

1 AN ACT to amend the Hospital Licensing Act.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

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
23 particular patient as possible evidence and that the patient
24 is his client or is the person who has instituted such
25 litigation against his client, then the hospital shall retain
26 the record of that patient until notified in writing by the
27 plaintiff's attorney, with the approval of the defendant's
28 attorney of record, that the case in court involving such
29 record has been concluded or for a period of 12 years from
30 the date that the record was produced, whichever occurs first
31 in time.

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

17 (e) The hospital's medical staff members and the
18 hospital's agents and employees may communicate, at any time
19 and in any fashion, with legal counsel for the hospital
20 concerning the patient medical record privacy and retention
21 requirements of this Section and any care or treatment they
22 provided or assisted in providing to any patient within the
23 scope of their employment or affiliation with the hospital.

24 (e-5) Notwithstanding subsections (d) and (e), for
25 actions filed on or after January 1, 2004, after a complaint
26 for healing art malpractice is served upon the hospital or
27 upon its agents or employees, members of the hospital's
28 medical staff who are not actual or alleged agents,
29 employees, or apparent agents of the hospital may not
30 communicate with legal counsel for the hospital or with risk
31 management of the hospital concerning the claim alleged in
32 the complaint for healing art malpractice against the
33 hospital except with the patient's consent or in discovery
34 authorized by the Code of Civil Procedure or the Supreme

1 Court rules. For the purposes of this subsection (e-5),
2 "hospital" includes a hospital affiliate as defined in
3 subsection (b) of Section 10.8 of this Act.

4 (f) Each hospital licensed under this Act shall provide
5 its federally designated organ procurement agency and any
6 tissue bank with which it has an agreement with access to the
7 medical records of deceased patients for the following
8 purposes:

9 (1) estimating the hospital's organ and tissue
10 donation potential;

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

13 (3) identifying the number of organ and tissue
14 donations and referrals to potential organ and tissue
15 donors.

16 (g) All hospital and patient information, interviews,
17 reports, statements, memoranda, and other data obtained or
18 created by a tissue bank or federally designated organ
19 procurement agency from the medical records review described
20 in subsection (f) shall be privileged, strictly confidential,
21 and used only for the purposes put forth in subsection (f) of
22 this Section and shall not be admissible as evidence nor
23 discoverable in an action of any kind in court or before a
24 tribunal, board, agency, or person.

25 (h) Any person who, in good faith, acts in accordance
26 with the terms of this Section shall not be subject to any
27 type of civil or criminal liability or discipline for
28 unprofessional conduct for those actions under any
29 professional licensing statute.

30 (i) Any individual who wilfully or wantonly discloses
31 hospital or medical record information in violation of this
32 Section is guilty of a Class A misdemeanor. As used in this
33 subsection, "wilfully or wantonly" means a course of action
34 that shows an actual or deliberate intention to cause harm or

1 that, if not intentional, shows an utter indifference to or
2 conscious disregard for the safety of others or their
3 property.

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

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

8 Section 99. Effective date. This Act takes effect on
9 January 1, 2004.