

HOUSE BILL No. 6456

September 11, 2008, Introduced by Reps. Angerer, Wojno, Farrah, Accavitti, Ball, Condino, Green and Meadows 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 the title and section 1 (MCL 331.531), the title as amended by 1980 PA 3 and section 1 as amended by 2005 PA 89, and by adding section 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the **COLLECTION, REPORTING, AND** release
3 of certain information or data relating to health care research or
4 education, **PATIENT SAFETY**, health care entities, practitioners, or
5 professions, or certain governmentally funded programs; to limit

1 the liability with respect to the **COLLECTION, REPORTING, AND**
2 release of certain information or data; and to safeguard the
3 confidential character of certain information or data.

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

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

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

14 (i) The state.

15 (ii) A state or county association of health care
16 professionals.

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

19 (iv) A health care association.

20 (v) A health care network, a health care organization, or a
21 health care delivery system composed of health professionals
22 licensed under article 15 of the public health code, 1978 PA 368,
23 MCL 333.16101 to 333.18838, or composed of health facilities
24 licensed under article 17 of the public health code, 1978 PA 368,
25 MCL 333.20101 to 333.22260, or both.

26 (vi) A health plan qualified under the program for medical
27 assistance administered by the department of ~~community health~~ **HUMAN**

1 **SERVICES** under the social welfare act, 1939 PA 280, MCL 400.1 to
2 400.119b.

3 (b) A professional standards review organization qualified
4 under federal or state law.

5 (c) A foundation or organization acting pursuant to the
6 approval of a state or county association of health care
7 professionals.

8 (d) A state department or agency whose jurisdiction
9 encompasses the information described in subsection (1).

10 (e) An organization established by a state association of
11 hospitals or physicians, or both, that collects and verifies the
12 authenticity of documents and other data concerning the
13 qualifications, competence, or performance of licensed health care
14 professionals and that acts as a health facility's agent pursuant
15 to the health care quality improvement act of 1986, title IV of
16 Public Law 99-660, 42 USC 11101 to 11152.

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

24 (g) An organization established by a state association of
25 pharmacists, that collects and verifies the authenticity of
26 documents and other data concerning the qualifications, competence,
27 or performance of licensed pharmacists and pharmacies.

1 (H) A QUALIFIED HOSPITAL PATIENT SAFETY ORGANIZATION THAT
2 COLLECTS DATA ON SERIOUS ADVERSE EVENTS UNDER SECTION 4.

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

5 (a) For providing information or data pursuant to subsection
6 (1).

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

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

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

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

21 (a) Disciplinary action taken by the entity against a health
22 professional licensed or registered under article 15 of the public
23 health code, 1978 PA 368, MCL 333.16101 to 333.18838, based on the
24 health professional's professional competence, disciplinary action
25 that results in a change of the health professional's employment
26 status, or disciplinary action based on conduct that adversely
27 affects the health professional's clinical privileges for a period

1 of more than 15 days. As used in this subdivision, "adversely
2 affects" means the reduction, restriction, suspension, revocation,
3 denial, or failure to renew the clinical privileges of a health
4 professional by an entity described in subsection (2)(a)(v) or (vi).

5 (b) Restriction or acceptance of the surrender of the clinical
6 privileges of a health professional under either of the following
7 circumstances:

8 (i) The health professional is under investigation by the
9 entity.

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

13 (c) A case in which a health professional resigns or
14 terminates a contract or whose contract is not renewed instead of
15 the entity taking disciplinary action against the health
16 professional.

17 (6) Upon request by another entity described in subsection (2)
18 seeking a reference for purposes of changing or granting staff
19 privileges, credentials, or employment, an entity described in
20 subsection (2) that employs, contracts with, or grants privileges
21 to health professionals licensed or registered under article 15 of
22 the public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
23 shall notify the requesting entity of any disciplinary or other
24 action reportable under subsection (5) that it has taken against a
25 health professional employed by, under contract to, or granted
26 privileges by the entity.

27 (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).

SEC. 4. (1) BEGINNING JANUARY 1, 2009, EACH HOSPITAL SHALL REPORT TO A QUALIFIED HOSPITAL PATIENT SAFETY ORGANIZATION ALL SERIOUS ADVERSE EVENTS THAT OCCUR IN THE HOSPITAL ON OR BEFORE THE EXPIRATION OF 45 DAYS AFTER THE SERIOUS ADVERSE EVENT OCCURS. A QUALIFIED HOSPITAL PATIENT SAFETY ORGANIZATION SHALL CREATE A NONPUNITIVE, CONFIDENTIAL REPORTING SYSTEM TO COLLECT DATA FOR THE PURPOSE OF IMPROVING PATIENT SAFETY AND TO FACILITATE THE SAFE DELIVERY OF HEALTH CARE IN HOSPITALS IN THIS STATE. ALL HOSPITALS SHALL USE THE SYSTEM DESIGNATED BY A QUALIFIED HOSPITAL PATIENT SAFETY ORGANIZATION TO REPORT SERIOUS ADVERSE EVENTS UNDER THIS SECTION.

(2) A QUALIFIED HOSPITAL PATIENT SAFETY ORGANIZATION SHALL ANNUALLY DEVELOP AND DISTRIBUTE A PUBLIC REPORT FOR THE PURPOSE OF IMPROVING PATIENT SAFETY AND TO FACILITATE THE SAFE DELIVERY OF HEALTH CARE IN HOSPITALS IN THIS STATE.

1 (3) AS USED IN THIS SECTION:

2 (A) "HOSPITAL" MEANS THAT TERM AS DEFINED IN SECTION 20106 OF
3 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

4 (B) "QUALIFIED HOSPITAL PATIENT SAFETY ORGANIZATION" MEANS A
5 PATIENT SAFETY ORGANIZATION THAT WAS FORMED PURSUANT TO 42 USC
6 299B-24 BEFORE JANUARY 1, 2009 BY AN ORGANIZATION WITH A MEMBERSHIP
7 OF A LEAST 75% OF ALL HOSPITALS IN THIS STATE.

8 (C) "SERIOUS ADVERSE EVENT" INCLUDES, BUT IS NOT LIMITED TO,
9 THOSE EVENTS LISTED BY THE NATIONAL QUALITY FORUM IN ITS
10 PUBLICATION ENTITLED "SERIOUS REPORTABLE EVENTS IN HEALTHCARE 2006
11 UPDATE".