

CHAPTER 187, Laws of 1975

AN ACT to create 146.37 and 146.38 of the statutes, relating to civil immunity for persons evaluating health care providers and facilities and confidentiality of information acquired in such review.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

146.37 and 146.38 of the statutes are created to read:

146.37 Health care services review; civil immunity. (1) No person acting in good faith who participates in the review or evaluation of the services of health care providers or facilities or the charges for such services conducted in connection with any program organized and operated to help improve the quality of health care, to avoid improper utilization of the services of health care providers or facilities or to determine the reasonable charges for such services is liable for any civil damages as a result of any act or omission by such person in the course of such review or evaluation.

(2) In determining whether a member of the reviewing or evaluating organization has acted in good faith under sub. (1), the court shall consider whether such member has sought to prevent the health care provider or facility and its counsel from examining the documents and records used in the review or evaluation, from presenting witnesses, establishing pertinent facts and circumstances, questioning or refuting testimony and evidence, confronting and cross-examining adverse witnesses or from receiving a copy of the final report or recommendation of the reviewing organization.

146.38 Health care services review; confidentiality of information. (1) No person who participates in the review or evaluation of the services of health care providers or facilities or charges for such services may disclose any information acquired in connection with such review or evaluation except as provided in sub. (3).

(2) All organizations reviewing or evaluating the services of health care providers shall keep a record of their investigations, inquiries, proceedings and conclusions. No such record may be released to any person under s. 804.10 (4) or otherwise except as provided in sub. (3). No such record may be used in any civil action for personal injuries against the health care provider or facility; however, information, documents or records presented during the review or evaluation may not be construed as immune from discovery under s. 804.10 (4) or use in any civil action merely because they were so presented. Any person who testifies during or participates in the review or evaluation may testify in any civil action as to matters within his or her knowledge, but may not testify as to information obtained through his or her participation in the review or evaluation, nor as to any conclusion of such review or evaluation.

(3) Information acquired in connection with the review and evaluation of health care services shall be disclosed and records of such review and evaluation shall be released, with the identity of any patient whose treatment is reviewed being withheld unless the patient has granted permission to disclose identity, in the following circumstances:

(a) To the health care provider or facility whose services are being reviewed or evaluated, upon the request of such provider or facility;

(b) To any person with the consent of the health care provider or facility whose services are being reviewed or evaluated;

(c) To the person requesting the review or evaluation, for use solely for the purpose of improving the quality of health care, avoiding the improper utilization of the services of health care providers and facilities, and determining the reasonable charges for such services;

(d) In a report in statistical form, without identification of providers or facilities reviewed or evaluated, for educational purposes to the public or to any interested person;

(e) With regard to any criminal matter, to a court of record, in accordance with the provisions of Title XLIII and after issuance of a subpoena; and

(f) To the appropriate examining or licensing board or agency, when the organization conducting the review or evaluation determines that such action is advisable.

(4) Any person who discloses information or releases a record in violation of this section, other than through a good faith mistake, is civilly liable therefor to any person harmed by the disclosure or release.
