

SENATE BILL No. 435

July 11, 1991, Introduced by Senators BOUCHARD, EMMONS, EHLERS, DE GROW, DUNASKISS, N. SMITH, MC MANUS, WARTNER, PRIDNIA and CARL and referred to the Committee on Commerce.

A bill to amend sections 2477 and 2477d of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 2477 as amended and section 2477d as added by Act No. 173 of the Public Acts of 1986, being sections 500.2477 and 500.2477d of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2477 and 2477d of Act No. 218 of the
2 Public Acts of 1956, section 2477 as amended and section 2477d as
3 added by Act No. 173 of the Public Acts of 1986, being sections
4 500.2477 and 500.2477d of the Michigan Compiled Laws, are amended
5 to read as follows:

6 Sec. 2477. (1) ~~Every~~ EACH insurer providing professional
7 liability insurance to a person licensed by the Michigan board of
8 medicine, the Michigan board of osteopathic medicine and surgery,

1 the Michigan board of podiatric medicine and surgery, the
2 Michigan board of dentistry, and the hospitals licensed by the
3 state department of public health in this state shall submit the
4 ~~following~~ data PRESCRIBED IN THIS SECTION at the times pre-
5 scribed to the state insurance commissioner. All data shall be
6 provided with respect to any complaint filed against such insured
7 in any court, if the complaint seeks damages for personal injury
8 claimed to have been caused by the negligence of the insured
9 relating to the insured's professional services — or the per-
10 formance of professional services by the insured without consent
11 or informed consent — or a breach of warranty or contract for a
12 medical result relating to the insured's professional services.

13 (2) The following data and information shall be furnished to
14 the commissioner within 30 days of the filing of an answer on
15 behalf of the insured:

- 16 (a) The name and license number of such insured.
17 (b) The date of the injury.
18 (c) The date of the filing of the complaint.
19 (d) The nature of the complaint.
20 (e) Any other information the commissioner may require.

21 (3) The following data and information shall be furnished to
22 the commissioner, the appropriate licensing board in the depart-
23 ment of licensing and regulation, and, if the insured or person
24 is a hospital, to the state department of public health within 30
25 days from any judgment, settlement, or other dismissal involving
26 the insured:

1 (a) The date of any judgment, settlement, or other
2 dismissal.

3 (b) The amount of any judgment against the insured.

4 (c) The amount of any settlement paid on behalf of the
5 insured, whether such settlement was negotiated by suit or with-
6 out the filing of a complaint for damages.

7 (d) Of the amounts provided in subdivisions (b) and (c), the
8 amount attributable to economic damages and the amount attribut-
9 able to noneconomic damages.

10 (e) Any other information the commissioner may require.

11 (4) The insurance commissioner, the licensing board, and the
12 department of public health shall retain the information and
13 maintain the files in the form and for a period as he or she
14 shall determine necessary in his or her sole discretion. The
15 commissioner, the licensing board, and the department of public
16 health shall maintain the data and information filed in accord-
17 ance with this section as confidential records and shall not
18 release the data and information except for bona fide research,
19 educational, licensing, actuarial, department of social services
20 subrogation, or legislative purposes; however, the name of the
21 insurer shall be omitted. The commissioner, the chairperson of
22 the licensing board, and the director of public health in his or
23 her sole discretion shall determine the validity of any request
24 for the information.

25 (5) AN INSURER THAT PROVIDES PROFESSIONAL LIABILITY INSUR-
26 ANCE TO A PERSON LICENSED BY THE MICHIGAN BOARD OF MEDICINE OR
27 THE MICHIGAN BOARD OF OSTEOPATHIC MEDICINE AND SURGERY WHO

1 PRACTICES IN THE MEDICAL SPECIALTY AREA OF ANESTHESIOLOGY,
2 EMERGENCY MEDICINE, OR OBSTETRICS AND GYNECOLOGY OR TO A HOSPITAL
3 IN WHICH 1 OF THOSE MEDICAL SPECIALTIES IS PRACTICED SHALL SUBMIT
4 THE FOLLOWING DATA TO THE COMMISSIONER IN A FORM PRESCRIBED BY
5 THE COMMISSIONER:

6 (A) FOR THE 5 YEARS IMMEDIATELY PRECEDING DECEMBER 1, 1991,
7 A REPORT OF EACH COMPLAINT DESCRIBED IN SUBSECTION (1) FILED
8 AGAINST A SPECIALIST DESCRIBED IN THIS SUBSECTION. THE REPORT
9 REQUIRED UNDER THIS SUBDIVISION SHALL CONTAIN ALL OF THE FOLLOW-
10 ING INFORMATION:

11 (i) THE NAME OF THE INSURED.

12 (ii) THE NUMBER OF THE PROFESSIONAL LIABILITY INSURANCE
13 POLICY.

14 (iii) THE CLASSIFICATION OF RISK.

15 (iv) THE MEDICAL SPECIALTY INVOLVED.

16 (v) THE DATE OF THE CLAIM AND THE RESULTS OF THE CLAIM
17 INCLUDING, BUT NOT LIMITED TO, DEFENSE COSTS, INDEMNITY PAYMENTS
18 AS A RESULT OF SETTLEMENT OR VERDICT, AND AWARDS PAID IN EXCESS
19 OF POLICY LIMITS.

20 (vi) IF THE CLAIM IS STILL OPEN, THE AMOUNT OF ANY FUNDS
21 ALLOCATED AS RESERVE OR PAID OUT.

