

A Bill for an Act Relating to Patient Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Institute of Medicine estimated in 1999 that medical errors contribute to between forty-four thousand and ninety-eight thousand deaths per year in hospitals. "Peer review" was established as a mechanism to reduce medical errors by enabling medical staff to review cases and make necessary changes. It is critical that information obtained in peer review be protected from discovery in civil actions. Otherwise, participants may be reluctant to freely exchange information for fear of reprisal, thereby hampering improvements to the system.

Section 624-25.5, Hawaii Revised Statutes, protects the proceedings and the records of peer review committees and quality assurance committees from discovery. However, it does not effectively protect other information obtained in peer review from discovery.

The purpose of this Act is to support systemic improvements to the health care system that increase patient safety by including "case review forums" in the list of proceedings protected from discovery.

SECTION 2. Section 624-25.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) As used in this section:

"Case review forum" means any meeting convened by the administrative or professional staff of a licensed hospital or clinic for the presentation and critique of cases for educational purposes.

"Health care review organization" means any organization that gathers and reviews information relating to the procedures and outcomes of health care providers and the care and treatment of patients for the purposes of evaluating and improving quality and efficiency of health care.

"Licensed health maintenance organization" means a health maintenance organization licensed in Hawaii under chapter 432D.

"Peer review committee" means a committee created by a professional society, or by the medical, dental, optometric, or administrative staff of a licensed hospital, clinic, health maintenance organization, preferred provider organization, or preferred provider network, whose function is to maintain the professional standards of persons engaged in its profession, occupation, specialty, or practice established by the bylaws of the society, hospital, clinic, health maintenance organization, preferred provider organization, or preferred provider network of the persons engaged in its profession or occupation, or area of specialty practice, or in its hospital, clinic, health maintenance organization, preferred provider organization, or preferred provider network.

"Preferred provider organization" or "preferred provider network" means a partnership, association, corporation, or other entity that delivers or arranges for the delivery of health services, and that has entered into a written service arrangement or arrangements with health professionals, a majority of whom are licensed to practice medicine or osteopathy.

“Professional society” or “society” means any association or other organization of persons engaged in the same profession, occupation, or a ~~[speciality]~~ specialty within a profession or occupation, a primary purpose of which is to maintain the professional standards of the persons engaged in its profession or occupation or specialty practice.

“Quality assurance committee” means an interdisciplinary committee established by the board of trustees or administrative staff of a licensed hospital, clinic, long-term care facility, skilled nursing facility, assisted living facility, home care agency, hospice, health maintenance organization, preferred provider organization, or preferred provider network providing medical, dental, or optometric care, whose function is to monitor and evaluate patient care, to identify, study, and correct deficiencies in the health care delivery system to reduce the risk of harm to patients and improve patient safety or otherwise improve the quality of care delivered to patients~~[-and to convene meetings for the presentation and critique of cases for educational purposes].~~

(b) Neither the proceedings nor the records of peer review committees, ~~[or] quality assurance committees, or case review forums~~ shall be subject to discovery. For the purposes of this section, “records of quality assurance committees” are limited to recordings, transcripts, minutes, summaries, and reports of committee meetings and conclusions contained therein. Information protected shall not include incident reports, occurrence reports, or similar reports that state facts concerning a specific situation, or records made in the regular course of business by a hospital or other provider of health care. Original sources of information, documents, or records shall not be construed as being immune from discovery or use in any civil proceeding merely because they were presented to, or prepared at the direction of, the committees. Except as hereinafter provided, no person in attendance at a meeting of ~~[the] a committee or case review forum~~ shall be required to testify as to what transpired at the meeting. The prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at the meeting who is a party to an action or proceeding the subject matter of which was reviewed at the meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 2005.)