

Third Reading

BY SENATORS Foote and Rodriguez

1 Amend engrossed bill, page 3, line 12, strike "and (7)(a)(V)" and  
2 substitute "(7)(a)(V), and (7)(b); and **add** (5.5)".

3 Page 3, after line 15 insert:

4         4 "(5.5) "ORIGINAL SOURCE DOCUMENT" MEANS ANY SEPARATE  
5 WRITTEN DOCUMENT CREATED OR PREPARED IN THE ORDINARY COURSE OF  
6 BUSINESS THAT IS NOT OTHERWISE PRIVILEGED OR CONFIDENTIAL,  
7 INCLUDING ELECTRONIC RECORDS AND ELECTRONIC COMMUNICATIONS,  
8 CONTAINING FACTUAL INFORMATION RELATING SOLELY TO THE  
9 INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION THAT IS NOT CREATED  
10 OR PREPARED AS PART OF THE PROFESSIONAL REVIEW ACTIVITIES OR  
11 CREATED BY OR AT THE DIRECTION OF A PROFESSIONAL REVIEW  
12 COMMITTEE.".

13 Page 3, after line 25 insert:

14         14 "(b) "Records" does not include any written, electronic, or oral  
15 communications by any person that are otherwise available from a source  
16 outside the scope of professional review activities, including medical  
17 records and other health information, INCIDENT REPORTS PREPARED IN THE  
18 ORDINARY COURSE OF BUSINESS, AND RELEVANT HOSPITAL OR FACILITY  
19 POLICIES, PROCEDURES, AND PROTOCOLS, OR OTHER ORIGINAL SOURCE  
20 DOCUMENTS.".

21 Page 3, line 27, strike "(13)" and substitute "(13); **repeal** (7)(f); and **add**  
22 (2.7) and (17)".

23 Page 4, line 2, strike "(3)" and substitute "(2.7) A PROFESSIONAL REVIEW  
24 COMMITTEE OF A HOSPITAL LICENSED OR CERTIFIED BY THE DEPARTMENT  
25 OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103  
26 (1)(a) IS ENCOURAGED TO APPOINT A CONSUMER TO SERVE AS A  
27 NONVOTING MEMBER OF THE PROFESSIONAL REVIEW COMMITTEE, SO LONG  
28 AS THE CONSUMER COMPLIES WITH THE HOSPITAL'S CONFLICT OF INTEREST  
29 POLICIES, ENTERS INTO A CONFIDENTIALITY AGREEMENT ACCEPTABLE TO  
30 THE HOSPITAL, AND ENTERS INTO A BUSINESS ASSOCIATE AGREEMENT IN  
31 ACCORDANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND  
32 ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED.  
33 (3)".

1 Page 4, after line 6 insert:

2 "(7) The written bylaws, policies, or procedures of any  
3 professional review committee for persons licensed under article 36 of  
4 this title or licensed under article 38 of this title and granted authority as  
5 advanced practice nurses must provide for at least the following:

6 ~~(f) The professional review committee shall forward a copy of any  
7 recommendations made pursuant to paragraph (d) of this subsection (7)  
8 promptly to the medical board if the subject of the investigation is  
9 licensed under article 36 of this title, or to the nursing board if the subject  
10 of the investigation is licensed under article 38 of this title and granted  
11 authority as an advanced practice nurse."~~

12 Page 4, after line 23 insert:

13 "(17) (a) ORIGINAL SOURCE DOCUMENTS ARE NOT PROTECTED  
14 FROM SUBPOENA, DISCOVERY, OR USE IN ANY CIVIL ACTION MERELY  
15 BECAUSE THEY WERE CONSIDERED BY OR PRESENTED TO A PROFESSIONAL  
16 REVIEW COMMITTEE. ORIGINAL SOURCE DOCUMENTS ARE SUBJECT TO  
17 SUBPOENA OR DISCOVERY ONLY FROM THE ORIGINAL SOURCES AND ARE  
18 PROTECTED FROM SUBPOENA OR DISCOVERY FROM THE PROFESSIONAL  
19 REVIEW FILES OF A PROFESSIONAL REVIEW COMMITTEE OF AN AUTHORIZED  
20 ENTITY EXCEPT AS PROVIDED BELOW:

