

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1423 Session of
2001

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AND KIRKLAND, APRIL 24, 2001

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 24, 2001

AN ACT

1 Providing for medical practice disclosure; imposing powers and
2 duties on the Department of State; and providing for
3 penalties.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Medical
8 Practice Disclosure Act.

9 Section 2. Legislative intent.

10 The General Assembly hereby recognizes the necessity of
11 allowing individuals to make informed and educated choices
12 regarding health care services and the essential need to provide
13 information to facilitate these important decisions. It further
14 recognizes that public disclosure of certain health care
15 information would lower the cost of health care through the use
16 of the most appropriate provider and improve the quality of
17 health care services by mandating the reporting of information

1 regarding health care providers. It is the intention of the
2 General Assembly to establish a procedure by which the general
3 public may obtain essential and basic information concerning
4 potential health care providers, while ensuring the accuracy and
5 disclosure of all relevant information that would enable
6 individuals to informatively select their health care provider.
7 Section 3. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Department." The Department of State of the Commonwealth.

12 "Physician." A medical doctor who has acquired one of the
13 following licenses to practice medicine and surgery issued by
14 the State Board of Medicine:

15 (1) License without restriction.

16 (2) Interim limited license.

17 (3) Graduate license.

18 (4) Institutional license.

19 (5) Temporary license.

20 (6) Extraterritorial license.

21 The term includes an individual licensed to practice osteopathic
22 medicine or surgery by the State Board of Osteopathic Medicine.

23 Section 4. Collection of information.

24 (a) Information.--The department shall collect the following
25 information, in a format created by the department that shall be
26 available for dissemination to the public pursuant to section
27 11:

28 (1) A description of any criminal convictions for
29 felonies and violent misdemeanors as determined by the
30 department, within the most recent ten years. For the

1 purposes of this paragraph, a person shall be deemed to be
2 convicted of a crime if he pleaded guilty or if he was found
3 or adjudged guilty by a court of competent jurisdiction.

4 (2) A description of any charges to which a physician
5 pleads nolo contendere or where sufficient facts of guilt
6 were found and the matter was continued without a finding by
7 a court of competent jurisdiction.

8 (3) A description of any final disciplinary actions
9 taken by the State Board of Medicine within the most recent
10 ten years.

11 (4) A description of any final disciplinary actions by
12 licensing boards in other states or reported in the National
13 Practitioner Data Bank within the most recent ten years.

14 (5) A description of revocation or involuntary
15 restriction of hospital privileges that have been taken by
16 the hospital's governing body or any other official of the
17 hospital after procedural due process has been afforded, or
18 the resignation from or nonrenewal of medical staff
19 membership or the restriction of privileges at a hospital
20 taken in lieu of or in settlement of a pending disciplinary
21 case.

22 (6) Notwithstanding any law to the contrary, all medical
23 malpractice court judgments and all medical malpractice
24 arbitration awards in which a payment is awarded to a
25 complaining party during the most recent ten years and all
26 settlements of medical malpractice claims in which a payment
27 is made to a complaining party within the most recent ten
28 years. Information concerning all settlements shall be
29 accompanied by the following statements:

30 Settlement of a claim may occur for a variety of reasons

1 which do not necessarily reflect negatively on the
2 professional competence or conduct of the physician. A
3 payment in settlement of a medical malpractice action or
4 claim should not be construed as creating a presumption
5 that medical malpractice has occurred.

6 (7) A paragraph describing the malpractice experience of
7 each medical specialty and including an explanation that some
8 high-risk specialties experience more malpractice claims than
9 less risky specialties. This information shall be updated on
10 an annual basis to reflect the most recent malpractice claims
11 experience of each specialty.

12 (8) Names of medical schools and dates of graduation.

13 (9) Graduate medical education.

14 (10) Specialty board certification.

15 (11) Number of years in practice.

16 (12) Names of the hospitals where the licensee has
17 privileges.

18 (13) Appointments to medical school faculties and
19 indication as to whether a licensee has a responsibility for
20 graduate medical education within the most recent ten years.

21 (14) Information regarding publications in peer-reviewed
22 medical literature within the most recent ten years.

23 (15) Information regarding professional or community
24 service activities and awards.

25 (16) The location of the licensee's primary practice
26 location.

27 (17) The identification of any translating services that
28 may be available at the licensee's primary practice location.

29 (18) An indication of whether the licensee participates
30 in the Medicaid program.

1 (b) Copy of profiles.--The department shall provide
2 individual licensees with a copy of their profiles prior to the
3 release to the public.

4 (c) Correction of information.--A licensee shall be provided
5 a reasonable time to correct factual inaccuracies or omissions
6 that may appear in the profile.

