

Date 3-24-80

Time 11:40 A.M.

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980



# ENROLLED

*Committee Substitute for*  
HOUSE BILL No. 1207

(By Mr. Caudle + Mrs. Lane)



Passed March 8, 1980

In Effect Ninety Days From Passage



70: 1207

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 1207**

(By MR. CAUDLE and MRS. LANE)

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(Originating in the House Committee on the Judiciary)

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[Passed March 8, 1980; in effect ninety days from passage.]

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AN ACT to amend and reenact section two, article three-c, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section three, all relating to providing immunity from civil liability for any peer review organization and for persons providing information or services to such organizations, and providing for the confidentiality of the proceedings and records of such organizations.

*Be it enacted by the Legislature of West Virginia:*

That section two, article three-c, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section three, all to read as follows:

**ARTICLE 3C. HEALTH CARE PEER REVIEW ORGANIZATION PROTECTION.**

**§30-3C-2. Immunity from liability.**

1 (a) Notwithstanding any other provision of law, no person

2 providing information to any review organization shall be  
3 held, by reason of having provided such information, to be  
4 civilly liable under any law, unless:

5 (1) Such information is unrelated to the performance of  
6 the duties and functions of such review organization, or (2)  
7 such information is false and the person providing such infor-  
8 mation knew, or had reason to believe, that such information  
9 was false.

10 (b) A review organization or any member, agent or em-  
11 ployee thereof who, in the absence of malice and gross negli-  
12 gence, acts upon or furnishes counsel, services or information  
13 to a review organization shall be immune from liability for  
14 loss or injury to the person whose activities are being reviewed.

**§30-3C-3. Confidentiality of review organization's records.**

1 The proceedings and records of a review organization shall  
2 be confidential and privileged and shall not be subject to sub-  
3 poena or discovery proceedings or be admitted as evidence in  
4 any civil action arising out of the matters which are subject to  
5 evaluation and review by such organization and no person  
6 who was in attendance at a meeting of such organization shall  
7 be permitted or required to testify in any such civil action as  
8 to any evidence or other matters produced or presented during  
9 the proceedings of such organization or as to any findings,  
10 recommendations, evaluations, opinions or other actions of  
11 such organization or any members thereof: *Provided*, That  
12 information, documents or records otherwise available from  
13 original sources are not to be construed as immune from dis-  
14 covery or use in any civil action merely because they were  
15 presented during proceedings of such organization, nor should  
16 any person who testifies before such organization or who is a  
17 member of such organization be prevented from testifying as  
18 to matters within his knowledge, but the witness shall not be  
19 asked about his testimony before such an organization or  
20 opinions formed by him as a result of said organization hear-  
21 ings: *Provided, however*, That an individual may execute a  
22 valid waiver authorizing the release of the contents of his file  
23 pertaining to his own acts or omissions, and such waiver shall  
24 remove the confidentiality and privilege of said contents other-

25 wise provided by this section: *Provided, further,* That upon  
26 further review by any other review organization, upon judicial  
27 review of any finding or determination of a review organiza-  
28 tion or in any civil action filed by an individual whose acti-  
29 vities have been reviewed, any testimony, documents, proceed-  
30 ings, records and other evidence adduced before any such  
31 review organization shall be available to such further review  
32 organization, the court and the individual whose activities  
33 have been reviewed. The court shall enter such protective  
34 orders as may be appropriate to provide for the confidentiality  
35 of the records provided the court by a review organization and  
36 all papers and records relating to the proceedings had before  
37 the reviewing court.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence C. Chudson Jr.  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Miller  
Clerk of the Senate

VA Blankenship  
Clerk of the House of Delegates

W. R. Probert Jr.  
President of the Senate

Clide H. Lee Jr.  
Speaker House of Delegates

The within is approved this the 24  
day of March, 1980.

John W. Roper  
Governor

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