

2010 -- S 2564

LC00477

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – BOARD OF MEDICAL LICENSURE  
AND DISCIPLINE

Introduced By: Senator Leo R. Blais

Date Introduced: February 11, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-37-9 of the General Laws in Chapter 5-37 entitled "Board of  
2 Medical Licensure and Discipline" is hereby amended to read as follows:

3 **5-37-9. Reports relating to professional conduct and capacity -- Regulations --**  
4 **Confidentiality -- Immunity. --** In addition to the requirements of section 42-14-2.1:

5 (1) The board with the approval of the director may adopt regulations requiring any  
6 person, including, but not limited to, corporations, health care facilities, health maintenance  
7 organizations, organizations, federal, state, or local governmental agencies, and peer review  
8 boards to report to the board any conviction, determination, or finding that a licensed physician  
9 has committed unprofessional conduct as defined by section 5-37-5.1 as now or hereafter  
10 amended, or to report information which indicates that a licensed physician may not be able to  
11 practice medicine with reasonable skill and safety to patients as the result of any mental or  
12 physical condition. The regulations include the reporting requirements of subdivision (2)(i), (ii)  
13 and (iii).

14 (2) The following reports, in writing, shall be filed with the board:

15 (i) Every insurer providing professional liability insurance to a physician licensed under  
16 the provisions of this chapter shall send a complete report to the board presenting notice of any  
17 civil action filed, settlement of any claim or cause of action, or final judgment rendered in any  
18 cause of action for damages for death or personal injury caused by the physician's negligence,

1 error, or omission in practice, or his or her rendering of unauthorized professional services. This  
2 report shall be sent within thirty (30) days after notice of any civil action filed, settlement,  
3 judgment, or arbitration award. All of these reports shall present an in-depth factual summary of  
4 the claim in question- and, in the case of settlements and judgments, an itemization of the award  
5 stating an amount for economic damages, noneconomic damages, medical expense and interest  
6 accrued. Commencing July 1, 1997, all reports of final judgments or settlements shall specify the  
7 class or category of risk for which the physician is insured identified by Insurance Services  
8 Organization ("ISO") Code and, in the case of joint and several liability, shall specify the portion  
9 of the total award paid by or on behalf of the physician.

10 (ii) All hospital and licensed health care facilities including, but not limited to, nursing  
11 homes and health maintenance organizations and the director of health must report to the board  
12 within thirty (30) days of this action, any action, disciplinary or otherwise, taken for any reason,  
13 which limits, suspends or revokes a physician's privilege to practice or requires supervision of a  
14 physician, either through formal action by the institution or facility or through any voluntary  
15 agreement with the physician.

16 (iii) Within ten (10) days after a judgment by a court of this state that a physician  
17 licensed under the provisions of this chapter has been convicted of a crime or is civilly liable for  
18 any death or personal injury caused by his or her negligence, error, or omission in his or her  
19 practice, or his or her rendering unauthorized professional services, the clerk of the court which  
20 rendered this judgment shall report the judgment to the board.

21 (3) The board shall publicly report any change of privilege, of which it is aware, to the  
22 board of trustees or other appropriate body of all licensed hospitals, licensed health care facilities,  
23 health maintenance organizations, and other parties as the board deems appropriate within thirty  
24 (30) days; provided, that, except as required by section 5-37-9.2 notwithstanding the provisions of  
25 this subdivision, the board may, in instances where the change of privilege is not related to  
26 quality of patient care, elect not to disseminate the report of change in privilege. This election  
27 may be made in executive session and no decision not to disseminate is made except by majority  
28 vote of the members present at the meeting and only upon a finding of fact by the board after  
29 inquiry that the change of privilege was not related to quality of patient care.

30 (4) Except as provided in section 5-37-9.2, the contents of any report file are confidential  
31 and exempt from public disclosure, except that it may be reviewed:

32 (i) By the licensee involved or his or her counsel or authorized representative who may  
33 submit any additional exculpatory or explanatory statements or other information, which  
34 statements or other information is included in the file, or

1 (ii) By the chief administrative officer, a representative of the board, or investigator of  
2 the board, who has been assigned to review the activities of a licensed physician.

3 (5) Upon determination that a report is without merit, the board's records may be purged  
4 of information relating to the report.

5 (6) If any person refuses to furnish a required report, the board may petition the superior  
6 court of any county in which the person resides or is found, and the court shall issue to this person  
7 an order to furnish the required report. Any failure to comply with this order constitutes civil  
8 contempt.

9 (7) Every individual, medical association, medical society, hospital, health care facility,  
10 health maintenance organization, peer review board, medical service bureau, health insurance  
11 carrier or agent, professional standards review organization, and agency of the federal, state, or  
12 local government is immune from civil liability, whether direct or derivative, for providing  
13 information in good faith to the board pursuant to this section or the regulations outlined in  
14 subdivision (1) or requirements of subdivision (2).

15 (8) Nondisclosure agreements are prohibited in so far as they forbid parties from making  
16 reports regarding competency and/or unprofessional conduct to the board of medical licensure  
17 and discipline.

18 (9) The board with the approval of the director promulgates rules and regulations  
19 prescribing standards for hospital or health maintenance organization supervision of physicians  
20 by peer review committees. These regulations require that each hospital or health maintenance  
21 organization report annually to the board the activities, findings, studies, and determinations of its  
22 peer review committees.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would require in the case of settlements and judgments, an itemized list of the  
2   award stating an amount for economic damages, noneconomic damages, medical expense and  
3   interest accrued, in reports relating to the professional conduct of persons subject to the  
4   jurisdiction of the board of medical licensure and discipline.

5           This act would take effect upon passage.

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