766.101. Medical review committee, immunity from liability

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1. a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,

c. A committee of a state or local professional society of health care providers,

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

i. A peer review or utilization review committee,

j. A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records, or

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area

(2) A medical review committee of a hospital or ambulatory surgical center or health maintenance organization shall screen, evaluate, and review the professional and medical competence of applicants to, and members of, medical staff. As a condition of licensure, each health care provider shall cooperate with a review of professional competence performed by a medical review committee.

(3)(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed medical review committee, or any health care provider furnishing any information to such committee, or any person, including any person acting as a witness, incident reporter to, or investigator for, a medical review committee, for any act or proceeding undertaken or performed within the scope of the functions of any such committee if the committee member or health care provider acts without intentional fraud.

(4) Except as provided in subsection (3), this section shall not be construed to confer immunity from liability on any professional society or hospital or upon any health professional while performing services other than as a member of a medical review committee or upon any person, including any person acting as a witness, incident reporter to, or investigator for, a medical review committee, for any act or proceeding undertaken or performed outside the scope of the functions of such committee. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a hospital, professional society, or an individual health professional, such cause of action shall exist as if the preceding provisions had not been enacted.

(5) The investigations, proceedings, and records of a committee as described in the preceding subsections shall not be subject to discovery or introduction into evidence in any civil or administrative action against a provider of professional health services arising out of the matters which are the subject of evaluation and review by such committee, and no person who was in attendance at a meeting of such committee shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such committee or as to any findings, recommendations, evaluations,
opinions, or other actions of such committee or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee, nor should any person who testifies before such committee or who is a member of such committee be prevented from testifying as to matters within his or her knowledge, but the said witness cannot be asked about his or her testimony before such a committee or opinions formed by him or her as a result of said committee hearings.

(7)(a) It is the intent of the Legislature to encourage medical review committees to contribute further to the quality of health care in this state by reviewing complaints against physicians in the manner described in this paragraph. Accordingly, the Department of Health may enter into a letter of agreement with a professional society of physicians licensed under chapter 458 or chapter 459, under which agreement the medical or peer review committees of the professional society will conduct a review of any complaint or case referred to the society by the department which involves a question as to whether a physician's actions represented a breach of the prevailing professional standard of care. The prevailing professional standard of care is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers. The letter of agreement must specify that the professional society will submit an advisory report to the department within a reasonable time following the department's written and appropriately supported request to the professional society. The advisory report, which is not binding upon the department, constitutes the professional opinion of the medical review committee and must include:

1. A statement of relevant factual findings.

2. The judgment of the committee as to whether the physician's actions represented a breach of the prevailing professional standard of care.