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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTH CARE PROVIDER SHIELD BILL

Introduced By: Representatives Edwards, Kislak, Ajello, McNamara, Kazarian, Knight,  
Donovan, Craven, McEntee, and Felix

Date Introduced: February 09, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 100

4 HEALTH CARE PROVIDER SHIELD BILL

5 **23-100-1. Definitions.**

6 As used in this chapter, the following terms shall mean:

7 (1) "Aggrieved person" means:

8 (i) A person against whom hostile litigation is filed or their legal representative;

9 (ii) A person in the state that receives a subpoena in connection with hostile litigation, as  
10 defined in this section, from any court, state or federal, in the United States or any of its territories,  
11 that seeks information concerning legally protected health care activity, as defined in this section,  
12 or aiding and assisting with legally protected health care activity, as defined in this section; or

13 (iii) A person or entity that employs a person against whom hostile litigation has been filed,  
14 if the action is based on the employee's legally protected health care activity or the aiding or  
15 assisting with legally protected health care activities performed within the scope of their  
16 employment.

17 (2) "Aid and assist legally protected health care activity" means:

18 (i) The undertaking of any act or omission to aid or effectuate, or attempt to aid or  
19 effectuate, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of the

1 right to transgender health care services or reproductive health care services in this state, regardless  
2 of the patient’s location or whether the health care provider is licensed in the state where the patient  
3 is located at the time the service is rendered; or

4 (ii) The undertaking of any act or omission to aid or effectuate, or attempt to aid or  
5 effectuate, any person in the provision of, or attempted provision of, transgender health care  
6 services or reproductive health care services in this state, regardless of the patient’s location or  
7 whether the health care provider is licensed in the state where the patient is located at the time the  
8 service is rendered.

9 (iii) For the purposes of this chapter, "aiding and assisting legally protected health care  
10 activity" shall include, but not be limited to, the provision or administration or attempted provision  
11 or administration of insurance coverage for transgender health care services or reproductive health  
12 care services, by any insurer, payor, or employer.

13 (3) “Hostile litigation” means litigation or other legal action to deter, prevent, sanction, or  
14 punish any person engaging in legally protected health care activity or aiding and assisting legally  
15 protected health care activity by:

16 (i) Filing or prosecuting any action in any other state where liability, in whole or part,  
17 directly or indirectly, is based on engaging in legally protected health care activity or aiding and  
18 assisting legally protected health care activity that occurred in this state, including any action in  
19 which liability is based on any theory of vicarious, joint, or several liability derived therefrom; or

20 (ii) Attempting to enforce any order or judgment issued in connection with any such action  
21 by any party to the action, or any person acting on behalf of a party to the action.

22 (iii) Any action shall be considered to be based on conduct that occurred in this state if any  
23 part of any act or omission involved in the course of conduct that forms the basis for liability in the  
24 action occurs or is initiated in this state, whether or not such act or omission is alleged or included  
25 in any pleading or other filing in the action.

26 (4) “Law enforcement agency” means any state, municipal, college or university police  
27 department, sheriff’s department, correctional facility, prosecutorial office, court, probation office,  
28 or a program of more than one of any such entity, or any other non-federal entity in the state charged  
29 with the enforcement of laws or the custody of detained persons.

30 (5) “Legally protected health care activity” means:

31 (i) The exercise and enjoyment, or attempted exercise and enjoyment, by any person of the  
32 right to transgender health care services or reproductive health care services in this state; and

33 (ii) The provision, or attempted provision, of transgender health care services or  
34 reproductive health care services permitted under the laws and regulations of this state by a person

1 duly licensed under the laws of this state and physically present in this state, regardless of the  
2 patient's location or whether the health care provider is licensed in the state where the patient is  
3 located at the time the service is rendered.

4 (iii) "Legally protected health care activity" shall not include any service rendered below  
5 the applicable professional standard of care of this state.

6 (iv) The protections available for engaging in "legally protected health care activity" shall  
7 not apply to a lawsuit, judgment, or civil, criminal, or administrative action that is based on conduct  
8 for which an action would exist under the laws of this state if the course of conduct that forms the  
9 basis for liability had occurred entirely in this state.

10 (6) "Reproductive health care services" means all supplies, care, and services of a medical,  
11 behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative,  
12 rehabilitative, or supportive nature, including medication, relating to pregnancy, contraception,  
13 assisted reproduction, pregnancy loss management, or the termination of a pregnancy provided in  
14 accordance with the accepted standard of care as defined by major medical professional  
15 organizations and agencies with expertise in the relevant field.

