

SENATE BILL NO. 368

INTRODUCED BY LIND, O'HARA, WANZENRIED, MCGILLVRAY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING CONFIDENTIALITY TO MEDICAL PRACTICE GROUP QUALITY ASSURANCE INFORMATION; DEFINING A MEDICAL PRACTICE GROUP; PROVIDING GUIDELINES FOR QUALITY ASSURANCE REVIEWS; AND AMENDING SECTIONS 50-16-201, 50-16-202, 50-16-203, AND 50-16-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-16-201, MCA, is amended to read:

"50-16-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Data" means written reports, notes, or records or oral reports or proceedings created by or at the request of a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee of a health care facility or medical practice group that are used exclusively in connection with quality assessment or improvement activities, including the professional training, supervision, or discipline of a medical practitioner by a health care facility or medical practice group.

(b) The term does not include:

(i) incident reports or occurrence reports; or
(ii) health care information that is used in whole or in part to make decisions about an individual who is the subject of the health care information.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) (a) "Incident reports" or "occurrence reports" means a written business record of a health care facility or medical practice group, created in response to an untoward event, such as a patient injury, adverse outcome, or interventional error, for the purpose of ensuring a prompt evaluation of the event.

(b) The terms do not include any subsequent evaluation of the event in response to an incident report or occurrence report by a utilization review, peer review, medical ethics review, quality assurance, or quality improvement committee.

(4) "Medical practice group" means a group of two or more medical practitioners practicing medicine together in a professional corporation, professional limited liability company, or partnership.

1 ~~(4)~~(5) "Medical practitioner" means an individual licensed by the state of Montana to engage in the
2 practice of medicine, osteopathy, podiatry, optometry, or a nursing specialty described in 37-8-202 or licensed
3 as a physician assistant pursuant to 37-20-203."
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5 **Section 2.** Section 50-16-202, MCA, is amended to read:

6 **"50-16-202. Committees to have access to information.** It is in the interest of public health and patient
7 medical care that health care facility and medical practice group committees have access to the records and other
8 health care information relating to the condition and treatment of patients in the health care facility or of the
9 medical practice group to study and evaluate for the purpose of evaluating matters relating to the care and
10 treatment of patients for research purposes and for the purpose of reducing morbidity or mortality and obtaining
11 statistics and information relating to the prevention and treatment of diseases, illnesses, and injuries. To carry
12 out these purposes, any health care facility or medical practice group and its agents and employees may provide
13 medical records or other health care information relating to the condition and treatment of any patient in the health
14 care facility or of the medical practice group to any utilization review, peer review, medical ethics review, quality
15 assurance, or quality improvement committee of the health care facility or medical practice group."
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17 **Section 3.** Section 50-16-203, MCA, is amended to read:

18 **"50-16-203. Committee health care information and proceedings confidential and privileged.** All
19 records and health care information referred to in 50-16-202 are confidential and privileged to the committee and
20 the members of the committee as though the health care facility patients or medical practice group patients were
21 the patients of the members of the committee. All proceedings, records, and reports of committees are
22 confidential and privileged."
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24 **Section 4.** Section 50-16-204, MCA, is amended to read:

25 **"50-16-204. Restrictions on use or publication of information.** A utilization review, peer review,
26 medical ethics review, quality assurance, or quality improvement committee of a health care facility or medical
27 practice group may use or publish health care information only for the purpose of evaluating matters of medical
28 care, therapy, and treatment for research and statistical purposes. ~~Neither a~~ A committee ~~nor~~ or the members,
29 agents, or employees of a committee ~~shall~~ may not disclose the name or identity of any patient whose records
30 have been studied in any report or publication of findings and conclusions of a committee; ~~but a~~ A committee and

its members, agents, or employees shall protect the identity of any patient whose condition or treatment has been studied and may not disclose or reveal the name of any health care facility patient or medical practice group patient."

