STATE OF NEW YORK

1796--A

2019-2020 Regular Sessions

IN SENATE

January 16, 2019

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

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

(g) **(i)** Any physician committee of the Medical Society of the State of New York, the New York State Osteopathic Society or a county medical society referred to in subparagraph (ii) of paragraph (c) of this subdivision shall develop procedures in consultation with, and approved by, the commissioner [~~of the department of health~~], including but not limited to the following:

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

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

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

LBD03386-03-9

[~~(iii)~~] **(C)** The committee shall report to the director in a timely fashion all information obtained regarding any physician who refuses to cooperate with the committee, refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment.

[~~(iv)~~] **(D)** The committee shall inform each physician who is participating in a program of the procedures followed in the program, of the rights and responsibilities of the physician in the program and of the possible results of noncompliance with the program.

[~~(v)~~] **(ii)** No member of any such committee**; nor the Medical Society of the State of New York, the New York State Osteopathic Society or a county medical society referred to in subparagraph (ii) of paragraph (c) of this subdivision that establishes a committee; nor any agent, servant, representative or employee that provides service to any such committee or society,** shall be liable for damages to any person for any action taken by such **committee, society,** member**, agent, servant, representative or employee** provided that such action was taken without malice and within the scope of such [~~member's~~] **individual's or entity's** function [~~as a member of~~] **in relation to** such committee.

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

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

§ 2. This act shall take effect immediately; provided, that the amendments to paragraph (g) of subdivision 11 of section 230 of the public health law, made by section one of this act, shall not affect the repeal of such paragraph, and shall be deemed repealed therewith; and provided, further, that the amendments to subparagraphs (v) and (vi) of paragraph (g) of subdivision 11 of section 230 of the public health law, made by section one of this act, shall not affect the repeal of such subparagraphs, and shall be deemed repealed therewith.