16 (7) "Transgender health care services" means all supplies, care, and services of a medical,  
17 behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative,  
18 rehabilitative, or supportive nature, including medication, relating to the treatment of gender  
19 dysphoria and gender incongruence as provided in accordance with the accepted standard of care  
20 as defined by major medical professional organizations and agencies with expertise in the field  
21 including in the World Professional Association for Transgender Health Care Standards of Care  
22 for the Health of Transgender and Gender Diverse People, 8th edition, or its successor in function.  
23 "transgender health care services" does not include conversion therapy as defined by § 23-94-2.

24 **23-100-2. Declaration of policy.**

25 The general assembly finds and therefore declares that:

26 (1) Access to transgender health care services as defined by § 23-100-1 and access to  
27 reproductive health care services as defined by § 23-100-1 is a legal right in this state.

28 (2) Interference with legally protected health care activity, as defined by § 23-100-1, or the  
29 aiding and assisting of legally protected health care activity, as defined by § 23-100-1, whether or  
30 not under the color of law, is against the public policy of this state.

31 (3) Any public act of a foreign jurisdiction that prohibits, criminalizes, sanctions, or  
32 authorizes a person to bring a civil action against or otherwise interferes with a person, provider,  
33 payer, or other entity in this state that engages in legally protected health care activity or aids and  
34 assists legally protected health care activity shall be an interference with the exercise and enjoyment

1 of the rights secured by this state and shall be a violation of the public policy of this state.

2 **23-100-3. Tortious interference with legally protected health care activity.**

3 (a) If a person, whether or not acting under color of law, engages or attempts to engage in  
4 hostile litigation as defined in § 23-100-1, any aggrieved person may initiate a civil action against  
5 that person for injunctive, monetary, or other appropriate relief within three (3) years after the cause  
6 of action accrues.

7 (b) If the court finds for the petitioner in an action authorized by this section, recovery may  
8 include damages for the amount of any judgment issued in connection with any hostile litigation,  
9 and any and all other expenses, costs, and reasonable attorneys' fees incurred in connection with  
10 the hostile litigation and with the tortious interference action.

11 (c) A court of this state may exercise jurisdiction over a person in an action authorized by  
12 this section if:

13 (1) Personal jurisdiction is found;

14 (2) The person has commenced any action in any court in this state and, during the  
15 pendency of that action or any appeal therefrom, a summons and complaint is served on the person,  
16 authorized representative, or the attorney appearing on the person's behalf in that action or as  
17 otherwise permitted by law; or

18 (3) The exercise of jurisdiction is permitted under the constitution of the United States.

19 (d) Hostile litigation does not include a lawsuit or judgment entered in another state that is  
20 based on conduct for which a cause of action would exist under the laws of this state if the course  
21 of conduct that forms the basis for liability had occurred entirely in this state, including any  
22 contract, tort, common law, or statutory claims.

23 **23-100-4. Foreign judgments.**

24 (a) In any action filed to enforce a foreign judgment issued in connection with hostile  
25 litigation, a court of this state shall not give any force or effect to any judgment issued without  
26 jurisdiction or due process or to any judgment that is penal in nature.

27 (b) Foreign judgments issued in connection with hostile litigation shall be brought by filing  
28 a new and independent action on the judgment within five (5) years after the rendition of the  
29 judgment, and not after.

30 **23-100-5. Testimony, documents, and subpoenas.**

31 (a) Notwithstanding any other provision in this chapter or court rule to the contrary, except  
32 as required by federal law, a court shall not order a person who is domiciled or found within this  
33 state to give testimony or a statement or produce documents or other things with any proceeding in  
34 a tribunal outside this state concerning hostile litigation.

