

SECOND REGULAR SESSION

HOUSE BILL NO. 1076

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JOHNSON (47) (Sponsor) AND ROORDA (Co-sponsor).

Pre-filed December 6, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3681L.01I

AN ACT

To repeal section 537.035, RSMo, and to enact in lieu thereof one new section relating to health care professional peer review committees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.035, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.035, to read as follows:

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, RSMo, or a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist licensed under the provisions of chapter 330, RSMo, or an optometrist licensed under the provisions of chapter 336, RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, or a chiropractor licensed under the provisions of chapter 331, RSMo, or a psychologist licensed under the provisions of chapter 337, RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, or a social worker licensed under the provisions of chapter 337, RSMo, or a professional counselor licensed under the provisions of chapter 337, RSMo, or a mental health professional as defined in section 632.005, RSMo, **or an emergency medical technician, including an emergency medical technician-basic, emergency medical technician-intermediate, and an emergency medical technician-paramedic, and an**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **emergency medical dispatcher licensed or authorized under chapter 190, RSMo**, while
15 acting within their scope of practice;

16 (2) "Peer review committee", a committee of health care professionals with the
17 responsibility to evaluate, maintain, or monitor the quality and utilization of health care services
18 or to exercise any combination of such responsibilities.

19 2. A peer review committee may be constituted as follows:

20 (1) Comprised of, and appointed by, a state, county or local society of health care
21 professionals;

22 (2) Comprised of, and appointed by, the partners, shareholders, or employed health care
23 professionals of a partnership or professional corporation of health care professionals, or
24 employed health care professionals of a university or an entity affiliated with a university
25 operating under chapter 172, 174, 352, or 355, RSMo;

26 (3) Appointed by the board of trustees, chief executive officer, or the organized medical
27 staff of a licensed hospital, or other health facility operating under constitutional or statutory
28 authority, including long-term care facilities licensed under chapter 198, RSMo, or an
29 administrative entity of the department of mental health recognized pursuant to the provisions
30 of subdivision (3) of subsection 1 of section 630.407, RSMo;

31 (4) **Appointed by a board of trustees or chief executive officer of a licensed**
32 **ambulance service, a licensed emergency medical response agency, or any not-for-profit**
33 **organization that provides or contracts for ambulance services under authority granted**
34 **to such not-for-profit organization by a city, county, town, village, or ambulance district**
35 **and of which a majority of the governing body consists of elected officials and individuals**
36 **appointed by a mayor, board of aldermen, city council, county commission, county**
37 **legislature, or ambulance district;**

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

40 [(5)] (6) Appointed by the board of directors, chief executive officer or the medical
41 director of the licensed health maintenance organization;

42 (7) **Appointed by a mayor, city council, board of aldermen, county commission,**
43 **county legislature, or ambulance district.**

44 3. Each member of a peer review committee and each person, hospital governing board,
45 **ambulance service governing board, emergency medical response agency governing board,**
46 health maintenance organization board of directors, and chief executive officer of a licensed
47 hospital or other hospital operating under constitutional or statutory authority, **chief executive**
48 **officer of an ambulance service or emergency medical response agency,** chief executive
49 officer or medical director of a licensed health maintenance organization who testifies before,
50 or provides information to, acts upon the recommendation of, or otherwise participates in the
51 operation of, such a committee shall be immune from civil liability for such acts so long as the

52 acts are performed in good faith, without malice and are reasonably related to the scope of
53 inquiry of the peer review committee.

54 4. Except as otherwise provided in this section, the interviews, memoranda, proceedings,
55 findings, deliberations, reports, and minutes of peer review committees, or the existence of the
56 same, concerning the health care provided any patient are privileged and shall not be subject to
57 discovery, subpoena, or other means of legal compulsion for their release to any person or entity
58 or be admissible into evidence in any judicial or administrative action for failure to provide
59 appropriate care. Except as otherwise provided in this section, no person who was in attendance
60 at any peer review committee proceeding shall be permitted or required to disclose any
61 information acquired in connection with or in the course of such proceeding, or to disclose any
62 opinion, recommendation, or evaluation of the committee or board, or any member thereof;
63 provided, however, that information otherwise discoverable or admissible from original sources
64 is not to be construed as immune from discovery or use in any proceeding merely because it was
65 presented during proceedings before a peer review committee nor is a member, employee, or
66 agent of such committee, or other person appearing before it, to be prevented from testifying as
67 to matters within his **or her** personal knowledge and in accordance with the other provisions of
68 this section, but such witness cannot be questioned about testimony or other proceedings before
69 any health care review committee or board or about opinions formed as a result of such
70 committee hearings. The disclosure of any interview, memoranda, proceedings, findings,
71 deliberations, reports, or minutes to any person or entity, including but not limited to
72 governmental agencies, professional accrediting agencies, or other health care providers, whether
73 proper or improper, shall not waive or have any effect upon its confidentiality,
74 nondiscoverability, or nonadmissibility.

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

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

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