



Ohio Revised Code

Section 5120.211 Quality assurance records are confidential.

Effective: March 17, 1998

Legislation: Senate Bill 111 - 122nd General Assembly

(A) As used in this section:

(1) "Quality assurance committee" means a committee that is appointed in the central office of the department of rehabilitation and correction by the director of rehabilitation and correction, a committee appointed at a state correctional institution by the managing officer of the institution, or a duly authorized subcommittee of a committee of that nature and that is designated to carry out quality assurance program activities.

(2) "Quality assurance program" means a comprehensive program within the department of rehabilitation and correction to systematically review and improve the quality of medical and mental health services within the department and its institutions, the safety and security of persons receiving medical and mental health services within the department and its institutions, and the efficiency and effectiveness of the utilization of staff and resources in the delivery of medical and mental health services within the department and its institutions.

(3) "Quality assurance program activities" includes the activities of the institutional and central office quality assurance committees, of persons who provide, collect, or compile information and reports required by quality assurance committees, and of persons who receive, review, or implement the recommendations made by quality assurance committees. "Quality assurance program activities" includes credentialing, infection control, utilization review including access to patient care, patient care assessments, medical and mental health records, medical and mental health resource management, mortality and morbidity review, and identification and prevention of medical or mental health incidents and risks, whether performed by a quality assurance committee or by persons who are directed by a quality assurance committee.

(4) "Quality assurance records" means the proceedings, records, minutes, and reports that emanate from quality assurance program activities. "Quality assurance records" does not include aggregate statistical information that does not disclose the identity of persons receiving or providing medical or



mental health services in state correctional institutions.

(B)(1) Except as provided in division (E) of this section, quality assurance records are confidential and are not public records under section 149.43 of the Revised Code, and shall be used only in the course of the proper functions of a quality assurance program.

(2) Except as provided in division (E) of this section, no person who possesses or has access to quality assurance records and who knows that the records are quality assurance records shall wilfully disclose the contents of the records to any person or entity.

(C)(1) Except as provided in division (E) of this section, no quality assurance record shall be subject to discovery, and is not admissible in evidence, in any judicial or administrative proceeding.

(2) Except as provided in division (E) of this section, no member of a quality assurance committee or a person who is performing a function that is part of a quality assurance program shall be permitted or required to testify in a judicial or administrative proceeding with respect to quality assurance records or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the committee, member, or person.

(3) Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or admission in evidence in a judicial or administrative proceeding merely because they were presented to a quality assurance committee. No person testifying before a quality assurance committee or person who is a member of a quality assurance committee shall be prevented from testifying as to matters within the person's knowledge, but the witness cannot be asked about the witness' testimony before the quality assurance committee or about an opinion formed by the person as a result of the quality assurance committee proceedings.

(D)(1) A person who, without malice and in the reasonable belief that the information is warranted by the facts known to the person, provides information to a person engaged in quality assurance program activities is not liable for damages in a civil action for injury, death, or loss to person or property to any person as a result of providing the information.

(2) A member of a quality assurance committee, a person engaged in quality assurance program



activities, and an employee of the department of rehabilitation and correction shall not be liable in damages in a civil action for injury, death, or loss to person or property to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the quality assurance program.

(3) Nothing in this section shall relieve any institution or individual from liability arising from the treatment of a patient.

(E) Quality assurance records may be disclosed, and testimony may be provided concerning quality assurance records, only to the following persons or entities or in the following circumstances:

(1) Persons who are employed or retained by the department of rehabilitation and correction and who have authority to evaluate or implement the recommendations of an institutional or central office quality assurance committee;

(2) Public or private agencies or organizations if needed to perform a licensing or accreditation function related to state correctional institutions or to perform monitoring of state correctional institutions as required by law;

(3) A governmental board or agency, a professional health care society or organization, or a professional standards review organization, if the records or testimony are needed to perform licensing, credentialing, or monitoring of professional standards with respect to medical or mental health professionals employed or retained by the department;

(4) A criminal or civil law enforcement agency or public health agency charged by law with the protection of public health or safety, if a qualified representative of the agency makes a written request stating that the records or testimony is necessary for a purpose authorized by law;

(5) In a judicial or administrative proceeding commenced by an entity described in division (E)(3) or (4) of this section and for a purpose described in that division, but only with respect to the subject of the proceedings.

(F) A disclosure of quality assurance records pursuant to division (E) of this section does not



otherwise waive the confidential and privileged status of the disclosed quality assurance records. The names and other identifying information regarding individual patients, employees, or members of a quality assurance committee contained in a quality assurance record shall be deleted from the record prior to the disclosure of the record unless the identity of an individual is necessary to the purpose for which disclosure is being made and does not constitute a clearly unwarranted invasion of personal privacy.