1           **(b) An aggrieved person may move to modify or quash any subpoena issued to a person in**  
2 **this state in connection with such hostile litigation on any grounds provided by court rule, statute,**  
3 **or on the grounds that the subpoena is inconsistent with the public policy of this state.**

4           **(c) State court shall issue a summons in a case, except as required by federal law, where**  
5 **prosecution is pending concerning legally protected health care activity, as defined in § 23-100-1,**  
6 **or aiding and assisting legally protected health care activity, as defined in § 23-100-1, or where a**  
7 **grand jury investigation concerning legally protected health care activity or aiding and assisting**  
8 **legally protected health care activity has commenced or is about to commence for a criminal**  
9 **violation of a law of such other state unless the acts forming the basis of the prosecution or**  
10 **investigation would also constitute an offense if occurring entirely in this state.**

11           **(d) A judge, clerk, or official may not issue a subpoena if the subpoena is sought to be**  
12 **issued in connection with hostile litigation.**

13           **(e) A business entity that is incorporated, or has its principal place of business, in this state**  
14 **may not:**

15           **(1)(i) Knowingly provide records, information, facilities, or assistance in response to a**  
16 **subpoena, warrant, court order, or other civil or criminal legal process that relates to an**  
17 **investigation into, or the enforcement of, another state’s law that asserts criminal or civil liability**  
18 **for legally protected health care activity or aiding and assisting legally protected health care; or**

19           **(ii) Comply with a subpoena, warrant, court order, or other civil or criminal legal process**  
20 **for records, information, facilities, or assistance related to legally protected health care activity or**  
21 **aiding and assisting legally protected health care unless the subpoena, warrant, court order, or other**  
22 **civil or criminal legal process includes, or is accompanied by, an attestation, made under penalty**  
23 **of perjury, stating that the subpoena, warrant, court order, or other civil or criminal legal process**  
24 **does not seek documents, information, or testimony relating to an investigation into, or the**  
25 **enforcement of, another state's law that asserts criminal or civil liability for legally protected health**  
26 **care activity or aiding and assisting legally protected health care activity. Any false attestation**  
27 **submitted under this section is subject to a statutory penalty of ten thousand dollars (\$10,000) per**  
28 **violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of this**  
29 **state for any suit, penalty, or damages arising out of a false attestation under this section.**

30           **(2) Any business entity described in subsection (e)(1) of this section that is served with a**  
31 **subpoena, warrant, court order, or other civil or criminal legal process described in subsection (e)(1)**  
32 **of this section is entitled to rely on the representations made in an attestation described in subsection**  
33 **(e)(1) of this section in determining whether the subpoena, warrant, court order, or other civil or**  
34 **criminal legal process relates to an investigation into, or the enforcement of, another state's law that**

1 [asserts criminal or civil liability for legally protected health care activity or aiding and assisting](#)  
2 [legally protected health care activity.](#)

3 **23-100-6. Orders authorizing the interception of wire, oral, or electronic**  
4 **communications or search warrants.**

5 [\(a\) A court in this state shall not issue an ex parte order for wiretapping or eavesdropping](#)  
6 [to obtain any wire, oral, or electronic communication that relates to an investigation into a legally](#)  
7 [protected health care activity as defined in § 23-100-1 or aiding and assisting with legally protected](#)  
8 [health care activity, as defined by § 23-100-1.](#)

9 [\(b\) A court in this state shall not issue a search warrant or an order for the interception of](#)  
10 [any communication or conversation for the purpose of investigating or recovering evidence that](#)  
11 [related to legally protected health care activity as defined in § 23-100-1 or aiding and assisting](#)  
12 [legally protected health care activity, as defined by § 23-100-1.](#)

13 **23-100-7. Choice of law.**

14 [Notwithstanding any general or special law or common law conflict of law rule to the](#)  
15 [contrary, the laws of this state shall govern in any case or controversy heard in this state related to](#)  
16 [legally protected health care activity or aiding and assisting legally protected health care activity,](#)  
17 [except as may be required by federal law.](#)

18 **23-100-8. Noncooperation.**

19 [\(a\) No public agency, including a state or local law enforcement agency, or state or local](#)  
20 [employee, appointee, officer or official, or any other person acting on behalf of a public agency](#)  
21 [may knowingly provide any information or expend or use time, money, facilities, property,](#)  
22 [equipment, personnel, or other resources in furtherance of any interstate investigation or proceeding](#)  
23 [seeking to impose civil or criminal liability upon a person or entity for:](#)

24 [\(1\) Legally protected health care activity; or](#)

25 [\(2\) Aiding and assisting legally protected health care activity.](#)

26 [\(b\) Notwithstanding any general or special law to the contrary and except as required by](#)  
27 [federal law, no officer or employee of a law enforcement agency of this state, while acting under](#)  
28 [color of law, shall provide information or assistance to a federal law enforcement agency or any](#)  
29 [other state's law enforcement agency or any private citizen or quasi-law enforcement agent in](#)  
30 [relation to an investigation or inquiry into services constituting legally protected health care](#)  
31 [activity, as defined in § 23-100-1, or aiding and assisting legally protected health care activity, as](#)  
32 [defined by § 23-100-1, if such services would be lawful as provided if they occurred entirely in this](#)  
33 [state.](#)

34 [\(c\) Notwithstanding any other law or provision of this chapter to the contrary, arrest of a](#)

1 person is prohibited if the arrest is related to criminal liability that is based on legally protected  
2 health care activity as defined in § 23-100-1 or aiding and assisting legally protected health care  
3 activity as defined in § 23-100-1.

