

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 381

An Act to amend and reenact §§ 8.01-581.16 and 8.01-581.17 of the Code of Virginia, relating to immunity for and privileged communications of community services boards and behavioral health authorities.

[H 2488]

Approved March 19, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-581.16 and 8.01-581.17 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-581.16. Civil immunity for members of or consultants to certain boards or committees.

Every member of, or health care professional consultant to, any committee, board, group, commission or other entity shall be immune from civil liability for any act, decision, omission, or utterance done or made in performance of his duties while serving as a member of or consultant to such committee, board, group, commission or other entity, with functions primarily to review, evaluate, or make recommendations on (i) the duration of patient stays in health care facilities, (ii) the professional services furnished with respect to the medical, dental, psychological, podiatric, chiropractic, veterinary or optometric necessity for such services, (iii) the purpose of promoting the most efficient use of available health care facilities and services, (iv) the adequacy or quality of professional services, (v) the competency and qualifications for professional staff privileges, or (vi) the reasonableness or appropriateness of charges made by or on behalf of health care facilities; provided that such entity has been established pursuant to federal or state law or regulation, or pursuant to Joint Commission on Accreditation of Hospitals requirements, or established and duly constituted by one or more public or licensed private hospitals, *community services boards, or behavioral health authorities*, or with a governmental agency and provided further that such act, decision, omission, or utterance is not done or made in bad faith or with malicious intent.

§ 8.01-581.17. Privileged communications of certain committees and entities.

The proceedings, minutes, records, and reports of any (i) medical staff committee, utilization review committee, or other committee as specified in § 8.01-581.16 and (ii) nonprofit entity that provides a centralized credentialing service, together with all communications, both oral and written, originating in or provided to such committees or entities, are privileged communications which may not be disclosed or obtained by legal discovery proceedings unless a circuit court, after a hearing and for good cause arising from extraordinary circumstances being shown, orders the disclosure of such proceedings, minutes, records, reports, or communications. Nothing in this section shall be construed as providing any privilege to hospital, *community services board, or behavioral health authority* medical records kept with respect to any patient in the ordinary course of business of operating a hospital, *community services board, or behavioral health authority* nor to any facts or information contained in such records nor shall this section preclude or affect discovery of or production of evidence relating to hospitalization or treatment of any patient in the ordinary course of hospitalization of such patient.

For purposes of this section "centralized credentialing service" means (i) gathering information relating to applications for professional staff privileges at any public or licensed private hospital or for participation as a provider in any health maintenance organization, preferred provider organization or any similar organization and (ii) providing such information to those hospitals and organizations that utilize the service. Additionally, for the purposes of this section, accreditation and peer review records of the American College of Radiology and the Medical Society of Virginia are considered privileged communications.