

HOUSE BILL No. 2428

By Legislative Educational Planning Committee

1-10

1 AN ACT concerning health care providers; relating to the university of
2 Kansas medical center; amending K.S.A. 2011 Supp. 65-4915 and
3 repealing the existing section.
4

5 Be it enacted by the Legislature of the State of Kansas:

6 Section 1. K.S.A. 2011 Supp. 65-4915 is hereby amended to read as
7 follows: 65-4915. (a) As used in this section:

8 (1) "Health care provider" means: (A) Those persons and entities
9 defined as a health care provider under K.S.A. 40-3401, and amendments
10 thereto; and (B) a dentist licensed by the Kansas dental board, a dental
11 hygienist licensed by the Kansas dental board, a professional nurse
12 licensed by the board of nursing, a practical nurse licensed by the board of
13 nursing, a mental health technician licensed by the board of nursing, a
14 physical therapist licensed by the state board of healing arts, a physical
15 therapist assistant certified by the state board of healing arts, an
16 occupational therapist licensed by the state board of healing arts, an
17 occupational therapy assistant licensed by the state board of healing arts, a
18 respiratory therapist licensed by the state board of healing arts, a physician
19 assistant licensed by the state board of healing arts and attendants and
20 ambulance services certified by the emergency medical services board.

21 (2) "Health care provider group" means:

22 (A) A state or local association of health care providers or one or
23 more committees thereof;

24 (B) the board of governors created under K.S.A. 40-3403, and
25 amendments thereto;

26 (C) an organization of health care providers formed pursuant to state
27 or federal law and authorized to evaluate medical and health care services;

28 (D) a review committee operating pursuant to K.S.A. 65-2840c, and
29 amendments thereto;

30 (E) an organized medical staff of a licensed medical care facility as
31 defined by K.S.A. 65-425, and amendments thereto, an organized medical
32 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
33 amendments thereto or an organized medical staff of a state psychiatric
34 hospital or state institution for the mentally retarded, as follows: Larned
35 state hospital, Osawatomie state hospital, Rainbow mental health facility,
36 Kansas neurological institute and Parsons state hospital and training

1 center;

2 (F) a health care provider;

3 (G) a professional society of health care providers or one or more
4 committees thereof;

5 (H) a Kansas corporation whose stockholders or members are health
6 care providers or an association of health care providers, which
7 corporation evaluates medical and health care services; ~~or~~

8 (I) an insurance company, health maintenance organization or
9 administrator of a health benefits plan which engages in any of the
10 functions defined as peer review under this section; *or*

11 (J) *the university of Kansas medical center.*

12 (3) "Peer review" means any of the following functions:

13 (A) Evaluate and improve the quality of health care services rendered
14 by health care providers;

15 (B) determine that health services rendered were professionally
16 indicated or were performed in compliance with the applicable standard of
17 care;

18 (C) determine that the cost of health care rendered was considered
19 reasonable by the providers of professional health services in this area;

20 (D) evaluate the qualifications, competence and performance of the
21 providers of health care or to act upon matters relating to the discipline of
22 any individual provider of health care;

23 (E) reduce morbidity or mortality;

24 (F) establish and enforce guidelines designed to keep within
25 reasonable bounds the cost of health care;

26 (G) conduct of research;

27 (H) determine if a hospital's facilities are being properly utilized;

28 (I) supervise, discipline, admit, determine privileges or control
29 members of a hospital's medical staff;

30 (J) review the professional qualifications or activities of health care
31 providers;

32 (K) evaluate the quantity, quality and timeliness of health care
33 services rendered to patients in the facility;

34 (L) evaluate, review or improve methods, procedures or treatments
35 being utilized by the medical care facility or by health care providers in a
36 facility rendering health care.

37 (4) "Peer review officer or committee" means:

38 (A) An individual employed, designated or appointed by, or a
39 committee of or employed, designated or appointed by, a health care
40 provider group and authorized to perform peer review; or

41 (B) a health care provider monitoring the delivery of health care at
42 correctional institutions under the jurisdiction of the secretary of
43 corrections.