4 (d) This section shall not apply to:

5 (1) Any investigation or proceeding where the conduct subject to potential liability under  
6 the investigation or proceeding would be subject to liability under the laws of this state if committed  
7 in this state; or

8 (2) A public agency or employee, appointee, officer or official who, in the course of normal  
9 business, is responding to a warrant or extradition demand on the good faith belief that the warrant  
10 or demand is valid in this state.

11 SECTION 2. Chapter 12-9 of the General Laws entitled "Extradition" is hereby amended  
12 by adding thereto the following section:

13 **12-9-36. Legally protected health care activity exception to extradition.**

14 Notwithstanding any other provision in this chapter to the contrary, except as required by  
15 federal law, the governor shall not surrender a person charged in another state as a result of  
16 engaging in legally protected health care activity as defined in § 23-100-1 or aiding and assisting  
17 legally protected health care activity as defined in § 23-100-1 unless the executive authority of the  
18 demanding state alleges in writing that the accused was physically present in the demanding state  
19 at the time of the commission of the alleged offense and that thereafter the accused fled from the  
20 demanding state.

21 SECTION 3. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"  
22 is hereby amended by adding thereto the following chapter:

23 CHAPTER 37.8

24 PROTECTIONS FOR PROVIDERS ACT

25 **5-37.8-1. License protections for providers of legally protected health care activity.**

26 (a) No health care provider who is certified, registered, or licensed in Rhode Island shall  
27 be subject to professional disciplinary action by a board or the director, including the revocation,  
28 suspension or cancellation of the certificate of registration, or reprimanded, censured or monetarily  
29 finned nor shall a board or the director refuse to issue, renew, or take adverse action on an application  
30 for certification, registration, or licensure of a qualified health care practitioner based solely on:

31 (1) The health care provider engaging in legally protected health care or aiding and  
32 assisting with legally protected health care activity;

33 (2) A criminal, civil, or disciplinary action, including license suspension or revocation, in  
34 another state against the health care practitioner that is based on the practitioner engaging in legally

1 protected health care activity or aiding and assisting with legally protected health care activity; or

2 (3) A criminal, civil, or disciplinary action, including license suspension or revocation, in  
3 another state against the health care practitioner that is based solely on the practitioner violating  
4 another state’s law prohibiting legally protected health care activity or aiding and assisting with  
5 legally protected health care activity.

6 (b) No board or the director shall make available for public dissemination on a health care  
7 provider’s individual profile the record of any criminal conviction or charge for a felony or serious  
8 misdemeanor, final disciplinary action by a licensing board in another state or a medical  
9 malpractice court judgment, arbitration award or settlement that resulted from legally protected  
10 health care activity, aiding and assisting legally protected health care activity, or for any judgment,  
11 discipline or other sanction arising from such health care services if the services as provided was  
12 consistent with the applicable professional standard of care and did not otherwise violate Rhode  
13 Island law.

14 (c) As used in this section:

15 (1) Health care provider has the same meaning as set forth in 5-37.3-3 and also includes,  
16 but is not limited to, the licensed professionals as forth in § 5-32-1 ("electrologists"), chapter 40.1  
17 of title 5 ("occupational therapists"), § 5-37-1 ("osteopathic physicians"), chapter 39.1 of title 5  
18 ("social workers"), chapter 63.2 of title 5 ("mental health counselors and marriage and family  
19 therapists"), chapter 54 of title 5 ("physician assistants"), chapter 36.1 of title 5 ("naturopathic  
20 health care providers"), chapter 48 of title 5 (speech-language pathologists), and chapter 30 of title  
21 5 ("chiropractic physicians").

22 (2) Legally protected health care activity has the same meaning as set forth in § 23-100-1.

23 (3) Aiding and assisting with legally protected health care activity has the same meaning  
24 as set forth in § 23-100-1.

