

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH50187-LR-62B (03/08)

Short Title: Discovery/Medical Peer Review.

(Public)

Sponsors: Representative Faison.

Referred to:

A BILL TO BE ENTITLED
AN ACT REPEALING THE PROHIBITION OF DISCOVERY IN CIVIL ACTIONS OF
INFORMATION OBTAINED IN PEER REVIEW PROCEEDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-95 reads as rewritten:

"§ 131E-95. Medical review committee.

(a) A member of a duly appointed medical 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.

(b) The proceedings of a medical review committee, the records and materials it produces ~~produces~~, and the materials it considers ~~shall be confidential and not considered~~ are not public records within the meaning of G.S. 132-1, " 'Public records' defined", ~~and shall not be~~ but are subject to discovery or introduction into evidence in any civil action against a hospital, an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. ~~No~~ A person who was in attendance at a meeting of the committee ~~shall~~ may 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 whenever the patient whose care is a subject of the medical review committee's consideration consents to that person's testimony. ~~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.~~ However, any confidential patient information acquired or used in good faith by the medical review committee shall remain confidential when the patient does not consent to disclosure and shall not be subject to discovery or subpoena in a civil action regarding a patient who does not consent in writing to the same. Documents otherwise available as public records within the meaning of G.S. 132-1 do not lose their status as public records merely because they were presented or considered during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action ~~but cannot~~ and may be asked about the person's testimony before the committee or any opinions formed as a result of the committee ~~hearings.~~ hearings other than testimony or opinions that would reveal confidential patient information when the patient has not consented to the same.



1 (b1) A patient who requests information related to the patient's own medical treatment
2 that was the subject of evaluation and review under this section has the right to receive that
3 information from the medical review committee and to use the same in any civil proceeding
4 without restriction.

5 (c) Information that is confidential and is not subject to discovery or use in civil actions
6 under this section may be released to a professional standards review organization that
7 performs any accreditation or certification including the Joint Commission on Accreditation of
8 Healthcare Organizations, or to a patient safety organization or its designated contractors.
9 Information released under this subsection shall be limited to that which is reasonably
10 necessary and relevant to the standards review organization's determination to grant or continue
11 accreditation or certification, or the patient safety organization's or its contractors' analysis of
12 patient safety and health care quality. Information released under this subsection retains its
13 confidentiality and is not subject to discovery or use in any civil actions as provided under this
14 section, and the standards review or patient safety organization shall keep the information
15 confidential subject to this section, except as necessary to carry out the organization's patient
16 safety, accreditation, or certification activities. For the purposes of this section, "patient safety
17 organization" means an entity that collects and analyzes patient safety or health care quality
18 data of providers for the purpose of improving patient safety and the quality of health care
19 delivery and includes, but is not limited to, an entity formed pursuant to Public Law No.
20 109-41."

21 **SECTION 2.** This act is effective when it becomes law and applies to civil actions
22 commenced on or after that date.