

A Bill for an Act Relating to Trauma.

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

SECTION 1. The legislature has recognized that in Hawaii, injury is the leading cause of death for persons between the ages of one to forty-four, and, therefore, the improvement of trauma care in Hawaii is a public health priority.

By Act 305, Session Laws of Hawaii 2006, the department of health was charged with the continuing development and operation of a comprehensive statewide trauma system to save lives and improve outcomes of injured patients. To improve patient care, a comprehensive trauma system requires the systematic review of information related to patient care and system performance by all parties involved, in a protected environment that supports participation and frank discussion. The importance of protecting peer review and quality assurance of health care provided is recognized in Hawaii by statute in section 624-25.5, Hawaii Revised Statutes. The department of health's child death review is also protected under sections 321-341 and 321-345, Hawaii Revised Statutes.

The purpose of this measure is to establish that statewide emergency and trauma system multidisciplinary quality assurance subcommittees convened and conducted by the department of health for the purposes of making system improvements, have similar protections as those committees formed by hospitals and health maintenance organizations.

SECTION 2. Section 624-25.5, Hawaii Revised Statutes, is amended to read as follows:

**"§624-25.5 Proceedings and records of peer review committees and quality assurance committees.** (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 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, or an authorized state agency 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.

(b) The department of health may establish quality assurance committees for the purpose of monitoring, improving, and evaluating patient care within the statewide trauma care systems. The proceedings of quality assurance committees authorized under this subsection shall not be subject to part I of chapter 92, and, for purposes of chapter 92F, the records of the proceedings shall be confidential.

~~[(b)]~~ (c) Neither the proceedings nor the records of peer review committees, 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 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.

~~[(e)]~~ (d) Information and data relating to a medical error reporting system that is compiled and submitted by a medical provider to a health care review organization for the purpose of evaluating and improving the quality and efficiency of health care, when done through a peer review committee or hospital quality assurance committee, shall not be subject to discovery.

For purposes of this subsection, the information and data protected shall include proceedings and records of a peer review committee, hospital quality assurance committee, or health care review organization that include recordings, transcripts, minutes, and summaries of meetings, conversations, notes, materials, or reports created for, by, or at the direction of a peer review committee, quality assurance committee, or a health care review organization when related to a medical error reporting system.

Information and data protected from discovery shall not include incident reports, occurrence reports, statements, or similar reports that state facts concerning a specific situation and shall not include records made in the regu-

lar course of business by a hospital or other provider of health care, including patient medical records. 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 reviewed or considered by a medical provider for submission to, or were in fact submitted to, a health care review organization.

~~[(d)]~~ (e) The prohibitions contained in this section shall not apply to medical, dental, or optometric society committees that exceed ten per cent of the membership of the society, nor to any committee if any person serves upon the committee when the person's own conduct or practice is being reviewed.

~~[(e)]~~ (f) The prohibitions contained in this section shall apply to investigations and discovery conducted by the Hawaii medical board, except as required by ~~[sections]~~ section 92-17, 453-8.7, or 663-1.7(e).”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 2010.)