

HOUSE BILL No. 4821

May 24, 2005, Introduced by Reps. Mortimer, Gaffney, Acciavatti, Vander Veen, Ball, Shaffer, Kahn and Newell and referred to the Committee on Health Policy.

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 2002 PA 600.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

1 following:

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

4 (i) The state.

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

7 (iii) A health facility or agency licensed under article 17 of
8 the public health code, 1978 PA 368, MCL 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 under
18 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
25 encompasses 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

1 authenticity of documents and other data concerning the
2 qualifications, competence, or performance of licensed health care
3 professionals and that acts as a health facility's agent pursuant
4 to the health care quality improvement act of 1986, title IV of
5 Public Law 99-660, ~~100 Stat. 3784~~ **42 USC 11101 TO 11152.**

6 (f) A professional corporation, limited liability partnership,
7 or partnership consisting of 10 or more allopathic physicians,
8 osteopathic physicians, or podiatric physicians and surgeons
9 licensed under article 15 of the public health code, 1978 PA 368,
10 MCL 333.16101 to 333.18838, who regularly practice peer review
11 consistent with the requirements of article 17 of the public health
12 code, 1978 PA 368, MCL 333.20101 to 333.22260.

13 **(G) AN ORGANIZATION ESTABLISHED BY A STATE ASSOCIATION OF**
14 **PHARMACISTS, THAT COLLECTS AND VERIFIES THE AUTHENTICITY OF**
15 **DOCUMENTS AND OTHER DATA CONCERNING THE QUALIFICATIONS, COMPETENCE,**
16 **OR PERFORMANCE OF LICENSED PHARMACISTS AND PHARMACIES.**

17 (3) A person, organization, or entity is not civilly or
18 criminally liable:

19 (a) For providing information or data pursuant to subsection
20 (1).

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

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

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

1 malice.

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

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

19 (b) Restriction or acceptance of the surrender of the clinical
20 privileges of a health professional under either of the following
21 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.

27 (c) A case in which a health professional resigns or

1 terminates a contract or whose contract is not renewed instead of
2 the entity taking disciplinary action against the health
3 professional.

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

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

17 (a) The name of the health professional against whom
18 disciplinary action has been taken.

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

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

21 (d) The date of the incident that is the basis for the
22 disciplinary action.

23 (8) For the purpose of reporting disciplinary actions under
24 subsection (6), an entity described in subsection (2) shall include
25 in the report only the information described in subsection (7) (a)
26 to (d).