22 (vii) IF THE CLAIM IS STILL OPEN, THE INSURER SHALL FILE AN
23 ANNUAL REPORT WITH THE COMMISSIONER REGARDING THAT CLAIM.

24 (B) FOR THE 5 YEARS IMMEDIATELY PRECEDING DECEMBER 31, 1991,
25 AN ANNUALIZED BREAKDOWN OF THE PROFESSIONAL LIABILITY INSURANCE
26 PREMIUMS EARNED BY THE INSURER FROM SPECIALISTS OR HOSPITALS
27 DESCRIBED IN THIS SUBSECTION.

1 (C) AS PART OF THE INFORMATION SUBMITTED UNDER SUBSECTIONS
2 (1) TO (3), A SEMIANNUAL REPORT OF EACH COMPLAINT DESCRIBED IN
3 SUBSECTION (1) FILED AGAINST A SPECIALIST DESCRIBED IN THIS SUB-
4 SECTION BASED ON A CLAIM THAT ACCRUED ON OR AFTER JANUARY 1,
5 1992, BUT BEFORE JANUARY 1, 1997. THE REPORT REQUIRED UNDER THIS
6 SUBDIVISION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE
7 INFORMATION REQUIRED UNDER SUBDIVISION (A)(i) TO (vi) ALONG WITH
8 A FINDING, IF ANY, OF WHETHER THE SPECIALIST'S PRACTICE WAS CON-
9 SISTENT WITH THE PRACTICE PARAMETERS AND RISK MANAGEMENT PROTO-
10 COLS PROMULGATED AS RULES UNDER SECTION 17095 OF THE PUBLIC
11 HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SEC-
12 TION 333.17095 OF THE MICHIGAN COMPILED LAWS.

13 (D) AN ANNUALIZED BREAKDOWN OF THE PROFESSIONAL LIABILITY
14 INSURANCE PREMIUMS EARNED BY THE INSURER FROM SPECIALISTS AND
15 HOSPITALS DESCRIBED IN THIS SUBSECTION FOR THE YEARS 1992 TO
16 1997.

17 (6) ~~-(5)-~~ There ~~shall be~~ IS no liability on the part of
18 and a cause of action of any nature ~~shall~~ DOES not arise
19 against an insurer reporting ~~hereunder~~ UNDER THIS SECTION or
20 its agents or employees, or the commissioner or his or her repre-
21 sentatives, for any action taken by them pursuant to this
22 section.

23 Sec. 2477d. (1) The commissioner shall publish a report
24 every 2 years ~~which~~ THAT does all of the following:

25 (a) Describes the condition of the medical malpractice
26 insurance market in this state.

1 (b) Contains information regarding specific claims
2 experiences filed with the commissioner pursuant to sections 2477
3 to 2477c.

4 (c) Makes recommendations concerning the medical malpractice
5 insurance market in this state.

6 (2) BY DECEMBER 1, 1997, THE COMMISSIONER SHALL FILE A WRIT-
7 TEN REPORT WITH THE GOVERNOR AND THE LEGISLATURE ON THE RESULTS
8 OF THE MEDICAL LIABILITY DEMONSTRATION PROJECT ESTABLISHED UNDER
9 SECTIONS 17090 TO 17098 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF
10 THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.17090 TO 333.17098 OF
11 THE MICHIGAN COMPILED LAWS. THE REPORT REQUIRED UNDER THIS SUB-
12 SECTION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOW-
13 ING INFORMATION:

14 (A) THE NUMBER OF COMPLAINTS FILED AGAINST PERSONS LICENSED
15 BY THE MICHIGAN BOARD OF MEDICINE OR THE MICHIGAN BOARD OF OSTEO-
16 PATHIC MEDICINE AND SURGERY AND PRACTICING IN THE MEDICAL SPE-
17 CIALTY OF ANESTHESIOLOGY, EMERGENCY MEDICINE, OR OBSTETRICS AND
18 GYNECOLOGY AND PARTICIPATING IN THE MEDICAL LIABILITY DEMONSTRA-
19 TION PROJECT AS A RESULT OF MEDICAL MALPRACTICE CLAIMS ACCRUING
20 ON OR AFTER JANUARY 1, 1992.

21 (B) THE NUMBER OF CLOSED CLAIMS DESCRIBED IN SUBDIVISION (A)
22 INCLUDING FOR EACH CLAIM THE DEFENSE COSTS AND INDEMNITY PAYMENTS
23 AS A RESULT OF SETTLEMENT OR VERDICT.

24 (C) THE STATUS OF EACH OPEN CLAIM DESCRIBED IN SUBDIVISION
25 (A) INCLUDING, BUT NOT LIMITED TO, DEFENSE COSTS, INDEMNITY PAY-
26 MENTS, AND ANY AMOUNTS HELD IN RESERVE.

1 (D) THE EFFECT OF THE MEDICAL LIABILITY DEMONSTRATION
2 PROJECT ON PROFESSIONAL LIABILITY CLAIMS EXPERIENCE AND PREMIUMS
3 OF PERSONS PARTICIPATING IN THE MEDICAL LIABILITY DEMONSTRATION
4 PROJECT.

5 Section 2. This amendatory act shall not take effect unless
6 all of the following bills of the 86th Legislature are enacted
7 into law:

8 (a) Senate Bill No. 433.

9

10 (b) Senate Bill No. 434.

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