

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3199

By: Newton

AS INTRODUCED

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

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

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

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 to the medical staff of a health care entity or requesting clinical privileges or other permission to provide health care services at a health care entity,
- 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

1                   recredentialing process regarding such application,  
2                   and

3           d.    the decision made by the health care entity regarding  
4                such application;

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

9           3.   "Health care entity" means:

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

13          b.   any ambulatory surgical center offering or providing  
14               health care services under a license issued pursuant  
15               to Section 2660 of this title,

16          c.   the clinical practices of accredited allopathic and  
17               osteopathic state medical schools, and

18          d.   any other entity directly involved in the delivery of  
19               health care services that engages in a credentialing  
20               or peer review process;

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

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

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

1 e. the identity of all documents and raw data previously  
2 created elsewhere and considered during the peer  
3 review process, or

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

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

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

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

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

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

22 2. Any information discovered pursuant to this subsection:

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

3           b.   shall not at any time include the identity or means by  
4           which to ascertain the identity of any other patient  
5           or health care professional.

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

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

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