

HOUSE BILL No. 5773

April 23, 1998, Introduced by Reps. Stallworth, Kilpatrick, Hale and Thomas and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding sections 2919, 2921, 2923,
2925, and 2927.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2919. (1) EACH DATA PLAN SHALL INCLUDE POLICIES AND
2 PROCEDURES ON CONFIDENTIALITY AND ACCESS TO THE DATA COLLECTED
3 FOR ENTRY INTO THE DATA BASE. THE POLICIES AND PROCEDURES SHALL
4 INCLUDE, AT A MINIMUM, WHO MAY OBTAIN ACCESS TO WHICH DATA, FEES
5 FOR ACCESS TO THE DATA BASE, WHO MAY USE WHICH DATA, HOW ACCESSI-
6 BLE DATA MAY BE USED, AND HOW PATIENT CONFIDENTIALITY IS TO BE
7 PROTECTED.

8 (2) DATA COLLECTED UNDER THE DATA PLAN THAT IDENTIFY
9 INDIVIDUAL PATIENTS AND OTHER INFORMATION THAT COULD BE EXPECTED
10 TO REVEAL THE IDENTITY OF AN INDIVIDUAL PATIENT ARE NOT SUBJECT

1 TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
2 MCL 15.231 TO 15.246.

3 (3) THE POLICIES AND PROCEDURES REQUIRED UNDER
4 SUBSECTION (1) SHALL PROVIDE THAT PUBLICLY AVAILABLE INFORMATION
5 FROM THE DATA BASE NOT ALLOW ACCESS TO COMBINATIONS OF PATIENT
6 CHARACTERISTIC DATA ELEMENTS THAT REASONABLY COULD BE EXPECTED TO
7 REVEAL THE IDENTITY OF AN INDIVIDUAL PATIENT. PUBLIC OR PRIVATE
8 ORGANIZATIONS WITH WHICH THE BOARD OR THE DATA CORPORATION, PUR-
9 SUANT TO CONTRACT WITH THE BOARD, CONTRACTS TO DEVELOP DATA ANA-
10 LYSES ARE BOUND BY THE POLICIES AND PROCEDURES REQUIRED UNDER
11 SUBSECTION (1), AND SHALL HAVE ACCESS TO PATIENT-LEVEL DATA FROM
12 THE DATA BASE ONLY TO THE EXTENT NECESSARY TO DEVELOP DATA ANA-
13 LYSES, INCLUDING, BUT NOT LIMITED TO, LINKAGE FOR OUTCOME AND
14 OTHER ANALYSES. ONCE LINKAGE OCCURS, PATIENT-LEVEL DATA AND ANA-
15 LYSES SHALL BE CODED TO PREVENT THEIR USE OR DISPLAY IN ANY
16 MANNER THAT REASONABLY COULD BE EXPECTED TO REVEAL THE IDENTITY
17 OF A PATIENT.

18 (4) DATA COLLECTED UNDER A DATA PLAN THAT CONTAIN THE IDEN-
19 TITY OF INDIVIDUAL PROVIDERS, EMPLOYERS, AND PURCHASERS ARE NOT
20 CONFIDENTIAL AND ARE PUBLIC INFORMATION, UNLESS THE DATA COULD
21 REASONABLY BE EXPECTED TO REVEAL THE IDENTITY OF A PATIENT.

22 SEC. 2921. (1) THE HEALTH CARE INFORMATION THAT IS PROVIDED
23 TO THE BOARD OR TO THE DATA CORPORATION FROM A PATIENT'S MEDICAL
24 RECORD, OR SUPPLIED BY A HEALTH CARE PAYMENT OR BENEFIT PLAN TO
25 ENABLE THE BOARD OR THE DATA CORPORATION TO PERFORM ITS FUNC-
26 TIONS, SHALL BE LIMITED TO ONLY THOSE DATA ELEMENTS SPECIFIED IN
27 THE DATA PLAN APPROVED AND MADE EFFECTIVE PURSUANT TO

