

**325.431 Evidentiary privilege for quality review committee materials -- Testimonial privilege -- Exceptions.**

- (1) The proceedings, records, and workpapers of the review committee shall be privileged and not subject to discovery, subpoena, or other means of legal process, or introduction into evidence in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding. No member of the review committee or person involved in the quality review process shall testify in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the quality review process, or as to any finding, recommendation, evaluation, opinion, or other action of the committee.
- (2) Information, documents, or records that are publicly available shall not be immune from discovery or use in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding merely because they were presented or considered in connection with the quality review process.
- (3) The privilege created in subsection (1) of this section shall not apply to:
  - (a) Materials prepared in connection with a particular engagement merely because they happen to subsequently be presented or considered as part of the quality of review process.
  - (b) Disputes between review committees and persons or firms subject to a quality review arising from the performance of the quality review.
  - (c) Correspondence and reports of the peer review program obtained by the board from a licensee seeking renewal or an individual or firm seeking to become licensed.
  - (d) A statement obtained by the board from a review committee to determine if a licensee seeking renewal or an individual or firm seeking to become licensed is enrolled in or is not enrolled in a peer review program.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 34, sec. 2, effective July 13, 2004. -- Created 1992 Ky. Acts ch. 18, sec. 1, effective July 14, 1992.