

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 746 Session of
2009

INTRODUCED BY RAFFERTY, TARTAGLIONE, ERICKSON, MUSTO, O'PAKE,
BOSCOLA, M. WHITE, BROWNE, KITCHEN, WONDERLING, LOGAN, STACK,
EARLL, EICHELBERGER, GORDNER, GREENLEAF AND PICCOLA,
APRIL 3, 2009

AS AMENDED ON THIRD CONSIDERATION, JUNE 23, 2009

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for physician
3 immunity for disclosure on controlled substances; and further
4 providing for actions on insurance policies.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 8338.2. Physician immunity for disclosures on controlled
10 substances.

11 (a) Authorization.--A physician who is licensed under the
12 laws of this Commonwealth and practicing in this Commonwealth
13 may report to law enforcement authorities and disclose protected
14 health information relating to a patient if the physician has a
15 good faith belief that the patient has used a controlled
16 substance prescribed by the physician for an illicit purpose or
17 is attempting to obtain a controlled substance for an illicit
18 purpose. Patient consent or authorization to disclose protected

1 health information under such circumstances shall not be
2 required. No physician shall have a duty to make any report
3 permitted by this section.

4 (b) Immunity.--No physician shall be subject to
5 administrative or civil liability by reason of disclosing
6 protected health information for doing any of the following:

7 (1) Making a report under subsection (a).

8 (2) Cooperating with law enforcement authorities
9 conducting an investigation related to a report made under
10 subsection (a).

11 (3) Testifying in a proceeding related to a report made
12 under subsection (a).

13 (c) Construction.--The

14 (1) THE immunity granted under this section shall be
15 narrowly construed.

16 (2) NOTHING IN THIS SECTION MAY BE CONSTRUED TO GRANT A
17 PHYSICIAN IMMUNITY TO DISCLOSE PROTECTED HEALTH INFORMATION
18 OR OTHER CONFIDENTIAL COMMUNICATIONS MADE BY A PATIENT
19 SEEKING LEGITIMATE MEDICALLY ACCEPTED TREATMENT FOR
20 ADDICTION.

21 (d) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Controlled substance." As defined in section 2 of the act
25 of April 14, 1972 (P.L.233, No.64), known as The Controlled
26 Substance, Drug, Device and Cosmetic Act.

27 "Illicit purpose." The use of a controlled substance for a
28 purpose other than that which is allowed by statutory law, case
29 law or regulation.

30 "Protected health information." The term shall have the

1 meaning provided under the definition of "data aggregation" in
2 45 CFR 164.501 (relating to definitions).

3 Section 2. Section 8371 of Title 42 is amended to read:

4 § 8371. Actions on insurance policies.

5 In an action arising under an insurance policy, if the
6 [court] trier of fact finds that the insurer has acted in bad
7 faith toward the insured, the [court] trier of fact may take all
8 of the following actions:

9 (1) Award interest on the amount of the claim from the
10 date the claim was made by the insured in an amount equal to
11 the prime rate of interest plus 3%.

12 (2) Award punitive damages against the insurer.

13 (3) Assess court costs and attorney fees against the
14 insurer.

15 Section 3. This act shall take effect in 60 days.