

LEGISLATIVE BILL 119

Approved by the Governor March 12, 2019

Introduced by Arch, 14.

A BILL FOR AN ACT relating to the Health Care Quality Improvement Act; to amend sections 71-7904, 71-7906, 71-7907, 71-7910, 71-7911, 71-7912, and 71-7913, Reissue Revised Statutes of Nebraska; to define and redefine terms; to provide for immunity from liability and confidentiality of information relating to peer review; to provide a burden of proof relating to the protection of certain communications and documents; to harmonize provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-7904, Reissue Revised Statutes of Nebraska, is amended to read:

71-7904 Sections 71-7904 to 71-7913 and section 4 of this act shall be known and may be cited as the Health Care Quality Improvement Act.

Sec. 2. Section 71-7906, Reissue Revised Statutes of Nebraska, is amended to read:

71-7906 For purposes of the Health Care Quality Improvement Act, the definitions found in sections 71-7907 to 71-7910 and section 4 of this act apply.

Sec. 3. Section 71-7907, Reissue Revised Statutes of Nebraska, is amended to read:

71-7907 Health care provider means:

(1) A facility licensed under the Health Care Facility Licensure Act;

(2) A health care professional licensed under the Uniform Credentialing Act; ~~and~~

(3) A professional health care service entity; and

(4) ~~(3)~~ An organization or association of health care professionals licensed under the Uniform Credentialing Act.

Sec. 4. Professional health care service entity means an entity which is organized for purposes of rendering professional services pursuant to the Nebraska Professional Corporation Act, the Nebraska Uniform Limited Liability Company Act, or the Uniform Partnership Act of 1998 and which renders health care services through individuals credentialed under the Uniform Credentialing Act.

Sec. 5. Section 71-7910, Reissue Revised Statutes of Nebraska, is amended to read:

71-7910 (1) Peer review committee means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee established by a professional health care service entity or by the governing board of a facility which is a health care provider that does either of the following:

(a) ~~(1)~~ Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by a health care provider, including both an individual who provides health care and an entity that provides health care; or

(b) ~~(2)~~ Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

(2) To conduct peer review pursuant to the Health Care Quality Improvement Act, a professional health care service entity shall adopt and adhere to written policies and procedures governing the peer review committee of the professional health care service entity.

Sec. 6. Section 71-7911, Reissue Revised Statutes of Nebraska, is amended to read:

71-7911 (1) A health care provider or an individual (a) serving as a member or employee of a peer review committee, working on behalf of a peer review committee, furnishing counsel or services to a peer review committee, or participating in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director, employee, or member of the governing board of a facility which is a health care provider and (b) acting without malice shall not be held liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of a peer review committee.

(2) A person who makes a report or provides information to a peer review committee shall not be subject to suit as a result of providing such information if such person acts without malice.

Sec. 7. Section 71-7912, Reissue Revised Statutes of Nebraska, is amended to read:

71-7912 (1) The proceedings, records, minutes, and reports of a peer review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action. No person who attends a meeting of a peer review committee, works for or on behalf of a peer review committee, provides information to a peer review committee, or participates in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director,

employee, or member of the governing board of a facility which is a health care provider shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings or activities of the peer review committee or as to any findings, recommendations, evaluations, opinions, or other actions of the peer review committee or any members thereof.

(2) Nothing in this section shall be construed to prevent discovery or use in any civil action of medical records, documents, or information otherwise available from original sources and kept with respect to any patient in the ordinary course of business, but the records, documents, or information shall be available only from the original sources and cannot be obtained from the peer review committee's proceedings or records.

(3) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Sec. 8. Section 71-7913, Reissue Revised Statutes of Nebraska, is amended to read:

71-7913 (1) An incident report or risk management report and the contents of an incident report or risk management report are not subject to discovery in, and are not admissible in evidence in the trial of, a civil action for damages for injury, death, or loss to a patient of a health care provider. A person who prepares or has knowledge of the contents of an incident report or risk management report shall not testify and shall not be required to testify in any civil action as to the contents of the report.

(2) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Sec. 9. Original sections 71-7904, 71-7906, 71-7907, 71-7910, 71-7911, 71-7912, and 71-7913, Reissue Revised Statutes of Nebraska, are repealed.