

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0150.01 Christy Chase

SENATE BILL 09-012

SENATE SPONSORSHIP

Morse and Kopp, Boyd

HOUSE SPONSORSHIP

Frangas and Massey, Riesberg

Senate Committees

Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROFESSIONAL REVIEW OF FACILITIES DESIGNATED BY**
102 **THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AS**
103 **TRAUMA CARE FACILITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Health Care Task Force. Authorizes the creation of professional review committees to review and investigate the quality and appropriateness of patient care provided by and the professional conduct of health care providers engaged in specified health care professions. Defines "health care profession" as:

! The practice of podiatry, chiropractic, dentistry, dental

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

hygiene, midwifery, nursing, nursing home administration, optometry, occupational therapy, physical therapy, respiratory therapy, or psychology; or

- ! Practice as an emergency medical technician, physician assistant, nurse aide, or psychiatric technician.

Authorizes professional review committees to be formed by the following organizations, entities, or professional societies:

- ! The medical staff of a corporation or other entity that employs health care providers to provide care to patients;
- ! The medical staff of a community clinic, rehabilitation center, convalescent center, community mental health center, acute treatment unit, facility for persons with developmental disabilities, habilitation center for brain-damaged children, chiropractic center, nursing care facility, pilot project rehabilitative nursing facility, hospice care, assisted living residence, dialysis treatment clinic, ambulatory surgical center, birthing center, or home care agency, that is licensed by the department of public health and environment;
- ! A society or association of health care providers whose membership includes not less than 1/3 of the health care providers engaged in the particular health care profession and residing in this state, if the health care provider whose services are the subject of the review is a member of the society or association;
- ! A society or association of health care providers authorized to practice and residing in this state and specializing in a specific discipline of their health care profession, if the health care provider whose services are the subject of the review is a member of the specialty society or association;
- ! An individual practice association or a preferred provider organization composed of at least 25 health care providers or a medical group that predominantly serves members of a health maintenance organization;
- ! A corporation authorized to insure health care providers in this state when so designated by a regulatory entity;
- ! Governing boards of any entity that has a professional review committee;
- ! Any peer review committee established or created by a combination or pooling of any of the organizations authorized by this section to have a professional review committee.

Establishes confidentiality of proceedings and records of a professional review committee. Makes participants in the professional review process immune from liability if they acted in good faith.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. 25-3-109 (1), (2), (3), (5), (5.5) (a), and (12),**
3 **Colorado Revised Statutes, are amended to read:**

4 **25-3-109. Quality management functions - confidentiality and**
5 **immunity.** (1) **The general assembly hereby finds and declares that the**
6 **implementation of quality management functions to evaluate and improve**
7 **patient and resident care is essential to the operation of health care**
8 **facilities licensed or certified by the department of public health and**
9 **environment pursuant to section 25-1.5-103 (1) (a) OR DESIGNATED BY**
10 **THE DEPARTMENT AS TRAUMA CARE FACILITIES PURSUANT TO SECTION**
11 **25-3.5-704 (2) (d). For this purpose, it is necessary that the collection of**
12 **information and data by such licensed or certified health care facilities**
13 **AND DESIGNATED TRAUMA CARE FACILITIES be reasonably unfettered so**
14 **a complete and thorough evaluation and improvement of the quality of**
15 **patient and resident care can be accomplished. To this end, quality**
16 **management information relating to the evaluation or improvement of the**
17 **quality of health care services shall be confidential, subject to the**
18 **provisions of subsection (4) of this section, and persons performing such**
19 **functions shall be granted qualified immunity. It is the intent of the**
20 **general assembly that nothing in this section revise, amend, or alter article**
21 **36 or part 1 of article 36.5 of title 12, C.R.S.**

22 (2) **For purposes of this section: a**

23 (a) **"DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH**
24 **AND ENVIRONMENT.**

25 (b) **"DESIGNATED TRAUMA CARE FACILITY" MEANS A FACILITY**
26 **DESIGNATED AS A SPECIFIC LEVEL TRAUMA FACILITY PURSUANT TO**

1 SECTION 25-3.5-704 (2) (d).

2 (c) "Quality management program" means a program which THAT
3 includes quality assurance and risk management activities, the peer
4 review of licensed health care professionals not otherwise provided for
5 in part 1 of article 36.5 of title 12, C.R.S., and other quality management
6 functions which are described by a facility OR DESIGNATED TRAUMA CARE
7 FACILITY in a quality management program approved by the department.
8 of public health and environment. A QUALITY MANAGEMENT PROGRAM
9 OF A DESIGNATED TRAUMA CARE FACILITY INCLUDES PREHOSPITAL CARE
10 PROVIDED BY SERVICE AGENCIES, AS DEFINED IN SECTION 25-3.5-103,
11 PRECEDING A PATIENT'S ENTRY INTO THE DESIGNATED TRAUMA CARE
12 FACILITY. Nothing in this section shall revise, amend, or alter article 36
13 or part 1 of article 36.5 of title 12, C.R.S.

14 (3) Except as otherwise provided in this section, any records,
15 reports, or other information of a licensed or certified health care facility
16 OR DESIGNATED TRAUMA CARE FACILITY that are part of a quality
17 management program designed to identify, evaluate, and reduce the risk
18 of patient or resident injury associated with care or to improve the quality
19 of patient care shall be confidential information; except that such
20 information shall be subject to the provisions of subsection (4) of this
21 section.

22 (5) Nothing in this section shall affect the voluntary release of any
23 quality management record or information by a health care facility OR
24 DESIGNATED TRAUMA CARE FACILITY; except that no patient-identifying
25 information shall be released without the patient's consent.

26 (5.5) (a) The confidentiality of information provided for in this
27 section shall in no way be impaired or otherwise adversely affected solely

1 by reason of the submission of the information to a nongovernmental
2 entity to conduct studies that evaluate, develop, and analyze information
3 about health care operations, practices, or any other function of health
4 care facilities OR DESIGNATED TRAUMA CARE FACILITIES. The records,
5 reports, and other information collected or developed by a
6 nongovernmental entity shall remain protected as provided in subsections
7 (3) and (4) of this section. In order to adequately protect the
8 confidentiality of such information, no findings, conclusions, or
9 recommendations contained in such studies conducted by any such
10 nongovernmental entity shall be deemed to establish a standard of care for
11 health care facilities OR DESIGNATED TRAUMA CARE FACILITIES.

12 (12) (a) Nothing in this section shall affect a person's access to his
13 OR HER medical record as provided in section 25-1-801, nor shall it affect
14 the right of any family member or any other person to obtain A medical
15 record information upon the consent of the patient or his OR HER
16 authorized representative.

17 (b) IF, DURING THE COURSE OF A QUALITY MANAGEMENT REVIEW
18 BY A DESIGNATED TRAUMA CARE FACILITY, A TRAUMA CARE PROVIDER
19 DETERMINES THAT HE OR SHE MADE A FACTUAL ERROR IN THE MEDICAL
20 RECORD, THE TRAUMA CARE PROVIDER SHALL CORRECT THE FACTUAL
21 ERROR.

22 **SECTION 2. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.