

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 732**

(As Passed the Senate November 13, 1997)

A bill to amend 1967 PA 270, entitled

"An act to provide for the release of certain information or data relating to health care research or education, health care entities, practitioners, or professions, or certain governmentally funded programs; to limit the liability with respect to the release of certain information or data; and to safeguard the confidential character of certain information or data,"

by amending section 1 (MCL 331.531), as amended by 1992 PA 215.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A person, organization, or entity may provide
2 to a review entity information or data relating to the physical
3 or psychological condition of a person, the necessity, appropri-
4 ateness, or quality of health care rendered to a person, or the
5 qualifications, competence, or performance of a health care
6 provider.

7 (2) As used in this section, "review entity" means 1 of the
8 following:

SB0732, As Passed House, March 17, 1998

Senate Bill No. 732

2

1 (a) A duly appointed peer review committee of 1 OF the
2 FOLLOWING:

3 (i) THE state. ~~, of a~~

4 (ii) A state or county association of health care
5 professionals. ~~, of an officially constituted~~

6 (iii) A health ~~care~~ facility ~~, or of a~~ AGENCY LICENSED
7 UNDER ARTICLE 17 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
8 333.20101 TO 333.22260.

9 (iv) A health care association.

10 (v) A HEALTH CARE NETWORK, A HEALTH CARE ORGANIZATION, OR A
11 HEALTH CARE DELIVERY SYSTEM COMPOSED OF HEALTH PROFESSIONALS
12 LICENSED UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
13 MCL 333.16101 TO 333.18838, OR COMPOSED OF HEALTH FACILITIES
14 LICENSED UNDER ARTICLE 17 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
15 MCL 333.20101 TO 333.22260, OR BOTH.

16 (vi) A HEALTH PLAN QUALIFIED UNDER THE PROGRAM FOR MEDICAL
17 ASSISTANCE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY HEALTH
18 UNDER THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.1 TO 400.119B.

19 (b) A professional standards review organization qualified
20 under federal or state law.

21 (c) A foundation or organization acting pursuant to the
22 approval of a state or county association of health care
23 professionals.

24 (d) A state department or agency whose jurisdiction encom-
25 passes the information described in subsection (1).

26 (e) An organization established by a state association of
27 hospitals or physicians, or both, that collects and verifies the

SB0732, As Passed House, March 17, 1998

Sub. S. B. 732 (S-1) as amended March 11, 1998 3 (1 of 2)

1 authenticity of documents and other data concerning the
2 qualifications, competence, or performance of licensed health
3 care professionals and that acts as a health facility's agent
4 pursuant to the health care quality improvement act of 1986,
5 title IV of Public Law 99-660, 100 Stat. 3784.

6 (3) A person, organization, or entity is not civilly or
7 criminally liable:

8 (a) For providing information or data pursuant to subsection
9 (1).

10 (b) For an act or communication within its scope as a review
11 entity.

12 (c) For releasing or publishing a record of the proceedings,
13 or OF the reports, findings, or conclusions of a review entity,
14 subject to sections 2 and 3.

15 (4) The immunity from liability provided under subsection
16 (3) does not apply to a person, organization, or entity that acts
17 with malice.

[(5) AN ENTITY DESCRIBED IN SUBSECTION (2)(A)(v) OR (vi) THAT EMPLOYS, CONTRACTS WITH, OR GRANTS PRIVILEGES TO A HEALTH PROFESSIONAL LICENSED OR REGISTERED UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838, SHALL REPORT EACH OF THE FOLLOWING TO THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES NOT MORE THAN 30 DAYS AFTER IT OCCURS:

(A) DISCIPLINARY ACTION TAKEN BY THE ENTITY AGAINST A HEALTH PROFESSIONAL LICENSED OR REGISTERED UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838, BASED ON THE HEALTH PROFESSIONAL'S PROFESSIONAL COMPETENCE, DISCIPLINARY ACTION THAT RESULTS IN A CHANGE OF THE HEALTH PROFESSIONAL'S EMPLOYMENT STATUS, OR DISCIPLINARY ACTION BASED ON CONDUCT THAT ADVERSELY AFFECTS THE HEALTH PROFESSIONAL'S CLINICAL PRIVILEGES FOR A PERIOD OF MORE THAN 15 DAYS. AS USED IN THIS SUBDIVISION, "ADVERSELY AFFECTS" MEANS THE REDUCTION, RESTRICTION, SUSPENSION, REVOCATION, DENIAL, OR FAILURE TO RENEW THE CLINICAL PRIVILEGES OF A HEALTH PROFESSIONAL BY AN ENTITY DESCRIBED IN SUBSECTION (2)(A)(v) OR (vi).

(B) RESTRICTION OR ACCEPTANCE OF THE SURRENDER OF THE CLINICAL PRIVILEGES OF A HEALTH PROFESSIONAL UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

(i) THE HEALTH PROFESSIONAL IS UNDER INVESTIGATION BY THE ENTITY.

(ii) THERE IS AN AGREEMENT IN WHICH THE ENTITY AGREES NOT TO CONDUCT AN INVESTIGATION INTO THE HEALTH PROFESSIONAL'S ALLEGED PROFESSIONAL INCOMPETENCE OR IMPROPER PROFESSIONAL CONDUCT.

(C) A CASE IN WHICH A HEALTH PROFESSIONAL RESIGNS OR TERMINATES A CONTRACT OR WHOSE CONTRACT IS NOT RENEWED INSTEAD OF THE ENTITY TAKING DISCIPLINARY ACTION AGAINST THE HEALTH PROFESSIONAL.

Sub. S. B. 732 (S-1) as amended March 11, 1998 3 (2 of 2)

SB0732, As Passed House, March 17, 1998

(6) UPON REQUEST BY ANOTHER ENTITY DESCRIBED IN SUBSECTION (2) SEEKING A REFERENCE FOR PURPOSES OF CHANGING OR GRANTING STAFF PRIVILEGES, CREDENTIALS, OR EMPLOYMENT, AN ENTITY DESCRIBED IN SUBSECTION (2) THAT EMPLOYS, CONTRACTS WITH, OR GRANTS PRIVILEGES TO HEALTH PROFESSIONALS LICENSED OR REGISTERED UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838, SHALL NOTIFY THE REQUESTING ENTITY OF ANY DISCIPLINARY OR OTHER ACTION REPORTABLE UNDER SUBSECTION (5) THAT IT HAS TAKEN AGAINST A HEALTH PROFESSIONAL EMPLOYED BY, UNDER CONTRACT TO, OR GRANTED PRIVILEGES BY THE ENTITY.

(7) FOR THE PURPOSE OF REPORTING DISCIPLINARY ACTIONS UNDER SUBSECTION (5), AN ENTITY DESCRIBED IN SUBSECTION (2)(A)(v) OR (vi) SHALL INCLUDE ONLY THE FOLLOWING IN THE INFORMATION PROVIDED:

(A) THE NAME OF THE HEALTH PROFESSIONAL AGAINST WHOM DISCIPLINARY ACTION HAS BEEN TAKEN.

(B) A DESCRIPTION OF THE DISCIPLINARY ACTION TAKEN.

(C) THE SPECIFIC GROUNDS FOR THE DISCIPLINARY ACTION TAKEN.

(D) THE DATE OF THE INCIDENT THAT IS THE BASIS FOR THE DISCIPLINARY ACTION.

(8) FOR THE PURPOSE OF REPORTING DISCIPLINARY ACTIONS UNDER SUBSECTION (6), AN ENTITY DESCRIBED IN SUBSECTION (2) SHALL INCLUDE IN THE REPORT ONLY THE INFORMATION DESCRIBED IN SUBSECTION (7)(A) TO (D).]