1 (b) Except as provided by K.S.A. 60-437, and amendments thereto
2 and by subsections (c) and (d), the reports, statements, memoranda,
3 proceedings, findings and other records submitted to or generated by peer
4 review committees or officers shall be privileged and shall not be subject
5 to discovery, subpoena or other means of legal compulsion for their release
6 to any person or entity or be admissible in evidence in any judicial or
7 administrative proceeding. Information contained in such records shall not
8 be discoverable or admissible at trial in the form of testimony by an
9 individual who participated in the peer review process. The peer review
10 officer or committee creating or initially receiving the record is the holder
11 of the privilege established by this section. This privilege may be claimed
12 by the legal entity creating the peer review committee or officer, or by the
13 commissioner of insurance for any records or proceedings of the board of
14 governors.

15 (c) Subsection (b) shall not apply to proceedings in which a health
16 care provider contests the revocation, denial, restriction or termination of
17 staff privileges or the license, registration, certification or other
18 authorization to practice of the health care provider. A licensing agency in
19 conducting a disciplinary proceeding in which admission of any peer
20 review committee report, record or testimony is proposed shall hold the
21 hearing in closed session when any such report, record or testimony is
22 disclosed. Unless otherwise provided by law, a licensing agency
23 conducting a disciplinary proceeding may close only that portion of the
24 hearing in which disclosure of a report or record privileged under this
25 section is proposed. In closing a portion of a hearing as provided by this
26 section, the presiding officer may exclude any person from the hearing
27 location except the licensee, the licensee's attorney, the agency's attorney,
28 the witness, the court reporter and appropriate staff support for either
29 counsel. The licensing agency shall make the portions of the agency record
30 in which such report or record is disclosed subject to a protective order
31 prohibiting further disclosure of such report or record. Such report or
32 record shall not be subject to discovery, subpoena or other means of legal
33 compulsion for their release to any person or entity. No person in
34 attendance at a closed portion of a disciplinary proceeding shall at a
35 subsequent civil, criminal or administrative hearing, be required to testify
36 regarding the existence or content of a report or record privileged under
37 this section which was disclosed in a closed portion of a hearing, nor shall
38 such testimony be admitted into evidence in any subsequent civil, criminal
39 or administrative hearing. A licensing agency conducting a disciplinary
40 proceeding may review peer review committee records, testimony or
41 reports but must prove its findings with independently obtained testimony
42 or records which shall be presented as part of the disciplinary proceeding
43 in open meeting of the licensing agency. Offering such testimony or

1 records in an open public hearing shall not be deemed a waiver of the peer
2 review privilege relating to any peer review committee testimony, records
3 or report.

4 (d) Nothing in this section shall limit the authority, which may
5 otherwise be provided by law, of the commissioner of insurance, the state
6 board of healing arts or other health care provider licensing or disciplinary
7 boards of this state to require a peer review committee or officer to report
8 to it any disciplinary action or recommendation of such committee or
9 officer; to transfer to it records of such committee's or officer's
10 proceedings or actions to restrict or revoke the license, registration,
11 certification or other authorization to practice of a health care provider; or
12 to terminate the liability of the fund for all claims against a specific health
13 care provider for damages for death or personal injury pursuant to
14 subsection (i) of K.S.A. 40-3403, and amendments thereto. Reports and
15 records so furnished shall not be subject to discovery, subpoena or other
16 means of legal compulsion for their release to any person or entity and
17 shall not be admissible in evidence in any judicial or administrative
18 proceeding other than a disciplinary proceeding by the state board of
19 healing arts or other health care provider licensing or disciplinary boards
20 of this state.

21 (e) A peer review committee or officer may report to and discuss its
22 activities, information and findings to other peer review committees or
23 officers or to a board of directors or an administrative officer of a health
24 care provider without waiver of the privilege provided by subsection (b)
25 and the records of all such committees or officers relating to such report
26 shall be privileged as provided by subsection (b).

27 (f) Nothing in this section shall be construed to prevent an insured
28 from obtaining information pertaining to payment of benefits under a
29 contract with an insurance company, a health maintenance organization or
30 an administrator of a health benefits plan.

31 Sec. 2. K.S.A. 2011 Supp. 65-4915 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its
33 publication in the statute book.

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