25 **5-37.8-2. Insurance protections for providers of legally protected health care activity.**

26 (a) An insurer that issues malpractice insurance for a health care provider who is certified,  
27 registered, or licensed in Rhode Island shall not take a prohibited action against an applicant for or  
28 the named insured under a malpractice policy in this state because the applicant or insured has  
29 engaged in a legally protected health care activity as defined in § 23-100-1 or aiding and assisting  
30 with legally protected health care activity as defined in § 23-100-1 in this state, so long as the care  
31 provided by the applicant or insured was consistent with the applicable professional standard of  
32 care and did not violate Rhode Island law.

33 (b) As used in this section, “prohibited action” means:

34 (1) Refusing to issue a malpractice policy;



1           (2) Charging higher rates for a malpractice policy, including malpractice policies that  
2 include coverage for cross-border care;

3           (3) Canceling or terminating a malpractice policy;

4           (4) Refusing to renew a malpractice policy; or

5           (5) Imposing any sanctions, fines, penalties, or rate increases.

6           (c) A carrier shall not refuse to credential an applicant, or terminate a participating health  
7 care provider's participation, in a provider network based solely on the applicant's or participating  
8 health care provider's engaging in legally protected health care activity, as defined in § 23-100-1,  
9 or aiding and assisting with legally protected health care activity, as defined § 23-100-1.

10           (d) A carrier shall not take adverse action against a health care provider or subject the health  
11 care provider to financial disincentives based solely on the provider engaging in legally protected  
12 health care activity, as defined in § 23-100-1, or aiding and assisting with legally protected health  
13 care activity, as defined § 23-100-1 so long as the care provided did not violate the law of this state.  
14 Adverse action in this section means refusing or failing to pay a provider for otherwise covered  
15 services as defined in the applicable health benefit plan.

16           (e) As used in this section:

17           (1) "Health care provider" has the same meaning as set forth in § 5-37.3-3 and also  
18 includes, but is not limited to, the licensed professionals as forth in § 5-32-1 ("electrologists"),  
19 chapter 40.1 of title 5 ("occupational therapists"), § 5-37-1("osteopathic physicians"), chapter 39.1  
20 of title 5 ("social workers"), chapter 63.2 of title 5 ("mental health counselors and marriage and  
21 family therapists"), chapter 54 of title 5 ("physician assistants"), chapter 36.1 of title 5  
22 ("naturopathic health care providers"), chapter 48 of title 5 ("speech-language pathologists"), § 5-  
23 92-3 ("genetic counselors"), and chapter 30 of title 5 ("chiropractic physicians").

24           (2) "Legally protected health care activity" has the same meaning as set forth in § 23-100-  
25 1.

26           (3) "Aiding and assisting with legally protected health care activity" has the same meaning  
27 as set forth in § 23-100-1.

28           SECTION 4. Chapter 23-17 of the General Laws entitled "Licensing of Healthcare  
29 Facilities" is hereby amended by adding thereto the following section:

30           **23-17-67. Protection of health care provider's clinical privileges.**

31           A health care facility shall not take any adverse action including, but not limited to,  
32 restricting or terminating any health care provider's clinical privileges as a result of an adverse  
33 action against a health care provider's license or clinical privileges or other disciplinary action by  
34 another state or health care institution that resulted from the health care provider's engaging in

1 [legally protected health care activity, as defined in § 23-100-1, or aiding and assisting with legally](#)  
2 [protected health care activity, as defined § 23-100-1 if the adverse action was based solely on a](#)  
3 [violation of the other state's law prohibiting such legally protected health care activity and related](#)  
4 [services, if that legally protected health care activity is consistent with the applicable professional](#)  
5 [standard of care and did not violate Rhode Island law.](#)

6 [As used in this section, “health care provider” has the same meaning as set forth in § 5-](#)  
7 [37.3-3 and also includes, but is not limited to, the licensed professionals as forth in § 5-32-1](#)  
8 [\(“electrologists”\), chapter 40.1 of title 5 \(“occupational therapists”\), § 5-37-1\(“osteopathic](#)  
9 [physicians”\), chapter 39.1 of title 5 \(“social workers”\), chapter 63.2 of title 5 \(“mental health](#)  
10 [counselors and marriage and family therapists”\), chapter 54 of title 5 \(“physician assistants”\),](#)  
11 [chapter 36.1 of title 5 \(“naturopathic health care providers”\), chapter 48 of title 5 \(“speech-language](#)  
12 [pathologists”\), § 5-92-3 \(“genetic counselors”\), and chapter 30 of title 5 \(“chiropractic physicians”\).](#)

