

1 licensed under G.S. 131E-102, and adult care homes licensed under
2 G.S. 131D-2.

3 (4) "Infirmary" means a unit of a school, or similar educational institution,
4 which has the primary purpose to provide limited short-term health
5 and nursing services to its students.

6 (5) "Medical review committee" means a committee of a State or local
7 professional society, of a medical staff of a licensed hospital or a
8 committee of a peer review corporation or organization which is
9 formed for the purpose of evaluating the quality, cost of, or necessity
10 for hospitalization or health care, including medical staff credentialing.

11 (6) ~~"Primary care hospital"~~ "Critical access hospital" means a hospital
12 which has been designated as a ~~primary care critical access~~ hospital by
13 the North Carolina Department of Health and Human Services, Office
14 of Rural Health and Resource Development. To be designated as a
15 ~~primary care critical access~~ hospital under this subdivision, the
16 hospital must be ~~located in a rural community, provide primary care~~
17 ~~inpatient services that do not include inpatient surgery, and provide~~
18 ~~outpatient services which may include outpatient surgery. A primary~~
19 ~~care hospital shall have a maximum annual average daily census of 15~~
20 ~~patients and may have psychiatric and long term care distinct part~~
21 ~~units. A primary care hospital must be part of a rural hospital~~
22 ~~network.~~ meet the requirements of federal law for certification as a
23 critical access hospital.

24 (7) "Rural hospital network" means an alliance of members that shall
25 include at least one ~~primary care critical access~~ hospital and one other
26 hospital. To qualify as a rural hospital network, the ~~members critical~~
27 access hospital must submit a comprehensive, written memorandum of
28 understanding to the Department of Health and Human Services for
29 the Department's approval. The memorandum of understanding must
30 include provisions for patient referral and transfer, a plan for
31 network-wide emergency services, and a plan for sharing patient
32 information and services between hospital members including medical
33 staff credentialing, risk management, quality assurance, and peer
34 review."

35 **PART II. MEASURES TO IMPROVE THE QUALITY OF PATIENT**
36 **CARE.**

37 **SECTION 2.1.** G.S. 131E-101 is amended by adding a new subdivision to

38 read:

39 "(8) "Quality assurance committee" means a committee, agency, or
40 department of a state or local professional organization, of a medical
41 staff of a licensed hospital, nursing home, of nurses or aides on the
42 staff of a nursing home, or adult care home, of physicians having
43 privileges within the nursing home, or adult care home, or of a peer
44 review corporation or organization that is formed for the purpose of

1 evaluating the quality, cost of, or necessity for health care services
2 under applicable federal and State statutes, regulations, and rules."

3 **SECTION 2.2.** G.S. 131E-107 reads as rewritten:

4 "**§ 131E-107. Medical-Quality assurance, medical, or peer review committees.**

5 (a) A member of a duly appointed ~~medical~~ quality assurance, medical or peer
6 review committee shall not be subject to liability for damages in any civil action on
7 account of any act, statement or proceeding undertaken, made, or performed within the
8 scope of the functions of the committee, if the committee member acts without malice
9 or fraud, and if such peer review committee is approved and operates in accordance
10 with G.S. 131E-108.

11 (b) The proceedings of a quality assurance, medical, or peer review committee,
12 the records and materials it produces and the materials it considers shall be confidential
13 and not considered public records within the meaning of G.S. 132-1, "Public records'
14 defined", and shall not be subject to discovery or introduction into evidence in any civil
15 action against a nursing home or a provider of professional health services that results
16 from matters that are the subject of evaluation and review by the committee. No person
17 who was in attendance at a meeting of the committee shall be required to testify in any
18 civil action as to any evidence or other matters produced or presented during the
19 proceedings of the committee or as to any findings, recommendations, evaluations,
20 opinions, or other actions of the committee or its members. However, information,
21 documents, or records otherwise available are not immune from discovery or use in a
22 civil action merely because they were presented during proceedings of the committee.
23 Documents otherwise available as public records within the meaning of G.S. 132-1 do
24 not lose their status as public records merely because they were presented or considered
25 during proceedings of the committee. A member of the committee or a person who
26 testifies before the committee may testify in a civil action but cannot be asked about the
27 person's testimony before the committee or any opinions formed as a result of the
28 committee hearings."

