



HOUSE BILL No. 5386

March 1 1994 Introduced by Reps McNutt Jamian Shugars Randall Bender Kukuk Hill and Bandstra and referred to the Committee on Public Health

A bill to amend sections 2477, 2477b, 2477c, 3405, 3475, 3631, and 3709 of Act No 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,

section 2477 as amended and sections 2477b and 2477c as added by Act No 173 of the Public Acts of 1986, sections 3405, 3631, and 3709 as amended by Act No 137 of the Public Acts of 1989, and section 3475 as amended by Act No 280 of the Public Acts of 1984, being sections 500 2477, 500 2477b, 500 2477c, 500 3405, 500 3475, 500 3631, and 500 3709 of the Michigan Compiled Laws and to add section 3107b

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 2477, 2477b, 2477c, 3405, 3475, 3631,
2 and 3709 of Act No 218 of the Public Acts of 1956, section 2477
3 as amended and sections 2477b and 2477c as added by Act No 173

1 of the Public Acts of 1986, sections 3405, 3631, and 3709 as
2 amended by Act No 137 of the Public Acts of 1989, and
3 section 3475 as amended by Act No 280 of the Public Acts of
4 1984, being sections 500 2477, 500 2477b, 500 2477c, 500 3405,
5 500 3475, 500 3631, and 500 3709 of the Michigan Compiled Laws,
6 are amended and section 3107b is added to read as follows

7 Sec 2477 (1) Every insurer providing professional liabil-
8 ity insurance to a person licensed by the Michigan board of medi-
9 cine, the Michigan board of osteopathic medicine and surgery, the
10 Michigan board of podiatric medicine and surgery, the Michigan
11 board of dentistry, THE MICHIGAN BOARD OF CHIROPRACTIC, and the
12 hospitals licensed by the state department of public health in
13 this state shall submit the ~~following~~ data PRESCRIBED IN THIS
14 SECTION at the times prescribed to the state insurance
15 commissioner All data shall be provided with respect to any
16 complaint filed against ~~such~~ THE insured in any court, if the
17 complaint seeks damages for personal injury claimed to have been
18 caused by the negligence of the insured relating to the insured's
19 professional services, or the performance of professional serv-
20 ices by the insured without consent or informed consent, or a
21 breach of warranty or contract for a medical result relating to
22 the insured's professional services

23 (2) The following data and information shall be furnished to
24 the commissioner within 30 days of the filing of an answer on
25 behalf of the insured

26 (a) The name and license number of ~~such~~ THE insured

1 (b) The date of the injury

2 (c) The date of the filing of the complaint

3 (d) The nature of the complaint

4 (e) Any other information the commissioner may require

5 (3) The following data and information shall be furnished to
6 the commissioner, the appropriate licensing board in the depart-
7 ment of ~~licensing and regulation~~ COMMERCE, and, if the insured
8 or person is a hospital, to the state department of public health
9 within 30 days from any judgment, settlement, or other dismissal
10 involving the insured

11 (a) The date of any judgment, settlement, or other
12 dismissal

13 (b) The amount of any judgment against the insured

14 (c) The amount of any settlement paid on behalf of the
15 insured, whether ~~such~~ THE settlement was negotiated by suit or
16 without the filing of a complaint for damages

17 (d) Of the amounts provided in subdivisions (b) and (c), the
18 amount attributable to economic damages and the amount attribut-
19 able to noneconomic damages

20 (e) Any other information the commissioner may require

21 (4) The insurance commissioner, the licensing board, and the
22 department of public health shall retain the information and
23 maintain the files in the form and for a period as he or she
24 shall determine necessary in his or her sole discretion The
25 commissioner, the licensing board, and the department of public
26 health shall maintain the data and information filed in
27 accordance with this section as confidential records and shall

1 not release the data and information except for bona fide
2 research, educational, licensing, actuarial, department of social
3 services subrogation, or legislative purposes however, the name
4 of the insurer shall be omitted The commissioner, the chair-
5 person of the licensing board, and the director of public health
6 in his or her sole discretion shall determine the validity of any
7 request for the information

