

106TH CONGRESS
2D SESSION

H. R. 5122

To amend the Health Care Quality Improvement Act of 1986 to provide for the availability to the public of information reported to the National Practitioner Data Bank under such Act, to establish additional reporting requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2000

Mr. BLILEY introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Health Care Quality Improvement Act of 1986 to provide for the availability to the public of information reported to the National Practitioner Data Bank under such Act, to establish additional reporting requirements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Patient Protection Act
5 of 2000”.

1 **TITLE I—PUBLIC AVAILABILITY**
2 **OF PHYSICIAN INFORMATION**
3 **IN NATIONAL PRACTITIONER**
4 **DATA BANK**

5 **SEC. 101. PUBLIC AVAILABILITY OF PHYSICIAN INFORMA-**
6 **TION.**

7 (a) IN GENERAL.—Part B of the Health Care Qual-
8 ity Improvement Act of 1986 (42 U.S.C. 11131 et seq.)
9 is amended by inserting after section 427 the following
10 section:

11 **“SEC. 428. PUBLIC AVAILABILITY OF PHYSICIAN INFORMA-**
12 **TION.**

13 “(a) IN GENERAL.—Not later than January 31,
14 2001, the Secretary, notwithstanding any other provision
15 of this part, shall in accordance with this section promul-
16 gate regulations under which the public may, through the
17 method described in subsection (c), obtain information re-
18 ported under this part on physicians.

19 “(b) LIMITATIONS.—The following information on a
20 physician may not under subsection (a) be made available
21 to the public:

22 “(1) Information disclosing the identity of any
23 patient involved in the incidents involved.

24 “(2) The home address of the physician.

1 “(3) The social security account number of the
2 physician.

3 “(4) The date of birth of the physician.

4 “(5) The number assigned to the physician by
5 the Drug Enforcement Administration.

6 “(6) The name, title, and telephone number of
7 the official with responsibility for submitting the re-
8 port on behalf of the entity.

9 “(c) USE OF INTERNET.—For purposes of subsection
10 (a), the method described in this subsection is to make
11 the information involved available to the public, without
12 charge, through the telecommunications medium known as
13 the World Wide Web of the Internet. The Secretary, act-
14 ing through the Administrator of the Health Resources
15 and Services Administration, shall provide for the estab-
16 lishment of a site on such medium, and shall update the
17 information maintained through such medium not less fre-
18 quently than monthly.

19 “(d) STATEMENT OF PHYSICIAN.—Regulations under
20 subsection (a) shall require that each disclosure under
21 such subsection include any statement that was submitted
22 under section 426(b) by the physician involved.

23 “(e) CONTEXT OF DISCLOSED INFORMATION ON
24 MEDICAL MALPRACTICE PAYMENTS.—With respect to in-
25 formation reported under section 421 on a physician, reg-

1 ulations under subsection (a) shall require that a disclo-
2 sure of a report under such section be accompanied by
3 supplemental information in accordance with the fol-
4 lowing:

5 “(1) For each State for which such a report is
6 made on the physician:

7 “(A) The information under section 421
8 shall be presented in context by comparing the
9 physician involved to the experiences of other
10 physicians in the same specialty in the same
11 State.

12 “(B) In disclosing the amount of the pay-
13 ment reported under section 421(b)(2):

14 “(i) The amount shall be presented in
15 context by categorizing the amount in a
16 manner that indicates the level of signifi-
17 cance of the payment in relation to
18 amounts reported under such section for
19 other physicians in the same specialty in
20 the same State. For such purposes, there
21 shall be a minimum of three graduated
22 categories.

23 “(ii) The disclosure shall state wheth-
24 er the amount was made in settlement (or
25 partial settlement) of, or in satisfaction of

1 a judgment in, a medical malpractice ac-
2 tion or claim.)

3 “(2) A statement providing that a payment
4 made pursuant to a medical malpractice action or
5 claim may occur for a variety of reasons which do
6 not necessarily reflect negatively on the professional
7 competence or conduct of the physician.

8 “(3) A statement providing that a payment
9 made pursuant to a medical malpractice action or
10 claim should not be construed as creating a pre-
11 sumption that medical malpractice has occurred.

12 “(4) A statement providing that some physi-
13 cians work primarily with high risk patients, and
14 such physicians may have numbers of medical mal-
15 practice actions or claims that are higher than aver-
16 age for their specialties because they specialize in
17 cases or patients who are at very high risk for med-
18 ical problems.

19 “(5) A statement providing that—

20 “(A) malpractice histories tend to vary by
21 specialty, and some specialties are more likely
22 than others to be the subject of litigation, and

23 “(B) the disclosure and accompanying in-
24 formation compare physicians only to the mem-
25 bers of their specialty, not to all physicians, in

1 order to make an individual physician’s history
2 more meaningful.

