

1 AMENDMENT TO SENATE BILL 1414

2 AMENDMENT NO. _____. Amend Senate Bill 1414 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Hospital Licensing Act is amended by
5 changing Section 6.17 as follows:

6 (210 ILCS 85/6.17)

7 Sec. 6.17. Protection of and confidential access to
8 medical records and information.

9 (a) Every hospital licensed under this Act shall develop
10 a medical record for each of its patients as required by the
11 Department by rule.

12 (b) All information regarding a hospital patient
13 gathered by the hospital's medical staff and its agents and
14 employees shall be the property and responsibility of the
15 hospital and must be protected from inappropriate disclosure
16 as provided in this Section.

17 (c) Every hospital shall preserve its medical records in
18 a format and for a duration established by hospital policy
19 and for not less than 10 years, provided that if the hospital
20 has been notified in writing by an attorney before the
21 expiration of the 10 year retention period that there is
22 litigation pending in court involving the record of a

1 particular patient as possible evidence and that the patient
2 is his client or is the person who has instituted such
3 litigation against his client, then the hospital shall retain
4 the record of that patient until notified in writing by the
5 plaintiff's attorney, with the approval of the defendant's
6 attorney of record, that the case in court involving such
7 record has been concluded or for a period of 12 years from
8 the date that the record was produced, whichever occurs first
9 in time.

10 (d) No member of a hospital's medical staff and no agent
11 or employee of a hospital shall disclose the nature or
12 details of services provided to patients, except that the
13 information may be disclosed to the patient, persons
14 authorized by the patient, the party making treatment
15 decisions, if the patient is incapable of making decisions
16 regarding the health services provided, those parties
17 directly involved with providing treatment to the patient or
18 processing the payment for that treatment, those parties
19 responsible for peer review, utilization review or, quality
20 assurance, risk management, or defense of claims brought
21 against the hospital arising out of the care, and those
22 parties required to be notified under the Abused and
23 Neglected Child Reporting Act, the Illinois Sexually
24 Transmissible Disease Control Act, or where otherwise
25 authorized or required by law.

26 (e) The hospital's medical staff members and the
27 hospital's agents and employees may communicate, at any time
28 and in any fashion, with legal counsel for the hospital
29 concerning the patient medical record privacy and retention
30 requirements of this Section and any care or treatment they
31 provided or assisted in providing to any patient within the
32 scope of their employment or affiliation with the hospital.

33 (e-5) Notwithstanding subsections (d) and (e), for
34 actions filed on or after January 1, 2004, after a complaint

1 for healing art malpractice is served upon the hospital or
2 upon its agents or employees, members of the hospital's
3 medical staff who are not actual or alleged agents,
4 employees, or apparent agents of the hospital may not
5 communicate with legal counsel for the hospital or with risk
6 management of the hospital concerning the claim alleged in
7 the complaint for healing art malpractice against the
8 hospital except with the patient's consent or in discovery
9 authorized by the Code of Civil Procedure or the Supreme
10 Court rules. For the purposes of this subsection (e-5),
11 "hospital" includes a hospital affiliate as defined in
12 subsection (b) of Section 10.8 of this Act.

13 (f) Each hospital licensed under this Act shall provide
14 its federally designated organ procurement agency and any
15 tissue bank with which it has an agreement with access to the
16 medical records of deceased patients for the following
17 purposes:

18 (1) estimating the hospital's organ and tissue
19 donation potential;

20 (2) identifying the educational needs of the
21 hospital with respect to organ and tissue donation; and

22 (3) identifying the number of organ and tissue
23 donations and referrals to potential organ and tissue
24 donors.

25 (g) All hospital and patient information, interviews,
26 reports, statements, memoranda, and other data obtained or
27 created by a tissue bank or federally designated organ
28 procurement agency from the medical records review described
29 in subsection (f) shall be privileged, strictly confidential,
30 and used only for the purposes put forth in subsection (f) of
31 this Section and shall not be admissible as evidence nor
32 discoverable in an action of any kind in court or before a
33 tribunal, board, agency, or person.

34 (h) Any person who, in good faith, acts in accordance

1 with the terms of this Section shall not be subject to any
2 type of civil or criminal liability or discipline for
3 unprofessional conduct for those actions under any
4 professional licensing statute.

5 (i) Any individual who wilfully or wantonly discloses
6 hospital or medical record information in violation of this
7 Section is guilty of a Class A misdemeanor. As used in this
8 subsection, "wilfully or wantonly" means a course of action
9 that shows an actual or deliberate intention to cause harm or
10 that, if not intentional, shows an utter indifference to or
11 conscious disregard for the safety of others or their
12 property.

13 (j) The changes to this Section made by this amendatory
14 Act of the 93rd General Assembly apply to any action filed on
15 or after January 1, 2004.

16 (Source: P.A. 91-526, eff. 1-1-00.)

17 Section 99. Effective date. This Act takes effect on
18 January 1, 2004."