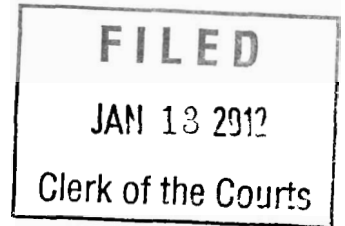


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: AMENDMENT TO TENNESSEE
RULES OF EVIDENCE



No. M2011-01820-SC-RL2-RL - Filed: January 13, 2012

ORDER

The Court adopts the attached amendment effective July 1, 2012, subject to approval by resolutions of the General Assembly. The rule amended is as follows:

RULE 501 PRIVILEGES RECOGNIZED ONLY AS
PROVIDED.

The text of the amendment is set out in the attached Appendix.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

**2012 AMENDMENT TO THE
TENNESSEE RULES OF EVIDENCE**

In the attached amended rule, ~~overstriking~~ indicates deleted text.

TENNESSEE RULES OF EVIDENCE

RULE 501

PRIVILEGES RECOGNIZED ONLY AS PROVIDED

[The text of the rule is unchanged. As indicated below, delete the following text from the Advisory Commission Comment [1999] and add the following Advisory Commission Comment [2012]:]

~~T.C.A. § 63-6-219(e). MEDICAL REVIEW COMMITTEE—
INFORMANT PRIVILEGE~~

~~All information, interviews, incident or other reports, statements, memoranda or other data furnished to any [medical review] committee as defined in this section, and any findings, conclusions or recommendations resulting from the proceedings of such committee are declared to be privileged. All such information, in any form whatsoever, so furnished to, or generated by, a medical review committee shall be privileged communication subject to the laws pertaining to the attorney-client privilege. The records and proceedings of any such committees are confidential and shall be used by such committee, and the members thereof only in the exercise of the proper functions of the committee and shall not be public records nor be available for court subpoena or for discovery proceedings. One (1) proper function of such committees shall include advocacy for physicians before other medical peer review committees, peer review organizations, health care entities, private and governmental insurance carriers, national or local accreditation bodies, and the state board of medical examiners of this or any other state. The disclosure of confidential, privileged peer review committee information to such entities during advocacy, or as a report to the board of medical examiners under § 63-6-214(d), or to the affected physician under review, does not constitute either a waiver of confidentiality or privilege. Nothing contained herein applies to records made in the regular course of business by a hospital or other provider of health care and information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because they were presented during proceedings of such committee.~~

Advisory Commission Comment [2012]

The Advisory Commission Comment [1999] was amended by deleting a reference to Tenn. Code Ann. § 63-6-219(e), which was repealed by Chapter 67, Tennessee Public Acts of 2011. In

addition to repealing Tenn. Code Ann. § 63-6-219, Chapter 67 enacted the following privilege (using identical language in two separate statutes):

Tenn. Code Ann. §§ 63-1-150(d)(1) and 68-11-272(c)(1).
QUALITY IMPROVEMENT COMMITTEE PRIVILEGE

Records of a QIC [Quality Improvement Committee] and testimony or statements by a healthcare organization's officers or directors, trustees, healthcare providers, administrative staff, employees or other committee members or attendees relating to activities of the QIC shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Any person who supplies information, testifies or makes statements as part of a QIC may not be required to provide information as to the information, testimony or statements provided to or made before such a committee or opinions formed by such person as a result of committee participation.

But see Tenn. Code Ann. § 63-1-150(a) (listing statutes to which Section 63-1-150 does not apply).