3 “(6) A statement providing that—

4 “(A) malpractice histories tend to vary by
5 State, and due to variations in State laws, phy-
6 sicians in some States are more likely than
7 those in other States to be the subject of litiga-
8 tion, and

9 “(B) the disclosure and accompanying in-
10 formation compare physicians only to other
11 physicians within a given State, not to all physi-
12 cians, in order to make an individual physi-
13 cian’s history more meaningful.

14 “(f) CONTEXT OF DISCLOSED INFORMATION RE-
15 GARDING CRIMINAL ACTS.—With respect to information
16 that under section 422(c) or 424A is reported on a physi-
17 cian, regulations under subsection (a) shall require that
18 a disclosure of a report under such a section be accom-
19 panied by a statement providing that the disclosure may
20 fail to provide all crime-related information on the physi-
21 cian because the availability of such information depends
22 in part on State laws and in part on self-reporting by phy-
23 sicians.”.

24 (b) DISCLOSURE.—Section 427(b)(1) of the Health
25 Care Quality Improvement Act of 1986 (42 U.S.C.

1 11137(b)(1)) is amended by striking “Information re-
2 ported” and inserting “Except for the disclosure of infor-
3 mation authorized by this title, information reported”.

4 (c) FEES.—Section 427(b) of the Health Care Qual-
5 ity Improvement Act of 1986 (42 U.S.C. 11137(b)) is
6 amended by striking paragraph (4).

7 **TITLE II—REPORTING REQUIRE-**
8 **MENTS REGARDING NA-**
9 **TIONAL PRACTITIONER DATA**
10 **BANK**

11 **SEC. 201. REQUIRING REPORTS ON MEDICAL MAL-**
12 **PRACTICE PAYMENTS.**

13 Section 421(b) of the Health Care Quality Improve-
14 ment Act of 1986 (42 U.S.C. 11131(b)) is amended—

15 (1) by redesignating paragraph (5) as para-
16 graph (6);

17 (2) in paragraph (4), by striking “and” after
18 the comma at the end; and

19 (3) by inserting after paragraph (4) the fol-
20 lowing paragraph:

21 “(5) in the case of a physician—

22 “(A) the medical field of the physician, in-
23 cluding the medical specialty,

24 “(B) the date on which the physician was
25 first licensed in the medical field and specialty,

1 and the number of years the physician has been
2 practicing in such field and specialty, and

3 “(C) the professional license number of the
4 physician, and the name of the State in which
5 the license is held, and”.

6 **SEC. 202. REPORTING OF SANCTIONS TAKEN BY BOARDS**
7 **OF MEDICAL EXAMINERS.**

8 (a) IN GENERAL.—Section 422(a) of the Health Care
9 Quality Improvement Act of 1986 (42 U.S.C. 11132(a))
10 is amended—

11 (1) in paragraph (1)(A), by striking “which re-
12 vokes or suspends” and inserting “which denies, re-
13 vokes, or suspends”; and

14 (2) in paragraph (2)—

15 (A) in subparagraph (B), by striking “(if
16 known)” and all that follows and inserting “for
17 the action described in paragraph (1)(A) that
18 was taken with respect to the physician or, if
19 known, for the surrender of the license,”;

20 (B) by redesignating subparagraph (C) as
21 subparagraph (F);

22 (C) by inserting after subparagraph (B)
23 the following subparagraphs:

24 “(C) the medical field of the physician, in-
25 cluding the medical specialty,

1 “(D) the date on which the physician was
2 first licensed in the medical field and specialty,
3 and the number of years the physician has been
4 practicing in such field and specialty, and

5 “(E) the professional license number of the
6 physician, and the name of the State in which
7 the license is held, and”.

8 (b) CRIMINAL ACTS OF PHYSICIANS.—Section 422 of
9 the Health Care Quality Improvement Act of 1986 (42
10 U.S.C. 11132) is amended by adding at the end the fol-
11 lowing subsection:

12 “(c) CRIMINAL ACTS OF PHYSICIANS.—

13 “(1) IN GENERAL.—Each Board of Medical Ex-
14 aminers shall report, in accordance with section 424,
15 the information described in paragraph (2), to the
16 extent that the information is collected by such
17 Board.

18 “(2) INFORMATION TO BE REPORTED.—With
19 respect to the Board of Medical Examiners of a
20 State, the information to be reported under para-
21 graph (1) is as follows:

22 “(A) A description of felony convictions of
23 physicians in courts of the State or other
24 States.

1 “(B) A description of such misdemeanor
2 convictions of physicians in such courts as in
3 the Secretary’s discretion may reflect on quality
4 health matters.

