

HOUSE BILL No. 5962

April 25, 2006, Introduced by Reps. Hune, Gaffney, Hildenbrand and Ward and referred to the Committee on Health Policy.

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending section 406 (MCL 550.1406).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 406. (1) A health care corporation shall, in order to
2 ensure the confidentiality of records containing personal data that
3 may be associated with identifiable members, use reasonable care to
4 secure these records from unauthorized access and to collect only
5 personal data that are necessary for the proper review and payment
6 of claims **AND FOR HEALTH CARE OPERATIONS, TREATMENT, AND RESEARCH.**
7 Except as is necessary to comply with section 603 or for the
8 purpose of claims adjudication, claims verification, **HEALTH CARE**
9 **OPERATIONS, TREATMENT, RESEARCH, PAYMENT, HEALTH OVERSIGHT**

1 **ACTIVITIES**, or when required by law, a health care corporation
2 shall not disclose records containing personal data that may be
3 associated with an identifiable member, or personal information
4 concerning a member, to a person other than the member, without the
5 prior and specific informed consent of the member to whom the data
6 or information pertains. The member's consent shall be in writing.
7 Except when a disclosure is made to the commissioner or another
8 governmental agency, a court, or any other governmental entity, a
9 health care corporation shall make a disclosure for which prior and
10 specific informed consent is not required upon the condition that
11 the person to whom the disclosure is made protect and use the
12 disclosed data or information only in the manner authorized by the
13 corporation, pursuant to subsection (2). If a member has authorized
14 the release of personal data to a specific person, a health care
15 corporation shall make a disclosure to that person upon the
16 condition that the person shall not release the data to a third
17 person unless the member executes in writing another prior and
18 specific informed consent authorizing the additional release. This
19 subsection ~~shall~~ **DOES** not preclude the release of information to
20 a member, pertaining to that member, by telephone, if the identity
21 of the member is verified. This subsection ~~shall~~ **DOES** not
22 preclude a representative of a subscriber group, upon request of a
23 member of that subscriber group, or an elected official, upon
24 request of a constituent, from assisting the individual in
25 resolving a claim.

26 (2) The board of directors of a health care corporation shall
27 establish and make public the policy of the corporation regarding

1 the protection of the privacy of members and the confidentiality of
2 personal data. The policy, at a minimum, shall do all of the
3 following:

4 (a) Provide for the corporation's implementation of provisions
5 in this act and other applicable laws respecting collection,
6 security, use, release of, and access to personal data.

7 (b) Identify the routine uses of personal data by the
8 corporation; prescribe the means by which members will be notified
9 regarding ~~such~~ **THOSE** uses; and provide for notification regarding
10 the actual release of personal data and information that may be
11 identified with, or that concern, a member, upon specific request
12 by that member. As used in this subdivision, "routine use" means
13 the ordinary use or release of personal data compatible with the
14 purpose for which the data were collected.

15 (c) Assure that no person shall have access to personal data
16 except on the basis of a need to know.

17 (d) Establish the contractual or other conditions under which
18 the corporation will release personal data.

19 (e) Provide that enrollment applications and claim forms
20 developed by the corporation shall contain a member's consent to
21 the release of data and information that is limited to the data and
22 information necessary for the proper review and payment of claims,
23 and shall reasonably notify members of their rights pursuant to the
24 board's policy and applicable law.

25 (f) Provide that applicants for new or renewed certificates
26 shall be advised that the corporation does not require the use of
27 the applicant's federal social security account number and that,

House Bill No. 5962 as amended May 16, 2006

1 when applicable, another authority does require use of the number.

2 (3) A health care corporation ~~which~~ **THAT** violates this
3 section is guilty of a misdemeanor, punishable by a fine of not
4 more than \$1,000.00 for each violation.

5 (4) A member may bring a civil action for damages against a
6 health care corporation for a violation of this section and may
7 recover actual damages or \$200.00, whichever is greater, together
8 with reasonable attorneys' fees and costs.

9 (5) This section shall not be construed to limit access to
10 records or to enlarge or diminish the investigative and examination
11 powers of governmental agencies, as provided for by law.

12 (6) **COMPLIANCE BY A CORPORATION WITH THE HEALTH INSURANCE**
13 **PORTABILITY AND ACCOUNTABILITY ACT OF 1996, PUBLIC LAW 104-191, AND**
14 **REGULATIONS PROMULGATED UNDER THAT ACT, 45 CFR PARTS 160 AND 164,**
15 **SATISFIES SUBSECTIONS (1) AND (2).**

**[(7) AS USED IN THIS SECTION, "HEALTH CARE OPERATIONS" MEANS THAT
TERM AS DEFINED IN 45 CFR 164.501.]**