

An Act

ENROLLED SENATE
BILL NO. 1218

By: Standridge of the Senate

and

Cox of the House

An Act relating to public health; amending 63 O.S. 2011, Section 1-1709.1, as last amended by Section 3, Chapter 5, 1st Extraordinary Session, O.S.L. 2013 (63 O.S. Supp. 2013, Section 1-1709.1), which relates to peer review information; clarifying definitions; permitting certain entities to provide certain information to state agencies and boards; clarifying interpretation of certain provisions; prohibiting certain information from discovery in certain legal proceedings; and providing an effective date.

SUBJECT: Peer review information

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1709.1, as last amended by Section 3, Chapter 5, 1st Extraordinary Session, O.S.L. 2013 (63 O.S. Supp. 2013, Section 1-1709.1), is amended to read as follows:

Section 1-1709.1 A. As used in this section:

1. "Credentialing or recredentialing data" means:

- a. the application submitted by a health care professional requesting appointment or reappointment to the medical staff of a health care ~~facility~~ entity

or requesting clinical privileges or other permission to provide health care services at a health care ~~faeility~~ entity,

- b. any information submitted by the health care professional in support of such application,
- c. any information, unless otherwise privileged, obtained by the health care ~~faeility~~ entity during the credentialing or recredentialing process regarding such application, and
- d. the decision made by the health care ~~faeility~~ entity regarding such application;

2. "Credentialing or recredentialing process" means any process, program or proceeding utilized by a health care ~~faeility~~ entity to assess, review, study or evaluate the credentials of a health care professional;

3. "Health care ~~faeility~~ entity" means:

- a. any hospital or related institution offering or providing health care services under a license issued pursuant to Section 1-706 of this title,
- b. any ambulatory surgical center offering or providing health care services under a license issued pursuant to Section 2660 of this title, ~~and~~
- c. the clinical practices of accredited allopathic and osteopathic state medical schools, and
- d. any other entity directly involved in the delivery of health care services that engages in a credentialing or peer review process;

4. "Health care professional" means any person authorized to practice allopathic medicine and surgery, osteopathic medicine, podiatric medicine, optometry, chiropractic, psychology, dentistry or a dental specialty under a license issued pursuant to Title 59 of the Oklahoma Statutes;

5. "Peer review information" means all records, documents and other information generated during the course of a peer review process, including any reports, statements, memoranda, correspondence, record of proceedings, materials, opinions, findings, conclusions and recommendations, credentialing data and recredentialing data, but does not include:

- a. the medical records of a patient whose health care in a health care ~~facility~~ entity is being reviewed,
- b. incident reports and other like documents regarding health care services being reviewed, regardless of how the reports or documents are titled or captioned,
- c. the identity of any individuals who have personal knowledge regarding the facts and circumstances surrounding the patient's health care in the health care ~~facility~~ entity,
- d. factual statements regarding the patient's health care in the health care ~~facility~~ entity from any individuals who have personal knowledge regarding the facts and circumstances surrounding the patient's health care, which factual statements were generated outside the peer review process,
- e. the identity of all documents and raw data previously created elsewhere and considered during the peer review process, or
- f. copies of all documents and raw data previously created elsewhere and considered during the peer review process, whether available elsewhere or not; and

6. "Peer review process" means any process, program or proceeding, including a credentialing or recredentialing process, utilized by a health care ~~facility~~ entity or county medical society to assess, review, study or evaluate the credentials, competence, professional conduct or health care services of a health care professional.

B. 1. Peer review information shall be private, confidential and privileged except that a health care ~~facility~~ entity or county medical society shall be permitted to provide relevant peer review information to the state agency or board which licensed the health care professional who provided the health care services being reviewed in a peer review process or who is the subject of a credentialing or recredentialing process, with notice to the health care professional.

2. Nothing in this section shall be construed to abrogate, alter or affect any provision in the Oklahoma Statutes which provides that information regarding liability insurance of a health care ~~facility~~ entity or health care professional is not discoverable or admissible.

C. In any civil action in which a patient or patient's legal representative has alleged that the patient has suffered injuries resulting from negligence by a health care professional in providing health care services to the patient in a health care ~~facility~~ entity, factual statements, presented during a peer review process utilized by such health care ~~facility~~ entity, regarding the patient's health care in the health care ~~facility~~ entity from individuals who have personal knowledge of the facts and circumstances surrounding the patient's health care shall not be subject to discovery.

D. 1. In any civil action in which a patient or patient's legal representative has alleged that the health care ~~facility~~ entity was independently negligent as a result of permitting the health care professional to provide health care services to the patient in the health care ~~facility~~ entity, the credentialing and recredentialing data, and the recommendations made and action taken as a result of any peer review process utilized by such health care ~~facility~~ entity regarding the health care professional prior to the date of the alleged negligence shall be subject to discovery pursuant to the Oklahoma Discovery Code.

2. Any information discovered pursuant to this subsection:

- a. shall not be admissible as evidence until a judge or jury has first found the health care professional to

have been negligent in providing health care services to the patient in such health care ~~facility~~ entity, and

- b. shall not at any time include the identity or means by which to ascertain the identity of any other patient or health care professional.

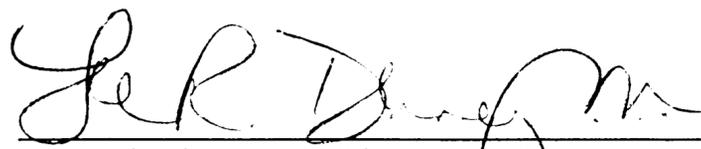
E. No person involved in a peer review process may be permitted or required to testify regarding the peer review process in any civil proceeding or disclose by responses to written discovery requests any peer review information.

SECTION 2. This act shall become effective November 1, 2014.

Passed the Senate the 7th day of May, 2014.


Presiding Officer of the Senate

Passed the House of Representatives the 14th day of April, 2014.

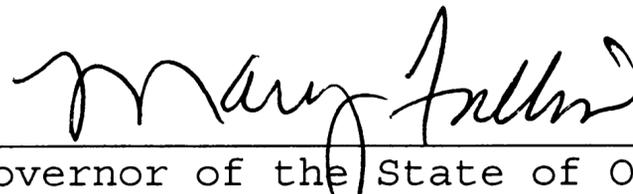

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 8th
day of May, 20 14, at 2:00 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 13th
day of May, 20 14, at 3:32 o'clock P M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 13th
day of May, 20 14, at 4:07 o'clock P M.

By: Chris Benze