Medical Transparency

By
CSG Committee on Suggested State Legislation [1]
Thursday, May 29, 2008 at 12:00 AM

Suggested State Legislation: This Act directs the state board of medical examiners to set up and make available, primarily through the Internet, a database of information about doctors who practice in the state. The Act requires physicians who apply for a license to practice medicine in the state, or to reinstate or reactivate an existing license, disclose specific information that can be accessed by the public via the Internet.

The Act requires that the following information be disclosed to the public:
• name;
• aliases;
• current address;
• telephone number;
• information regarding all medical licenses ever held;
• current board certifications;
• practice specialty;
• affiliations with hospitals and health care facilities;
• current ownership interests in businesses;
• current employment contracts;
• public disciplinary actions against a medical license;
• agreements and stipulations to temporarily cease medical practice;
• involuntary hospital or health care facility privileging actions;
• involuntary surrender of a DEA registration;
• criminal convictions or plea arrangements for felonies and crimes of moral turpitude;
• judgments, settlements and arbitration awards for medical malpractice claims; and
• refusal by an insurance carrier to issue medical liability insurance.

Submitted as:
Colorado
HB 1331
Status: Enacted into law in 2007.


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(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as 1 “The Medical Transparency Act.”
Section 2. [Legislative Findings.] The [legislature] declares:
(1) The people of this state need to be fully informed about the past practices of medical care provider and determining whether to proceed with a particular regimen of care recommended by a medical care provider;
(2) The purpose of this Act is to provide transparency to the public regarding the competency of people engaged in the practice of medicine in this state; and
(3) It is important to make information about people engaged in the practice of medicine available to the public in a manner that is efficient, cost-effective, and maintains the integrity of the information, and to that end, the [legislature] encourages people to file the required information with the [state board of medical examiners] electronically, to the extent possible.

Section 3. [Information Medical Practitioners Must Provide to the State Board of Medical Examiners.]
(a) On and after the effective date of this section, any person applying for a new license, or to renew, reinstate, or reactivate a license to practice medicine in this state, shall provide the following information to the [state board of medical examiners], in a form and manner determined by that [board] that is consistent with the requirements of this Act:
(1) The applicant’s full name, including any known aliases; current address of record and telephone number; information pertaining to any license to practice medicine held by the applicant at any time, including the license number, type, status, original issue date, last renewal date, and expiration date; any board certifications and specialties, if applicable; any affiliations with hospitals or health care facilities; any business ownership interests; and information pertaining to any employment contracts with any entities;
(2) Any public disciplinary action taken against the applicant by the [state board of medical examiners] or by the board or licensing agency of any other state or country. The applicant shall provide a copy of the action to the [board] at the time the application is made.
(3) Any agreement or stipulation entered into between the [state board of medical examiners] or the board or licensing agency of any other state or country and the applicant whereby the applicant agrees to temporarily cease or restrict his or her practice of medicine or any board order restricting or suspending the applicant's medical license. The applicant shall provide a copy of the action to the [state board of medical examiners] at the time the application is made.
(4) (I) Any involuntary limitation or probationary status on or reduction, nonrenewal, denial, revocation, or suspension of the applicant's medical staff membership or clinical privileges at any hospital or health care facility. To report the information required by this paragraph (4)(I), the applicant shall complete a form developed by the [state board of medical examiners] that requires the applicant to report only the following information regarding the action:
(i) the name of the facility or entity that took the action;
(ii) the date the action was taken;
(iii) the type of action taken, including any terms and conditions of the action;
(iv) the duration of the action; and
(v) whether the applicant has fulfilled the terms or conditions of the action, if applicable.
(II) Notwithstanding [insert citation], the form completed by the applicant pursuant to paragraph (4)(I) of this section shall be a public record and shall not be confidential. Compliance with paragraph (4)(I) of this section shall not constitute a waiver of any privilege or confidentiality conferred by any other applicable state or federal law.
(5) Any involuntary surrender of the applicant’s United States Drug Enforcement Administration Registration. The applicant shall provide a copy of the order requiring the surrender of such Registration to the [board] at the time the application is made.
(6) Any final criminal conviction or plea arrangement resulting from the commission or alleged commission of a felony or crime of moral turpitude in any jurisdiction. The applicant shall provide a copy of the final conviction or plea arrangement to the [board] at the time the application is made.
Any final judgment against, settlement entered into by, or arbitration award paid on behalf of the applicant for medical malpractice. To report the information required by this paragraph, the applicant shall complete a form developed by the [state board of medical examiners] that requires the applicant to report only the following information regarding the medical malpractice action:
(I) whether the action was resolved by a final judgment against, settlement entered into by, or arbitration award paid on behalf of the applicant;
(II) the date of the judgment, settlement, or arbitration award;
(III) the location or jurisdiction in which the action occurred or was resolved; and
(IV) the court in which the final judgment was ordered, the mediator that aided in the settlement, if applicable, or the arbitrator that granted the arbitration award.

Any refusal by an issuer of medical malpractice insurance to issue a medical malpractice insurance policy to the applicant due to past claims experience. The applicant shall provide a copy of the refusal to the [board] at the time the application is made.

(b) The [state board of medical examiners] shall make the information specified in this subsection (a) of this section of this Act that is submitted by an applicant readily available to the public in a manner that allows the public to search the information by name, license number, board certification or specialty area, or city of the licensee's address of record. The [board] may satisfy this requirement by posting and allowing the ability to search the information on the [board’s] Website. If the information is made available on its Website, the [board] shall update the Website at least monthly and shall indicate on the Website the date when the information was last updated.

(c) When disclosing information regarding a licensee or applicant to the public, the [board] shall include the following statement or a similar statement that communicates the same meaning: “Some studies have shown that there is no significant correlation between malpractice history and a doctor’s competence. At the same time, the [state board of medical examiners] believes that consumers should have access to malpractice information. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high quality care by selecting a doctor based solely on malpractice history. When considering malpractice data, please keep in mind:
• Malpractice histories tend to vary by specialty. Some specialties are more likely than others to be the subject of litigation.
• You should take into account how long the doctor has been in practice when considering malpractice averages.
• The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to move through the legal system.
• Some doctors work primarily with high-risk patients. These doctors may have malpractice histories that are higher than average because they specialize in cases or patients who are at very high risk for problems.
• Settlement of a claim may occur for a variety of reasons that do not necessarily settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.
• You may wish to discuss information provided by the [board], and malpractice generally, with your doctor.
• The information posted on the [state board of medical examiners] website was provided by applicants for a medical license and applicants for renewal, reinstatement, or reactivation of a medical license.”

(d) A person licensed by the [board] pursuant to [insert citation] shall ensure that the information and provide copies of the required documentation to the [board] within [thirty days] after the date of the action described in said subsection or as otherwise determined by the [board] by rule to ensure that the information provided to the public is as accurate as possible.

(e) The [board] may impose an administrative fine not to exceed [five thousand dollars] against an applicant who fails to comply with this section 3 of this Act. The imposition of an [insert citation] and shall not preclude the [board] from taking disciplinary action against an applicant for failure to comply
with this section 3 of this Act. The [board] shall not issue a license to or renew, reinstate, or reactivate
the license of an applicant who has failed to pay a fine imposed pursuant to this paragraph.
(f) The [board] may adopt rules, as necessary, to implement this section.

Section 4. [Severability.] [Insert severability clause.]

Section 5. [Repealer.] [Insert repealer clause.]

Section 6. [Effective Date.] [Insert effective date.]