NEW SECTION. SECTION 5. MEDICAL PRACTICE GROUP QUALITY ASSURANCE GUIDELINES -- REVIEWS. (1)

REVIEWS CONDUCTED BY A MEDICAL PRACTICE GROUP UNDER THIS PART MUST COMPLY WITH THE FOLLOWING GUIDELINES:

(A) A RANDOM REVIEW IS A REVIEW OF AT LEAST 10 RANDOMLY SELECTED PATIENT CHARTS, WHICH MUST BE REVIEWED BY A QUALITY ASSURANCE COMMITTEE OF THE MEDICAL PRACTICE GROUP. THE COMMITTEE MAY GATHER DATA FROM ANY SOURCE FOR PURPOSES OF THE REVIEW. THE COMMITTEE SHALL SUBMIT AN EVALUATION REPORT TO THE MEDICAL PRACTICE GROUP OUTLINING THE REVIEW FINDINGS AND RECOMMENDING CHANGES IF CHANGES ARE DETERMINED NECESSARY.

(B) A FOCUSED REVIEW IS INTENDED FOR SPECIFIC CLINICAL AND QUALITY IMPROVEMENT PURPOSES, SUCH AS:

(I) REVIEWING PATIENT MEDICAL RECORDS RELATING TO A CERTAIN DISEASE OR PROCEDURAL CATEGORY FOR PURPOSES OF COMPARING DOCUMENTED TREATMENT TO AVAILABLE AND CURRENT STANDARDS OF MEDICAL CARE;

(II) ASSESSING THE EFFICACY AND EFFICIENCY OF AN OFFICE PROCEDURE OR PROCESS RELATED TO CLINICAL CARE; OR

(III) REVIEWING OFFICE AND CLINICAL PRACTICES PROMPTED BY AN ANALYSIS AND RESULTS OF INCIDENT REPORTS.

(C) AN INCIDENT REVIEW PERFORMED BY A MEDICAL PRACTICE GROUP QUALITY ASSURANCE COMMITTEE IS FOR PURPOSES OF GATHERING DATA, INVESTIGATING, CONDUCTING ANALYSIS, COORDINATING ALL RESPONSES, AND RECOMMENDING AND INITIATING CORRECTIVE ACTION AS NECESSARY, CONNECTED WITH A SPECIFIC INCIDENT INVOLVING THE DELIVERY OF MEDICAL CARE TO A PATIENT OF THE MEDICAL PRACTICE GROUP.

(2) REVIEWS CONDUCTED BY A MEDICAL PRACTICE GROUP UNDER THIS PART MUST BE BASED ON APPROPRIATENESS, MEDICAL NECESSITY, ADEQUACY OF DOCUMENTATION, AND EFFICIENCY OF SERVICES. THE PHYSICIAN BEING REVIEWED MUST BE IMMEDIATELY ADVISED OF THE FINDINGS OF THE COMMITTEE TO FURTHER THE EDUCATIONAL PROCESS FOR THE PHYSICIAN. THE MEDICAL PRACTICE GROUP IS RESPONSIBLE FOR DOCUMENTING ANY CORRECTIVE ACTION THAT IS TAKEN AND ANY POLICIES, PROCEDURES, OR CLINICAL PROCESSES THAT ARE CHANGED, WHO IS RESPONSIBLE FOR IMPLEMENTING THE CHANGES, AND HOW THE MEDICAL PRACTICE GROUP WILL ENSURE THAT THE CHANGES ARE MADE.

(3) ALL DATA RELATING TO QUALITY ASSURANCE COMMITTEE ACTIVITIES UNDER THIS PART MUST BE MAINTAINED IN A CONFIDENTIAL LOCATION SEPARATE FROM PATIENT MEDICAL RECORDS.

(4) A MEDICAL PRACTICE GROUP MAY AND A GROUP OF FIVE OR FEWER MEDICAL PROVIDERS SHALL CONTRACT WITH A GROUP OR ORGANIZATION COMPOSED OF PERSONS LICENSED TO PRACTICE A HEALTH CARE PROFESSION OR WITH A NONPROFIT CORPORATION ENGAGED IN PERFORMING THE FUNCTIONS OF A PEER REVIEW COMMITTEE, MEDICAL ETHICS REVIEW COMMITTEE, OR PROFESSIONAL STANDARDS REVIEW COMMITTEE FOR PURPOSES OF CONDUCTING ANY REVIEW ALLOWED UNDER THIS PART.

NEW SECTION. **SECTION 6. CODIFICATION INSTRUCTION.** [SECTION 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 50, CHAPTER 16, PART 2, AND THE PROVISIONS OF TITLE 50, CHAPTER 16, PART 2, APPLY TO [SECTION 5].

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