RELEASE OF INFORMATION FOR MEDICAL RESEARCH AND EDUCATION

Act 270 of 1967

AN ACT to provide for the collection, reporting, and release of certain information or data relating to health care research or education, patient safety, health care entities, practitioners, or professions, or certain governmentally funded programs; to limit the liability with respect to the collection, reporting, and release of certain information or data; and to safeguard the confidential character of certain information or data.

History: 1967, Act 270, Imd. Eff. July 20, 1967 ;-- Am. 1980, Act 3, Imd. Eff. Feb. 11, 1980 ;-- Am. 2008, Act 541, Imd. Eff. Jan. 13, 2009

The People of the State of Michigan enact:

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331.531 Providing information or data to review entity regarding physical condition, psychological condition, health care of person, or qualifications of provider; "review entity" defined; liability; disciplinary actions to be reported to department of community health.

Sec. 1.

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

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

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

(i) The state.

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

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

(iv) A health care association.

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

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

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

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

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

(e) An organization established by a state association of hospitals or physicians, or both, that collects and verifies the authenticity of documents and other data concerning the

qualifications, competence, or performance of licensed health care professionals and that acts as a health facility's agent pursuant to the health care quality improvement act of 1986, title IV of Public Law 99-660, 42 USC 11101 to 11152.

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

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

(h) A qualified hospital patient safety organization that collects data on serious adverse events under section 4.

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

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

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

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

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

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

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

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

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

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

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

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

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(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).

History: 1967, Act 270, Imd. Eff. July 20, 1967 ;-- Am. 1969, Act 190, Eff. Mar. 20, 1970 ;-- Am. 1975, Act 119, Imd. Eff. June 25, 1975 ;-- Am. 1980, Act 3, Imd. Eff. Feb. 11, 1980 ;-- Am. 1992, Act 215, Imd. Eff. Oct. 9, 1992 ;-- Am. 1998, Act 59, Imd. Eff. Apr. 20, 1998 ;-- Am. 2002, Act 600, Imd. Eff. Dec. 16, 2002 ;-- Am. 2005, Act 89, Imd. Eff. July 20, 2005 ;-- Am. 2008, Act 541, Imd. Eff. Jan. 13, 2009

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331.532 Release or publication of proceedings, reports, findings, and conclusions of review entity; purposes; release of department of corrections' records regarding prisoners to legislative corrections ombudsman.

Sec. 2.

(1) Except as provided in subsection (2), the release or publication of a record of the proceedings or of the reports, findings, and conclusions of a review entity shall be for 1 or more of the following purposes:

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

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

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

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

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

(f) To comply with section 20175 of the public health code, 1978 PA 368, MCL 333.20175.

(2) The review entity responsible for mortality and morbidity records, reports, findings, and conclusions regarding prisoners under the jurisdiction of the department of corrections shall release those records, reports, findings, and conclusions to the legislative corrections ombudsman to the extent required under section 5 of 1975 PA 46, MCL 4.355.

History: 1967, Act 270, Imd. Eff. July 20, 1967 ;-- Am. 1969, Act 190, Eff. Mar. 20, 1970 ;-- Am. 1975, Act 119, Imd. Eff. June 25, 1975 ;-- Am. 1980, Act 3, Imd. Eff. Feb. 11, 1980 ;-- Am. 1992, Act 215, Imd. Eff. Oct. 9, 1992 ;-- Am. 1993, Act 86, Eff. Apr. 1, 1994 ;-- Am. 2010, Act 286, Imd. Eff. Dec. 16, 2010

331.533 Confidentiality.

Sec. 3.

The identity of a person whose condition or treatment has been studied under this act is confidential and a review entity shall remove the person's name and address from the record before the review entity releases or publishes a record of its proceedings, or its reports, findings, and conclusions. Except as otherwise provided in section 2, the record of a

proceeding and the reports, findings, and conclusions of a review entity and data collected by or for a review entity under this act are confidential, are not public records, and are not discoverable and shall not be used as evidence in a civil action or administrative proceeding.

History: 1967, Act 270, Imd. Eff. July 20, 1967 ;-- Am. 1969, Act 190, Eff. Mar. 20, 1970 ;-- Am. 1975, Act 119, Imd. Eff. June 25, 1975 ;-- Am. 1992, Act 215, Imd. Eff. Oct. 9, 1992

331.534 Creation of nonpunitive, confidential reporting system by qualified hospital patient safety organization; public report; definitions.

Sec. 4.

(1) Beginning January 1, 2009, a qualified hospital patient safety organization shall create a nonpunitive, confidential reporting system to collect data regarding serious adverse events that occur in hospitals for the purpose of improving patient safety and to facilitate the safe delivery of health care in hospitals in this state.

(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.

(3) As used in this section:

(a) "Hospital" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(b) "Qualified hospital patient safety organization" means a patient safety organization that was incorporated under state law before January 1, 2009 by an organization with a membership of at least 75% of all hospitals in this state and is organized to do the activities of a patient safety organization as described in 42 USC 299b-24.

(c) "Serious adverse event" includes, but is not limited to, those events listed by the national quality forum in its publication entitled "Serious Reportable Events in Healthcare 2006 Update".

History: Add. 2008, Act 541, Imd. Eff. Jan. 13, 2009

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