§ 3616-a. Quality assurance. 1. Every certified home health agency, licensed home care services agency, long term home health care program and AIDS home care program is required to establish a quality assurance program which shall objectively and systematically monitor and evaluate the quality and appropriateness of care and services provided by the agency or program.

2. Confidentiality. The information required to be collected and maintained by certified home health agencies, licensed home care services agencies, providers of long term home health care programs and AIDS home care programs pursuant to subdivision one of this section and as required by paragraphs (a) and (d) of subdivision five and subdivision six of section thirty-six hundred twelve of this chapter shall be kept confidential and shall not be released except to the department. Provided, however, that such information shall be released to a law enforcement agency upon a court order based upon probable cause that such information: (a) is relevant to a criminal investigation or proceeding and (b) cannot be obtained through any other means. Nothing in this section shall prohibit a certified home health agency, a licensed home care services agency, a long term home health care program or an AIDS home care program from voluntarily releasing what it reasonably believes to be evidence of criminality to a law enforcement agency.

3. Notwithstanding any other provision of law, none of the records, documentation or committee actions or records required to be maintained by certified home health agencies, licensed home care services agencies, providers of long term care programs or AIDS home care programs pursuant to subdivision one of this section and as required by paragraphs (a) and (d) of subdivision five and subdivision six of section thirty-six hundred twelve of this chapter shall be subject to disclosure under article six of the public officers law or article thirty-one of the civil practice law and rules, except as hereinafter provided or as provided by any other provision of law. No person in attendance at a meeting of any such committee shall be required to testify as to what transpired thereat. The prohibitions of this subdivision shall not apply to statements made by any person in attendance at such a meeting who is

a party, or employee or agent of a party to any action or proceeding the subject matter of which was reviewed at such meeting. Nothing contained in this subdivision shall prohibit disclosure of records, documentation or committee actions or records relating to employment history and recommendations from being transmitted to any certified home health agency, licensed home care services agency, long-term home care program or AIDS home care program which is required by law or regulation to obtain such information.

4. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society or other entity participating in good faith and with reasonable care in a quality assurance committee or communicating information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the qualifications, fitness, conduct or practices of any officer, director, employee or agent of such agency or program to any government agency, professional society, licensing or certification board as required by subdivision one of this section and by paragraphs (a) and (d) of subdivision five and subdivision six of section thirty-six hundred twelve of this chapter. The foregoing shall not apply to information which is untrue and communicated with malicious intent.