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**Effective 28 Aug 2005**

Title XXXVI STATUTORY ACTIONS AND TORTS

## Chapter 537

**537.035. Peer review committees — composition, purpose — immunity from civil liability, who, when — disclosure of records prohibited, exceptions — testimony before, discovery and admissibility, limitations. — 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 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, reports, and minutes of peer review committees, or the existence of the same, concerning the health care provided any patient are privileged and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity or be admissible into evidence in any judicial or administrative action for failure to provide appropriate care. Except as otherwise provided in this section, no person who was in attendance at any peer review committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding, or to disclose any opinion, recommendation, or evaluation of the committee or board, or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before a peer review committee nor is a member, employee, or agent of such committee, or other person appearing before it, to be prevented from testifying as to matters within



his personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about testimony or other proceedings before any health care review committee or board or about opinions formed as a result of such committee hearings. The disclosure of any interview, memoranda, proceedings, findings, deliberations, reports, or minutes to any person or entity, including but not limited to governmental agencies, professional accrediting agencies, or other health care providers, whether proper or improper, shall not waive or have any effect upon its confidentiality, nondiscoverability, or nonadmissibility.

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

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

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(L. 1973 S.B. 62 § 1, A.L. 1977 H.B. 562, A.L. 1985 H.B. 357, A.L. 1993 S.B. 388, A.L. 1997 H.B. 335, A.L. 2005 H.B. 393)

#### CROSS REFERENCE:

Applicability of statute changes to cases filed after August 28, 2005, 538.305

(1984) No peer review privilege of confidentiality exists for statements or documents since such privilege is separate and distinct from the statutory immunity from civil liability granted to medical personnel participating in peer review. State ex rel. Chandra v. Sprinkle (Mo. banc), 678 S.W.2d 804.

(1986) The proceedings, findings, deliberations, reports and minutes of peer review committees are not discoverable. State ex rel. Faith Hospital v. Enright (Mo. banc), 706 S.W.2d 852.