

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 158 Session of
2003

INTRODUCED BY MICOZZIE, DeLUCA, HENNESSEY, MANDERINO, PIPPY,
SATHER, TANGRETTI, VANCE, WALKO, BISHOP, BROWNE, DAILEY,
J. EVANS, FREEMAN, LEVDANSKY, MUNDY, STABACK, STEIL, SURRA,
E. Z. TAYLOR, TIGUE, WASHINGTON AND YOUNGBLOOD,
FEBRUARY 26, 2003

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 30, 2003

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," FURTHER PROVIDING FOR REPORTING; AND <—
16 providing for public disclosure of information concerning
17 physicians.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 ~~Section 1. The act of March 20, 2002 (P.L.154, No.13), known~~ <—
21 ~~as the Medical Care Availability and Reduction of Error (Mcare)~~
22 ~~Act, is amended by adding a section to read:~~

23 SECTION 1. SECTION 903 OF THE ACT OF MARCH 20, 2002 <—

(P.L.154, NO.13), KNOWN AS THE MEDICAL CARE AVAILABILITY AND
REDUCTION OF ERROR (MCARE) ACT, IS AMENDED TO READ:
SECTION 903. REPORTING.

(A) DUTY OF PHYSICIAN TO REPORT.--A PHYSICIAN SHALL REPORT
TO THE STATE BOARD OF MEDICINE OR THE STATE BOARD OF OSTEOPATHIC
MEDICINE, AS APPROPRIATE, WITHIN [60] 30 DAYS OF THE OCCURRENCE
OF ANY OF THE FOLLOWING:

(1) NOTICE OF A COMPLAINT IN A MEDICAL PROFESSIONAL
LIABILITY ACTION THAT IS FILED AGAINST THE PHYSICIAN. THE
PHYSICIAN SHALL PROVIDE THE DOCKET NUMBER OF THE CASE, WHERE
THE CASE IS FILED AND A DESCRIPTION OF THE ALLEGATIONS IN THE
COMPLAINT.

(2) INFORMATION REGARDING DISCIPLINARY ACTION TAKEN
AGAINST THE PHYSICIAN BY A HEALTH CARE LICENSING AUTHORITY OF
ANOTHER STATE.

(3) INFORMATION REGARDING SENTENCING OF THE PHYSICIAN
FOR AN OFFENSE AS PROVIDED IN SECTION 15 OF THE ACT OF
OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC
MEDICAL PRACTICE ACT, OR SECTION 41 OF THE ACT OF DECEMBER
20, 1985 (P.L.457, NO.112), KNOWN AS THE MEDICAL PRACTICE ACT
OF 1985.

(4) INFORMATION REGARDING AN ARREST OF THE PHYSICIAN FOR
ANY OF THE FOLLOWING OFFENSES IN THIS COMMONWEALTH OR ANOTHER
STATE:

(I) 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL
HOMICIDE);

(II) 18 PA.C.S. § 2702 (RELATING TO AGGRAVATED
ASSAULT); OR

(III) 18 PA.C.S. CH. 31 (RELATING TO SEXUAL
OFFENSES).

(IV) A VIOLATION OF THE ACT OF APRIL 14, 1972
(P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,
DRUG, DEVICE AND COSMETIC ACT.

(B) DUTY OF PROTHONOTARY.--THE PROTHONOTARY IN ANY COUNTY IN
WHICH A COMPLAINT IN A MEDICAL PROFESSIONAL LIABILITY ACTION IS
FILED AGAINST A PHYSICIAN SHALL REPORT THE FILING TO THE STATE
BOARD OF MEDICINE OR THE STATE BOARD OF OSTEOPATHIC MEDICINE
WITHIN 30 DAYS OF THE FILING. THE REPORT SHALL INCLUDE THE
DOCKET NUMBER OF THE CASE, WHERE THE CASE IS FILED AND A
DESCRIPTION OF THE ALLEGATIONS IN THE COMPLAINT.

(C) PENALTIES.--IN ADDITION TO ANY OTHER PENALTY PROVIDED IN
THIS ACT, A PHYSICIAN WHO FAILS TO COMPLY WITH THE REQUIREMENTS
OF THIS SECTION SHALL BE SUBJECT TO A FINE BY THE LICENSING
BOARD IN THE FOLLOWING AMOUNT: \$500 FOR A FIRST OFFENSE, \$1,000
FOR ANY SECOND OFFENSE; AND \$2,500 FOR ANY THIRD OR SUBSEQUENT
OFFENSE.

SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
Section 911. Public disclosure.

(a) Data repository established.--There shall be jointly
established between the State Board of Medicine and the State
Osteopathic Board of Medicine a data repository which shall
annually collect information to create individual profiles on
each physician licensed in the Commonwealth. The information
shall be collected on a form prescribed by the licensing board
and shall be made available to the general public on the
Department of State's publicly accessible World Wide Web site.

(b) Required information.--By July 1, 2003, and every year
thereafter, each physician shall submit to the licensing board
on the prescribed form the following:

(1) Information regarding the sentencing of a physician

1 for an offense as provided in section 15 of the act of
2 October 5, 1978 (P.L.1109, No.261), known as the Osteopathic
3 Medical Practice Act, or section 41 of the act of December
4 20, 1985 (P.L.457, No.112), known as the Medical Practice Act
5 of 1985.