5 “(C) A description of any criminal charges
6 in such courts to which the physician pled nolo
7 contendere.”.

8 (c) CONTEXTUAL INFORMATION REGARDING DIS-
9 CLOSURES OF PHYSICIAN INFORMATION.—Section 422 of
10 the Health Care Quality Improvement Act of 1986, as
11 amended by subsection (b) of this section, is amended by
12 adding at the end the following subsection:

13 “(d) CONTEXTUAL INFORMATION REGARDING DIS-
14 CLOSURES OF PHYSICIAN INFORMATION.—Each Board of
15 Medical Examiners shall, in accordance with section 424,
16 report to the Secretary such information as the Secretary
17 may request from the Board for purposes of assisting the
18 Secretary in making disclosures in accordance with section
19 428(e), to the extent that such information is collected by
20 such Board.”.

21 (d) CONFORMING AMENDMENT.—Subsections (a)
22 and (b) of section 424 of the Health Care Quality Im-
23 provement Act of 1986 (42 U.S.C. 11134) are each
24 amended by striking “section 422(a)” and inserting “sec-
25 tion 422”.

1 **SEC. 203. REPORTING OF CERTAIN PROFESSIONAL REVIEW**
2 **ACTIONS TAKEN BY HEALTH CARE ENTITIES.**

3 (a) IN GENERAL.—Section 423(a)(3) of the Health
4 Care Quality Improvement Act of 1986 (42 U.S.C.
5 11133(a)(3)) is amended—

6 (1) in subparagraph (B), by striking “and”
7 after “surrender,”;

8 (2) by redesignating subparagraph (C) as sub-
9 paragraph (D); and

10 (3) by inserting after subparagraph (B) the fol-
11 lowing subparagraph:

12 “(C) in the case of a physician—

13 “(i) the medical field of the physician,
14 including the medical specialty,

15 “(ii) the date on which the physician
16 was first licensed in the medical field and
17 specialty, and the number of years the
18 physician has been practicing in such field
19 and specialty, and

20 “(iii) the professional license number
21 of the physician, and the name of the State
22 in which the license is held, and”.

23 (b) APPLICABILITY OF REQUIREMENTS TO FEDERAL
24 ENTITIES.—

25 (1) IN GENERAL.—Section 423 of the Health
26 Care Quality Improvement Act of 1986 (42 U.S.C.

1 11133) is amended by adding at the end the fol-
2 lowing subsection:

3 “(e) APPLICABILITY TO FEDERAL FACILITIES AND
4 PHYSICIANS.—

5 “(1) IN GENERAL.—Subsection (a) applies to
6 Federal health facilities (including hospitals) and ac-
7 tions by such facilities regarding the competence or
8 professional conduct of Federal physicians to the
9 same extent and in the same manner as such sub-
10 section applies to health care entities and profes-
11 sional review actions.

12 “(2) RELEVANT BOARD OF MEDICAL EXAM-
13 INERS.—For purposes of paragraph (1), the Board
14 of Medical Examiners to which a Federal health fa-
15 cility is to report is the Board of Medical Examiners
16 of the State within which the facility is located.”.

17 (2) CONFORMING AMENDMENT.—Section 432
18 of the Health Care Quality Improvement Act of
19 1986 (42 U.S.C. 11152) is amended—

20 (A) by striking subsection (b); and

21 (B) by redesignating subsection (c) as sub-
22 section (b).

1 **SEC. 204. PHYSICIAN SELF-REPORTING REGARDING FEL-**
2 **ONY CONVICTIONS.**

3 Part B of the Health Care Quality Improvement Act
4 of 1986 (42 U.S.C. 11131 et seq.) is amended by inserting
5 after section 424 the following section:

6 **“SEC. 424A. PHYSICIAN SELF-REPORTING REGARDING FEL-**
7 **ONY CONVICTIONS.**

8 “(a) IN GENERAL.—Each physician shall report, in
9 accordance with subsection (b), each felony conviction of
10 the physician.

11 “(b) FORM OF REPORTING.—The information re-
12 quired to be reported under subsection (a) shall—

13 “(1) be reported regularly (but not less often
14 than monthly) and in such form and manner as the
15 Secretary prescribes, and

16 “(2) be reported to the Secretary, or, in the
17 Secretary’s discretion, to the agency described in
18 section 424(b).

19 “(c) SANCTIONS FOR FAILURE TO REPORT.—Any
20 physician who fails to report information on a felony con-
21 viction required to be reported under this section shall be
22 subject to a civil money penalty of not more than \$10,000
23 for each such failure to report. Such penalty shall be im-
24 posed and collected in the same manner as civil money
25 penalties under subsection (a) of section 1128A of the So-

1 cial Security Act are imposed and collected under that sec-
2 tion.”.

