

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 423
Human Resources Committee Substitute Adopted 4/17/89
House Committee Substitute Favorable 7/19/90
Corrected Copy 7/20/90

Short Title: Quality Assurance Committees.

(Public)

Sponsors:

Referred to:

March 14, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CONFIDENTIALITY OF THE PROCEEDINGS OF
QUALITY ASSURANCE COMMITTEES IN MENTAL HEALTH, MENTAL
RETARDATION, AND SUBSTANCE ABUSE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-191 is amended by adding the following new
subsection:

"(e) For purposes of peer review functions only:

(1) A member of a duly appointed quality assurance committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the committee; and

(2) The proceedings of a quality assurance committee, the records and materials it produces, and the material it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records" defined, and shall not be subject to discovery or introduction into evidence in any civil action against a facility or a provider of professional health services that results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required

1 to testify in any civil action as to any evidence or other matters
2 produced or presented during the proceedings of the committee or as to
3 any findings, recommendations, evaluations, opinions, or other actions
4 of the committee or its members. However, information, documents or
5 records otherwise available are not immune from discovery or use in a
6 civil action merely because they were presented during proceedings of
7 the committee, and nothing herein shall prevent a provider of
8 professional health services from using such otherwise available
9 information, documents or records in connection with an
10 administrative hearing or civil suit relating to the medical staff
11 membership, clinical privileges or employment of the provider. A
12 member of the committee or a person who testifies before the
13 committee may be subpoenaed and be required to testify in a civil
14 action as to events of which the person has knowledge independent of
15 the peer review process, but cannot be asked about his testimony
16 before the committee for impeachment or other purposes or about any
17 opinions formed as a result of the committee hearings."

18 Sec. 2. Chapter 122C is further amended by adding a new section to read:

19 "§ 122C-30. Peer review committee; immunity from liability; confidentiality.

20 For purposes of peer review functions of a hospital licensed under the provisions of
21 this Chapter:

22 (1) A member of a duly appointed peer review committee who acts
23 without malice or fraud shall not be subject to liability for damages in
24 any civil action on account of any act, statement, or proceeding
25 undertaken, made, or performed within the scope of the functions of
26 the committee; and

27 (2) Proceedings of a peer review committee, the records and materials it
28 produces, and the material it considers shall be confidential and not
29 considered public records within the meaning of G.S. 132-1, "' Public
30 records" defined,' and shall not be subject to discovery or introduction
31 into evidence in any civil action against a facility or a provider of
32 professional health services that results from matters which are the
33 subject of evaluation and review by the committee. No person who
34 was in attendance at a meeting of the committee shall be required to
35 testify in any civil action as to any evidence or other matters produced
36 or presented during the proceedings of the committee or as to any
37 findings, recommendations, evaluations, opinions, or other actions of
38 the committee or its members. However, information, documents or
39 records otherwise available are not immune from discovery or use in a
40 civil action merely because they were presented during proceedings of
41 the committee, and nothing herein shall prevent a provider of
42 professional health services from using such otherwise available
43 information, documents or records in connection with an
44 administrative hearing or civil suit relating to the medical staff

1 membership, clinical privileges or employment of the provider. A
2 member of the committee or a person who testifies before the
3 committee may be subpoenaed and be required to testify in a civil
4 action as to events of which the person has knowledge independent of
5 the peer review process, but cannot be asked about his testimony
6 before the committee for impeachment or other purposes or about any
7 opinions formed as a result of the committee hearings."

8 Sec. 3. This act shall become effective October 1, 1990, and shall apply to
9 proceedings conducted pursuant to this act on or after this date.