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Ohio Revised Code

Section 2305.251 Peer review committee immunity.

Effective: April 09, 2003
Legislation: Senate Bill 179 - 124th General Assembly

(A) No health care entity shall be liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of a peer review committee of the health care entity. No individual who is a member of or works for or on behalf of a peer review committee of a health care entity shall be liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the peer review committee.

(B)(1) A hospital shall be presumed to not be negligent in the credentialing of an individual who has, or has applied for, staff membership or professional privileges at the hospital pursuant to section 3701.351 of the Revised Code, and a health insuring corporation or sickness and accident insurer shall be presumed to not be negligent in the credentialing of an individual who is, or has applied to be, a participating provider with the health insuring corporation or sickness and accident insurer, if the hospital, health insuring corporation, or sickness and accident insurer proves by a preponderance of the evidence that, at the time of the alleged negligent credentialing of the individual, the hospital, health insuring corporation, or sickness and accident insurer was accredited by one of the following:

(a) The joint commission on accreditation of healthcare organizations;

(b) The American osteopathic association;

(c) The national committee for quality assurance;

(d) The utilization review accreditation commission.

(2) The presumption that a hospital, health insuring corporation, or sickness and accident insurer is not negligent as provided in division (B)(1) of this section may be rebutted only by proof, by a preponderance of the evidence, of any of the following:

(a) The credentialing and review requirements of the accrediting organization did not apply to the hospital, health insuring corporation, sickness and accident insurer, the individual, or the type of professional care that is the basis of the claim against the hospital, health insuring corporation, or sickness and accident insurer.

(b) The hospital, health insuring corporation, or sickness and accident insurer failed to comply with all material credentialing and review requirements of the accrediting organization that applied to the individual.

(c) The hospital, health insuring corporation, or sickness and accident insurer, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent individual had developed a pattern of incompetence or otherwise inappropriate behavior, either of which indicated that the individual's staff membership, professional privileges, or participation as a provider should have been limited or terminated prior to the individual's provision of professional care to the plaintiff.

(d) The hospital, health insuring corporation, or sickness and accident insurer, through its medical staff executive committee or its governing body and sufficiently in advance to take appropriate action, knew that a previously competent individual would provide fraudulent medical treatment but failed to limit or terminate the individual's staff membership, professional privileges, or participation as a provider prior to the individual's provision of professional care to the plaintiff.

(3) If the plaintiff fails to rebut the presumption provided in division (B)(1) of this section, upon the motion of the hospital, health insuring corporation, or sickness and accident insurer, the court shall enter judgment in favor of the hospital, health insuring corporation, or sickness and accident insurer on the claim of negligent credentialing.

(C) Nothing in this section otherwise shall relieve any individual or health care entity from liability arising from treatment of an individual. Nothing in this section shall be construed as creating an exception to section 2305.252 of the Revised Code.

(D) No person who provides information under this section without malice and in the reasonable belief that the information is warranted by the facts known to the person shall be subject to suit for civil damages as a result of providing the information.