

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. \_\_\_\_\_ 529

By: Campbell

AS INTRODUCED

An Act relating to health care; creating the Oklahoma Health Care Quality Assurance Act and providing short title; defining terms; providing for confidentiality of certain records; prohibiting disclosure of certain proceedings and records; providing immunity for certain persons and organizations; requiring confidentiality; providing penalty for disclosure of certain records; repealing 63 O.S. 1991, Section 1-1709, which relates to certain authorized releases of patient information; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2670 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Health Care Quality Assurance Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2670.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Health care provider" means individuals or organizations which are approved, licensed, or otherwise regulated to practice or operate in the health care field under the laws of this state, including, but not limited to, the following individuals or organizations: medical doctors, doctors of osteopathy, dentists, podiatrists, chiropractors, optometrists, psychologists, pharmacists, registered or practical nurses, physical therapists,

ambulatory care facilities, long-term care facilities, physicians' offices, health maintenance organizations, preferred provider organizations, and independent practice associations;

2. "Peer review" means all procedures by which quality assurance committees evaluate the quality and efficiency of services ordered or performed by other professional health care providers, including, but not limited to, practice analysis, inpatient hospital and extended care facility utilization review, all credentialing processes, medical audit, ambulatory care review, claims review, underwriting assistance, and the compliance of a health care provider with the standards set by an association of health care providers and with applicable laws, rules, and regulations;

3. "Professional society" means any association or other organization of persons engaged in the same profession or occupation, or specifically within a profession or occupation, a primary purpose of which is to maintain the professional standards of the persons engaged in its profession on practice specialty;

4. "Quality assurance committee" means any committee organized pursuant to bylaws whose purpose is to evaluate and improve the quality of health care rendered, reduce morbidity and mortality, and act as a professional standards review organization by means of a peer review process. The term "quality assurance committee" is synonymous with the term "peer review committee". A majority of the membership of a quality assurance committee shall be health care providers. Quality assurance committees established by any of the following organizations, entities, or professional societies shall be approved quality assurance committees under this act if they operate pursuant to the organization's bylaws, policies, or procedures:

- a. the medical staff of a hospital licensed in Oklahoma,
- b. the medical staff of a hospital-related corporation.

For the purposes of this subparagraph, a corporation

is "hospital-related" if the licensed or certified hospital or holding company of the hospital has ownership or control of the corporation,

- c. a society or association of physicians, including, but not limited to, the Oklahoma State Medical Association or any committee or allied society thereof, the American Medical Association, or other national organization approved by the State Board of Health, or any committee or allied society thereof,
- d. an individual practice association or a preferred provider organization or a medical group which predominantly serves the members of a health maintenance organization,
- e. a corporation authorized to insure health care providers in this state,
- f. a peer review committee established or created by a combination of any of the organizations authorized by this act to have a professional review committee, and
- g. any committee or medical staff of a health care provider, as defined in this section; and

5. "Quality assurance records" shall include all information, interviews, reports, statements, incident reports, memoranda, or other data furnished to a quality assurance committee and any findings or conclusions of a quality assurance committee.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2670.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Quality assurance records shall not be public records available for court subpoena or discovery proceedings.

B. All quality assurance records, information, interviews, reports, statements, incident reports, memoranda, or any other data furnished to a quality assurance committee and any findings or

conclusions resulting from quality assurance committee studies and the identity or testimony of quality assurance committee members or witnesses testifying before a quality assurance committee are declared to be privileged communications which are not discoverable and which may not be used or offered or received into evidence in any legal proceeding of any kind or character and any use, attempt to use, or offer of such information shall constitute prejudicial error in a proceeding.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2670.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A person who reviews or creates quality assurance records for the use by a quality assurance committee, as defined by Section 2 of this act, or who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any civil or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by a person or committee in connection with the records.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2670.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A person is not liable for damages or other relief in consequence of actions or decisions of a quality assurance committee or participation therein, who:

1. Provides information to a quality assurance committee;
2. Is a member or employee of a quality assurance committee;
3. Acts in an advisory capacity to a quality assurance committee; or
4. Furnishes counsel to a quality assurance committee.

B. A professional society establishing a quality assurance committee, its officers, directors, employees, and agents are not liable for the activities of a quality assurance committee.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2670.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

The identity of any person associated with a quality assurance committee's activities shall be confidential and may not be disclosed.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2670.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any person who willfully discloses a quality assurance record other than as required by law shall be guilty, upon conviction, of a misdemeanor punishable by a fine in the amount of Five Thousand Dollars (\$5,000.00).

SECTION 8. REPEALER 63 O.S. 1991, Section 1-1709, is hereby repealed.

SECTION 9. This act shall become effective November 1, 1999.

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