

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1218

By: Standridge of the Senate

and

Cox of the House

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9 COMMITTEE SUBSTITUTE

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

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

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

24 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

1 to the medical staff of a health care ~~facility~~ entity  
2 or requesting clinical privileges or other permission  
3 to provide health care services at a health care  
4 ~~facility~~ entity,

5 b. any information submitted by the health care  
6 professional in support of such application,

7 c. any information, unless otherwise privileged, obtained  
8 by the health care ~~facility~~ entity during the  
9 credentialing or recredentialing process regarding  
10 such application, and

11 d. the decision made by the health care ~~facility~~ entity  
12 regarding such application;

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

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

18 a. any hospital or related institution offering or  
19 providing health care services under a license issued  
20 pursuant to Section 1-706 of this title,

21 b. any ambulatory surgical center offering or providing  
22 health care services under a license issued pursuant  
23 to Section 2660 of this title, ~~and~~

- 1 c. the clinical practices of accredited allopathic and  
2 osteopathic state medical schools, and  
3 d. any other entity that engages in a credentialing or  
4 peer review process;

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

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

- 16 a. the medical records of a patient whose health care in  
17 a health care ~~facility~~ entity is being reviewed,  
18 b. incident reports and other like documents regarding  
19 health care services being reviewed, regardless of how  
20 the reports or documents are titled or captioned,  
21 c. the identity of any individuals who have personal  
22 knowledge regarding the facts and circumstances  
23 surrounding the patient's health care in the health  
24 care ~~facility~~ entity,

- 1           d. factual statements regarding the patient's health care  
2           in the health care ~~facility~~ entity from any  
3           individuals who have personal knowledge regarding the  
4           facts and circumstances surrounding the patient's  
5           health care, which factual statements were generated  
6           outside the peer review process,
- 7           e. the identity of all documents and raw data previously  
8           created elsewhere and considered during the peer  
9           review process, or
- 10          f. copies of all documents and raw data previously  
11          created elsewhere and considered during the peer  
12          review process, whether available elsewhere or not;  
13          and

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

20          B. 1. Peer review information shall be private, confidential  
21 and privileged except that a health care ~~facility~~ entity or county  
22 medical society shall be permitted to provide relevant peer review  
23 information to the state agency or board which licensed the health  
24 care professional who provided the health care services being

1 reviewed in a peer review process or who is the subject of a  
2 credentialing or recredentialing process, with notice to the health  
3 care professional.

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

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

19 D. 1. In any civil action in which a patient or patient's  
20 legal representative has alleged that the health care ~~facility~~  
21 entity was independently negligent as a result of permitting the  
22 health care professional to provide health care services to the  
23 patient in the health care ~~facility~~ entity, the credentialing and  
24 recredentialing data, and the recommendations made and action taken

1 as a result of any peer review process utilized by such health care  
2 ~~facility~~ entity regarding the health care professional prior to the  
3 date of the alleged negligence shall be subject to discovery  
4 pursuant to the Oklahoma Discovery Code.

5 2. Any information discovered pursuant to this subsection:

6 a. shall not be admissible as evidence until a judge or  
7 jury has first found the health care professional to  
8 have been negligent in providing health care services  
9 to the patient in such health care ~~facility~~ entity,  
10 and

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

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

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

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