

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1248

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Section A. Sections 190.245 and 537.035, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 190.245 and 537.035, to read as follows:

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

2. Any person licensed under sections 190.001 to 190.245 shall be considered a health care professional for purposes of section 537.035, and any quality improvement or quality assurance activity required under sections 190.001 to 190.245 shall be considered an activity of a peer review 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 university or an entity affiliated with a university operating under chapter 172, 174, 352, or 355;

(3) Appointed by the board of trustees, chief executive officer, or the organized medical staff of a licensed hospital, or other health facility operating under constitutional or statutory authority, including long-term

care facilities licensed under chapter 198, or an administrative entity of the department of mental health recognized pursuant to the provisions of subdivision (3) of subsection 1 of section 630.407;

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

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

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

4. Except as otherwise provided in this section, the interviews, memoranda, proceedings, findings, deliberations, reports, and minutes of peer review committees, or the existence of the same, concerning the health care provided any patient are privileged and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity or be admissible into evidence in any judicial or administrative action for failure to provide appropriate care. Except as otherwise

provided in this section, no person who was in attendance at any peer review committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding, or to disclose any opinion, recommendation, or evaluation of the committee or board, or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before a peer review committee nor is a member, employee, or agent of such committee, or other person appearing before it, to be prevented from testifying as to matters within his personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about testimony or other proceedings before any health care review committee or board or about opinions formed as a result of such committee hearings. The disclosure of any interview, memoranda, proceedings, findings, deliberations, reports, or minutes to any person or entity, including but not limited to governmental agencies, professional accrediting agencies, or other health care providers, whether proper or improper, shall not waive or have any effect upon its confidentiality, nondiscoverability, or nonadmissibility.

5. The provisions of subsection 4 of this section limiting discovery and admissibility of testimony as well as the proceedings, findings, records, and minutes of peer review committees do not apply in any judicial or administrative action brought by a peer review committee or the legal entity which formed or within which such committee operates to deny, restrict, or revoke the hospital staff privileges or license to practice of a physician or other health care providers; or when a member, employee, or agent

of the peer review committee or the legal entity which formed such committee or within which such committee operates is sued for actions taken by such committee which operate to deny, restrict or revoke the hospital staff privileges or license to practice of a physician or other health care provider.

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