

Senate, April 1, 1998. The Committee on Human Services reported through SEN. HANDLEY, 4th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE DISCLOSURE OF PROFILES OF PHYSICIANS LICENSED PURSUANT TO CHAPTER 370.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 (NEW) (a) The Departments of Public Health
2 and Consumer Protection, in consultation with the
3 Connecticut Medical Society, shall collect the
4 following information to create an individual
5 profile on a person holding a license issued
6 pursuant to chapter 370 of the general statutes
7 that shall be available for dissemination to the
8 public:
- 9 (1) A description of any criminal convictions
10 for felonies and serious misdemeanors, as
11 determined by the Departments of Public Health and
12 Consumer Protection, within the most recent
13 ten-year period. For the purposes of this
14 subdivision, a person shall be deemed to be
15 convicted of a crime if he pleaded guilty or if he
16 was found or adjudged guilty by a court of
17 competent jurisdiction.
- 18 (2) A description of any charges to which a
19 physician pleads nolo contendere or where
20 sufficient facts of guilt were found and the
21 matter was continued without a finding by a court
22 of competent jurisdiction.

23 (3) A description of any final disciplinary
24 action taken by a licensing board within the most
25 recent ten-year period.

26 (4) A description of any final disciplinary
27 actions by licensing boards in other states within
28 the most recent ten-year period.

29 (5) A description of revocation or
30 involuntary restriction of hospital privileges for
31 reasons related to competence or character that
32 have been taken by a hospital's governing body or
33 any other official of such hospital after
34 procedural due process has been afforded, or the
35 resignation from or nonrenewal of medical staff
36 membership or the restriction of privileges at a
37 hospital taken in lieu of or in settlement of a
38 pending disciplinary case related to competence or
39 character in such hospital. Only cases which have
40 occurred within the most recent ten years shall be
41 disclosed by the Departments of Public Health and
42 Consumer Protection to the public.

43 (6) All medical malpractice court judgments
44 and all medical malpractice arbitration awards in
45 which a payment is awarded to a complaining party
46 during the most recent ten-year period and all
47 settlements of medical malpractice claims in which
48 a payment is made to a complaining party within
49 the most recent ten-year period. Dispositions of
50 paid claims shall be reported in a minimum of
51 three graduated categories indicating the level of
52 significance of the award or settlements.
53 Information concerning paid medical malpractice
54 claims shall be put in context by comparing an
55 individual licensee's medical malpractice judgment
56 awards and settlements to the experience of other
57 physicians within the same specialty. Information
58 concerning all settlements shall be accompanied by
59 the following statement: "Settlement of a claim
60 may occur for a variety of reasons which do not
61 necessarily reflect negatively on the professional
62 competence or conduct of the physician. A payment
63 in settlement of a medical malpractice action or
64 claim shall not be construed as creating a
65 presumption that medical malpractice has
66 occurred." Nothing in this subdivision shall be
67 construed to limit or prevent the Departments of
68 Public Health and Consumer Protection from
69 providing further explanatory information
70 regarding the significance of categories in which

71 settlements are reported. Pending malpractice
72 claims shall not be disclosed by the departments
73 to the public. Nothing in this subdivision shall
74 be construed to prevent a licensing board from
75 investigating and disciplining a licensee on the
76 basis of medical malpractice claims that are
77 pending.

78 (7) The names of medical schools and dates of
79 graduation, graduate medical education, specialty
80 board certification, the number of years in
81 practice and the names of the hospitals where the
82 licensee has privileges.

83 (8) Appointments to medical school faculties
84 and indication as to whether a licensee has a
85 responsibility for graduate medical education
86 within the most recent ten-year period.

87 (9) Information regarding publications in
88 peer-reviewed medical literature within the most
89 recent ten-year period.

90 (10) Information regarding professional or
91 community service activities and awards.

92 (11) The location of the licensee's primary
93 practice location.

94 (12) The identification of any translating
95 services that may be available at the licensee's
96 primary practice location.

97 (13) An indication of whether the licensee
98 participates in the Medicaid program. Such
99 information shall be provided by the Department of
100 Social Services.

101 (b) The Departments of Public Health and
102 Consumer Protection shall provide an individual
103 licensee with a copy of his profile, created
104 pursuant to subsection (a) of this section, prior
105 to releasing such profile to the public. A
106 licensee may request a hearing before the
107 Commissioner of Public Health or Consumer
108 Protection to contest any disputed factual finding
109 in his profile. If such licensee is aggrieved by
110 the action of the commissioner, he may appeal to
111 the superior court for the judicial district in
112 which he resides.

113 (c) A licensee may elect to have his profile
114 omit certain information provided pursuant to
115 subdivisions (8) to (10), inclusive, of subsection
116 (a) of this section, concerning academic
117 appointments and teaching responsibilities,
118 publication in peer-reviewed journals and

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 189

STATE IMPACT	Cost, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Departments of Public Health, Consumer Protection, Social Services, Office of the Comptroller, Judicial Department

EXPLANATION OF ESTIMATES:

An SFY 1998-99 cost of \$545,553 will be incurred by the Department of Public Health to establish and operate a comprehensive physician profile database system. This sum includes \$406,853 in Personal Services costs to reflect salaries of ten positions as follows: 3 Temporary Clerk Typists, 2 Office Assistants, 1 Health Program Assistant, 1 Special Investigator, 2 Administrative Hearing Attorneys, and 1 Database Consultant. Also included is associated other expenses costs of \$138,700 to support needed data processing equipment, software, mailing costs and office supplies.