29 **SECTION 2.3.** Chapter 131D of the General Statutes is amended by adding
30 a new section to read:

31 "**§ 131D-21.2. Quality assurance, medical, or peer review committees.**

32 (a) A member of a duly appointed quality assurance, medical, or peer review
33 committee shall not be subject to liability for damages in any civil action on account of
34 any act, statement, or proceeding undertaken, made, or performed within the scope of
35 the functions of the committee, if the committee member acts without malice or fraud,
36 and if such peer review committee is approved and operates in accordance with
37 G.S. 131D-21.1.

38 (b) The proceedings of a quality assurance, medical, or peer review committee,
39 the records and materials it produces and the materials it considers shall be confidential
40 and not considered public records within the meaning of G.S. 132-1, "Public records'
41 defined", and shall not be subject to discovery or introduction into evidence in any civil
42 action against a nursing home or a provider of professional health services that results
43 from matters that are the subject of evaluation and review by the committee. No person
44 who was in attendance at a meeting of the committee shall be required to testify in any

1 civil action as to any evidence or other matters produced or presented during the
2 proceedings of the committee or as to any findings, recommendations, evaluations,
3 opinions, or other actions of the committee or its members. However, information,
4 documents, or records otherwise available are not immune from discovery or use in a
5 civil action merely because they were presented during proceedings of the committee.
6 Documents otherwise available as public records within the meaning of G.S. 132-1 do
7 not lose their status as public records merely because they were presented or considered
8 during proceedings of the committee. A member of the committee or a person who
9 testifies before the committee may testify in a civil action but cannot be asked about the
10 person's testimony before the committee or any opinions formed as a result of the
11 committee hearings."

12 **SECTION 2.4.** G.S. 131E-76(5) reads as rewritten:

13 "(5) "Medical review committee" means ~~a committee of a State or local~~
14 ~~professional society, of a medical staff of a licensed hospital or a~~
15 ~~committee of a peer review corporation or organization which is~~ any
16 of the following committees formed for the purpose of evaluating the
17 quality, cost of, or necessity for hospitalization or health care,
18 including medical staff ~~credentialing~~ credentialing:

19 a. A committee of a state or local professional society.

20 b. A committee of a medical staff of a hospital.

21 c. A committee of a hospital or hospital system, if created by the
22 governing board or medical staff of the hospital or system or
23 operating under written procedures adopted by the governing
24 board or medical staff of the hospital or system.

25 d. A committee of a peer review corporation or organization."

26 **SECTION 2.5.** G.S. 131E-95 reads as rewritten:

27 **"§ 131E-95. Medical review committee.**

28 (a) A member of a duly appointed medical review committee who acts without
29 malice or fraud shall not be subject to liability for damages in any civil action on
30 account of any act, statement or proceeding undertaken, made, or performed within the
31 scope of the functions of the committee.

32 (b) The proceedings of a medical review committee, the records and materials it
33 produces and the materials it considers shall be confidential and not considered public
34 records within the meaning of G.S. 132-1, " 'Public records' defined", and shall not be
35 subject to discovery or introduction into evidence in any civil action against a hospital,
36 an ambulatory surgical facility licensed under Chapter 131E of the General Statutes, or
37 a provider of professional health services which results from matters which are the
38 subject of evaluation and review by the committee. No person who was in attendance at
39 a meeting of the committee shall be required to testify in any civil action as to any
40 evidence or other matters produced or presented during the proceedings of the
41 committee or as to any findings, recommendations, evaluations, opinions, or other
42 actions of the committee or its members. However, information, documents, or records
43 otherwise available are not immune from discovery or use in a civil action merely
44 because they were presented during proceedings of the committee. Documents

1 otherwise available as public records within the meaning of G.S. 132-1 do not lose their
2 status as public records merely because they were presented or considered during
3 proceedings of the committee. A member of the committee or a person who testifies
4 before the committee may testify in a civil action but cannot be asked about ~~his~~the
5 person's testimony before the committee or any opinions formed as a result of the
6 committee hearings.

7 (c) Information that is confidential and is not subject to discovery or use in civil
8 actions under ~~subsection (b) of this section~~ may be released to a professional standards
9 review organization that performs any accreditation or certification ~~function~~including
10 the Joint Commission on Accreditation of Healthcare Organizations. Information
11 released under this ~~subdivision~~subsection shall be limited to that which is reasonably
12 necessary and relevant to the standards review organization's determination to grant or
13 continue accreditation or certification. Information released under this ~~subdivision~~
14 subsection retains its confidentiality and is not subject to discovery or use in any civil
15 actions as provided under ~~subsection (b) of this section~~, and the standards review
16 organization shall keep the information confidential subject to ~~that subsection~~. this
17 section."

