

SENATE FLOOR AMENDMENT

Third Reading

BY SENATORS Foote and Rodriguez

1 Amend engrossed bill, page 3, line 12, strike "and (7)(a)(V)" and
2 substitute "(7)(a)(V), and (7)(b); and **add** (5.5)".

3 Page 3, after line 15 insert:

4 "(5.5) "ORIGINAL SOURCE DOCUMENT" MEANS ANY SEPARATE
5 WRITTEN DOCUMENT CREATED OR PREPARED IN THE ORDINARY COURSE OF
6 BUSINESS THAT IS NOT OTHERWISE PRIVILEGED OR CONFIDENTIAL,
7 INCLUDING ELECTRONIC RECORDS AND ELECTRONIC COMMUNICATIONS,
8 CONTAINING FACTUAL INFORMATION RELATING SOLELY TO THE
9 INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION THAT IS NOT CREATED
10 OR PREPARED AS PART OF THE PROFESSIONAL REVIEW ACTIVITIES OR
11 CREATED BY OR AT THE DIRECTION OF A PROFESSIONAL REVIEW
12 COMMITTEE."

13 Page 3, after line 25 insert:

14 "(b) "Records" does not include any written, electronic, or oral
15 communications by any person that are otherwise available from a source
16 outside the scope of professional review activities, including medical
17 records and other health information, INCIDENT REPORTS PREPARED IN THE
18 ORDINARY COURSE OF BUSINESS, AND RELEVANT HOSPITAL OR FACILITY
19 POLICIES, PROCEDURES, AND PROTOCOLS, OR OTHER ORIGINAL SOURCE
20 DOCUMENTS."

21 Page 3, line 27, strike "(13)" and substitute "(13); **repeal** (7)(f); and **add**
22 (2.7) and (17)".

23 Page 4, line 2, strike "(3)" and substitute "(2.7) A PROFESSIONAL REVIEW
24 COMMITTEE OF A HOSPITAL LICENSED OR CERTIFIED BY THE DEPARTMENT
25 OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103
26 (1)(a) IS ENCOURAGED TO APPOINT A CONSUMER TO SERVE AS A
27 NONVOTING MEMBER OF THE PROFESSIONAL REVIEW COMMITTEE, SO LONG
28 AS THE CONSUMER COMPLIES WITH THE HOSPITAL'S CONFLICT OF INTEREST
29 POLICIES, ENTERS INTO A CONFIDENTIALITY AGREEMENT ACCEPTABLE TO
30 THE HOSPITAL, AND ENTERS INTO A BUSINESS ASSOCIATE AGREEMENT IN
31 ACCORDANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
32 ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED.
33 (3)".

1 Page 4, after line 6 insert:

2 "(7) The written bylaws, policies, or procedures of any
3 professional review committee for persons licensed under article 36 of
4 this title or licensed under article 38 of this title and granted authority as
5 advanced practice nurses must provide for at least the following:

6 (f) ~~The professional review committee shall forward a copy of any~~
7 ~~recommendations made pursuant to paragraph (d) of this subsection (7)~~
8 ~~promptly to the medical board if the subject of the investigation is~~
9 ~~licensed under article 36 of this title, or to the nursing board if the subject~~
10 ~~of the investigation is licensed under article 38 of this title and granted~~
11 ~~authority as an advanced practice nurse."~~

12 Page 4, after line 23 insert:

13 "(17) (a) ORIGINAL SOURCE DOCUMENTS ARE NOT PROTECTED
14 FROM SUBPOENA, DISCOVERY, OR USE IN ANY CIVIL ACTION MERELY
15 BECAUSE THEY WERE CONSIDERED BY OR PRESENTED TO A PROFESSIONAL
16 REVIEW COMMITTEE. ORIGINAL SOURCE DOCUMENTS ARE SUBJECT TO
17 SUBPOENA OR DISCOVERY ONLY FROM THE ORIGINAL SOURCES AND ARE
18 PROTECTED FROM SUBPOENA OR DISCOVERY FROM THE PROFESSIONAL
19 REVIEW FILES OF A PROFESSIONAL REVIEW COMMITTEE OF AN AUTHORIZED
20 ENTITY EXCEPT AS PROVIDED BELOW:

