
Judiciary Committee

HB 1436

Title: An act relating to privileging and professional conduct reviews by health care professional review bodies.

Brief Description: Concerning privileging and professional conduct reviews by health care professional review bodies.

Sponsors: Representatives Rodne, Pedersen, Shea and Jinkins.

Brief Summary of Bill

- Removes language in an exclusive remedy provision of the Health Care Review Act that limits application to actions taken by a peer review body that are not related to competence or conduct.
- Revises statutory requirements imposed on hospital quality improvement programs with respect to the medical staff privileges sanction procedure and periodic review of credentials and competency.

Hearing Date: 2/5/13

Staff: Cece Clynch (786-7195).

Background:

The federal Health Care Quality Improvement Act of 1986 (HCQIA) was enacted with the stated purpose of encouraging effective professional peer review to improve the quality of medical care and reduce the cost of medical malpractice lawsuits. The HCQIA provides immunity from damages for actions taken by a professional peer review body related to the competence and conduct of a health care provider. This immunity extends to the professional peer review body, any person acting as a member or staff to the body, any person under contract with the body, and any person who participates with or assist the body with respect to the action. In order to qualify for such immunity, the actions must relate to competence or conduct and have been taken:

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- in the reasonable belief that the action was in the furtherance of quality health care;
- after a reasonable effort to obtain the facts of the matter;
- after adequate notice and hearing procedures; and
- in the reasonable belief that the action was warranted by the known facts.

The state Health Care Peer Review Act (HCPRA) includes two separate provisions which provide immunity/limit remedies available with respect to actions taken by a professional peer review body:

1. The first incorporates, by reference to the federal law, the provisions of the federal HCQIA that provide immunity from damages for actions taken by a professional peer review body related to the competence and conduct of a health care provider.
2. The second provides an exclusive remedy for any action taken by a professional peer review body that is found to be based on matters *not* related to the competence or professional conduct of a health care provider. The remedies available in these actions are limited to injunctive relief and damages are allowed only for lost earnings directly attributable to the action taken by the peer review body and incurred between the date of such action and the date such action is functionally reversed by the peer review body.

Hospitals must maintain quality improvement programs to improve the quality of health care services and prevent medical malpractice. A hospital's program must include:

- a medical staff privileges sanction procedure through which credentials, physical and mental capacity and competence are periodically reviewed as part of an evaluation of staff privileges;
- periodic review of employee credentials and competency in the delivery of health care services;
- a procedure for prompt resolution of patient grievances;
- collection of information relating to negative outcomes, patient grievances, settlements, awards, and safety improvement activities;
- maintenance of relevant and appropriate information concerning individual physicians with the physician's personnel or credential file;
- quality improvement education programs; and
- policies to ensure compliance with reporting requirements.

Summary of Bill:

The HCPRA is amended to provide that if the limitation on damages incorporated by reference to the federal law, and found in the first section referenced above, does not apply, then the second provision provides the exclusive remedies in any lawsuit by a health care provider for action taken by a peer review body. Language that limited operation of the second section to only those peer review actions that were not related to the competence or professional conduct of a health care provider is stricken.

Statutory requirements imposed on hospital quality improvement programs with respect to the medical staff privileges sanction procedure and periodic review of credentials and competency are revised to specify that such programs:

- must employ a process for initial and periodic review;
- must be conducted in accordance with medical staff bylaws and applicable rules, regulations or policies; and

- are to review professional conduct, specifically including disruptive behavior.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.