18 **SECTION 2.6.** G.S. 90-21.22A reads as rewritten:

19 **"§ 90-21.22A. Medical review and quality assurance committees.**

20 (a) As used in this section, the following terms mean:

21 (1) ~~"medical~~Medical review committee"committee. – A ~~means~~means
22 a committee composed of health care providers licensed under this
23 Chapter that is formed for the purpose of evaluating the quality of, cost of,
24 or necessity for health care services, including provider
25 credentialing. "Medical review committee" does not mean a medical
26 review committee established under G.S. 131E-95.

27 (2) "Quality assurance committee." – Risk management employees of an
28 insurer licensed to write medical professional liability insurance in this
29 State, who work in collaboration with health care providers licensed
30 under this Chapter, and insured by that insurer, to evaluate and
31 improve the quality of health care services.

32 (b) A member of a duly appointed medical review or quality assurance
33 committee who acts without malice or fraud shall not be subject to liability for damages
34 in any civil action on account of any act, statement, or proceeding undertaken, made, or
35 performed within the scope of the functions of the committee.

36 (c) The proceedings of a medical review or quality assurance committee, the
37 records and materials it produces, and the materials it considers shall be confidential and
38 not considered public records within the meaning of G.S. 132-1, 131E-309, or 58-2-100;
39 and shall not be subject to discovery or introduction into evidence in any civil action
40 against a provider of health care services who directly provides services and is licensed
41 under this Chapter, a PSO licensed under Article 17 of Chapter 131E of the General
42 Statutes, an ambulatory surgical facility licensed under Chapter 131E of the General
43 Statutes, or a hospital licensed under Chapter 122C or Chapter 131E of the General
44 Statutes or that is owned or operated by the State, which civil action results from

1 matters that are the subject of evaluation and review by the committee. No person who
2 was in attendance at a meeting of the committee shall be required to testify in any civil
3 action as to any evidence or other matters produced or presented during the proceedings
4 of the committee or as to any findings, recommendations, evaluations, opinions, or other
5 actions of the committee or its members. However, information, documents, or records
6 otherwise available are not immune from discovery or use in a civil action merely
7 because they were presented during proceedings of the committee. Documents
8 otherwise available as public records within the meaning of G.S. 132-1 do not lose their
9 status as public records merely because they were presented or considered during
10 proceedings of the committee. A member of the committee may testify in a civil action
11 but cannot be asked about ~~his or her~~ the person's testimony before the committee or any
12 opinions formed as a result of the committee hearings.

13 (d) This section applies to a medical review committee, including a medical
14 review committee appointed by one of the entities licensed under Articles 1 through 67
15 of Chapter 58 of the General Statutes.

16 (e) Subsection (c) of this section does not apply to proceedings initiated under
17 G.S. 58-50-61 or G.S. 58-50-62."

18 **SECTION 2.7.** G.S. 122C-191(e) reads as rewritten:

19 "(e) For purposes of peer review functions only:

20 (1) A member of a duly appointed quality assurance committee who acts
21 without malice or fraud shall not be subject to liability for damages in
22 any civil action on account of any act, statement, or proceeding
23 undertaken, made, or performed within the scope of the functions of
24 the committee.

25 (2) The proceedings of a quality assurance committee, the records and
26 materials it produces, and the material it considers shall be confidential
27 and not considered public records within the meaning of G.S. 132-1,
28 "Public records' defined," and shall not be subject to discovery or
29 introduction into evidence in any civil action against a facility or a
30 provider of professional health services that results from matters which
31 are the subject of evaluation and review by the committee. No person
32 who was in attendance at a meeting of the committee shall be required
33 to testify in any civil action as to any evidence or other matters
34 produced or presented during the proceedings of the committee or as to
35 any findings, recommendations, evaluations, opinions, or other actions
36 of the committee or its members. However, information, documents or
37 records otherwise available are not immune from discovery or use in a
38 civil action merely because they were presented during proceedings of
39 the committee, and nothing herein shall prevent a provider of
40 professional health services from using such otherwise available
41 information, documents or records in connection with an
42 administrative hearing or civil suit relating to the medical staff
43 membership, clinical privileges or employment of the provider.
44 Documents otherwise available as public records within the meaning

1 of G.S. 132-1 do not lose their status as public records merely because
2 they were presented or considered during proceedings of the
3 committee. A member of the committee or a person who testifies
4 before the committee may be subpoenaed and be required to testify in
5 a civil action as to events of which the person has knowledge
6 independent of the peer review process, but cannot be asked about ~~his~~
7 the person's testimony before the committee for impeachment or other
8 purposes or about any opinions formed as a result of the committee
9 hearings.

