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HOUSE BILL NO. 1501

Offered January 20, 2006

A BILL to amend and reenact § 54.1-2400.2 of the Code of Virginia, relating to information to be provided by the Board of Medicine to individuals filing complaints against physicians.

Patron—Callahan

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-2400.2 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding.

A. Any reports, information or records received and maintained by any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. A board may only disclose such confidential information:

1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;

2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession, including the coordinated licensure information system, as defined in § 54.1-3030;

3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final determination regarding a violation has been made;

4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary circumstances being shown;

5. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person is first deleted. Such release shall be made pursuant to a written agreement to ensure compliance with this section; or

6. To the Health Practitioners' Intervention Program within the Department of Health Professions in connection with health practitioners who apply to or participate in the Program.

B. In no event shall confidential information received, maintained or developed by any board, or disclosed by the board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any civil action. This section shall not, however, be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any investigation or proceeding by any health regulatory board acting within the scope of its authority. The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

D. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the relevant health regulatory board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of criminal law, including the laws relating to the manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

E. This section shall not prohibit the Director of the Department of Health Professions from disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information required to be made available to the public pursuant to § 54.1-2910.1.

F. Orders and notices of the health regulatory boards relating to disciplinary actions shall be disclosed.

Further, notwithstanding the restrictions on disclosure included in this section, whenever an individual files a written complaint against a physician licensed by the Board of Medicine, the Board shall (i) notify the complainant whenever any hearing is conducted on the matter under investigation pursuant to the complaint and inform the complainant of his right to attend the hearing; (ii) provide, upon concluding its deliberations on the matter, access to the records considered by the Board in reaching its decision to the complainant; and (iii) issue to the complainant an explanation of the rationale for the Board's decision when disciplinary action is not determined to be warranted that includes specific citations of relevant code sections or regulations used to make such determination.

INTRODUCED

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59 G. Any person found guilty of the unlawful disclosure of confidential information possessed by a
60 health regulatory board shall be guilty of a Class 1 misdemeanor.