

HOUSE BILL No. 5780

March 12, 2002, Introduced by Reps. Howell, DeRossett, Ehardt, George, Vander Veen and Lipsey and referred to the Committee on Civil Law and the Judiciary.

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 1998 PA 59.

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:

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

3 (i) The state.

4 (ii) A state or county association of health care
5 professionals.

6 (iii) A health facility or agency licensed under article 17
7 of the public health code, 1978 PA 368, MCL 333.20101 to
8 333.22260.

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
19 400.119b.

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

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

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

1 (e) An organization established by a state association of
2 hospitals or physicians, or both, that collects and verifies the
3 authenticity of documents and other data concerning the qualifi-
4 cations, competence, or performance of licensed health care pro-
5 fessionals and that acts as a health facility's agent pursuant to
6 the health care quality improvement act of 1986, title IV of
7 Public Law 99-660, 100 Stat. 3784.

8 (F) A PROFESSIONAL CORPORATION, LIMITED LIABILITY PARTNER-
9 SHIP, OR PARTNERSHIP CONSISTING OF 5 OR MORE ALLOPATHIC PHYSI-
10 CIANS OR OSTEOPATHIC PHYSICIANS LICENSED UNDER ARTICLE 15 OF THE
11 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838, WHO
12 REGULARLY PRACTICE PEER REVIEW CONSISTENT WITH THE REQUIREMENTS
13 OF ARTICLE 17 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
14 333.20101 TO 333.22260.

15 (3) A person, organization, or entity is not civilly or
16 criminally liable:

17 (a) For providing information or data pursuant to subsection
18 (1).

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

21 (c) For releasing or publishing a record of the proceedings,
22 or of the reports, findings, or conclusions of a review entity,
23 subject to sections 2 and 3.

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

1 (5) An entity described in subsection (2)(a)(v) or (vi) that
2 employs, contracts with, or grants privileges to a health
3 professional licensed or registered under article 15 of the
4 public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
5 shall report each of the following to the department of consumer
6 and industry services not more than 30 days after it occurs:

7 (a) Disciplinary action taken by the entity against a health
8 professional licensed or registered under article 15 of the
9 public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
10 based on the health professional's professional competence, dis-
11 ciplinary action that results in a change of the health
12 professional's employment status, or disciplinary action based on
13 conduct that adversely affects the health professional's clinical
14 privileges for a period of more than 15 days. As used in this
15 subdivision, "adversely affects" means the reduction, restric-
16 tion, suspension, revocation, denial, or failure to renew the
17 clinical privileges of a health professional by an entity
18 described in subsection (2)(a)(v) or (vi).

19 (b) Restriction or acceptance of the surrender of the clini-
20 cal privileges of a health professional under either of the fol-
21 lowing circumstances:

22 (i) The health professional is under investigation by the
23 entity.

24 (ii) There is an agreement in which the entity agrees not to
25 conduct an investigation into the health professional's alleged
26 professional incompetence or improper professional conduct.

1 (c) A case in which a health professional resigns or
2 terminates a contract or whose contract is not renewed instead of
3 the entity taking disciplinary action against the health
4 professional.

5 (6) Upon request by another entity described in
6 subsection (2) seeking a reference for purposes of changing or
7 granting staff privileges, credentials, or employment, an entity
8 described in subsection (2) that employs, contracts with, or
9 grants privileges to health professionals licensed or registered
10 under article 15 of the public health code, 1978 PA 368,
11 MCL 333.16101 to 333.18838, shall notify the requesting entity of
12 any disciplinary or other action reportable under subsection (5)
13 that it has taken against a health professional employed by,
14 under contract to, or granted privileges by the entity.

15 (7) For the purpose of reporting disciplinary actions under
16 subsection (5), an entity described in subsection (2)(a)(v) or
17 (vi) shall include only the following in the information
18 provided:

19 (a) The name of the health professional against whom disci-
20 plinary action has been taken.

21 (b) A description of the disciplinary action taken.

22 (c) The specific grounds for the disciplinary action taken.

23 (d) The date of the incident that is the basis for the dis-
24 ciplinary action.

25 (8) For the purpose of reporting disciplinary actions under
26 subsection (6), an entity described in subsection (2) shall

- 1 include in the report only the information described in
- 2 subsection (7)(a) to (d).