1 SECTION 2909 AND IN EFFECT AT THE TIME THE HEALTH CARE
2 INFORMATION IS PROVIDED.

3 (2) A REQUEST FOR DATA FROM THE DATA BASE, OTHER THAN PUBLIC
4 INFORMATION AVAILABLE UNDER SECTION 2911, SHALL STATE WITH PAR-
5 TICULARITY WHAT INFORMATION IS NEEDED AND THE REASONS FOR THE
6 REQUEST. IN ORDER FOR THE INFORMATION TO BE PROVIDED FROM THE
7 DATA BASE, THE REQUEST MUST BE CONSISTENT WITH THE DATA PLAN.

8 SEC. 2923. DATA COLLECTED FOR THE DATA BASE MAY BE DIS-
9 CLOSED ONLY IF THE DISCLOSURE IS IN COMPLIANCE WITH THE REQUIRE-
10 MENTS OF SECTIONS 2919 AND 2921.

11 SEC. 2925. THE ATTORNEY GENERAL, A COUNTY PROSECUTOR, OR A
12 PERSON AGGRIEVED BY A VIOLATION OF THIS PART MAY MAINTAIN A CIVIL
13 ACTION TO ENFORCE THIS ACT IN A COURT OF COMPETENT JURISDICTION.
14 THE COURT MAY ORDER ANY RELIEF AUTHORIZED UNDER SECTION 2927.

15 SEC. 2927. (1) A COURT IN WHICH AN ACTION IS FILED UNDER
16 SECTION 2925 MAY ORDER A PROVIDER, PURCHASER, OR ANY OTHER PERSON
17 TO COMPLY WITH THIS PART AND MAY ORDER ANY OTHER APPROPRIATE
18 RELIEF.

19 (2) IF THE COURT DETERMINES THAT THERE IS A VIOLATION OF
20 THIS PART, THE AGGRIEVED PERSON, OR THE ATTORNEY GENERAL OR A
21 COUNTY PROSECUTOR ON BEHALF OF AN AGGRIEVED PERSON, MAY RECOVER
22 DAMAGES FOR PECUNIARY LOSSES SUSTAINED AS A RESULT OF THE VIOLA-
23 TION AND, IN ADDITION, IF THE VIOLATION INVOLVES WILLFUL OR
24 GROSSLY NEGLIGENT CONDUCT RESULTING IN THE DISCLOSURE OF INFORMA-
25 TION THAT IDENTIFIES A PATIENT, THE COURT MAY AWARD EXEMPLARY
26 DAMAGES OF NOT MORE THAN \$5,000.00 FOR A VIOLATION OF THIS PART,

1 EXCLUSIVE OF ANY PECUNIARY LOSS, RELATED TO THE DISCLOSURE OF
2 EACH DATA ELEMENT PERTAINING TO THE INDIVIDUAL PATIENT.

3 (3) THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND COSTS
4 REASONABLY INCURRED IN AN ACTION UNDER THIS SECTION TO THE PRE-
5 VAILING PARTY.

6 (4) A PERSON WHO DISCLOSES INFORMATION IN GOOD FAITH COMPLI-
7 ANCE WITH A DATA PLAN APPROVED AND MADE EFFECTIVE UNDER
8 SECTION 2909 IS NOT SUBJECT TO CIVIL, ADMINISTRATIVE, OR CRIMINAL
9 LIABILITY FOR THE DISCLOSURE.

10 Enacting section 1. This amendatory act does not take
11 effect unless all of the following bills of the 89th Legislature
12 are enacted into law:

13 (a) Senate Bill No. _____ or House Bill No. _____ (request
14 no. 02089'97).

15 (b) Senate Bill No. _____ or House Bill No. _____ (request
16 no. 02090'97).

17 (c) Senate Bill No. _____ or House Bill No. _____ (request
18 no. 02091'97).

19 (d) Senate Bill No. _____ or House Bill No. _____ (request
20 no. 02091'97 a).