

Senate BILL NO. 58
Rasmussen

1
2 INTRODUCED BY _____
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF UTILIZATION,
6 PEER REVIEW, AND PROFESSIONAL STANDARDS COMMITTEES SO THAT
7 THE STATUTE WILL APPLY TO ALL HEALTH CARE PROFESSIONALS ON
8 SUCH COMMITTEES."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 66-1052, R.C.M. 1947, is amended to
12 read as follows:

13 "66-1052. Nonliability for peer review -- application
14 to nonprofit corporations. (1) No member of a utilization
15 review committee of a hospital, or long-term care facility
16 or of a utilization committee of ~~a state-wide or local~~
17 ~~society composed of doctors of medicine or doctors of~~
18 ~~osteopathic medicine and surgery or of a peer review or~~
19 ~~professional standards review committee of a state-wide or~~
20 ~~local society composed of doctors of medicine, doctors of~~
21 ~~osteopathic medicine and surgery, doctors of dentistry,~~
22 ~~chiropractors, doctors of optometry, or registered~~
23 pharmacists shall be, peer review committee, or professional
24 standards review committee of a society composed of persons
25 licensed to practice a health care profession is liable in

1 damages to any person for any action taken or recommendation
2 made within the scope of the functions of the committee if
3 the committee member acts without malice and in the
4 reasonable belief that the action or recommendation is
5 warranted by the facts known to him, after reasonable effort
6 to obtain the facts of the matter for which the action is
7 taken or a recommendation is made.
8 (2) This act also applies to any member of a nonprofit
9 corporation engaged in performing the functions of a peer
10 review or professional standards review committee."

-End-

Approved by Committee
on Judiciary

Senate BILL NO. 58
Rasmussen

1
2 INTRODUCED BY _____

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF UTILIZATION,
6 PEER REVIEW, AND PROFESSIONAL STANDARDS COMMITTEES SO THAT
7 THE STATUTE WILL APPLY TO ALL HEALTH CARE PROFESSIONALS ON
8 SUCH COMMITTEES."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 66-1052, R.C.M. 1947, is amended to
12 read as follows:

13 "66-1052. Nonliability for peer review -- application
14 to nonprofit corporations. (1) No member of a utilization
15 review committee of a hospital or long-term care facility
16 or of a utilization committee of ~~a state-wide or local~~
17 ~~society composed of doctors of medicine or doctors of~~
18 ~~osteopathic medicine and surgery or of a peer review or~~
19 ~~professional standards review committee of a state-wide or~~
20 ~~local society composed of doctors of medicine, doctors of~~
21 ~~osteopathic medicine and surgery, doctors of dentistry,~~
22 ~~chiropractors, doctors of optometry, or registered~~
23 ~~pharmacists shall be, peer review committee, or professional~~
24 standards review committee of a society composed of persons
25 licensed to practice a health care profession is liable in

1 damages to any person for any action taken or recommendation
2 made within the scope of the functions of the committee if
3 the committee member acts without malice and in the
4 reasonable belief that the action or recommendation is
5 warranted by the facts known to him after reasonable effort
6 to obtain the facts of the matter for which the action is
7 taken or a recommendation is made.
8 (2) This act also applies to any member of a nonprofit
9 corporation engaged in performing the functions of a peer
10 review or professional standards review committee."

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 58

INTRODUCED BY RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF PROFESSIONAL UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS COMMITTEES SO THAT THE STATUTE WILL APPLY TO ALL HEALTH CARE PROFESSIONALS ON SUCH COMMITTEES AND PROVIDING AN EVIDENTIAL PRIVILEGE FOR COMMITTEE RECORDS AND MEMBER TESTIMONY."

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

Section 1. Section 66-1052, R.C.M. 1947, is amended to read as follows:

"66-1052. Nonliability for peer review -- application to nonprofit corporations. (1) No member of a utilization review committee of a hospital or long-term care facility or of a ~~PROFESSIONAL~~-utilization committee of ~~a state-wide or local society composed of doctors of medicine or doctors of osteopathic medicine and surgery or of a peer review or professional standards review committee of a state-wide or local society composed of doctors of medicine, doctors of osteopathic medicine and surgery, doctors of dentistry, chiropractors, doctors of optometry, or registered pharmacists shall be,~~ peer review committee, or professional standards review committee of a society composed of persons

licensed to practice a health care profession is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) THE PROCEEDINGS AND RECORDS OF PROFESSIONAL UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS REVIEW COMMITTEES ARE NOT SUBJECT TO DISCOVERY OR INTRODUCTION INTO EVIDENCE IN ANY PROCEEDING. HOWEVER, INFORMATION OTHERWISE DISCOVERABLE OR ADMISSIBLE FROM AN ORIGINAL SOURCE IS NOT TO BE CONSTRUED AS IMMUNE FROM DISCOVERY OR USE IN ANY PROCEEDING MERELY BECAUSE IT WAS PRESENTED DURING PROCEEDINGS BEFORE THE COMMITTEE, NOR IS A MEMBER OF THE COMMITTEE OR OTHER PERSON APPEARING BEFORE IT TO BE PREVENTED FROM TESTIFYING AS TO MATTERS WITHIN HIS KNOWLEDGE, BUT HE CANNOT BE QUESTIONED ABOUT HIS TESTIMONY OR OTHER PROCEEDINGS BEFORE THE COMMITTEE OR ABOUT OPINIONS OR OTHER ACTIONS OF THE COMMITTEE OR ANY MEMBER THEREOF.

(2)(3) This act also applies to any member of a nonprofit corporation engaged in performing the functions of a peer review or professional standards review committee."

-End-

SECOND READING
Second Printing

Senate BILL NO. 58
Rasmussen

1
2 INTRODUCED BY _____
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF UTILIZATION,
6 PEER REVIEW, AND PROFESSIONAL STANDARDS COMMITTEES SO THAT
7 THE STATUTE WILL APPLY TO ALL HEALTH CARE PROFESSIONALS ON
8 SUCH COMMITTEES."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 66-1052, R.C.M. 1947, is amended to
12 read as follows:

13 "66-1052. Nonliability for peer review — application
14 to nonprofit corporations. (1) No member of a utilization
15 review committee of a hospital or long-term care facility
16 or of a utilization committee of ~~a state-wide or local~~
17 ~~society composed of doctors of medicine or doctors of~~
18 ~~osteopathic medicine and surgery or of a peer review or~~
19 ~~professional standards review committee of a state-wide or~~
20 ~~local society composed of doctors of medicine doctors of~~
21 ~~osteopathic medicine and surgery doctors of dentistry~~
22 ~~chiropractors doctors of optometry or registered~~
23 pharmacists shall be, peer review committee, or professional
24 standards review committee of a society composed of persons
25 licensed to practice a health care profession is liable in

1 damages to any person for any action taken or recommendation
2 made within the scope of the functions of the committee if
3 the committee member acts without malice and in the
4 reasonable belief that the action or recommendation is
5 warranted by the facts known to him after reasonable effort
6 to obtain the facts of the matter for which the action is
7 taken or a recommendation is made.

8 (2) This act also applies to any member of a nonprofit
9 corporation engaged in performing the functions of a peer
10 review or professional standards review committee."

-End-

1 SENATE BILL NO. 58

2 INTRODUCED BY RASMUSSEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF PROFESSIONAL
6 UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS
7 COMMITTEES SO THAT THE STATUTE WILL APPLY TO ALL HEALTH CARE
8 PROFESSIONALS ON SUCH COMMITTEES AND PROVIDING AN EVIDENTIAL
9 PRIVILEGE FOR COMMITTEE RECORDS AND MEMBER TESTIMONY."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12 Section 1. Section 66-1052, R.C.M. 1947, is amended to
13 read as follows:

14 "66-1052. Nonliability for peer review -- application
15 to nonprofit corporations. (1) No member of a utilization
16 review committee of a hospital or long-term care facility
17 or of a PROFESSIONAL utilization committee of ~~a state-wide~~
18 ~~or local society composed of doctors of medicine or doctors~~
19 ~~of osteopathic medicine and surgery or of a peer review or~~
20 ~~professional standards review committee of a state-wide or~~
21 ~~local society composed of doctors of medicine, doctors of~~
22 ~~osteopathic medicine and surgery, doctors of dentistry,~~
23 ~~chiropractors, doctors of optometry, or registered~~
24 ~~pharmacists shall be, peer review committee, or professional~~
25 standards review committee of a society composed of persons

1 licensed to practice a health care profession is liable in
2 damages to any person for any action taken or recommendation
3 made within the scope of the functions of the committee if
4 the committee member acts without malice and in the
5 reasonable belief that the action or recommendation is
6 warranted by the facts known to him after reasonable effort
7 to obtain the facts of the matter for which the action is
8 taken or a recommendation is made.