6 (2) Information regarding the arrest of a physician <—
7 CONVICTION OF A PHYSICIAN OR A PLEA OF GUILTY OR NO CONTEST <—
8 BY A PHYSICIAN for any of the following offenses in this
9 Commonwealth or another state:

10 (i) 18 Pa.C.S. Ch. 25 (relating to criminal
11 homicide).

12 (ii) 18 Pa.C.S. § 2702 (relating to aggravated
13 assault).

14 (III) 18 PA.C.S. § 2709.1 (RELATING TO STALKING). <—

15 (IV) 18 PA.C.S. CH. 29 (RELATING TO KIDNAPPING).

16 ~~(iii)~~ (V) 18 Pa.C.S. Ch. 31 (relating to sexual <—
17 offenses).

18 (VI) 18 PA.C.S. § 3301 (RELATING TO ARSON AND <—
19 RELATED OFFENSES).

20 (VII) 18 PA.C.S. § 3302 (RELATING TO CAUSING OR
21 RISKING CATASTROPHE).

22 (VIII) 18 PA.C.S. CH. 35 (RELATING TO BURGLARY AND
23 OTHER CRIMINAL INTRUSION).

24 (IX) 18 PA.C.S. CH. 37 (RELATING TO ROBBERY).

25 (X) A FELONY VIOLATION UNDER 18 PA.C.S. CH. 39
26 (RELATING TO THEFT AND RELATED OFFENSES).

27 (XI) 18 PA.C.S. CH. 59 (RELATING TO PUBLIC
28 INDECENCY).

29 ~~(iv)~~ (XII) A violation of the act of April 14, 1972 <—
30 (P.L.233, No.64), known as The Controlled Substance,

1 Drug, Device and Cosmetic Act.

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

6 ~~(4)~~ (3) A description of any final disciplinary actions <—
7 taken against a physician by the licensing board in the
8 Commonwealth or a health care licensing authority in another
9 state within the ten most recent years.

10 ~~(5)~~ (4) A description of any revocation or involuntary <—
11 restriction of hospital privileges for reasons related to
12 competency or character taken by a hospital's governing body
13 or any other official of a hospital after procedural due
14 process has been afforded, or the resignation from or
15 nonrenewal of medical staff membership or the resignation of
16 privileges at a hospital in lieu of or in settlement of a
17 pending disciplinary case related to competence or character
18 of the physician in that hospital in the ten most recent
19 years.

20 ~~(6)~~ (5) All medical malpractice judgments or settlements <—
21 in which a payment OF \$50,000 OR MORE is awarded to a <—
22 complaining party within the ten most recent years.

23 Disposition of paid claims shall be reported in a minimum of
24 three graduated categories indicating the level of
25 significance of the judgment or settlement. Information
26 involving paid malpractice claims shall be put in context by
27 the repository by showing a comparison between a physician's
28 judgment awards and settlements to the experience of other
29 physicians within the same specialty classification AND <—
30 WITHIN THE SAME RATING TERRITORY AS ESTABLISHED BY THE JOINT

1 UNDERWRITING ASSOCIATION. Information concerning all
2 settlements shall be accompanied by the following statement:

3 Settlement of a malpractice claim may occur for a
4 variety of reasons which do not necessarily reflect
5 negatively on the professional competence or conduct of a
6 physician. A payment in settlement of a malpractice claim
7 should not be construed as creating a presumption that
8 medical malpractice has occurred.

9 Nothing ~~herein~~ IN THIS PARAGRAPH shall be construed to limit <—
10 or prevent the licensing board from providing further
11 information about the significance of categories in which
12 settlements are reported.

13 ~~(7)~~ (6) Names of medical schools attended, graduate <—
14 medical education obtained and dates of graduation.

15 ~~(8)~~ (7) Specialty board certification. <—

16 ~~(9)~~ (8) Number of years in practice. <—

17 ~~(10)~~ (9) Names of hospitals at which privileges are <—
18 attained.

19 ~~(11)~~ (10) Appointments to medical school faculties. <—

20 ~~(12)~~ (11) Information on published articles in peer <—
21 review literature.

22 ~~(13)~~ (12) The location and telephone number of the <—
23 physician's primary practice setting.

24 ~~(14)~~ (13) An indication as to whether the physician <—
25 participates in the Medicare or State medical assistance
26 program.

27 (c) Explanation.--Physicians may provide an explanation of
28 any information disclosed pursuant to subsection (b) which shall
29 be included by the licensing board in the profile.

30 (d) Initial profile.--The licensing board shall provide

1 physicians with a copy of their initial profile prior to its
2 release to the general public. Physicians shall have no more
3 than 30 days from the date of receipt of this profile to correct
4 any factual inaccuracies that appear in the profile and return
5 it to the licensing board at which time the initial profile
6 shall be published.

7 (e) Revision or correction.--The licensing board shall
8 establish a process through which each physician may revise or
9 correct any information contained in the profile, provided
10 however, that revisions to information disclosed under
11 subsection (b)(1), (2), (3), (4), (5) and (6) shall be made
12 within ~~60 days of any arrest~~ 30 DAYS OF ANY CONVICTION, PLEA OF <—
13 GUILTY OR NO CONTEST, sentencing or other final action taken
14 against a physician.

15 (f) Penalties.--In addition to any other penalty provided
16 for in this act, the licensing board shall impose a civil
17 penalty for any violations of the provisions of this section in
18 the following manner: \$1,000 for a first offense, \$2,500 for any
19 second offense; and \$5,000 for any third or subsequent offenses.

20 Section 2 3. This act shall take effect immediately. <—