8 (5) There ~~shall be~~ IS no liability on the part of and a
9 cause of action of any nature shall not arise against an insurer
10 reporting hereunder or its agents or employees, or the commis-
11 sioner or his or her representatives, for any action taken by
12 them pursuant to this section

13 Sec 2477b (1) Every person, other than an insurer, who
14 pays or who has assumed liability to pay a municipal liability
15 claim arising in this state or a professional liability claim
16 against a health care provider licensed by the Michigan board of
17 medicine the Michigan board of osteopathic medicine and surgery,
18 the Michigan board of podiatric medicine and surgery, ~~or~~ the
19 Michigan board of dentistry, OR THE MICHIGAN BOARD OF
20 CHIROPRACTIC, shall submit the data prescribed in this section at
21 the times prescribed in this section

22 (2) The following data shall be furnished to the commis-
23 sioner pursuant to subsection (1) within 30 days after an answer
24 is filed on behalf of a defendant

25 (a) The name of the person against whom the claim was made
26 and the person's professional license number, if any

1 (b) The date of the injury

2 (c) The date of the filing of the complaint

3 (d) The nature of the complaint

4 (e) Any other information the commissioner may require

5 (3) The following data shall be furnished to the commis-
6 sioner within 30 days after any judgment, settlement, or dis-
7 missal of a claim described in subsection (1)

8 (a) The name of the person against whom the claim was made,
9 and the person's professional license number, if any

10 (b) The name of the person who paid the claim, if different
11 from subdivision (a)

12 (c) The date of the injury

13 (d) The date of the filing of the complaint, if any

14 (e) The nature of the complaint

15 (f) The amount of any judgment

16 (g) The amount of any settlement, whether negotiated pursu-
17 ant to an action or without the filing of a complaint for
18 damages

19 (h) Of the amounts provided in subdivisions (f) and (g), the
20 amount attributable to economic damages and noneconomic damages

21 (1) Any other information the commissioner may require

22 (4) The insurance commissioner shall retain the information
23 and maintain the files in the form and for a period as he or she
24 shall determine necessary in his or her sole discretion The
25 commissioner shall maintain the data and information filed in
26 accordance with this section as confidential records The
27 commissioner shall not release the data and information filed in

1 accordance with this section except for bona fide research,
2 educational, licensing, actuarial, department of social services
3 subrogation, or legislative purposes. However, the commissioner
4 shall not release the name of any person that is part of the data
5 and information filed in accordance with this section. The com-
6 missioner in his or her sole discretion shall determine the
7 validity of any request for the information.

8 (5) There ~~shall be~~ IS no liability on the part of, and a
9 cause of action of any nature shall not arise against, a person
10 reporting hereunder or its agents or employees, or the commis-
11 sioner or his or her representatives, for any action taken by
12 them pursuant to this section.

13 Sec 2477c (1) Every attorney licensed to practice law in
14 this state who represents a plaintiff or defendant in regard to a
15 municipal liability claim arising in this state or a professional
16 liability claim against a health care provider licensed by the
17 Michigan board of medicine, the Michigan board of osteopathic
18 medicine and surgery, the Michigan board of podiatric medicine
19 and surgery, ~~or~~ the Michigan board of dentistry, OR THE
20 MICHIGAN BOARD OF CHIROPRACTIC, shall submit the data prescribed
21 in this section at the times prescribed in this section.

22 (2) The following data shall be furnished to the commis-
23 sioner pursuant to subsection (1) within 30 days after an answer
24 is filed on behalf of a plaintiff or defendant.

25 (a) The name of the plaintiff or defendant.

26 (b) The name of the attorney.

1 (c) The date of the injury

2 (d) The date of the filing of the complaint, if any

3 (e) The nature of the complaint

4 (f) Any other information the commissioner may require

5 (3) The following data shall be furnished to the commis-
6 sioner within 30 days after any judgment, settlement, or dis-
7 missal of a claim described in subsection (1)

8 (a) The name of the plaintiff or defendant

9 (b) The name of the attorney

10 (c) The date of the injury

11 (d) The date of the filing of the complaint, if any

12 (e) The nature of the complaint

13 (f) The amount of any judgment

14 (g) The amount of any settlement, whether negotiated pursu-
15 ant to an action or without the filing of a complaint for
16 damages

