

21           (2)   Proceedings of a peer review committee, the records and materials it  
22           produces, and the material it considers shall be confidential and not  
23           considered public records within the meaning of G.S. 132-1, 'Public  
24           records' defined, and shall not be subject to discovery or introduction  
25           into evidence in any civil action against a facility or a provider of  
26           professional health services that results from matters which are the  
27           subject of evaluation and review by the committee. No person who  
28           was in attendance at a meeting of the committee shall be required to  
29           testify in any civil action as to any evidence or other matters produced  
30           or presented during the proceedings of the committee or as to any  
31           findings, recommendations, evaluations, opinions, or other actions of  
32           the committee or its members. However, information, documents, or  
33           records otherwise available are not immune from discovery or use in a  
34           civil action merely because they were presented during proceedings of  
35           the committee. A member of the committee or a person who testifies  
36           before the committee may be subpoenaed and be required to testify in  
37           a civil action as to the events that occurred but cannot be asked about  
38           his testimony before the committee for impeachment or other purposes  
39           or about any opinions formed as a result of the committee hearings."

40           Sec. 3. This act shall become effective October 1, 1990, and shall apply to  
41          proceedings conducted pursuant to this act on or after this date.