

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 1053  
SENATE BILL 423

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 produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee, and nothing herein shall prevent a provider of professional health services from using such otherwise available information, documents or records in connection with an administrative hearing or civil suit relating to the medical staff membership, clinical privileges or employment of the provider. A member of the committee or a person who testifies before the committee may be subpoenaed and be required to testify in a civil action as to events of which the person has knowledge independent of the peer review process, but cannot be asked about his testimony

before the committee for impeachment or other purposes or about any opinions formed as a result of the committee hearings."

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

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

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

- (1) A member of a duly appointed peer review 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) Proceedings of a peer review 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 produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee, and nothing herein shall prevent a provider of professional health services from using such otherwise available information, documents or records in connection with an administrative hearing or civil suit relating to the medical staff membership, clinical privileges or employment of the provider. A member of the committee or a person who testifies before the committee may be subpoenaed and be required to testify in a civil action as to events of which the person has knowledge independent of the peer review process, but cannot be asked about his testimony before the committee for impeachment or other purposes or about any opinions formed as a result of the committee hearings."

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

In the General Assembly read three times and ratified this the 28th day of July, 1990.