17 (h) Of the amounts provided in subdivisions (f) and (g), the
18 amount attributable to economic damages and noneconomic damages

19 (1) Any other information the commissioner may require

20 (4) The insurance commissioner shall retain the information
21 and maintain the files in the form and for a period as he or she
22 shall determine necessary in his or her sole discretion The
23 commissioner shall maintain the data and information filed in
24 accordance with this section as confidential records and shall
25 not release the data and information except for bona fide
26 research, educational, licensing, actuarial, department of social
27 services subrogation, or legislative purposes However, the

1 commissioner shall not release the name of any person that is
2 part of the data and information filed in accordance with this
3 section The commissioner in his or her sole discretion shall
4 determine the validity of any request for the information

5 (5) There ~~shall be~~ IS no liability on the part of, and a
6 cause of action of any nature shall not arise against, an attor-
7 ney reporting hereunder or the attorney's agents or employees, or
8 the commissioner or his or her representatives, for any action
9 taken by them pursuant to this section

10 SEC 3107B EXPENSES WITHIN PERSONAL PROTECTION INSURANCE
11 COVERAGE UNDER SECTION 3107 DO NOT INCLUDE CHARGES FOR A PRACTICE
12 OF CHIROPRACTIC SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE
13 DEFINITION OF PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE
14 PUBLIC HEALTH CODE, ACT NO 368 OF THE PUBLIC ACTS OF 1978, BEING
15 SECTION 333 16401 OF THE MICHIGAN COMPILED LAWS, AS OF MAY 20,
16 1992

17 Sec 3405 (1) For the purpose of doing business as an
18 organization under the prudent purchaser act, Act No 233 of the
19 Public Acts of 1984, being sections 550 51 to 550 63 of the
20 Michigan Compiled Laws, an insurer authorized in this state to
21 write disability insurance ~~which~~ THAT provides coverage for
22 hospital, nursing, medical, surgical, or sick-care benefits may
23 enter into prudent purchaser agreements with providers of hospi-
24 tal, nursing, medical, surgical, or sick-care services pursuant
25 to this section and Act No 233 of the Public Acts of 1984

26 (2) An insurer may offer disability insurance policies under
27 which the insured persons shall be required, as a condition of

1 coverage, to obtain hospital, nursing, medical, surgical, or
2 sick-care services exclusively from health care providers who
3 have entered into prudent purchaser agreements A person to whom
4 such a policy is offered shall also be offered a policy ~~which~~
5 THAT

6 (a) Does not, as a condition of coverage, require insured
7 persons to obtain services exclusively from health care providers
8 who have entered into prudent purchaser agreements

9 (b) Does not give a financial advantage or other advantage
10 to an insured person who elects to obtain services from health
11 care providers who have entered into prudent purchaser
12 agreements

13 (3) An insurer may offer disability insurance policies under
14 which insured persons who elect to obtain hospital, nursing, med-
15 ical, surgical, or sick-care services from health care providers
16 who have entered into prudent purchaser agreements shall realize
17 a financial advantage or other advantage by selecting such
18 providers Policies offered pursuant to this subsection shall
19 not, as a condition of coverage, require insured persons to
20 obtain such services exclusively from health care providers who
21 have entered into prudent purchaser agreements A person to whom
22 such a policy is offered shall also be offered a policy ~~which~~
23 THAT

24 (a) Does not, as a condition of coverage, require insured
25 persons to obtain services exclusively from health care providers
26 who have entered into prudent purchaser agreements

1 (b) Does not give a financial advantage or other advantage
2 to an insured person who elects to obtain services from health
3 care providers who have entered into prudent purchaser
4 agreements

5 (4) The rates charged by an insurer for coverage under poli-
6 cies issued under this section shall not be unreasonably lower
7 than what is necessary to meet the expenses of the insurer for
8 providing this coverage and shall not have an anticompetitive
9 effect or result in predatory pricing in relation to prudent pur-
10 chaser agreement coverages offered by other organizations

11 (5) An insurer shall not discriminate against a class of
12 health care providers when entering into prudent purchaser agree-
13 ments with health care providers for its provider panel This
14 subsection shall not be construed to

