

ENROLLMENT(S)



(5)

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 31, 1992

To amend the Medical Records Act of 1978 to strengthen and clarify the immunity to those persons and entities participating in peer review proceedings and the confidentiality of peer review proceedings.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health-Care Peer Review Amendment Act of 1992".

Sec. 2. The Medical Records Act of 1978, effective September 29, 1978 (D.C. Law 2-112; D.C. Code § 32-501 *et seq.*), is amended as follows: Section 32-501

(a) Section 2 (D.C. Code § 32-501) is amended to read as follows:

"Sec. 2. Definitions.

"For the purposes of this act, the term:

"(1) "Group practice" means a collection of health professionals that provides health-care services.

"(2) "Health-care facility or agency" means a facility, agency, or other organizational entity as defined in section 2 of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Code § 32-1301).

"(3) "Health professional" means a person required to be licensed or permitted to provide health-care services in the District of Columbia under the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Code § 2-3301.1 *et seq.*).

"(4) "Health professional association" means a membership organization of health professionals in the District of Columbia having as a purpose the maintenance of high professional standards within the profession practiced by its members.

"(5) "Peer review" means the procedure by which health-care facilities and agencies, group practices, and health professional associations monitor, evaluate, and take actions to improve the delivery, quality, and efficiency of services within their respective facilities, agencies, and professions, including recommendations, consideration of recommendations, actions with regard thereto, and implementation of the actions. The term "peer review" includes, but is not limited to, the following:

"(A) Matters affecting membership of a health professional on the staff of a health-care facility or agency;

"(B) The grant, delineation, renewal, denial, modification, limitation, or suspension of clinical privileges to provide health-care services at a health-care facility or agency;

"(C) Matters affecting employment and the terms of employment of a health professional by a health-care facility, agency, or group practice;

"(D) Matters affecting membership and terms of membership in a health professional association, including decisions to suspend membership privileges, expel from membership, reprimand or censure a member, or other disciplinary actions;

"(E) Review of the qualifications, activities, conduct, or performance of any health professional, including a grievance against a health professional;

"(F) Review of the quality, efficiency, or utilization of services provided by a health professional, a health-care facility, agency, or group practice; and

"(G) Review of a health professional's ability to perform, including allegations of mental or physical impairment, and imposition of programs of education, treatment, or rehabilitation, including monitoring and supervision, or conduct of programs of education.

"(6) "Peer review body" means a committee, board, hearing panel or officer, reviewing panel or officer or governing board of a health-care facility or agency, group practice or health professional association that engages in peer review, the health-care facility, agency, group practice or health professional association which establishes or authorizes or is governed by it, and a director, officer, employee, or member of such an entity.

"(7) "Primary health record" means the record of continuing care maintained by a health professional, group practice, or health-care facility or agency containing all diagnostic and therapeutic services rendered to an individual patient by that health professional, facility, or agency."

(b) Section 3 (D.C. Code § 32-502) is amended to read as follows:

"Sec. 3. Authority to transmit data or information.

"No person, health-care facility or agency, health professional association, or group practice providing any report, note, record, or other data or information, including advice, opinion, or testimony, to a peer review body shall be liable to any other person for damages or equitable relief by reason of providing such a report, note, record, or other data or information, unless the information provided was false and the person or entity providing the information knew the information was false."

(c) Section 4 (D.C. Code § 32-503) is amended to read as follows:

"Sec. 4. Liability for peer review actions or recommendations.

"No peer review body or member thereof, or person acting as its staff, or who participates with or assists such a body or member, operating in the District of Columbia shall be liable to any person for damages or equitable relief by reason of conducting or taking peer review if the peer review was within the scope of the functions of the peer review body and if the peer review body or the member acted in the

Section
32-502

Section
32-503

reasonable belief that the peer review was warranted by the facts known after reasonable effort to obtain the facts of the matter."

(d) Section 6 (D.C. Code § 32-505) is amended to read as follows:

Section
32-505

"Sec. 6. Use of peer review reports, records, or statements in judicial and administrative proceedings.

"(a) Except as otherwise provided by this section:

"(1) The files, records, findings, opinions, recommendations, evaluations, and reports of a peer review body, information provided to or obtained by a peer review body, the identity of persons providing information to a peer review body, and reports or information provided pursuant to section 3 or federal or other District of Columbia law shall be confidential and shall be neither discoverable nor admissible into evidence in any civil, criminal, legislative, or administrative proceeding. Nothing in this paragraph shall preclude use of reports or information provided under section 3 or federal or other District of Columbia law by a board regulating a health profession or the Mayor in proceedings by the board or the Mayor.

"(2) No person who participated in the proceedings of or provided information to a peer review body shall be compelled to testify or give discovery in any civil, criminal, legislative, or administrative proceeding relating to any matter presented or discussed at those proceedings, or any information provided to or obtained by any reports, records, opinion, evaluation, finding, or recommendation of the body or its members.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court may order a peer review body to provide information in a criminal proceeding in which a health professional is accused of a felony, if the court determines that disclosure is essential to protect the public interest and that the information being sought can be obtained from no other source. In determining whether disclosure is essential to protect the public interest, the court shall consider the seriousness of the offense with which the health professional is charged, the need for disclosure of the party seeking it, and the probative value of the information. If the court orders disclosure, the identity of any patient shall not be disclosed without the consent of the patient or his legal representative, and the information disclosed shall not be used except in the criminal proceeding.


"(b) Notwithstanding subsection (a) of this section, primary health records and other information, documents, or records available from original sources shall not be deemed nondiscoverable or inadmissible merely because they are a part of the files, records, or reports of a peer review body.

"(c) This section shall not affect the right of any health professional to discover or to have admitted into evidence the minutes and reports of a peer review body concerning the health professional for the limited purpose of adjudicating the appropriateness of an adverse action affecting the employment, membership, privileges, or association of the health professional by the peer review body."

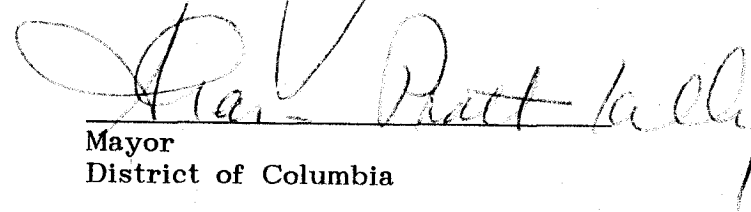
Sec. 3. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of

Enrolled Original

Columbia Self-Government and Governmental Reorganization Act,
approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)),
and publication in either the District of Columbia Register, the District
of Columbia Statutes-at-Large, or the District of Columbia Municipal
Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: December 31, 1992



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Nine

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B9-355

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 12-1-92

VOICE VOTE: Approved

Recorded vote on request

Absent: Cropp, Jarvis, Thomas

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

December 17, 1992
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 12-15-92

VOICE VOTE: Approved

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

December 17, 1992
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date