

IC 27-13-31

Chapter 31. Confidentiality of Medical Information and Limitation of Liability

IC 27-13-31-1

Information treated as confidential; exceptions; privilege against disclosure

Sec. 1. (a) Notwithstanding IC 27-13-30, any information:

(1) that pertains to the diagnosis, treatment, or health of any enrollee of a health maintenance organization or limited service health maintenance organization; and

(2) that is obtained from:

(A) the enrollee; or

(B) any provider;

by any health maintenance organization or limited service health maintenance organization;

is confidential and may not be disclosed to any person, except under the circumstances set forth in subsection (b).

(b) Information described in subsection (a) may be disclosed:

(1) to the extent necessary to carry out this article;

(2) upon the express consent of the enrollee;

(3) under a statute or court order for the production of evidence or the discovery of evidence; or

(4) in the event of a claim or litigation between:

(A) the enrollee; and

(B) the health maintenance organization or limited service health maintenance organization;

in which the data or information is pertinent.

(c) A health maintenance organization or limited service health maintenance organization is entitled to claim any statutory privilege against the disclosure of information described in subsection (a) that the provider who furnished the information to the health maintenance organization or limited service health maintenance organization is entitled to claim.

As added by P.L.26-1994, SEC.25.

IC 27-13-31-2

Liability limitations

Sec. 2. (a) As used in this section, "in good faith and without malice" when used to describe an action taken or a decision or recommendation made means that:

(1) a reasonable effort has been taken to obtain the facts of the matter;

(2) a reasonable belief exists that the action, decision, or recommendation is warranted by the facts known; and

(3) if the action is described in IC 34-30-15-7, the action is made in compliance with IC 34-30-15-7.

(b) As used in this section, "health care review committee" means a peer review committee under IC 34-6-2-99 (or IC 34-4-12.6-1(c) before its repeal).

(c) In all actions to which this section applies, good faith shall be presumed and malice shall be required to be proven by the person aggrieved.

(d) A person who, in good faith and without malice:

(1) takes any action or makes a decision or recommendation as a member, an agent, or an employee of a health care review committee; or

(2) furnishes any record, information, or assistance to a health care review committee;

is not subject to liability for damages in any legal action in consequence of that action.

(e) Neither:

(1) the health maintenance organization or limited service health maintenance organization that established the health care review committee; or

(2) the officers, directors, employees, or agents of the health maintenance organization or limited service health maintenance organization;

are liable for damages in any civil action for the activities of a person who, in good faith and without malice, takes any action or makes a decision or recommendation as a member, an agent, or an employee of a health care review committee, or furnishes any record, information, or assistance to a health care review committee.

(f) This section does not relieve any person of liability arising from treatment of a patient or an enrollee, or from a determination of the reimbursement to be provided under the terms of an insurance policy, a health maintenance organization contract, or another benefit program providing payment, reimbursement, or indemnification for health care costs based on the appropriateness of health care services delivered to an enrollee.

(g) A health care review committee shall comply with IC 34-6-2-99.

As added by P.L.26-1994, SEC.25. Amended by P.L.261-1995, SEC.1; P.L.1-1998, SEC.155.

IC 27-13-31-3

Information and records subject to subpoena or discovery

Sec. 3. (a) Notwithstanding IC 27-13-30, the information considered by a health care review committee and the record of the actions and proceedings of the committee are confidential for purposes of IC 5-14-3-4 and not subject to subpoena or order to produce, except:

(1) in proceedings before the appropriate state licensing or certifying agency; and

(2) in an appeal, if permitted, from the finding or recommendation of the health care review committee.

(b) If information considered by a health care review committee or records of the actions and proceedings of a health care review committee are used under subsection (a) by a state licensing or certifying agency or in an appeal, the information or records:

- (1) shall be kept confidential; and
- (2) are subject to the same provisions concerning discovery and use in legal actions as are the original information and records in the possession and control of a health care review committee.

As added by P.L.26-1994, SEC.25.

IC 27-13-31-4

Quality management program; access to records

Sec. 4. To fulfill its obligations under IC 27-13-6 concerning the quality management program of the organization, a health maintenance organization is entitled to access to treatment records and other information pertaining to the diagnosis, treatment, and health status of any enrollee during the period of time the enrollee is covered by the health maintenance organization.

As added by P.L.26-1994, SEC.25.