

STATE OF NEW YORK

2995

2019-2020 Regular Sessions

IN ASSEMBLY

January 28, 2019

Introduced by M. of A. GOTTFRIED, ABINANTI, D'URSO, GALEF -- read once
and referred to the Committee on Health

AN ACT to amend the public health law, in relation to granting immunity
from liability to organizations which establish physician committees

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Paragraph (g) of subdivision 11 of section 230 of the
2 public health law, as added by chapter 426 of the laws of 1983, subpara-
3 graphs (ii) and (iii) as amended by chapter 606 of the laws of 1991,
4 subparagraphs (v) and (vi) as added by chapter 582 of the laws of 1984,
5 is amended to read as follows:

6 (g) (i) Any physician committee of the Medical Society of the State of
7 New York, the New York State Osteopathic Society or a county medical
8 society referred to in subparagraph (ii) of paragraph (c) of this subdivi-
9 sion shall develop procedures in consultation with, and approved by,
10 the commissioner [~~of the department of health~~], including but not limit-
11 ed to the following:

12 [~~(i)~~] (A) The committee shall disclose at least once a month such
13 information as the director of the office of professional medical
14 conduct may deem appropriate regarding reports received, contacts or
15 investigations made and the disposition of each report, provided however
16 that the committee shall not disclose any personally identifiable infor-
17 mation except as provided in [~~subparagraph (ii)~~] clause (B) or [~~subpara-~~
18 ~~graph (iii)~~] (C) of this [~~paragraph~~] subparagraph.

19 [~~(ii)~~] (B) The committee shall immediately report to the director the
20 name, all information obtained and the results of any contact or inves-
21 tigation regarding any physician who is believed to be an imminent
22 danger to the public.

23 [~~(iii)~~] (C) The committee shall report to the director in a timely
24 fashion all information obtained regarding any physician who refuses to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 cooperate with the committee, refuses to submit to treatment, or whose
2 impairment is not substantially alleviated through treatment.

3 ~~[(iv)]~~ (D) The committee shall inform each physician who is partic-
4 ipating in a program of the procedures followed in the program, of the
5 rights and responsibilities of the physician in the program and of the
6 possible results of noncompliance with the program.

7 ~~[(v)]~~ (ii) No member of any such committee; nor the Medical Society of
8 the State of New York, the New York State Osteopathic Society or a coun-
9 ty medical society referred to in subparagraph (ii) of paragraph (c) of
10 this subdivision that establishes a committee; nor any agent, servant,
11 representative or employee that provides service to any such committee
12 or society, shall be liable for damages to any person for any action
13 taken by such committee, society, member, agent, servant, representative
14 or employee provided that such action was taken without malice and with-
15 in the scope of such ~~[member's]~~ individual's function ~~[as a member of]~~
16 to such committee.

17 ~~[(vi)]~~ (iii) The committee, in conjunction with the director of the
18 office of professional medical conduct, shall develop appropriate
19 consent forms and disclosure proceedings as may be necessary under any
20 federal statute, rule or regulation in order to permit the disclosure of
21 the information as may be required under ~~[subparagraphs (ii)]~~ clauses
22 (B) and [(iii)] (C) of subparagraph (i) of this paragraph.

23 (iv) Except as ~~[herein]~~ provided in this paragraph and notwithstanding
24 any other provision of law, neither the proceedings nor the records of
25 any such physician committee shall be subject to disclosure under arti-
26 cle thirty-one of the civil practice law and rules nor shall any member
27 of any such committee nor any person in attendance at any such meeting
28 be required to testify as to what transpired thereat.

29 § 2. This act shall take effect immediately; provided, that the amend-
30 ments to paragraph (g) of subdivision 11 of section 230 of the public
31 health law, made by section one of this act, shall not affect the repeal
32 of such paragraph, and shall be deemed repealed therewith; and provided,
33 further, that the amendments to subparagraphs (v) and (vi) of paragraph
34 (g) of subdivision 11 of section 230 of the public health law, made by
35 section one of this act, shall not affect the repeal of such subpara-
36 graphs, and shall be deemed repealed therewith.