15 (a) Prohibit the formation of a provider panel consisting of
16 a single class of providers when a service provided for in the
17 specifications of a purchaser may legally be provided only by a
18 single class of providers

19 (b) Prohibit the formation of a provider panel ~~which~~ THAT
20 conforms to the specifications of a purchaser of the coverage
21 authorized by this section so long as the specifications do not
22 exclude any class of health care providers who may legally per-
23 form the services included in the coverage

24 (c) Require an organization ~~which~~ THAT has uniformly
25 applied the standards filed pursuant to section 3(3) of Act
26 No 233 of the Public Acts of 1984, being section 550 53 of the

1 Michigan Compiled Laws, to contract with any individual
2 provider

3 (D) REQUIRE COVERAGE OR REIMBURSEMENT FOR A PRACTICE OF CHI-
4 ROPRACTIC SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE DEFINI-
5 TION OF PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE
6 PUBLIC HEALTH CODE, ACT NO 368 OF THE PUBLIC ACTS OF 1978, BEING
7 SECTION 333 16401 OF THE MICHIGAN COMPILED LAWS, AS OF MAY 20,
8 1992

9 (6) Nothing in this 1984 amendatory act shall apply to any
10 contract ~~which~~ THAT is in existence before December 20, 1984,
11 or the renewal of such contract

12 Sec 3475 Notwithstanding any provision of any policy of
13 insurance or certificate, if an insurance policy or certificate
14 provides for reimbursement for any service ~~which~~ THAT may be
15 legally performed by a person fully licensed as a psychologist
16 under part 182 of the public health code, Act No 368 of the
17 Public Acts of 1978, being sections 333 18201 to 333 18237 of the
18 Michigan Compiled Laws by a podiatrist licensed under part 180
19 of the public health code, Act No 368 of the Public Acts of
20 1978, being sections 333 18001 to 333 18033 of the Michigan
21 Compiled Laws OR by a chiropractor licensed under part 164 of
22 the public health code, Act No 368 of the Public Acts of 1978,
23 being sections 333 16401 to 333 16431 of the Michigan Compiled
24 Laws reimbursement under the insurance policy or certificate
25 shall not be denied if the service is rendered by a person fully
26 licensed as a psychologist under part 182 of ~~the public health~~
27 ~~code,~~ Act No 368 of the Public Acts of 1978 by a podiatrist

1 licensed under part 180 of ~~the public health code,~~ Act No 368
2 of the Public Acts of 1978 or by a chiropractor licensed under
3 part 164 of ~~the public health code,~~ Act No 368 of the Public
4 Acts of 1978 within the statutory provisions provided in his or
5 her individual practice act This section ~~shall not be con-~~
6 ~~strued as requiring the~~ DOES NOT REQUIRE coverage for a psychol-
7 ogist in any insurance policy AND DOES NOT REQUIRE COVERAGE OR
8 REIMBURSEMENT FOR A PRACTICE OF CHIROPRACTIC SERVICE UNLESS THAT
9 SERVICE WAS INCLUDED IN THE DEFINITION OF PRACTICE OF CHIROPRACTIC
10 UNDER SECTION 16401 OF ACT NO 368 OF THE PUBLIC ACTS OF
11 1978, BEING SECTION 333 16401 OF THE MICHIGAN COMPILED LAWS, AS
12 OF MAY 20, 1992 This section ~~shall~~ DOES not apply to a policy
13 or certificate written pursuant to section 3405, 3631, or 3709
14 involving a prudent purchaser agreement

15 Sec 3631 (1) For the purpose of doing business as an
16 organization under the prudent purchaser act, Act No 233 of the
17 Public Acts of 1984, being sections 550 51 to 550 63 of the
18 Michigan Compiled Laws, an insurer authorized to write group dis-
19 ability insurance or family expense insurance ~~which~~ THAT pro-
20 vides coverage for hospital, nursing, medical, surgical, or
21 sick-care benefits may enter into prudent purchaser agreements
22 with providers of hospital, nursing, medical, surgical, or
23 sick-care services pursuant to this section and Act No 233 of
24 the Public Acts of 1984