21 (I) UPON SUBPOENA OR REQUEST FOR DISCOVERY FOR ORIGINAL  
22 SOURCE DOCUMENTS, AN AUTHORIZED ENTITY SHALL PROVIDE A LOG OF  
23 ALL ORIGINAL SOURCE DOCUMENTS CONTAINED IN THE AUTHORIZED  
24 ENTITY'S PROFESSIONAL REVIEW FILES INCLUDING THE SOURCE AND  
25 NATURE OF EACH ORIGINAL SOURCE DOCUMENT;

26 (II) THE INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION BY  
27 SUCH PERSON, NEXT FRIEND, OR LEGAL REPRESENTATIVE MAY SUBPOENA  
28 OR SEEK DISCOVERY OF ANY ORIGINAL SOURCE DOCUMENT IDENTIFIED ON  
29 THE AUTHORIZED ENTITY'S PROFESSIONAL REVIEW COMMITTEE LOG ONLY  
30 IF THE ORIGINAL SOURCE DOCUMENT WAS NOT PRODUCED IN RESPONSE TO  
31 A PRIOR SUBPOENA OR DISCOVERY REQUEST TO THE ORIGINAL SOURCE;  
32 AND

33 (b) THIS SUBSECTION (17) DOES NOT RELIEVE ANY PARTY OF THEIR  
34 OBLIGATION UNDER THE COLORADO RULES OF CIVIL PROCEDURE."

35 Page 5, strike lines 18 and 19 and substitute:

36 "(II) DETERMINE THE DE-IDENTIFIED INFORMATION REGARDING  
37 INVESTIGATIONS AND OUTCOMES A GOVERNING BOARD IS REQUIRED TO  
38 REPORT; AND".

1 Page 6, after line 5 insert:

2       **"SECTION 7.** In Colorado Revised Statutes, 12-30-202, **amend**  
3       **as relocated by House Bill 19-1172** (8)(b); and **add as relocated by**  
4       **House Bill 19-1172** (6.5) as follows:

5       **12-30-202. Definitions.** As used in this part 2, unless the context  
6       otherwise requires:

7           (6.5) "ORIGINAL SOURCE DOCUMENT" MEANS ANY SEPARATE  
8       WRITTEN DOCUMENT CREATED OR PREPARED IN THE ORDINARY COURSE OF  
9       BUSINESS THAT IS NOT OTHERWISE PRIVILEGED OR CONFIDENTIAL,  
10       INCLUDING ELECTRONIC RECORDS AND ELECTRONIC COMMUNICATIONS,  
11       CONTAINING FACTUAL INFORMATION RELATING SOLELY TO THE  
12       INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION THAT IS NOT CREATED  
13       OR PREPARED AS PART OF THE PROFESSIONAL REVIEW ACTIVITIES OR  
14       CREATED BY OR AT THE DIRECTION OF A PROFESSIONAL REVIEW  
15       COMMITTEE.

16       (8)(b) "Records" does not include any written, electronic, or oral  
17       communications by any person that are otherwise available from a source  
18       outside the scope of professional review activities, including medical  
19       records and other health information, INCIDENT REPORTS PREPARED IN THE  
20       ORDINARY COURSE OF BUSINESS, AND RELEVANT HOSPITAL OR FACILITY  
21       POLICIES, PROCEDURES, AND PROTOCOLS, OR OTHER ORIGINAL SOURCE  
22       DOCUMENTS.".

