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
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
Enr. Com. Sub. for H. B. 1207] 2

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

(1) Such information is unrelated to the performance of the duties and functions of such review organization, or (2) such information is false and the person providing such information knew, or had reason to believe, that such information was false.

(b) A review organization or any member, agent or employee thereof who, in the absence of malice and gross negligence, acts upon or furnishes counsel, services or information to a review organization shall be immune from liability for loss or injury to the person whose activities are being reviewed.

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

The proceedings and records of a review organization shall be confidential and privileged and shall not be subject to subpoena or discovery proceedings or be admitted as evidence in any civil action arising out of the matters which are subject to evaluation and review by such organization and no person who was in attendance at a meeting of such organization shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such organization or as to any findings, recommendations, evaluations, opinions or other actions of such organization or any members thereof: Provided, That information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil action merely because they were presented during proceedings of such organization, nor should any person who testifies before such organization or who is a member of such organization be prevented from testifying as to matters within his knowledge, but the witness shall not be asked about his testimony before such an organization or opinions formed by him as a result of said organization hearings: Provided, however, That an individual may execute a valid waiver authorizing the release of the contents of his file pertaining to his own acts or omissions, and such waiver shall remove the confidentiality and privilege of said contents other-
wise provided by this section: *Provided, further,* That upon further review by any other review organization, upon judicial review of any finding or determination of a review organization or in any civil action filed by an individual whose activities have been reviewed, any testimony, documents, proceedings, records and other evidence adduced before any such review organization shall be available to such further review organization, the court and the individual whose activities have been reviewed. The court shall enter such protective orders as may be appropriate to provide for the confidentiality of the records provided the court by a review organization and all papers and records relating to the proceedings had before the reviewing court.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence E. Clendenin  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Wirth  
Clerk of the Senate

W.B. Blankenship  
Clerk of the House of Delegates

W.C. Bohater, Jr.  
President of the Senate

Clyde M. Rice, Jr.  
Speaker House of Delegates

The within ___________________________ this the __4__
day of ___________________________ ___________________________, 1980.

John H. Chapman  
Governor