13 SECTION 5. Section 5-37-9.2 of the General Laws in Chapter 5-37 entitled "Board of  
14 Medical Licensure and Discipline" is hereby amended to read as follows:

15 **5-37-9.2. Physician profiles — Public access to data.**

16 (a)(1) The board shall compile the information listed in this section to create individual  
17 profiles on licensed physicians, in a format created by the board, consistent with the provisions of  
18 this section and any regulations promulgated under this section, that are available for dissemination  
19 to the public and that include a conspicuous statement that: “This profile contains certain  
20 information that may be used as a starting point in evaluating the physician. This profile should not  
21 be your sole basis for selecting a physician.”

22 (2) The following information shall be compiled by the board in accordance with state laws  
23 and board regulations and procedures and shall be included in physician profiles, subject to the  
24 limitations and requirements set forth below:

25 (i) Names of medical schools and dates of graduation;

26 (ii) Graduate medical education;

27 (iii) A description of any final board disciplinary actions within the most recent ten (10)  
28 years;

29 (iv) A description of any final disciplinary actions by licensing boards in other states within  
30 the most recent ten (10) years;

31 (v) A description of any criminal convictions for felonies within the most recent ten (10)  
32 years. For the purposes of this subsection, a person is deemed to be convicted of a crime if he or  
33 she pleaded guilty or if he or she was found or adjudged guilty by a court of competent jurisdiction,  
34 or was convicted of a felony by the entry of a plea of nolo contendere;

1 (vi) A description of revocation or restriction of hospital privileges for reasons related to  
2 competence taken by the hospital's governing body or any other official of the hospital after  
3 procedural due process has been afforded, or the resignation from or nonrenewal of medical staff  
4 membership or the restriction of privileges at a hospital. Only cases that have occurred within the  
5 most recent ten (10) years, shall be disclosed by the board to the public; and

6 (vii) All medical malpractice court judgments and all medical malpractice arbitration  
7 awards in which a payment is awarded to a complaining party since September 1, 1988, or during  
8 the most recent ten (10) years, and all settlements of medical malpractice claims in which a payment  
9 is made to a complaining party since September 1, 1988, or within the most recent ten (10) years.  
10 Dispositions of paid claims shall be reported in a minimum of three (3) graduated categories  
11 indicating the level of significance of the award or settlement. Information concerning paid medical  
12 malpractice claims shall be put in context by comparing an individual physician's medical  
13 malpractice judgments, awards, and settlements to the experience of other physicians licensed in  
14 Rhode Island who perform procedures and treat patients with a similar degree of risk. All judgment,  
15 award, and settlement information reported shall be limited to amounts actually paid by or on behalf  
16 of the physician.

17 (3) Comparisons of malpractice payment data shall be accompanied by:

18 (i) An explanation of the fact that physicians treating certain patients and performing  
19 certain procedures are more likely to be the subject of litigation than others and that the comparison  
20 given is for physicians who perform procedures and treat patients with a similar degree of risk;

21 (ii) A statement that the report reflects data since September 1, 1988, or for the last ten (10)  
22 years and the recipient should take into account the number of years the physician has been in  
23 practice when considering the data;

24 (iii) An explanation that an incident, giving rise to a malpractice claim, may have occurred  
25 years before any payment was made due to the time lawsuits take to move through the legal system;

26 (iv) An explanation of the effect of treating high-risk patients on a physician's malpractice  
27 history; and

28 (v) An explanation that malpractice cases may be settled for reasons other than liability  
29 and that settlements are sometimes made by the insurer without the physician's consent.

30 (4) Information concerning all settlements shall be accompanied by the following  
31 statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect  
32 negatively on the professional competence or conduct of the physician. A payment in settlement of  
33 a medical malpractice action or claim should not be construed as creating a presumption that  
34 medical malpractice has occurred." Nothing in this section shall be construed to limit or prevent

1 the board from providing further explanatory information regarding the significance of categories  
2 in which settlements are reported.

3 (5) Pending malpractice claims and actual amounts paid by or on behalf of a physician in  
4 connection with a malpractice judgment, award, or settlement shall not be disclosed by the board  
5 to the public. Nothing in this section shall be construed to prevent the board from investigating and  
6 disciplining a licensee on the basis of medical malpractice claims that are pending.