21 (I) UPON SUBPOENA OR REQUEST FOR DISCOVERY FOR ORIGINAL
22 SOURCE DOCUMENTS, AN AUTHORIZED ENTITY SHALL PROVIDE A LOG OF
23 ALL ORIGINAL SOURCE DOCUMENTS CONTAINED IN THE AUTHORIZED
24 ENTITY'S PROFESSIONAL REVIEW FILES INCLUDING THE SOURCE AND
25 NATURE OF EACH ORIGINAL SOURCE DOCUMENT;

26 (II) THE INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION BY
27 SUCH PERSON, NEXT FRIEND, OR LEGAL REPRESENTATIVE MAY SUBPOENA
28 OR SEEK DISCOVERY OF ANY ORIGINAL SOURCE DOCUMENT IDENTIFIED ON
29 THE AUTHORIZED ENTITY'S PROFESSIONAL REVIEW COMMITTEE LOG ONLY
30 IF THE ORIGINAL SOURCE DOCUMENT WAS NOT PRODUCED IN RESPONSE TO
31 A PRIOR SUBPOENA OR DISCOVERY REQUEST TO THE ORIGINAL SOURCE;
32 AND

33 (b) THIS SUBSECTION (17) DOES NOT RELIEVE ANY PARTY OF THEIR
34 OBLIGATION UNDER THE COLORADO RULES OF CIVIL PROCEDURE."

35 Page 5, strike lines 18 and 19 and substitute:

36 "(II) DETERMINE THE DE-IDENTIFIED INFORMATION REGARDING
37 INVESTIGATIONS AND OUTCOMES A GOVERNING BOARD IS REQUIRED TO
38 REPORT; AND"

1 Page 6, after line 5 insert:

2 "SECTION 7. In Colorado Revised Statutes, 12-30-202, **amend**
3 **as relocated by House Bill 19-1172 (8)(b); and add as relocated by**
4 **House Bill 19-1172 (6.5)** as follows:

5 **12-30-202. Definitions.** As used in this part 2, unless the context
6 otherwise requires:

7 (6.5) "ORIGINAL SOURCE DOCUMENT" MEANS ANY SEPARATE
8 WRITTEN DOCUMENT CREATED OR PREPARED IN THE ORDINARY COURSE OF
9 BUSINESS THAT IS NOT OTHERWISE PRIVILEGED OR CONFIDENTIAL,
10 INCLUDING ELECTRONIC RECORDS AND ELECTRONIC COMMUNICATIONS,
11 CONTAINING FACTUAL INFORMATION RELATING SOLELY TO THE
12 INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION THAT IS NOT CREATED
13 OR PREPARED AS PART OF THE PROFESSIONAL REVIEW ACTIVITIES OR
14 CREATED BY OR AT THE DIRECTION OF A PROFESSIONAL REVIEW
15 COMMITTEE.

16 (8) (b) "Records" does not include any written, electronic, or oral
17 communications by any person that are otherwise available from a source
18 outside the scope of professional review activities, including medical
19 records and other health information, INCIDENT REPORTS PREPARED IN THE
20 ORDINARY COURSE OF BUSINESS, AND RELEVANT HOSPITAL OR FACILITY
21 POLICIES, PROCEDURES, AND PROTOCOLS, OR OTHER ORIGINAL SOURCE
22 DOCUMENTS."

