

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

552B0737

HOUSE BILL NO. 1234

Introduced by: Representative Hagg and Senator Daugaard

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to confidentiality of
2 certain medical committees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-4-26.1 be amended to read as follows:

5 36-4-26.1. The proceedings, records, reports, statements, minutes or any other data
6 whatsoever, of any committee described in § 36-4-25, or any administrative or medical
7 committee, ~~department, section, board of directors or audit group,~~ including the medical audit
8 committee, of a hospital licensed pursuant to the provisions of chapter 34-12, relating to the
9 quality, type or necessity of care rendered by a member of a hospital medical staff or by hospital
10 personnel, or acquired in the evaluation of the competency, character, experience or performance
11 of a physician, dentist or allied health professional seeking admission or reappointment to the
12 medical staff of a hospital, ~~shall not be~~ are confidential and may be used by such committees and
13 the members thereof only in the exercise of proper functions of the committees. The official
14 proceedings and records of such committees are not subject to discovery or disclosure under
15 chapter 15-6 or any other provision of law, and ~~shall not be~~ are not admissible as evidence in any
16 ~~action of any kind in any court or arbitration forum, except as hereinafter provided. No person~~

1 ~~in attendance at any meeting of any such committee, department, section, board of directors or~~
2 ~~audit group, shall be required to testify as to what transpired at such meeting~~ civil proceeding
3 arising out of any matter that is the subject of consideration by the committee. Information,
4 documents, or records otherwise available from original sources are not immune from discovery
5 or use in any civil proceeding merely because they were presented during the proceedings of such
6 a committee, nor may any person who testified before such a committee or who is a member of
7 it be prevented from testifying as to matters within that person's knowledge, but a witness may
8 not be asked about the witness's testimony before the committee. The prohibition relating to
9 discovery of evidence shall not apply to deny a physician access to or use of information upon
10 which a decision regarding his staff privileges was based. ~~The prohibition relating to discovery~~
11 ~~of evidence shall not apply to deny any person or his counsel in the defense of an action against~~
12 ~~him access to the materials covered under this section.~~