Improvements to Medical Peer Review Statute Expand Protection and Enhance Quality of Care in SC
Strengthening the medical peer review statute was a top legislative priority for SCHA during the 2012 session. On June 26, 2012, Governor Haley signed into law amendments to the South Carolina Peer Review Statute. Any investigations undertaken to examine an event occurring on or after June 26, 2012 will be subject to the newly amended Statute.

**who is protected from liability?**

The South Carolina General Assembly clarified that peer review immunity from liability applies to:

- All hospital employees and medical staff
- Hospital subsidiaries and parent corporations
- Healthcare and Hospital systems
- Physician practices owned by hospitals
- Any committee member of a licensed hospital

**what is confidential?**

All information and proceedings gathered by a committee of a hospital were already protected, but the amended statute expands protection to all proceedings and information relating to:

- Sentinel event investigations and root cause analyses as prescribed by the Joint Commission or any other organization that accredits hospitals to meet the conditions of participation for the Centers for Medicare & Medicaid Services (CMS)
- Investigations into the competence or conduct of hospital employees, agents, or medical staff relating to the quality of patient care, including any related disciplinary proceedings or fair hearings
- Quality assurance reviews
- Medical staff credentialing process
- Reports by a hospital to its insurance carriers
- Reviews or investigations to evaluate the quality of care provided by hospital employees, agents, or members of the hospital’s medical staff
- Reports or statements to the National Practitioner Data Bank and the SC Board of Medical Examiners providing analysis relating to the quality of care provided by hospital employees, agents, or members of the hospital’s medical staff
- Incident or occurrence reports and related investigations
**what isn’t confidential?**
- Data that is otherwise available from original sources
- The outcome of a practitioner’s application for medical staff membership
- The outcome of a practitioner’s request for clinical privileges or the list of clinical privileges requested

**when can peer review confidentiality be waived?**
- When both the hospital and the physician or affected person waive the confidentiality in writing
- When either the hospital and physician or the affected party are opposing parties in the civil litigation

**courts allowed more discretion in challenges to confidentiality**
Under the previous statute, if a party refused a discovery request under the peer review privilege and the court held a private review determining that the confidentiality did not apply, the court was required to furnish the documents to the requesting party. The new statute provides that if the trial court determines after a private review that the confidentiality does not apply, the court may order that the documents be provided to the requesting party, but is not required to do so.

**provides for non-confidentiality of inconsistent witness statements**
The court will be allowed private review to determine whether prior statements are inconsistent with the trial testimony offered in the case. If the testimony is determined to be inconsistent, the court shall order that the documents containing the prior statements of fact be given to the moving party.

**immediate appeal of court orders to produce protected information allowed**
Under a previous South Carolina Supreme Court ruling, a court order requesting protected information to a third party could not be appealed immediately. Now, a court order requesting protected information to a third party can be appealed immediately, and the order is suspended upon the appeal’s filing.