

HOUSE BILL No. 5941

March 30, 2006, Introduced by Reps. Kahn, Gaffney, Hune, Ball, Newell, David Law, Gleason, Adamini, Mortimer, Garfield, Schuitmaker, Gosselin, Taub, Lipsey, Tobocman, Condino, Bieda, Wojno, Lemmons, Jr., Sheltroun, Vagnozzi, Stewart, Jones and Lemmons, III 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 sections 1 and 2 (MCL 331.531 and 331.532), section 1 as amended by 2005 PA 89 and section 2 as amended by 1993 PA 86.

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

1 provider.

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

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

6 (i) The state.

7 (ii) A state or county association of health care
8 professionals.

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

11 (iv) A health care association.

12 (v) A health care network, a health care organization, or a
13 health care delivery system composed of health professionals
14 licensed under article 15 of the public health code, 1978 PA 368,
15 MCL 333.16101 to 333.18838, or composed of health facilities
16 licensed under article 17 of the public health code, 1978 PA 368,
17 MCL 333.20101 to 333.22260, or both.

18 (vi) A health plan qualified under the program for medical
19 assistance administered by the department of community health under
20 the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

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

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

26 (d) A state department or agency whose jurisdiction
27 encompasses 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
4 qualifications, competence, or performance of licensed health care
5 professionals and that acts as a health facility's agent pursuant
6 to the health care quality improvement act of 1986, title IV of
7 Public Law 99-660, 42 USC 11101 to 11152.

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

15 (g) An organization established by a state association of
16 pharmacists, that collects and verifies the authenticity of
17 documents and other data concerning the qualifications, competence,
18 or performance of licensed pharmacists and pharmacies.

19 (3) A person, organization, or entity is not civilly or
20 criminally liable:

21 (a) For providing information or data pursuant to subsection
22 (1).

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

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

1 (4) The immunity from liability provided under subsection (3)
2 does not apply to a person, organization, or entity that acts with
3 malice **OR THE INTENT TO DEFRAUD OR THAT KNOWINGLY VIOLATES STATE OR**
4 **FEDERAL LAW OR ANY OTHER LEGAL RIGHTS OF AN INDIVIDUAL.**

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

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

22 (b) Restriction or acceptance of the surrender of the clinical
23 privileges of a health professional under either of the following
24 circumstances:

25 (i) The health professional is under investigation by the
26 entity.

27 (ii) There is an agreement in which the entity agrees not to

1 conduct an investigation into the health professional's alleged
2 professional incompetence or improper professional conduct.

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

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

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

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

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

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

24 (d) The date of the incident that is the basis for the
25 disciplinary action.

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

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

3 Sec. 2. The release or publication of a record of the
4 proceedings or of the reports, findings, and conclusions of a
5 review entity shall be for 1 or more of the following purposes:

6 (a) To advance health care research or health care education.

7 (b) To maintain the standards of the health care professions.

8 (c) To protect the financial integrity of any governmentally
9 funded program.

10 (d) To provide evidence relating to the ethics or discipline
11 of a health care provider, entity, or practitioner.

12 (e) To review the qualifications, competence, and performance
13 of a health care professional with respect to the selection and
14 appointment of the health care professional to the medical staff of
15 a health facility.

16 (f) To comply with ~~section~~ **SECTIONS 20175 AND 21515** of the
17 public health code, ~~Act No. 368 of the Public Acts of 1978, being~~
18 ~~section 333.20175 of the Michigan Compiled Laws~~ **1978 PA 368, MCL**
19 **333.20175 AND 333.21515.**

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No.____ or House Bill No. 5940(request no.
22 04648'05) of the 93rd Legislature is enacted into law.