7 (d) Information presenting undue risk of harm.--A physician
8 may petition the Medical Licensure Board for permission to
9 temporarily omit certain information under this section for a
10 period not to exceed one year. If the physician demonstrates to
11 the board that disclosure of the information would represent an
12 undue risk of injury to the physician or the property of the
13 physician, the board may grant the request and the information
14 shall be withheld until such time as the situation is resolved,
15 based on the presentation of evidence to the board.

16 (e) Pending claims.--The department shall not disclose any
17 pending malpractice claims to the public, and nothing in this
18 section shall prohibit the department from investigating and
19 disciplining a licensee on the basis of pending medical
20 malpractice claim information obtained under this act.

21 Section 5. Report of criminal convictions and pleas of nolo
22 contendere.

23 (a) Duty of clerk of court.--The clerk of any court in which
24 a physician registered in this Commonwealth is convicted of any
25 crime or in which an unregistered practitioner is convicted of
26 holding himself out as a practitioner of medicine or of
27 practicing medicine shall, within one week thereafter, report
28 the same to the State Board of Medicine together with a copy of
29 the court proceedings in the case. For the purposes of this
30 section, a person shall be deemed to be convicted of a crime if

1 he pleaded guilty or was found or adjudged guilty by a court of
2 competent jurisdiction. Upon review, the information shall be
3 provided to the department for purposes consistent with this
4 act.

5 (b) Pleading of nolo contendere.--In the instance where a
6 physician pleads nolo contendere to charges or where sufficient
7 facts of guilt were found and the matter was continued without a
8 finding by a court of competent jurisdiction, the clerk shall,
9 within one week thereafter, report the same to the State Board
10 of Medicine together with a copy of the court proceedings in the
11 case. Upon review, the information shall be provided to the
12 department for purposes consistent with this act.

13 Section 6. Reports by hospitals and health care facilities.

14 (a) Action report.--Any hospital or health care facility
15 licensed under the act of July 19, 1979 (P.L.130, No.48), known
16 as the Health Care Facilities Act, shall report to the
17 department if the hospital or facility denies, restricts,
18 revokes or fails to renew staff privileges or accepts the
19 resignation of a licensee for any reason related to the
20 licensee's competence to practice medicine or for any other
21 reason related to a complaint or allegation regarding any
22 violation of law, regulation, rule or bylaw of the hospital or
23 facility regardless of whether the complaint or allegation
24 specifically states a violation of a specific law, regulation,
25 rule or bylaw. The report shall be filed within 30 days of the
26 occurrence of the reportable action and include details
27 regarding the nature and circumstances of the action, its date
28 and the reasons for it.

29 (b) Annual disciplinary report.--Any hospital or health care
30 facility licensed under the Health Care Facilities Act shall

1 file an annual disciplinary report with the department no later
2 than January 31 and shall send the report by certified or
3 registered mail. The report shall summarize the action reports
4 submitted for the previous calendar year and shall be signed
5 under oath. If the hospital or facility submitted no action
6 reports for the previous calendar year, then the report required
7 by this subsection shall state that no action reports were
8 required.

9 (c) Liability.--No hospital, health care facility or person
10 that reports information to the department under this section
11 shall be liable to the licensee referenced in the report for
12 making the report, provided that the report is made in good
13 faith and without malice.

14 Section 7. Reports of disciplinary action by professional
15 medical organizations.

16 (a) Report of disciplinary action.--Any professional medical
17 association, society, body, professional standards review
18 organization or similarly constituted professional organization,
19 whether or not such association, society, body or organization
20 is local, regional, State, national or international in scope,
21 shall report to State Board of Medicine the disciplinary action
22 taken against any licensee. Such report of disciplinary action
23 shall be filed with the board within 30 days of such
24 disciplinary action, shall be in writing and shall be mailed to
25 the board by certified or registered mail. Upon review, the
26 information shall be provided to the department for purposes
27 consistent with this act.

28 (b) Definition.--As used in this section, the term
29 "disciplinary action" includes, but is not limited to,
30 revocation, suspension, censure, reprimand, restriction,

1 nonrenewal, denial or restriction of privileges or resignation.
2 A denial or restriction of privileges or a resignation shall be
3 reported only when the resignation or the denial or restriction
4 of privileges is related in any way to:

5 (1) the applicant's competence to practice medicine; or

6 (2) a complaint or allegation regarding any violation of
7 law or regulation, including, but not limited to, the
8 regulations of the department or the State Board of Medicine
9 or hospital, health care facility or professional medical
10 association bylaws, whether or not the complaint or
11 allegation specifically cites violation of a specified law,
12 regulation or bylaw.

