

FIRST REGULAR SESSION

SENATE BILL NO. 107

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

1276S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 190.245 and 537.035, RSMo, and to enact in lieu thereof two new sections relating to peer review committees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 190.245 and 537.035, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 190.245 and 537.035, to read as follows:

190.245. **1.** Failure of a hospital to provide all
2 medical records and quality improvement documentation
3 necessary for the department to implement provisions of
4 sections 190.241 to 190.245 shall result in the revocation
5 of the hospital's designation as a trauma center, STEMI
6 center, or stroke center. Any medical records obtained by
7 the department shall be used only for purposes of
8 implementing the provisions of sections 190.241 to 190.245
9 and the names of hospitals, physicians and patients shall
10 not be released by the department or members of review teams.

**2. Any person licensed under sections 190.001 to
12 190.245 shall be considered a health care professional for
13 purposes of section 537.035, and any quality improvement or
14 quality assurance activity required under sections 190.001
15 to 190.245 shall be considered an activity of a peer review
16 committee for purposes of section 537.035.**

537.035. 1. As used in this section, unless the context clearly indicates otherwise, the following words and terms shall have the meanings indicated:

(1) "Health care professional", a physician or surgeon licensed under the provisions of chapter 334, or a dentist licensed under the provisions of chapter 332, or a podiatrist licensed under the provisions of chapter 330, or an optometrist licensed under the provisions of chapter 336, or a pharmacist licensed under the provisions of chapter 338, or a chiropractor licensed under the provisions of chapter 331, or a psychologist licensed under the provisions of chapter 337, or a nurse licensed under the provisions of chapter 335, **or a physician assistant licensed under the provisions of chapter 334, or a person licensed under the provisions of sections 190.001 to 190.245**, or a social worker licensed under the provisions of chapter 337, or a professional counselor licensed under the provisions of chapter 337, or a mental health professional as defined in section 632.005, while acting within their scope of practice;

(2) "Peer review committee", a committee of health care professionals with the responsibility to evaluate, maintain, or monitor the quality and utilization of health care services or to exercise any combination of such responsibilities.

2. A peer review committee may be constituted as follows:

(1) Comprised of, and appointed by, a state, county or local society of health care professionals;

(2) Comprised of, and appointed by, the partners, shareholders, or employed health care professionals of a partnership or professional corporation of health care professionals, or employed health care professionals of a

33 university or an entity affiliated with a university
34 operating under chapter 172, 174, 352, or 355;

35 (3) Appointed by the board of trustees, chief
36 executive officer, or the organized medical staff of a
37 licensed hospital, or other health facility operating under
38 constitutional or statutory authority, including long-term
39 care facilities licensed under chapter 198, or an
40 administrative entity of the department of mental health
41 recognized pursuant to the provisions of subdivision (3) of
42 subsection 1 of section 630.407;

43 (4) Any other organization formed pursuant to state or
44 federal law authorized to exercise the responsibilities of a
45 peer review committee and acting within the scope of such
46 authorization;

47 (5) Appointed by the board of directors, chief
48 executive officer or the medical director of the licensed
49 health maintenance organization.

50 3. Each member of a peer review committee and each
51 person, hospital governing board, health maintenance
52 organization board of directors, and chief executive officer
53 of a licensed hospital or other hospital operating under
54 constitutional or statutory authority, chief executive
55 officer or medical director of a licensed health maintenance
56 organization who testifies before, or provides information
57 to, acts upon the recommendation of, or otherwise
58 participates in the operation of, such a committee shall be
59 immune from civil liability for such acts so long as the
60 acts are performed in good faith, without malice and are
61 reasonably related to the scope of inquiry of the peer
62 review committee.

63 4. Except as otherwise provided in this section, the
64 interviews, memoranda, proceedings, findings, deliberations,

65 reports, and minutes of peer review committees, or the
66 existence of the same, concerning the health care provided
67 any patient are privileged and shall not be subject to
68 discovery, subpoena, or other means of legal compulsion for
69 their release to any person or entity or be admissible into
70 evidence in any judicial or administrative action for
71 failure to provide appropriate care. Except as otherwise
72 provided in this section, no person who was in attendance at
73 any peer review committee proceeding shall be permitted or
74 required to disclose any information acquired in connection
75 with or in the course of such proceeding, or to disclose any
76 opinion, recommendation, or evaluation of the committee or
77 board, or any member thereof; provided, however, that
78 information otherwise discoverable or admissible from
79 original sources is not to be construed as immune from
80 discovery or use in any proceeding merely because it was
81 presented during proceedings before a peer review committee
82 nor is a member, employee, or agent of such committee, or
83 other person appearing before it, to be prevented from
84 testifying as to matters within his personal knowledge and
85 in accordance with the other provisions of this section, but
86 such witness cannot be questioned about testimony or other
87 proceedings before any health care review committee or board
88 or about opinions formed as a result of such committee
89 hearings. The disclosure of any interview, memoranda,
90 proceedings, findings, deliberations, reports, or minutes to
91 any person or entity, including but not limited to
92 governmental agencies, professional accrediting agencies, or
93 other health care providers, whether proper or improper,
94 shall not waive or have any effect upon its confidentiality,
95 nondiscoverability, or nonadmissibility.

96 5. The provisions of subsection 4 of this section
97 limiting discovery and admissibility of testimony as well as
98 the proceedings, findings, records, and minutes of peer
99 review committees do not apply in any judicial or
100 administrative action brought by a peer review committee or
101 the legal entity which formed or within which such committee
102 operates to deny, restrict, or revoke the hospital staff
103 privileges or license to practice of a physician or other
104 health care providers; or when a member, employee, or agent
105 of the peer review committee or the legal entity which
106 formed such committee or within which such committee
107 operates is sued for actions taken by such committee which
108 operate to deny, restrict or revoke the hospital staff
109 privileges or license to practice of a physician or other
110 health care provider.

111 6. Nothing in this section shall limit authority
112 otherwise provided by law of a health care licensing board
113 of the state of Missouri to obtain information by subpoena
114 or other authorized process from peer review committees or
115 to require disclosure of otherwise confidential information
116 relating to matters and investigations within the
117 jurisdiction of such health care licensing boards.

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