25 (2) An insurer may offer group disability insurance policies
26 or family expense policies under which the insured persons shall
27 be required, as a condition of coverage, to obtain hospital,

1 nursing, medical, surgical, or sick-care services exclusively
2 from health care providers who have entered into prudent pur-
3 chaser agreements

4 (3) An individual who is a member of a group who is offered
5 the option of being under a policy pursuant to subsection (2)
6 shall also be offered the option of being insured under a policy
7 pursuant to subsection (4) This subsection shall only apply if
8 the group to which the individual is a member has 25 or more mem-
9 bers or if the provider panel ~~which~~ THAT is providing the serv-
10 ices under the group policy is limited by the organization to a
11 specific number pursuant to section 3(1) of ~~the prudent pur-~~
12 ~~chaser act~~ ACT NO 233 OF THE PUBLIC ACTS OF 1984, BEING
13 SECTION 550 53 OF THE MICHIGAN COMPILED LAWS

14 (4) An insurer may offer group disability insurance policies
15 or family expense policies under which insured persons who elect
16 to obtain hospital, nursing, medical, surgical, or sick-care
17 services from health care providers who have entered into prudent
18 purchaser agreements shall realize a financial advantage or other
19 advantage by selecting such a provider Policies offered pursu-
20 ant to this subsection shall not, as a condition of coverage,
21 require insured persons to obtain such services exclusively from
22 health care providers who have entered into prudent purchaser
23 agreements

24 (5) An individual who is a member of a group who is offered
25 the option of being insured under a policy pursuant to
26 subsection (2) or (4) shall also be offered the option of being
27 insured under a policy ~~which~~ THAT

1 (a) Does not, as a condition of coverage, require insured
2 persons to obtain services exclusively from health care providers
3 who have entered into prudent purchaser agreements

4 (b) Does not give a financial advantage or other advantage
5 to an insured person who elects to obtain services from health
6 care providers who have entered into prudent purchaser
7 agreements

8 (6) Subsection (5) shall only apply if the group to which
9 the individual is a member has 25 or more members and if the
10 group on ~~the effective date of this section~~ DECEMBER 20, 1984
11 had health care coverage through the group sponsor

12 (7) The rates charged by an insurer for coverage under poli-
13 cies issued under this section shall not be unreasonably lower
14 than what is necessary to meet the expenses of the insurer for
15 providing this coverage and shall not have an anticompetitive
16 effect or result in predatory pricing in relation to prudent pur-
17 chaser agreement coverages offered by other organizations

18 (8) An insurer shall not discriminate against a class of
19 health care providers when entering into prudent purchaser agree-
20 ments with health care providers for its provider panel This
21 subsection shall not be construed to

22 (a) Prohibit the formation of a provider panel consisting of
23 a single class of providers when a service provided for in the
24 specifications of a purchaser may legally be provided only by a
25 single class of providers

26 (b) Prohibit the formation of a provider panel ~~which~~ THAT
27 conforms to the specifications of a purchaser of the coverage

1 authorized by this section so long as the specifications do not
2 exclude any class of health care providers who may legally per-
3 form the services included in the coverage

4 (c) Require an organization ~~which~~ THAT has uniformly
5 applied the standards filed pursuant to section 3(3) of Act
6 No 233 of the Public Acts of 1984, being section 550 53 of the
7 Michigan Compiled Laws, to contract with any individual
8 provider

9 (D) REQUIRE COVERAGE OR REIMBURSEMENT FOR A PRACTICE OF CHI-
10 ROPRACTIC SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE DEFINI-
11 TION OF PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE
12 PUBLIC HEALTH CODE, ACT NO 368 OF THE PUBLIC ACTS OF 1978, BEING
13 SECTION 333 16401 OF THE MICHIGAN COMPILED LAWS, AS OF MAY 20,
14 1992

15 (9) Nothing in this 1984 amendatory act shall apply to any
16 contract ~~which~~ THAT is in existence before December 20, 1984,
17 or the renewal of such contract