13 Section 8. Reports by insurers of malpractice claims or
14 actions.

15 (a) Report required.--Every insurer or risk management
16 organization which provides professional liability insurance to
17 a licensed physician in this Commonwealth shall report to the
18 department any claim or action for damages for personal injuries
19 alleged to have been caused by error, omission or negligence in
20 the performance of the physician's professional services where
21 the claim resulted in:

22 (1) final judgment in any amount;

23 (2) settlement in any amount; or

24 (3) final disposition not resulting in payment on behalf
25 of the insured.

26 (b) Report.--Reports shall be filed with the department no
27 later than 30 days following the occurrence of any event listed
28 under this section.

29 (c) Form.--The reports shall be in writing on a form
30 prescribed by the department and shall contain the following

1 information:

2 (1) The name, address, specialty coverage and policy
3 number of the physician against whom the claim is made.

4 (2) The name, address and age of the claimant or
5 plaintiff.

6 (3) The nature and substance of the claim.

7 (4) The date when and place where the claim arose.

8 (5) The amounts paid, if any, and the date, manner of
9 disposition, judgment and settlement.

10 (6) The date and reason for final disposition, if no
11 judgment or settlement.

12 (7) Such additional information as the department shall
13 require. No insurer or its agents or employees shall be
14 liable in any cause of action arising from reporting to the
15 department as required in this section.

16 Section 9. Reports of violations by public offenders or
17 employees.

18 Any officer or employer of any agency, executive office,
19 department, board, commission, bureau, division or authority of
20 the Commonwealth, or of any political subdivision thereof, who
21 is engaged in the provision or oversight of medical or health
22 services shall report to the State Board of Medicine any person
23 who is reasonably believed to be in violation of any applicable
24 State regulation, except as otherwise prohibited by law. Upon
25 review, the information shall be provided to the department for
26 purposes consistent with this act.

27 Section 10. Reports by physicians of settlements or arbitration
28 awards.

29 (a) General rule.--Any registered physician who does not
30 possess professional liability insurance shall report to the

1 department every settlement or arbitration award of a claim or
2 action for damages for death or personal injury caused by
3 negligence, error or omission in practice, or the unauthorized
4 rendering of professional services by the physician. The report
5 shall be made within 30 days after the settlement agreement has
6 been reduced to writing or 30 days after service of the
7 arbitration award on the parties as long as it is signed by all
8 the parties.

9 (b) Penalty.--Failure of the physician to comply with the
10 provisions of this section is an offense punishable by a fine of
11 not more than \$500. Knowledge and intentional failure to comply
12 with the provisions of this section, or conspiracy or collusion
13 not to comply with the provisions of this section, or to hinder
14 or impede any other person in such compliance is an offense
15 punishable by a fine of not less than \$5,000 nor more than
16 \$50,000.

17 Section 11. Public access to information.

18 (a) Telephone hotline.--

19 (1) The department shall establish a telephone number
20 which shall be operational on every business day between the
21 hours of 9 a.m. and 6 p.m. local time for the purposes of
22 disseminating information pursuant to section 4 to any
23 inquiry. The department shall employ and train those
24 personnel necessary to administer the provisions of this act
25 and shall give first consideration to any displaced
26 employees.

27 (2) Effective January 1, 2000, a fee of not more than
28 \$20 shall be assessed to all licensed physicians. Effective
29 December 31, 2000, a fee of not more than \$20 shall be
30 assessed to all licensed physicians, and the fee shall be

1 collected every two years to coincide with the collection of
2 physician's license renewal fees. All money collected under
3 this section shall be deposited into the Medical Professional
4 Records Check Fund.

5 (b) Internet.--The department may disseminate information
6 pursuant to section 4 by posting the information on the
7 Commonwealth's web site on the Internet. The fees collected
8 under subsection (a) may be used to pay for the expenses of
9 complying with this subsection.

10 (c) Definition.--As used in this section, the term
11 "displaced employees" means individuals who are recipients of
12 public assistance or who, within the preceding 12 months, have
13 been displaced from jobs due to employer relocation, downsizing
14 or facility closings.

15 Section 12. Medical Professional Records Check Fund.

16 There is hereby created a Medical Professional Records Check
17 Fund as a nonlapsing fund in the State Treasury. The moneys of
18 the fund shall be kept separate and apart from all other public
19 money or funds of the Commonwealth and are hereby appropriated
20 to the Department of State on a continuing basis for use in
21 carrying out the provisions of this act.

22 Section 13. Rules and regulations.

23 The department shall in the manner provided by law promulgate
24 the rules and regulations necessary to carry out the provisions
25 of this act, including, but not limited to, the exchange of
26 information between the State Board of Medicine, the department
27 and relevant Commonwealth agencies and judicial administrative
28 offices.

29 Section 14. Effective date.

30 This act shall take effect January 1, 2002, or immediately,

1 whichever is later.