- 10 (3) Peer review information that is confidential and is not subject to
11 discovery or use in civil actions under ~~subdivision (2) of this~~
12 ~~subsection~~this section may be released to a professional standards
13 review organization that contracts with an agency of this State or the
14 federal government to perform any accreditation or certification
15 ~~function~~function, including the Joint Commission on Accreditation of
16 Healthcare Organizations. Information released under this subdivision
17 shall be limited to that which is reasonably necessary and relevant to
18 the standards review organization's determination to grant or continue
19 accreditation or certification. Information released under this
20 subdivision retains its confidentiality and is not subject to discovery or
21 use in any civil actions as provided under ~~subdivision (2) of this~~
22 ~~subsection~~this subsection, and the standards review organization shall
23 keep the information confidential subject to ~~that subdivision~~this
24 section."

25 **SECTION 2.8.** G.S. 122C-30 reads as rewritten:

26 **"§ 122C-30. Peer review committee; immunity from liability; confidentiality.**

27 For purposes of peer review functions of a ~~hospital facility~~ licensed under the
28 provisions of this Chapter:

- 29 (1) A member of a duly appointed peer review committee or quality
30 assurance committee who acts without malice or fraud shall not be
31 subject to liability for damages in any civil action on account of any
32 act, statement, or proceeding undertaken, made, or performed within
33 the scope of the functions of the committee; and
34 (2) Proceedings of a peer review or quality assurance committee, the
35 records and materials it produces, and the material it considers shall be
36 confidential and not considered public records within the meaning of
37 G.S. 132-1, "Public records' defined," and shall not be subject to
38 discovery or introduction into evidence in any civil action against a
39 facility or a provider of professional health services that results from
40 matters which are the subject of evaluation and review by the
41 committee. No person who was in attendance at a meeting of the
42 committee shall be required to testify in any civil action as to any
43 evidence or other matters produced or presented during the
44 proceedings of the committee or as to any findings, recommendations,

1 evaluations, opinions, or other actions of the committee or its
2 members. However, information, documents or records otherwise
3 available are not immune from discovery or use in a civil action
4 merely because they were presented during proceedings of the
5 committee, and nothing herein shall prevent a provider of professional
6 health services from using such otherwise available information,
7 documents or records in connection with an administrative hearing or
8 civil suit relating to the medical staff membership, clinical privileges
9 or employment of the provider. Documents otherwise available as
10 public records within the meaning of G.S. 132-1 do not lose their
11 status as public records merely because they were presented or
12 considered during proceedings of the committee. A member of the
13 committee or a person who testifies before the committee may be
14 subpoenaed and be required to testify in a civil action as to events of
15 which the person has knowledge independent of the peer review or
16 quality assurance process, but cannot be asked about his-the person's
17 testimony before the committee for impeachment or other purposes or
18 about any opinions formed as a result of the committee hearings."

19 **SECTION 2.9.** Article 1B of Chapter 90 of the General Statutes is amended
20 by adding the following new section to read:

21 **"§ 90-21.18A. Medical directors; liability limitation.**

22 A medical director of a licensed nursing home shall not be named in an
23 action pursuant to this Article except under any of the following circumstances:

- 24 (1) Where allegations involve a patient under the direct care of the
25 medical director.
26 (2) Where allegations involve willful or intentional misconduct,
27 recklessness, or gross negligence in connection with the failure to
28 supervise, or other acts performed or failed to be performed, by the
29 medical director in a supervisory or consulting role."

30 **PART III. MEASURES TO PROTECT PATIENT-PHYSICIAN**
31 **RELATIONSHIPS.**

32 **SECTION 3.1.** Article 4 of Chapter 8C of the General Statutes is amended
33 by adding a new section to read:

34 **"Rule 413. Medical actions; statements to ameliorate or mitigate adverse outcome.**

35 Statements by a health care provider apologizing for an adverse outcome in medical
36 treatment, offers to undertake corrective or remedial treatment or actions, and gratuitous
37 acts to assist affected persons shall not be admissible to prove negligence or culpable
38 conduct by the health care provider in an action brought under Article 1B of Chapter 90
39 of the General Statutes."

40 **PART IV. EFFECTIVE DATES.**

41 **SECTION 4.1.** This act is effective when it becomes law. Sections 2.9 and
42 3.1 apply to causes of action arising on or after that date.