23 **SECTION 8.** In Colorado Revised Statutes, 12-30-204, **repeal as**
24 **relocated by House Bill 19-1172 (8)(f); and add as relocated by House**
25 **Bill 19-1172 (3.5) and (18)** as follows:

26 **12-30-204. Establishment of professional review committees**
27 **- function - rules.** (3.5) A PROFESSIONAL REVIEW COMMITTEE OF A
28 HOSPITAL LICENSED OR CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH
29 AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103 (1)(a) IS
30 ENCOURAGED TO APPOINT A CONSUMER TO SERVE AS A NONVOTING
31 MEMBER OF THE PROFESSIONAL REVIEW COMMITTEE, SO LONG AS THE
32 CONSUMER COMPLIES WITH THE HOSPITAL'S CONFLICT OF INTEREST
33 POLICIES, ENTERS INTO A CONFIDENTIALITY AGREEMENT ACCEPTABLE TO
34 THE HOSPITAL, AND ENTERS INTO A BUSINESS ASSOCIATE AGREEMENT IN
35 ACCORDANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
36 ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED.

37 (8) The written bylaws, policies, or procedures of any professional
38 review committee for persons licensed under article 240 of this title 12 or
39 advanced practice nurses must provide for at least the following:

40 (f) ~~The professional review committee shall forward a copy of any~~
41 ~~recommendations made pursuant to subsection (8)(d) of this section~~
42 ~~promptly to the medical board if the subject of the investigation is~~

1 ~~licensed under article 240 of this title 12, or to the nursing board if the~~
2 ~~subject of the investigation is an advanced practice nurse.~~

3 (18)(a) ORIGINAL SOURCE DOCUMENTS ARE NOT PROTECTED FROM
4 SUBPOENA, DISCOVERY, OR USE IN ANY CIVIL ACTION MERELY BECAUSE
5 THEY WERE CONSIDERED BY OR PRESENTED TO A PROFESSIONAL REVIEW
6 COMMITTEE. ORIGINAL SOURCE DOCUMENTS ARE SUBJECT TO SUBPOENA
7 OR DISCOVERY ONLY FROM THE ORIGINAL SOURCES AND ARE PROTECTED
8 FROM SUBPOENA OR DISCOVERY FROM THE PROFESSIONAL REVIEW FILES
9 OF A PROFESSIONAL REVIEW COMMITTEE OF AN AUTHORIZED ENTITY
10 EXCEPT AS PROVIDED BELOW:

11 (I) UPON SUBPOENA OR REQUEST FOR DISCOVERY FOR ORIGINAL
12 SOURCE DOCUMENTS, AN AUTHORIZED ENTITY SHALL PROVIDE A LOG OF
13 ALL ORIGINAL SOURCE DOCUMENTS CONTAINED IN THE AUTHORIZED
14 ENTITY'S PROFESSIONAL REVIEW FILES INCLUDING THE SOURCE AND
15 NATURE OF EACH ORIGINAL SOURCE DOCUMENT;

16 (II) THE INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION BY
17 SUCH PERSON, NEXT FRIEND, OR LEGAL REPRESENTATIVE MAY SUBPOENA
18 OR SEEK DISCOVERY OF ANY ORIGINAL SOURCE DOCUMENT IDENTIFIED ON
19 THE AUTHORIZED ENTITY'S PROFESSIONAL REVIEW COMMITTEE LOG ONLY
20 IF THE ORIGINAL SOURCE DOCUMENT WAS NOT PRODUCED IN RESPONSE TO
21 A PRIOR SUBPOENA OR DISCOVERY REQUEST TO THE ORIGINAL SOURCE;
22 AND

23 (b) THIS SUBSECTION (17) DOES NOT RELIEVE ANY PARTY OF THEIR
24 OBLIGATION UNDER THE COLORADO RULES OF CIVIL PROCEDURE.".

25 Renumber succeeding sections accordingly.

26 Page 6, strike lines 26 and 27 and substitute:

27 "(II) DETERMINE THE DE-IDENTIFIED INFORMATION REGARDING
28 INVESTIGATIONS AND OUTCOMES A GOVERNING BOARD IS REQUIRED TO
29 REPORT; AND".

30 Page 7, line 19, strike " and 7" and substitute "through 9".

31 Page 7, line 20, strike "and 7" and substitute "through 9".

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