

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3199

By: Stark and **Newton** of the
House

5
6 and

7 **Haste** of the Senate

8
9 AS INTRODUCED

10 An Act relating to public health and safety; amending
11 63 O.S. 2021, Section 1-1709.1, which relates to peer
12 review; adding to the health care professionals
13 definition; and providing an effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1709.1, is
16 amended to read as follows:

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

18 1. "Credentialing or recredentialing data" means:

19 a. the application submitted by a health care
20 professional requesting appointment or reappointment
21 to the medical staff of a health care entity or
22 requesting clinical privileges or other permission to
23 provide health care services at a health care entity,
24

- b. any information submitted by the health care professional in support of such application,
- c. any information, unless otherwise privileged, obtained by the health care entity during the credentialing or recredentialing process regarding such application, and
- d. the decision made by the health care entity regarding such application;

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

3. "Health care entity" means:

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

1 4. "Health care professional" means any person authorized to
2 practice allopathic medicine and surgery, osteopathic medicine,
3 podiatric medicine, optometry, chiropractic, psychology, dentistry,
4 ~~or~~ a dental specialty, a physician assistant, or an advanced
5 practice registered nurse under a license issued pursuant to Title
6 59 of the Oklahoma Statutes;

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

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

1 circumstances surrounding the patient's health care,
2 which factual statements were generated outside the
3 peer review process,

4 e. the identity of all documents and raw data previously
5 created elsewhere and considered during the peer
6 review process, or

7 f. copies of all documents and raw data previously
8 created elsewhere and considered during the peer
9 review process, whether available elsewhere or not;
10 and

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

17 B. 1. Peer review information shall be private, confidential
18 and privileged except that a health care entity or county medical
19 society shall be permitted to provide relevant peer review
20 information to the state agency or board which licensed the health
21 care professional who provided the health care services being
22 reviewed in a peer review process or who is the subject of a
23 credentialing or recredentialing process, with notice to the health
24 care professional.

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

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

15 D. 1. In any civil action in which a patient or patient's
16 legal representative has alleged that the health care entity was
17 independently negligent as a result of permitting the health care
18 professional to provide health care services to the patient in the
19 health care entity, the credentialing and recredentialing data, and
20 the recommendations made and action taken as a result of any peer
21 review process utilized by such health care entity regarding the
22 health care professional prior to the date of the alleged negligence
23 shall be subject to discovery pursuant to the Oklahoma Discovery
24 Code.

1 2. Any information discovered pursuant to this subsection:

2 a. shall not be admissible as evidence until a judge or
3 jury has first found the health care professional to
4 have been negligent in providing health care services
5 to the patient in such health care entity, and

6 b. shall not at any time include the identity or means by
7 which to ascertain the identity of any other patient
8 or health care professional.

9 E. No person involved in a peer review process may be permitted
10 or required to testify regarding the peer review process in any
11 civil proceeding or disclose by responses to written discovery
12 requests any peer review information.

13 SECTION 2. This act shall become effective November 1, 2024.

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15 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/28/2024 -
16 DO PASS, As Coauthored.