

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1218 By: Standridge of the Senate  
3 and  
4 Cox of the House  
5  
6

7 An Act relating to public health; amending 63 O.S.  
8 2011, Section 1-1709.1, as last amended by Section 3,  
9 Chapter 5, 1st Extraordinary Session O.S.L. 2013, (63  
10 O.S. Supp. 2013, Section 1-1709.1), which relates to  
11 peer review information; clarifying definitions;  
12 permitting certain entities to provide certain  
13 information to state agencies and boards; clarifying  
14 interpretation of certain provisions; prohibiting  
15 certain information from discovery in certain legal  
16 proceedings; and providing an effective date.

17 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
18 and insert

19 "An Act relating to public health; amending 63 O.S.  
20 2011, Section 1-1709.1, as last amended by Section  
21 3, Chapter 5, 1st Extraordinary Session, O.S.L. 2013  
22 (63 O.S. Supp. 2013, Section 1-1709.1), which  
23 relates to peer review information; clarifying  
24 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.

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

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

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

6 1. "Credentialing or recredentialing data" means:

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

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

1 3. "Health care ~~facility~~ entity" means:

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

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

18 5. "Peer review information" means all records, documents and  
19 other information generated during the course of a peer review  
20 process, including any reports, statements, memoranda,  
21 correspondence, record of proceedings, materials, opinions,  
22 findings, conclusions and recommendations, credentialing data and  
23 recredentialing data, but does not include:  
24

- 1 a. the medical records of a patient whose health care in  
2 a health care ~~facility~~ entity is being reviewed,  
3 b. incident reports and other like documents regarding  
4 health care services being reviewed, regardless of how  
5 the reports or documents are titled or captioned,  
6 c. the identity of any individuals who have personal  
7 knowledge regarding the facts and circumstances  
8 surrounding the patient's health care in the health  
9 care ~~facility~~ entity,  
10 d. factual statements regarding the patient's health care  
11 in the health care ~~facility~~ entity from any  
12 individuals who have personal knowledge regarding the  
13 facts and circumstances surrounding the patient's  
14 health care, which factual statements were generated  
15 outside the peer review process,  
16 e. the identity of all documents and raw data previously  
17 created elsewhere and considered during the peer  
18 review process, or  
19 f. copies of all documents and raw data previously  
20 created elsewhere and considered during the peer  
21 review process, whether available elsewhere or not;  
22 and

23 6. "Peer review process" means any process, program or  
24 proceeding, including a credentialing or recredentialing process,

1 utilized by a health care ~~facility~~ entity or county medical society  
2 to assess, review, study or evaluate the credentials, competence,  
3 professional conduct or health care services of a health care  
4 professional.

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

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

18 C. In any civil action in which a patient or patient's legal  
19 representative has alleged that the patient has suffered injuries  
20 resulting from negligence by a health care professional in providing  
21 health care services to the patient in a health care ~~facility~~  
22 entity, factual statements, presented during a peer review process  
23 utilized by such health care ~~facility~~ entity, regarding the  
24 patient's health care in the health care ~~facility~~ entity from

1 individuals who have personal knowledge of the facts and  
2 circumstances surrounding the patient's health care shall not be  
3 subject to discovery.

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

14 2. Any information discovered pursuant to this subsection:

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

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

23 E. No person involved in a peer review process may be permitted  
24 or required to testify regarding the peer review process in any

1 civil proceeding or disclose by responses to written discovery  
2 requests any peer review information.

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

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

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7 \_\_\_\_\_  
8 Presiding Officer of the House of  
Representatives

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9 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2014.

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