

# HOUSE BILL No. 4757

June 3, 1999, Introduced by Rep. Shulman and referred to the Committee on Family and Civil Law.

A bill to amend 1980 PA 350, entitled  
"The nonprofit health care corporation reform act,"  
by amending section 406 (MCL 550.1406) and by adding section  
406a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 406. (1) ~~—A~~ IN ORDER TO ENSURE THE CONFIDENTIALITY OF  
2 RECORDS CONTAINING PERSONAL DATA THAT MAY BE ASSOCIATED WITH  
3 IDENTIFIABLE MEMBERS, A health care corporation shall ~~—, in order~~  
4 ~~to ensure the confidentiality of records containing personal data~~  
5 ~~that may be associated with identifiable members,~~ use reasonable  
6 care to secure these records from unauthorized access and to col-  
7 lect only personal data that are necessary for the proper review  
8 and payment of claims AND AS REQUIRED TO COMPLY WITH SECTION  
9 406A. Except as is necessary to comply with section 603 or for  
10 the purpose of claims adjudication, claims verification, or when

1 required by law, a health care corporation shall not disclose  
2 records containing personal data that may be associated with an  
3 identifiable member, or personal information concerning a member,  
4 to a person other than the member, without the prior and specific  
5 informed consent of the member to whom the data or information  
6 pertains. The member's consent shall be in writing. Except when  
7 a disclosure is made to the commissioner or another governmental  
8 agency, a court, or any other governmental entity, a health care  
9 corporation shall make a disclosure for which prior and specific  
10 informed consent is not required upon the condition that the  
11 person to whom the disclosure is made protect and use the dis-  
12 closed data or information only in the manner authorized by the  
13 corporation, pursuant to subsection (2). If a member has autho-  
14 rized the release of personal data to a specific person, a health  
15 care corporation shall make a disclosure to that person upon the  
16 condition that the person shall not release the data to a third  
17 person unless the member executes in writing another prior and  
18 specific informed consent authorizing the additional release.  
19 This subsection ~~shall~~ DOES not preclude the release of informa-  
20 tion to a member, pertaining to that member, by telephone, if the  
21 identity of the member is verified. This subsection ~~shall~~ DOES  
22 not preclude a representative of a subscriber group, upon request  
23 of a member of that subscriber group, or an elected official,  
24 upon request of a constituent, from assisting the individual in  
25 resolving a claim.

26 (2) The board of directors of a health care corporation  
27 shall establish and make public the policy of the corporation

1 regarding the protection of the privacy of members and the  
2 confidentiality of personal data. The policy, at a minimum,  
3 shall do all of the following:

4 (a) Provide for the corporation's implementation of provi-  
5 sions in this act and other applicable laws respecting collec-  
6 tion, security, use, release of, and access to personal data.

7 (b) Identify the routine uses of personal data by the corpo-  
8 ration; prescribe the means by which members will be notified  
9 regarding ~~such~~ THOSE uses; and provide for notification regard-  
10 ing the actual release of personal data and information that may  
11 be identified with, or that concern, a member, upon specific  
12 request by that member. As used in this subdivision, "routine  
13 use" means the ordinary use or release of personal data compati-  
14 ble with the purpose for which the data were collected.

15 (c) Assure that no person shall have access to personal data  
16 except on the basis of a need to know.

17 (d) Establish the contractual or other conditions under  
18 which the corporation will release personal data.

19 (e) Provide that enrollment applications and claim forms  
20 developed by the corporation shall contain a member's consent to  
21 the release of data and information that is limited to the data  
22 and information necessary for the proper review and payment of  
23 claims, and shall reasonably notify members of their rights pur-  
24 suant to the board's policy and applicable law.

25 (f) Provide that applicants for new or renewed certificates  
26 shall be advised that the corporation does not require the use of  
27 the applicant's federal social security account number and that,

1 when applicable, another authority does require use of the  
2 number.

3 (3) A health care corporation ~~which~~ THAT violates this  
4 section is guilty of a misdemeanor, punishable by a fine of not  
5 more than \$1,000.00 for each violation.

6 (4) A member may bring a civil action for damages against a  
7 health care corporation for a violation of this section and may  
8 recover actual damages or \$200.00, whichever is greater, together  
9 with reasonable attorneys' fees and costs.

10 (5) This section ~~shall~~ DOES not ~~be construed to~~ limit  
11 access to records or ~~to~~ enlarge or diminish the investigative  
12 and examination powers of governmental agencies, as provided for  
13 by law.

14 SEC. 406A. A HEALTH CARE CORPORATION SHALL FURNISH TO ANY  
15 PERSON PAYING FOR A GROUP CERTIFICATE OR BENEFIT PLAN EITHER  
16 DIRECTLY OR INDIRECTLY, WITHIN 30 DAYS AFTER RECEIVING A WRITTEN  
17 REQUEST THEREFORE AND UPON PAYMENT OF A REASONABLE CHARGE, ALL OF  
18 THE FOLLOWING INFORMATION FOR THE GROUP CERTIFICATE OR BENEFIT  
19 PLAN FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD:

20 (A) TOTAL NUMBER OF INDIVIDUALS COVERED.

21 (B) TOTAL NUMBER OF CLAIMS PAID.

22 (C) TOTAL NUMBER OF CLAIMS PENDING.

23 (D) TOTAL NUMBER OF CLAIMS EXCEEDING \$50,000.00 AND THE  
24 AMOUNT OF EACH OF THOSE CLAIMS. INFORMATION UNDER THIS SUBDIVI-  
25 SION SHALL NOT DISCLOSE PERSONAL DATA THAT MAY REVEAL THE IDEN-  
26 TITY OF A COVERED INDIVIDUAL.

1 (E) CLAIMS EXPERIENCE DATA BY COVERAGE COMPONENT.

2 (F) ALL PERTINENT INFORMATION THAT IS NECESSARY FOR THE  
3 PERSON TO OBTAIN COMPETITIVE BIDS FOR OTHER THIRD PARTY ADMINIS-  
4 TRATOR SERVICES OR OTHER HEALTH CARE COVERAGE.