The annualized DPH cost of this initiative will be \$334,045 in SFY 1999-00 and subsequent years, as services of the Temporary Clerk Typists will no longer be required after the initial data entry effort is completed, and one-time equipment costs will not recur.

Cost estimates are based upon a projected volume of 45,000 requests for physician profile data annually. Data on approximately 13,000 existing and 1,000 newly licensed practitioners each year will be compiled in the database.

While the bill appears to allow the Department of Consumer Protection to collect the same data as the Department of Public Health, it is assumed that in practice the Department of Public Health will act as the lead agency for this initiative. Therefore, no costs will be incurred by the DCP associated with the development of the database.

However, the bill allows an affected practitioner to request a hearing before either the DPH or the DCP to contest any finding in his or her profile. If it is intended that the DCP conduct hearings in addition to those conducted by DPH a significant cost which is not reflected in estimates above will result. This cost, which cannot be quantified at this time, would be associated with additional staff required to participate in hearings conducted by the DCP.

There would also be additional costs associated with requesting a criminal history records check from the Department of Public Safety (\$25 each). These costs are dependent on the number of checks requested.

No funding to implement provisions contained within this bill has been included within sHB 5021 (the Revised SFY 1998-99 Appropriations Act, as favorably reported by the Appropriations Committee).

No fiscal impact will result for either the Department of Social Services or the Office of the Comptroller as the bill specifies no responsibilities for these agencies upon the receipt of physician profile data.

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OLR BILL ANALYSIS

sSB 189

AN ACT CONCERNING THE DISCLOSURE OF PROFILES OF PHYSICIANS LICENSED PURSUANT TO CHAPTER 370

SUMMARY: This bill requires the departments of Public Health (DPH) and Consumer Protection (DPC) in consultation with the Connecticut Medical Society to create profiles of all state licensed physicians and physician assistants. It specifies what information the

profiles must contain and lists items licensees can choose to have omitted. The departments must make the profiles available to the public by establishing a toll-free phone number and maintaining a web site. The bill requires DPH and DCP to share licensee profiles with the Department of Social Services (DSS) and the state comptroller.

The bill requires DPH and DCP to give a licensee his profile before making it available to the public; he can ask for a DPH or DCP hearing to contest any disputed factual finding in his profile. Licensees can appeal department decisions to the Superior Court.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Profile Contents

Criminal Convictions. The profile must list any criminal convictions for felonies or serious misdemeanors in the most recent 10 years. DPH and DCP must determine what constitutes a serious misdemeanor. A conviction includes guilty pleas or a court finding of guilt.

Criminal Charges not Leading to a Conviction. The profile must list (1) any charges to which a physician pleaded no contest or (2) cases against a physician that advanced to the point where sufficient facts of guilt were established, but the court did not issue a ruling.

Disciplinary Actions. The profile must list any final disciplinary action taken by any licensing board within the most recent 10 years, whether the board was in- or out-of-state.

Revocations or Restrictions on Privileges. The profile must list any of the following actions taken in the most recent 10 years as a settlement, or in lieu of a settlement, of a disciplinary action relating to competence or character: (1) restriction or revocation of hospital privileges related to competence or character, where the action was taken by the hospital's governing board or an official and procedural due process was provided, (2) resignation or nonrenewal of

medical staff membership, and (3) restriction of hospital privileges.

Medical Malpractice Claims. The profile must contain information about any award a licensee has paid due to a medical malpractice claim whether the award was the result of an adjudication, arbitration, or settlement. The awards must be reported in at least three graduated categories indicating their level of significance and be compared to awards paid by physicians with the same specialty.

All information about settlements must include the statement that:

"settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice has occurred."

The bill specifies that (1) DPH and DCP may provide further information explaining the significance of categories in which settlements are reported and (2) pending malpractice claims must not be disclosed. The bill further specifies that the portion dealing with medical malpractice claims cannot be interpreted as preventing a licensing board from investigating such claims further.

Description of the Licensee's Practice. The profile must contain information about the licensee's medical education, including: (1) names of medical schools attended, specialty board certifications, number of years in practice, and names of the hospitals where the licensee has privileges; (2) location of the licensee's primary place of practice; (3) description of any translating services available; and (4) whether the licensee participates in the Medicaid program. DSS must provide DPH with information about which licensees participate in Medicaid.

Optional Information. The bill requires DPH to offer licensees the option of including the following information in their profile: (1) appointments in the most recent 10 years to medical school faculties, (2)

descriptions of any publications in professional medical journals within the most recent 10 years; and (3) descriptions of any professional or community services, activities, or awards.

COMMITTEE ACTION

Human Services

Joint Favorable Substitute
Yea 14 Nay 2