7 (6) The following information shall be reported to the board by the physician and shall be  
8 included in physician profiles, subject to the limitations and requirements specified in this  
9 subdivision:

10 (i) Specialty board certification;

11 (ii) Number of years in practice;

12 (iii) Names of the hospitals where the physician has privileges;

13 (iv) Appointments to medical school faculties and indication as to whether a physician has  
14 a responsibility for graduate medical education within the most recent ten (10) years;

15 (v) Information regarding publications in peer-reviewed medical literature within the most  
16 recent ten (10) years;

17 (vi) Information regarding professional or community service activities and awards;

18 (vii) The location of the physician's primary practice setting; and

19 (viii) The identification of any language translating services that may be available at the  
20 physician's primary practice location; provided, that a statement is included in the profile indicating  
21 that these services may be temporary and that the physician's office should first be contacted to  
22 confirm the present availability of language translation.

23 (b) A physician may elect to have his or her profile omit certain information provided  
24 pursuant to subsections (a)(6)(iv) — (a)(6)(vi) of this section, concerning academic appointments  
25 and teaching responsibilities, publication in peer-reviewed journals, and professional and  
26 community service awards. In collecting information for these profiles and disseminating it, the  
27 board shall inform physicians that they may choose not to provide any information required  
28 pursuant to subsections (a)(6)(iv) — (a)(6)(vi) of this section.

29 (c) A physician profile shall not include the personal residence address, telephone number,  
30 email address, or other personal contact information of the physician.

31 (d)(1) The board shall provide individual physicians with a copy of their profiles prior to  
32 initial release to the public and each time a physician's profile is modified or amended based on  
33 information not personally supplied to the board by the physician or not generated by the board  
34 itself.

1 (2) Prior to initial release to the public and upon each modification or amendment requiring  
2 physician review as provided in this subsection, a physician shall be provided not less than twenty-  
3 one (21) calendar days to correct factual inaccuracies that appear in his or her profile.

4 (3) If a dispute arises between a physician and the board regarding the accuracy of factual  
5 information in the physician's profile, the physician shall notify the board, in writing, of this  
6 dispute.

7 (4) If a physician does not notify the board of a dispute during the twenty-one-day (21)  
8 review period, the profile shall be released to the public and the physician will be deemed to have  
9 approved the profile and all information contained in the profile.

10 (5) If a physician notifies the board of a dispute in accordance with this subsection, the  
11 physician's profile shall be released to the public without the disputed information, but with a  
12 statement to the effect that information in the identified category is currently the subject of a dispute  
13 and is not available at this time.

14 (6) Within ten (10) calendar days after the board's receipt of notice of a dispute, the  
15 physician and the board or its authorized representative shall in good faith enter into discussions,  
16 which may continue for up to thirty (30) days, to resolve the dispute. If the dispute is not resolved  
17 within thirty (30) days, the disputed information shall be included in the profile with a statement  
18 that this information is disputed by the physician.

19 ~~(d)~~(e) Each profile shall contain a statement specifying the date of its last modification,  
20 amendment, or update. If a physician has reviewed and approved or been deemed to have approved  
21 his or her profile in accordance with this subsection, the physician is responsible for the accuracy  
22 of the information contained in it. If a profile is released to the public without physician review as  
23 required by this subsection, then notwithstanding any immunity from liability granted by § 5-37-  
24 1.5 or § 23-1-32, the board or any state agency supplying physician information to the board is  
25 solely responsible for the accuracy of the information it generates or supplies and that is contained  
26 in physician profiles released to the public.

27 ~~(e)~~(f) In order to protect against the unauthorized use or disclosure of provider profiles by  
28 department of health employees with access to the data, the department of health shall apply its  
29 existing safeguards and procedures for protecting confidential information to physician profile  
30 information.

31 ~~(f)~~(g) For each profile provided to the public by the board, the board may charge no more  
32 than fifty cents (\$.50) per page or three dollars (\$3.00) per profile, whichever is greater.

1 SECTION 6. This act shall take effect upon passage.

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LC004704  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTH CARE PROVIDER SHIELD BILL

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1           This act would enact the Health Care Provider Shield Bill, precluding any individual from  
2 interfering with another's access to transgender health care services and reproductive health care  
3 services.

4           This act would take effect upon passage.

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LC004704  
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