3 **SEC. 205. NOTICE TO PRACTITIONERS; CORRECTION OF IN-**
4 **FORMATION.**

5 Section 426 of the Health Care Quality Improvement
6 Act of 1986 (42 U.S.C. 11136) is amended—

7 (1) by inserting “(a) IN GENERAL.—” before
8 “With respect to”;

9 (2) in subsection (a) (as so designated), in
10 paragraph (1), by striking “, upon request,”; and

11 (3) by adding at the end the following sub-
12 section:

13 “(b) STATEMENT OF PRACTITIONER.—

14 “(1) IN GENERAL.—With respect to informa-
15 tion reported under this part, if the physician or
16 other licensed health care practitioner involved sub-
17 mits to the Secretary a statement regarding the in-
18 formation so reported, the statement shall be made
19 a part of the report involved, subject to paragraph
20 (2). Such a statement may be made at any time, and
21 may be revised.

22 “(2) LENGTH OF STATEMENT.—Paragraph (1)
23 applies to a statement by a physician or other li-
24 censed health care practitioner only if the statement

1 does not exceed 4,000 characters, including spaces
2 and punctuation.

3 “(3) NOTICE.—In carrying out subsection
4 (a)(1), the Secretary shall inform the practitioner in-
5 volved that a statement under paragraph (1) may be
6 submitted, and that the statement is subject to the
7 limitation described in paragraph (2).”.

8 **TITLE III—DUTY TO OBTAIN** 9 **INFORMATION**

10 **SEC. 301. DUTY OF HOSPITALS TO OBTAIN INFORMATION.**

11 Section 425 of the Health Care Quality Improvement
12 Act of 1986 (42 U.S.C. 11135) is amended by adding at
13 the end the following subsection:

14 “(d) APPLICABILITY TO FEDERAL HOSPITALS.—
15 This section applies to Federal hospitals to the same ex-
16 tent and in the same manner as such subsection applies
17 to other hospitals.”.

18 **SEC. 302. DUTY OF BOARDS OF MEDICAL EXAMINERS TO** 19 **OBTAIN INFORMATION.**

20 Part B of the Health Care Quality Improvement Act
21 of 1986 (42 U.S.C. 11131 et seq.) is amended by inserting
22 after section 425 the following section:

1 **“SEC. 425A. DUTY OF BOARDS OF MEDICAL EXAMINERS TO**
2 **OBTAIN INFORMATION.**

3 “(a) IN GENERAL.—Effective six months after the
4 date of the enactment of the Patient Protection Act of
5 2000, it is the duty of each Board of Medical Examiners
6 to request from the Secretary (or the agency designated
7 under section 424(b)) information reported under this
8 part concerning a physician—

9 “(1) at the time the physician submits the ini-
10 tial application for a physician’s license in the State
11 involved, and

12 “(2) at each time the physician submits an ap-
13 plication to continue in effect the license.

14 A Board of Medical Examiners may request information
15 reported under this part concerning a physician at other
16 times.

17 “(b) FAILURE TO OBTAIN INFORMATION.—With re-
18 spect to an action for mandamus or other cause of action
19 against a Board of Medical Examiners, a Board which
20 does not request information respecting a physician as re-
21 quired under subsection (a) is presumed to have knowl-
22 edge of any information reported under this part to the
23 Secretary with respect to the physician.

24 “(c) RELIANCE ON INFORMATION PROVIDED.—With
25 respect to a cause of action against a Board of Medical
26 Examiners, each Board of Medical Examiners may rely

1 upon information provided to the Board under this title,
2 unless the Board has knowledge that the information pro-
3 vided was false.”.

4 **TITLE IV—GENERAL** 5 **PROVISIONS**

6 **SEC. 401. REQUEST OF BOARD OF MEDICAL EXAMINERS RE-** 7 **GARDING PHYSICIAN INFORMATION IN NA-** 8 **TIONAL PRACTITIONER DATA BANK.**

9 Section 427(a) of the Health Care Quality Improve-
10 ment Act of 1986 (42 U.S.C. 11137(a)) is amended by
11 adding at the end the following: “The Secretary (or the
12 agency designated under section 424(b)) shall, upon re-
13 quest, provide the Board of Medical Examiners of a State
14 a summary of information reported under this part on
15 physicians who are licensed in that State. For each physi-
16 cian included in such a summary, the summary shall at
17 a minimum provide the name, address, total number of
18 reports of such information, and the number of reports
19 for each report type.”.

20 **SEC. 402. REGULATIONS; EFFECTIVE DATE.**

21 The Secretary of Health and Human Services shall
22 promulgate a final rule to implement the amendments
23 made by this Act not later than January 31, 2001. Such

- 1 amendments take effect 30 days after the date on which
- 2 such final rule is promulgated.

○