

1999 BILL 17

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

**QUALITY ASSURANCE ACTIVITY
STATUTES AMENDMENT ACT, 1999**

MR. DOERKSEN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 17

1999

QUALITY ASSURANCE ACTIVITY STATUTES AMENDMENT ACT, 1999

(Assented to , 1999)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Alberta Evidence Act

Amends RSA
1980 cA-21

1(1) The *Alberta Evidence Act* is amended by this section.

(2) Section 9 is repealed and the following is substituted:

Quality
assurance
records

9(1) In this section,

- (a) “quality assurance activity” means a planned or systematic activity the purpose of which is to study, assess or evaluate the provision of health services with a view to the continual improvement of
 - (i) the quality of health care or health services, or
 - (ii) the level of skill, knowledge and competence of health service providers;
- (b) “quality assurance committee” means a committee, commission, council or other body that has as its primary purpose the carrying out of quality assurance activities and that is
 - (i) appointed by
 - (A) a regional health authority,
 - (B) the Alberta Cancer Board,
 - (C) the Provincial Mental Health Advisory Board,

Explanatory Notes

Alberta Evidence Act

1(1) Amends chapter A-21 of the Revised Statutes of Alberta 1980.

(2) Section 9 presently reads:

9(1) A witness in an action, whether a party to it or not,

(a) is not liable to be asked and shall not be permitted to answer any question as to any proceedings before a committee to which this subsection applies, and

(b) is not liable to be asked to produce, and shall not be permitted to produce, any report, statement, memorandum, recommendation, document or information of, or made by or made to, a committee to which this subsection applies and that was used in the course of or arose out of any study, investigation, research or program carried on by a hospital or any such committee for the purpose of medical education or improvement in medical or hospital care or practice.

(2) Subsection (1) applies to the following committees:

(a) a tissue committee of a hospital;

(b) a research committee of a hospital;

(c) a medical staff committee established for the purpose of studying or evaluating medical practice in a hospital;

(D) the board of an approved hospital under the *Hospitals Act*, or

(E) the operator of a nursing home,

(ii) established by or under another enactment of Alberta, or

(iii) designated by an order of the Minister of Health as a quality assurance committee for the purposes of this section,

but does not include a committee whose purpose, under legislation governing a profession or occupation, is to review the practice of or to deal with complaints respecting the conduct of a person practising a profession or occupation;

(c) “quality assurance record” means a record of information in any form that is created or received by or for a quality assurance committee in the course of or for the purpose of its carrying out quality assurance activities, and includes books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any mechanism that produces records.

(2) A witness in an action, whether a party to it or not,

(a) is not liable to be asked, and shall not be permitted to answer, any question as to any proceedings before a quality assurance committee, and

(b) is not liable to be asked to produce and shall not be permitted to produce any quality assurance record in that person’s or the committee’s possession or under that person’s or the committee’s control.

(3) Subsection (2) does not apply to original medical and hospital records pertaining to a patient.

(4) Notwithstanding that a witness in an action

(a) is or has been a member of,

(b) has participated in the activities of,

(c) has made a report, statement, memorandum or recommendation to, or

(d) a medical committee designated by an order of the Minister of Health as an approved medical committee for the purpose of this section.

(3) The Minister of Health shall not make an order under subsection (2)(d) with respect to a medical committee unless he is satisfied that the committee consists only of physicians and functions primarily for any or all of the following purposes:

(a) conducting medical research;

(b) furthering medical education;

(c) improving medical care or practice.

(4) Subsection (1) does not apply to original medical and hospital records pertaining to a patient.

(5) Notwithstanding that a witness in an action

(a) is or has been a member of,

(b) has participated in the activities of,

(c) has made a report, statement, memorandum or recommendation to, or

(d) has provided information to,

a committee to which subsection (1) applies, he is not, subject to subsection (1), excused from answering any question or producing any document that he is otherwise bound to answer or produce.

(6) Neither

(a) the disclosure of any information or of any document or anything contained in a document, or the submission of any report, statement, memorandum or recommendation, to any committee to which subsection (1) applies, for the purpose of its being used in the course of any study, investigation, research or program carried on by a hospital or any such committee for the purpose of medical education or improvement in medical or hospital care or practice,

nor

(b) the disclosure of any information, or of any document or anything contained in a document, that arises out of such a study, investigation, research or program,

creates any liability on the part of the person making the disclosure or submission.

(d) has provided information to,

a quality assurance committee, the witness is not, subject to subsection (2), excused from answering any question or producing any document that the witness is otherwise bound to answer or produce.

(5) Neither

(a) the disclosure of any information or of any document or anything contained in a document, or the submission of any report, statement, memorandum or recommendation, to a quality assurance committee for the purpose of its quality assurance activities,

nor

(b) the disclosure of any information, or of any document or anything contained in a document, that arises out of the quality assurance activities of a quality assurance committee,

creates any liability on the part of the person making the disclosure or submission.

Freedom of Information and Protection of Privacy Act

Amends SA
1994 cF-18.5

2(1) The *Freedom of Information and Protection of Privacy Act* is amended by this section.

(2) Section 4(1) is amended by adding the following after clause (b):

(b.1) a quality assurance record within the meaning of section 9 of the *Alberta Evidence Act*;

**Freedom of Information and
Protection of Privacy Act**

2(1) Amends chapter F-18.5 of the Statutes of Alberta, 1994.

(2) Section 4(1) presently reads in part:

4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:

- (a) information in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta, The Surrogate Court of Alberta or The Provincial Court of Alberta, a record of a master of the Court of Queen's Bench of Alberta, a record of a sitting justice of the peace or a presiding justice of the peace under the Justice of the Peace Act, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;*
- (b) a personal note, communication or draft decision of a person who is acting in a judicial or quasi-judicial*

Transitional Provisions

3 A medical committee that, on the coming into force of this section, is named in a designation order of the Minister under section 9(2)(d) of the *Alberta Evidence Act* as it existed immediately before the coming into force of this section is deemed to be a quality assurance committee within the meaning of section 9(1)(b)(iii) of the *Alberta Evidence Act* as amended by this Act.

*capacity including any authority designated by the
Lieutenant Governor in Council to which the
Administrative Procedures Act applies;*

Transitional Provisions

3 Transitional.