

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB119

Hearing Date: Thursday January 24, 2019
Committee On: Health and Human Services
Introducer: Arch
One Liner: Provide for confidentiality of records and immunity from liability for professional health care service entities involved in peer review

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 7 Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator John Arch
Dr. Daniel Rosenquist
David Buntain

Representing:

Introducer
Nebraska Medical Association
Nebraska Medical Association

Opponents:

Representing:

Neutral:

Jason Ausman

Representing:

Nebraska Association of Trial Attorneys

Summary of purpose and/or changes:

LB 119 amends the Health Care Quality Improvement Act. The Health Care Quality Improvement Act relates to the peer review committee process in health care facilities and provides protection from liability for actions taken in that peer review process.

LB 119 would add professional health care service entities to the health care providers covered under the Health Care Quality Improvement Act.

Section 4 of LB 119 creates a definition of a professional health care service entity as "an entity which is organized for the purposes of rendering professional services pursuant to the Nebraska Professional Corporation Act, the Nebraska Uniform Liability Company Act, or the Uniform Partnership Act of 1998 and which renders health care services through individuals credentialed under the Uniform Credentialing Act."

Under section 5 of LB 119, peer review committees that are established by a professional health care service entity would be included under the Health Care Quality Improvement Act, provided the peer review committee meets the requirements under Neb. Rev. Stat. sec 71-7910(1) and (2). A committee is considered a peer review committee if they conduct professional credentialing or quality review activities of a health care provider or conduct a hearing process initiated as a result of the peer review committee's recommendations or actions.

Section 6 of LB 119 protects officers, directors, employees, and members of a professional health care service entity from liability for damages for conduct within the scope of the functions of the peer review committee.

Similarly, the Health Care Quality Improvement Act excludes documents from the peer review committee process from discovery or being used as evidence in a civil legal action and prohibits persons participating in the peer review process from being called as a witness in a civil action with regard to the peer review process and results. Section 7 of LB 119 would amend this section to extend these protections to officers, directors, employees, or members of a professional health care service organization who participates in a peer review committee established by that organization.

Explanation of amendments:

AM211 replaces Section 5 in LB 119. The new section 5(1) adds a committee established by professional health care service entity to the definition of peer review committee. It also creates section (2) requiring a professional health care service entity to have written policies and procedures governing their peer review committee if they are going to conduct a peer review process under the Health Care Quality Improvement Act.

In addition, AM211 inserts subsection (2) to Neb. Rev. Stat. 71-7913 which states that anyone seeking the confidentiality protections under the peer review process has the burden of proving that the communications and documents are protected.

Sara Howard, Chairperson