

# SENATE BILL NO. 940

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

4550S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 190.245 and 537.035, RSMo, and to enact in lieu thereof two new sections relating to peer review committees.

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

Section A. Sections 190.245 and 537.035, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 190.245 and 537.035, to read as follows:

190.245. **1.** Failure of a hospital to provide all  
2 medical records and quality improvement documentation  
3 necessary for the department to implement provisions of  
4 sections 190.241 to 190.245 shall result in the revocation  
5 of the hospital's designation as a trauma center, STEMI  
6 center, or stroke center. Any medical records obtained by  
7 the department shall be used only for purposes of  
8 implementing the provisions of sections 190.241 to 190.245  
9 and the names of hospitals, physicians and patients shall  
10 not be released by the department or members of review teams.

11 **2. Any person licensed under sections 190.001 to**  
12 **190.245 shall be considered a health care professional for**  
13 **purposes of section 537.035, and any quality improvement or**  
14 **quality assurance activity required under sections 190.001**  
15 **to 190.245 shall be considered an activity of a peer review**  
16 **committee for purposes of section 537.035.**

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, or a dentist licensed under the provisions of chapter 332, or a podiatrist licensed under the provisions of chapter 330, or an optometrist licensed under the provisions of chapter 336, or a pharmacist licensed under the provisions of chapter 338, or a chiropractor licensed under the provisions of chapter 331, or a psychologist licensed under the provisions of chapter 337, or a nurse licensed under the provisions of chapter 335, **or a physician assistant licensed under the provisions of chapter 334, or a person licensed under the provisions of sections 190.001 to 190.245,** or a social worker licensed under the provisions of chapter 337, or a professional counselor licensed under the provisions of chapter 337, or a mental health professional as defined in section 632.005, while acting within their scope of practice;

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

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

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

(2) Comprised of, and appointed by, the partners, shareholders, or employed health care professionals of a partnership or professional corporation of health care professionals, or employed health care professionals of a

university or an entity affiliated with a university  
operating under chapter 172, 174, 352, or 355;

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

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

(5) Appointed by the board of directors, chief  
executive officer or the medical director of the licensed  
health maintenance organization.

3. Each member of a peer review committee and each  
person, hospital governing board, health maintenance  
organization board of directors, and chief executive officer  
of a licensed hospital or other hospital operating under  
constitutional or statutory authority, chief executive  
officer or medical director of a licensed health maintenance  
organization who testifies before, or provides information  
to, acts upon the recommendation of, or otherwise  
participates in the operation of, such a committee shall be  
immune from civil liability for such acts so long as the  
acts are performed in good faith, without malice and are  
reasonably related to the scope of inquiry of the peer  
review committee.

4. Except as otherwise provided in this section, the  
interviews, memoranda, proceedings, findings, deliberations,

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

96           5. The provisions of subsection 4 of this section  
97 limiting discovery and admissibility of testimony as well as  
98 the proceedings, findings, records, and minutes of peer  
99 review committees do not apply in any judicial or  
100 administrative action brought by a peer review committee or  
101 the legal entity which formed or within which such committee  
102 operates to deny, restrict, or revoke the hospital staff  
103 privileges or license to practice of a physician or other  
104 health care providers; or when a member, employee, or agent  
105 of the peer review committee or the legal entity which  
106 formed such committee or within which such committee  
107 operates is sued for actions taken by such committee which  
108 operate to deny, restrict or revoke the hospital staff  
109 privileges or license to practice of a physician or other  
110 health care provider.

111           6. Nothing in this section shall limit authority  
112 otherwise provided by law of a health care licensing board  
113 of the state of Missouri to obtain information by subpoena  
114 or other authorized process from peer review committees or  
115 to require disclosure of otherwise confidential information  
116 relating to matters and investigations within the  
117 jurisdiction of such health care licensing boards.

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