9 (2) THE PROCEEDINGS AND RECORDS OF PROFESSIONAL
10 UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS REVIEW
11 COMMITTEES ARE NOT SUBJECT TO DISCOVERY OR INTRODUCTION INTO
12 EVIDENCE IN ANY PROCEEDING. HOWEVER, INFORMATION OTHERWISE
13 DISCOVERABLE OR ADMISSIBLE FROM AN ORIGINAL SOURCE IS NOT TO
14 BE CONSTRUED AS IMMUNE FROM DISCOVERY OR USE IN ANY
15 PROCEEDING MERELY BECAUSE IT WAS PRESENTED DURING
16 PROCEEDINGS BEFORE THE COMMITTEE, NOR IS A MEMBER OF THE
17 COMMITTEE OR OTHER PERSON APPEARING BEFORE IT TO BE
18 PREVENTED FROM TESTIFYING AS TO MATTERS WITHIN HIS
19 KNOWLEDGE, BUT HE CANNOT BE QUESTIONED ABOUT HIS TESTIMONY
20 OR OTHER PROCEEDINGS BEFORE THE COMMITTEE OR ABOUT OPINIONS
21 OR OTHER ACTIONS OF THE COMMITTEE OR ANY MEMBER THEREOF.

22 {2}[1] This act also applies to any member of a
23 nonprofit corporation engaged in performing the functions of
24 a peer review or professional standards review committee."

-End-

THIRD READING
Second Printing

HOUSE OF REPRESENTATIVES

March 16, 1977

Committee of the Whole amendment to SENATE BILL NO. 58, as follows:

1. Amend page 2, line 22.
Following: "member"
Insert: "or nonmember"

AS AMENDED BE CONCURRED IN

SENATE BILL NO. 58

INTRODUCED BY RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF PROFESSIONAL UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS COMMITTEES SO THAT THE STATUTE WILL APPLY TO ALL HEALTH CARE PROFESSIONALS ON SUCH COMMITTEES AND PROVIDING AN EVIDENTIAL PRIVILEGE FOR COMMITTEE RECORDS AND MEMBER TESTIMONY."

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

Section 1. Section 66-1052, R.C.M. 1947, is amended to read as follows:

"66-1052. Nonliability for peer review -- application to nonprofit corporations. (1) No member of a utilization review committee of a hospital, or long-term care facility, or of a PROFESSIONAL utilization committee of -- a -- state-wide or -- local -- society composed of doctors of medicine or doctors of osteopathic medicine and surgery or of a peer review or professional standards review committee of a state-wide or local society composed of -- doctors of -- medicine -- doctors of osteopathic -- medicine -- and -- surgery -- doctors -- of -- dentistry -- chiropractors -- doctors -- of -- optometry -- or -- registered pharmacists -- shall be, peer review committee, or professional standards review committee of a society composed of persons

licensed to practice a health care profession is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him, after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) THE PROCEEDINGS AND RECORDS OF PROFESSIONAL UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS REVIEW COMMITTEES ARE NOT SUBJECT TO DISCOVERY OR INTRODUCTION INTO EVIDENCE IN ANY PROCEEDING. HOWEVER, INFORMATION OTHERWISE DISCOVERABLE OR ADMISSIBLE FROM AN ORIGINAL SOURCE IS NOT TO BE CONSTRUED AS IMMUNE FROM DISCOVERY OR USE IN ANY PROCEEDING MERELY BECAUSE IT WAS PRESENTED DURING PROCEEDINGS BEFORE THE COMMITTEE, NOR IS A MEMBER OF THE COMMITTEE OR OTHER PERSON APPEARING BEFORE IT TO BE PREVENTED FROM TESTIFYING AS TO MATTERS WITHIN HIS KNOWLEDGE, BUT HE CANNOT BE QUESTIONED ABOUT HIS TESTIMONY OR OTHER PROCEEDINGS BEFORE THE COMMITTEE OR ABOUT OPINIONS OR OTHER ACTIONS OF THE COMMITTEE OR ANY MEMBER THEREOF.

(3) This act also applies to any member OR NONMEMBER of a nonprofit corporation engaged in performing the functions of a peer review or professional standards review committee."

-End-
-2-