

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 1443

6 By: Boyd, Adair, Adkins, Askins,
7 Beutler, Blackburn, Bryant,
8 Coleman, Case, Calvey, Claunch,
9 Covey, Dank, Deutschendorf,
10 Dunegan, Eddins, Fields, Gilbert,
11 Glover, Gray, Hefner, Hutchison,
12 Kirby, Langmacher, Maddux,
13 Matlock, McCarter, Miller,
14 Mitchell, Morgan, Nations, Nance,
15 Ostrander, Paulk, Perry,
16 Pettigrew, Phillips, Pope (Clay),
17 Pope (Tim), Reese, Rice, Roggow,
18 Sellers, Smith (Hopper), Sullivan
(John), Sullivan (Leonard),
19 Taylor, Thomas, Thornbrugh,
20 Tyler, Weaver, Webb, Wilt,
21 Worthen, Begley and Turner of the
22 House

23 and

24 Morgan, Brown, Campbell,
25 Crutchfield, Douglass, Dunlap,
26 Fisher, Ford, Harrison, Helton,
27 Henry, Herbert, Hobson, Horner,
28 Kerr, Leftwich, Littlefield,
29 Long, Milacek, Price, Robinson,
30 Shurden, Snyder, Wilkerson and
31 Williams of the Senate

32 CONFERENCE COMMITTEE SUBSTITUTE

33 An Act relating to peer review; defining terms;
34 requiring confidentiality of peer review information;
35 providing exceptions; making certain peer review
36 information subject to discovery; requiring certain
37 showings; specifying certain civil actions in which
38 peer review information may be discovered; providing
39 for discovery of certain information; providing for
40 construction of act; providing for certain admissible
41 and nonadmissible information; requiring
42 confidentiality of certain identities or means of
43 identification; prohibiting certain persons from
44 testifying about certain peer review processes or
45 disclosing certain peer review information; providing
46 for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1709.1 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in this section:

5 1. "Credentialing data" means:

- 6 a. the application submitted by a health care
7 professional requesting appointment or reappointment
8 to the medical staff of a health care facility or
9 requesting clinical privileges or other permission to
10 provide health care services at a health care
11 facility,
- 12 b. any information submitted by the health care
13 professional in support of such application,
- 14 c. any information, unless otherwise privileged, obtained
15 by the health care facility during the credentialing
16 process regarding such application, and
- 17 d. the decision made by the health care facility
18 regarding such application;

19 2. "Credentialing process" means any process, program or
20 proceeding utilized by a health care facility to assess, review,
21 study or evaluate the credentials of a health care professional;

22 3. "Health care facility" means:

- 23 a. any hospital or related institution offering or
24 providing health care services under a license issued
25 pursuant to Section 1-706 of Title 63 of the Oklahoma
26 Statutes, and
- 27 b. any ambulatory surgical center offering or providing
28 health care services under a license issued pursuant
29 to Section 2660 of Title 63 of the Oklahoma Statutes;

30 4. "Health care professional" means any person authorized to
31 practice allopathic medicine and surgery, osteopathic medicine,
32 podiatric medicine, optometry, chiropractic, psychology, dentistry

1 or a dental specialty under a license issued pursuant to Title 59 of
2 the Oklahoma Statutes;

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

- 8 a. the medical records of a patient whose health care in
9 a health care facility is being reviewed,
- 10 b. incident reports and other like documents regarding
11 health care services being reviewed, regardless of how
12 the reports or documents are titled or captioned,
- 13 c. the identity of any individuals who have personal
14 knowledge regarding the facts and circumstances
15 surrounding the patient's health care in the health
16 care facility,
- 17 d. factual statements regarding the patient's health care
18 in the health care facility from any individuals who
19 have personal knowledge regarding the facts and
20 circumstances surrounding the patient's health care,
21 which factual statements were generated outside the
22 peer review process,
- 23 e. the identity of all documents and raw data previously
24 created elsewhere and considered during the peer
25 review process,
- 26 f. copies of all documents and raw data previously
27 created elsewhere and considered during the peer
28 review process, whether available elsewhere or not, or
- 29 g. credentialing data regarding the health care
30 professional who provided the health care services
31 being reviewed or who is the subject of a
32 credentialing process; and

1 6. "Peer review process" means any process, program or
2 proceeding, including a credentialing process, utilized by a health
3 care facility to assess, review, study or evaluate the credentials,
4 competence, professional conduct or health care services of a health
5 care professional.

6 B. 1. Peer review information shall be private, confidential
7 and privileged:

8 a. except that a health care facility shall be permitted
9 to provide relevant peer review information to the
10 state agency or board which licensed the health care
11 professional who provided the health care services
12 being reviewed in a peer review process or who is the
13 subject of a credentialing process, with notice to the
14 health care professional, and

15 b. except as provided in subsections C and D of this
16 section.

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

21 C. In any civil action in which a patient or patient's legal
22 representative has alleged that the patient has suffered injuries
23 resulting from negligence by a health care professional in providing
24 health care services to the patient in a health care facility,
25 factual statements, presented during a peer review process utilized
26 by such health care facility, regarding the patient's health care in
27 the health care facility from individuals who have personal
28 knowledge of the facts and circumstances surrounding the patient's
29 health care shall be subject to discovery, pursuant to the Oklahoma
30 Discovery Code, upon an affirmative showing that such statements are
31 not otherwise available in any other manner.
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1 D. 1. In any civil action in which a patient or patient's
2 legal representative has alleged:

3 a. that the patient has suffered injuries resulting from
4 negligence by a health care professional in providing
5 health care services to the patient in a health care
6 facility, or

7 b. that the health care facility was independently
8 negligent as a result of permitting the health care
9 professional to provide health care services to the
10 patient in the health care facility,

11 the recommendations made and action taken as a result of any peer
12 review process utilized by such health care facility regarding the
13 health care professional prior to the date of the alleged negligence
14 shall be subject to discovery pursuant to the Oklahoma Discovery
15 Code.

16 2. Any information discovered pursuant to this subsection D:

17 a. shall not be admissible as evidence until a judge or
18 jury has found the health care professional to have
19 been negligent in providing health care services to
20 the patient in such health care facility, and

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

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

28 SECTION 2. This act shall become effective November 1, 1999.

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30 47-1-7093 KSM 6/11/15
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