18 Sec 3709 (1) For the purpose of doing business as an
19 organization under the prudent purchaser act Act No 233 of the
20 Public Acts of 1984, being sections 550 51 to 550 63 of the
21 Michigan Compiled Laws, an insurer authorized under this chapter
22 to write health insurance ~~which~~ THAT provides coverage for hos-
23 pital, nursing, medical, surgical, or sick-care benefits may
24 enter into prudent purchaser agreements with providers of hospi-
25 tal, nursing, medical, surgical, or sick-care services pursuant
26 to this section and Act No 233 of the Public Acts of 1984

1 (2) An insurer may offer health insurance policies or family
2 expense policies under which the insured persons shall be
3 required, as a condition of coverage, to obtain hospital, nurs-
4 ing, medical, surgical, or sick-care services exclusively from
5 health care providers who have entered into prudent purchaser
6 agreements

7 (3) An individual who is a member of a group who is offered
8 the option of being insured under a policy pursuant to subsection
9 (2) shall also be offered the option of being insured under a
10 policy pursuant to subsection (4) This subsection shall only
11 apply if the group to which the individual is a member has 25 or
12 more members or if the provider panel ~~which~~ THAT is providing
13 the services under the group policy is limited by the organiza-
14 tion to a specific number pursuant to section 3(1) of the Act
15 No 233 of the Public Acts of 1984, being section 550 53 of the
16 Michigan Compiled Laws

17 (4) An insurer may offer health insurance policies under
18 which insured persons who elect to obtain hospital, nursing, med-
19 ical, surgical, or sick-care services from health care providers
20 who have entered into prudent purchaser agreements shall realize
21 a financial advantage or other advantage by selecting such
22 providers Policies offered pursuant to this subsection shall
23 not, as a condition of coverage, require insured persons to
24 obtain services exclusively from health care providers who have
25 entered into prudent purchaser agreements

26 (5) An individual who is a member of a group who is offered
27 the option of being insured under a policy pursuant to subsection

1 (2) or (4) shall also be offered the option of being insured
2 under a policy ~~which~~ THAT

3 (a) Does not, as a condition of coverage, require insured
4 persons to obtain services exclusively from health care providers
5 who have entered into prudent purchaser agreements

6 (b) Does not give a financial advantage or other advantage
7 to an insured person who elects to obtain services from health
8 care providers who have entered into prudent purchaser
9 agreements

10 (6) Subsection (5) shall only apply if the group to which
11 the individual is a member has 25 or more members and if the
12 group on December 20, 1984 had health care coverage through the
13 group sponsor

14 (7) The rates charged by an insurer for coverage under poli-
15 cies issued under this section shall not be unreasonably lower
16 than what is necessary to meet the expenses of the insurer for
17 providing this coverage and shall not have an anticompetitive
18 effect or result in predatory pricing in relation to prudent pur-
19 chaser agreement coverages offered by other organizations

20 (8) An insurer shall not discriminate against a class of
21 health care providers when entering into prudent purchaser agree-
22 ments with health care providers for its provider panel This
23 subsection shall not be construed to

24 (a) Prohibit the formation of a provider panel consisting of
25 a single class of providers when a service provided for in the
26 specifications of a purchaser may legally be provided only by a
27 single class of providers

1 (b) Prohibit the formation of a provider panel ~~which~~ THAT
2 conforms to the specifications of a purchaser of the coverage
3 authorized by this section so long as the specifications do not
4 exclude any class of health care providers who may legally per-
5 form the services included in the coverage

6 (c) Require an organization ~~which~~ THAT has uniformly
7 applied the standards filed pursuant to section 3(3) of Act
8 No 233 of the Public Acts of 1984, being section 550 53 of the
9 Michigan Compiled Laws, to contract with any individual
10 provider

11 (D) REQUIRE COVERAGE OR REIMBURSEMENT FOR A PRACTICE OF CHI-
12 ROPRACTIC SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE DEFINI-
13 TION OF PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE
14 PUBLIC HEALTH CODE, ACT NO 368 OF THE PUBLIC ACTS OF 1978, BEING
15 SECTION 333 16401 OF THE MICHIGAN COMPILED LAWS, AS OF MAY 20,
16 1992

17 (9) Nothing in ~~this~~ THE 1984 amendatory act THAT ADDED
18 THIS SECTION shall apply to any contract ~~which~~ THAT is in exis-
19 tence before December 20, 1984, or the renewal of such contract