

SENATE BILL NO. 124

BY SENATOR TALBOT

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AN ACT

To amend and reenact the introductory paragraph of R.S.13:3715.3(A), 3715.3(A)(2), (B), and (G)(1)(b) and to enact R.S. 13:3715.3(G)(1)(c) and (d) and (H), relative to peer review records; to provide for peer review records of health systems; to provide for definitions; to provide for confidentiality; to provide for sharing of information; to provide for liability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S.13:3715.3(A), 3715.3(A)(2), (B), and (G)(1)(b) are hereby amended and reenacted and R.S. 13:3715.3(G)(1)(c) and (d) and (H) are hereby enacted to read as follows:

§3715.3. Peer review committee records; confidentiality

A. Notwithstanding the provisions of R.S. 44:7(D) or any other law to the contrary, all records, ~~notes, data, studies, analyses, exhibits, and proceedings,~~ **as defined in this Section,** of:

* * *

(2) Any hospital committee, **health system committee,** the peer review committees of any medical organization, dental association, professional nursing association, nursing home association, social workers association, group medical practice of twenty or more physicians, nursing home, ambulatory surgical center licensed pursuant to R.S. 40:2131 et seq., ambulance service company, health maintenance organization, any nationally recognized improvement agency or commission, including but not limited to the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or any committee or agency thereof, or any healthcare licensure agency of the Louisiana Department of Health, or healthcare provider as defined in R.S. 40:1299.41(A), or extended care facility committee,

1 including but not limited to the credentials committee, the medical staff executive
 2 committee, the risk management committee, or the quality assurance committee, **and**
 3 **any peer review committee of a health system,** ~~any committee determining a root~~
 4 ~~cause analysis of a sentinel event, established by the peer review committees of a~~
 5 medical organization, dental organization, group medical practice of twenty or more
 6 physicians, social workers association, ambulatory surgical center licensed pursuant
 7 to R.S. 40:2131 et seq., ambulance service company, health maintenance
 8 organization, or healthcare provider as defined in R.S. 40:1299.41(A), or private
 9 hospital licensed under the provisions of R.S. 40:2100 et seq., shall be confidential
 10 wherever located and shall be used by such committee and the members thereof only
 11 in the exercise of the proper functions of the committee and shall not be available for
 12 discovery or court subpoena regardless of where located, except in any proceedings
 13 affecting the hospital staff privileges of a physician, dentist, psychologist, or
 14 podiatrist the records forming the basis of any decision adverse to the physician,
 15 dentist, psychologist, or podiatrist may be obtained by the physician, dentist,
 16 psychologist, or podiatrist only. However, no original record or document, which is
 17 otherwise discoverable, prepared by any person, other than a member of the peer
 18 review committee or the staff of the peer review committee, may be held confidential
 19 solely because it is the only copy and is in the possession of a peer review
 20 committee.

21 B. No employee, physician, dentist, public or private hospital, organization,
 22 **health system,** or institution furnishing information, data, reports, or records to any
 23 such committee with respect to any patient examined or treated by such physician
 24 or dentist or confined in such hospital or institution shall be liable in damages to any
 25 person by reason of furnishing such information.

26 * * *

27 G.(1) As used in this Subsection, the following terms shall mean:

28 * * *

29 **(b) "Health system" shall mean any of the following:**

30 **(i) A group of two or more hospitals that are owned, operated,**

1 sponsored, or managed by a single entity, or that are subject to the control and
 2 direction of a common owner or parent company.

3 (ii) Any parent entity, holding company, or affiliated group of entities
 4 under common ownership or control that owns, operates, manages, or is
 5 affiliated with one or more hospitals, clinics, physician practices, or other
 6 healthcare providers.

7 ~~(b)~~(c) "Licensee" means an individual who possesses a license, certificate,
 8 or registration duly issued by a board, or an individual who has made application for
 9 such a license, certificate, or registration.

10 (d) "Records and proceedings" shall mean and include, without
 11 limitation, all records, notes, data, reports, memoranda, analyses studies,
 12 exhibits, minutes, draft documents, emails, electronic communications, and
 13 work product generated by, for, or at the direction of a committee covered by
 14 this Section.

15 * * *

16 H.(1) A health system or hospital within a health system that conducts
 17 as part of its regular business activities any form of professional credentialing
 18 or quality review activities involving the competence of, professional conduct
 19 of, or quality of care provided by healthcare providers identified in Subsection
 20 A of this Section, may share such peer review records as described in Subsection
 21 A of this Section within a health system or among hospitals within the same
 22 health system so long as such peer review records are used only for
 23 credentialing, quality review, competency purposes, professional conduct
 24 purposes, or patient safety activities as defined by the Patient Safety and
 25 Quality Improvement Act of 2005, 42 U.S.C. 299b-21 through 299b-26.

26 (2) When disclosure is requested and made in a manner authorized in
 27 Paragraph (1) of this Subsection, the verbal, written, or other disclosure of peer
 28 review records and proceedings by any person, committee, hospital, health
 29 system, or other peer review entity described in Subsection A of this Section
 30 within the same health system or among or between hospitals within the same

1 health system shall not constitute a waiver of any legal or evidentiary privilege,
2 nor form the basis of any claim or suit for damages or injunctive relief of
3 whatsoever kind or nature, including breach of confidentiality or invasion of
4 privacy or otherwise, and the person, hospital, health system, or other peer
5 review entity making the disclosure shall be entitled to the benefit of the
6 immunities otherwise provided for in Subsections B and C of this Section.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____