

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 54th Legislature (2014)

4   COMMITTEE SUBSTITUTE  
5   FOR ENGROSSED  
6   SENATE BILL NO. 1218

By: Standridge of the Senate

and

Cox of the House

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

1 1. "Credentialing or recredentialing data" means:

2 a. the application submitted by a health care  
3 professional requesting appointment or reappointment  
4 to the medical staff of a health care ~~facility~~ entity  
5 or requesting clinical privileges or other permission  
6 to provide health care services at a health care  
7 ~~facility~~ entity,

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

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

14 d. the decision made by the health care ~~facility~~ entity  
15 regarding such application;

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

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

21 a. any hospital or related institution offering or  
22 providing health care services under a license issued  
23 pursuant to Section 1-706 of this title,  
24

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

4           c. the clinical practices of accredited allopathic and  
5 osteopathic state medical schools, and

6           d. any other entity directly involved in the delivery of  
7 health care services that engages in a credentialing  
8 or peer review process;

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

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

20           a. the medical records of a patient whose health care in  
21 a health care ~~facility~~ entity is being reviewed,

22           b. incident reports and other like documents regarding  
23 health care services being reviewed, regardless of how  
24 the reports or documents are titled or captioned,

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

18 6. "Peer review process" means any process, program or  
19 proceeding, including a credentialing or recredentialing process,  
20 utilized by a health care ~~facility~~ entity or county medical society  
21 to assess, review, study or evaluate the credentials, competence,  
22 professional conduct or health care services of a health care  
23 professional.  
24

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

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

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

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

11 2. Any information discovered pursuant to this subsection:

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

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

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

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

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3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/02/2014 - DO  
4 PASS, As Amended.  
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