23       **SECTION 8.** In Colorado Revised Statutes, 12-30-204, **repeal as**  
24       **relocated by House Bill 19-1172** (8)(f); and **add as relocated by House**  
25       **Bill 19-1172** (3.5) and (18) as follows:

26       **12-30-204. Establishment of professional review committees**  
27       **- function - rules.** (3.5) A PROFESSIONAL REVIEW COMMITTEE OF A  
28       HOSPITAL LICENSED OR CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH  
29       AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103 (1)(a) IS  
30       ENCOURAGED TO APPOINT A CONSUMER TO SERVE AS A NONVOTING  
31       MEMBER OF THE PROFESSIONAL REVIEW COMMITTEE, SO LONG AS THE  
32       CONSUMER COMPLIES WITH THE HOSPITAL'S CONFLICT OF INTEREST  
33       POLICIES, ENTERS INTO A CONFIDENTIALITY AGREEMENT ACCEPTABLE TO  
34       THE HOSPITAL, AND ENTERS INTO A BUSINESS ASSOCIATE AGREEMENT IN  
35       ACCORDANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND  
36       ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED.

37       (8) The written bylaws, policies, or procedures of any professional  
38       review committee for persons licensed under article 240 of this title 12 or  
39       advanced practice nurses must provide for at least the following:

40       (f) The professional review committee shall forward a copy of any  
41       recommendations made pursuant to subsection (8)(d) of this section  
42       promptly to the medical board if the subject of the investigation is

1 licensed under article 240 of this title 12, or to the nursing board if the  
2 subject of the investigation is an advanced practice nurse.

3 (18)(a) ORIGINAL SOURCE DOCUMENTS ARE NOT PROTECTED FROM  
4 SUBPOENA, DISCOVERY, OR USE IN ANY CIVIL ACTION MERELY BECAUSE  
5 THEY WERE CONSIDERED BY OR PRESENTED TO A PROFESSIONAL REVIEW  
6 COMMITTEE. ORIGINAL SOURCE DOCUMENTS ARE SUBJECT TO SUBPOENA  
7 OR DISCOVERY ONLY FROM THE ORIGINAL SOURCES AND ARE PROTECTED  
8 FROM SUBPOENA OR DISCOVERY FROM THE PROFESSIONAL REVIEW FILES  
9 OF A PROFESSIONAL REVIEW COMMITTEE OF AN AUTHORIZED ENTITY  
10 EXCEPT AS PROVIDED BELOW:

11 (I) UPON SUBPOENA OR REQUEST FOR DISCOVERY FOR ORIGINAL  
12 SOURCE DOCUMENTS, AN AUTHORIZED ENTITY SHALL PROVIDE A LOG OF  
13 ALL ORIGINAL SOURCE DOCUMENTS CONTAINED IN THE AUTHORIZED  
14 ENTITY'S PROFESSIONAL REVIEW FILES INCLUDING THE SOURCE AND  
15 NATURE OF EACH ORIGINAL SOURCE DOCUMENT;

16 (II) THE INDIVIDUAL PATIENT IN INTEREST IN A CIVIL ACTION BY  
17 SUCH PERSON, NEXT FRIEND, OR LEGAL REPRESENTATIVE MAY SUBPOENA  
18 OR SEEK DISCOVERY OF ANY ORIGINAL SOURCE DOCUMENT IDENTIFIED ON  
19 THE AUTHORIZED ENTITY'S PROFESSIONAL REVIEW COMMITTEE LOG ONLY  
20 IF THE ORIGINAL SOURCE DOCUMENT WAS NOT PRODUCED IN RESPONSE TO  
21 A PRIOR SUBPOENA OR DISCOVERY REQUEST TO THE ORIGINAL SOURCE;  
22 AND

23 (b) THIS SUBSECTION (17) DOES NOT RELIEVE ANY PARTY OF THEIR  
24 OBLIGATION UNDER THE COLORADO RULES OF CIVIL PROCEDURE.".

25 Renumber succeeding sections accordingly.

26 Page 6, strike lines 26 and 27 and substitute:

27 "(II) DETERMINE THE DE-IDENTIFIED INFORMATION REGARDING  
28 INVESTIGATIONS AND OUTCOMES A GOVERNING BOARD IS REQUIRED TO  
29 REPORT; AND".

30 Page 7, line 19, strike " and 7" and substitute "through 9".

31 Page 7, line 20, strike "and 7" and substitute "through 9".

\*\*\* \* \* \* \*