I

103D CONGRESS
2D SESSION

H. R. 4856

To improve the Nation's health care by creating a comprehensive medical malpractice prevention program through the creation of independent, publicly accountable State medical boards and more stringent licensing and discipline procedures; to empower health consumers by mandating reporting of certain information regarding health care providers and professionals and by enhancing informed individual choice regarding health care services by providing certain information to consumers; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 1994

Mr. NADLER introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To improve the Nation's health care by creating a comprehensive medical malpractice prevention program through the creation of independent, publicly accountable State medical boards and more stringent licensing and discipline procedures; to empower health consumers by mandating reporting of certain information regarding health care providers and professionals and by enhancing informed individual choice regarding health care services by providing certain information to consumers; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Patient Safety Act of 1994''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) there are a large number of avoidable deaths and injuries in the Nation caused by medical negligence and malpractice;

(2) the identity of health care professionals responsible for medical negligence should be revealed to the public and they should be subject to discipline by the appropriate State medical boards;

(3) despite the large number of consumers injured by medical malpractice each year, fewer than ½ of 1 percent of the Nation's health care professionals face any serious State sanctions each year;

(4) the purpose of State medical boards is to protect the public from the unprofessional, improper and incompetent practice of medicine;

(5) most State medical boards are not adequately disciplining health care professionals and when they do, most of their efforts focus on offenses other than medical negligence, with revocations or suspensions of licenses rarely occurring;

(6) among the reasons why the State medical boards are unwilling or unable to identify and discipline negligent health care professions are that the boards lack adequate funding, staffing, investigative and disciplinary powers and because the boards are

dominated by health care professionals who are reluctant to discipline their colleagues;

(7) medical malpractice lawsuits are a necessary adjunct to State disciplinary proceedings, but they are not a substitute for them, since it is government, through its licensure of health care professionals, that must ensure that high-quality health care is delivered to the public;

(8) health care consumers have very little information available to them regarding the quality of their health care providers and professionals;

(9) in order to make informed choices between health care providers and professionals, consumers need access to more information about their health care providers and professionals, including disciplinary and malpractice records; and

(10) more and better information to health care consumers about their health care providers and professionals and more and better discipline of incompetent and negligent health care professionals will alleviate the medical malpractice crisis and improve the quality of health care in the Nation by helping consumers to choose between health care providers and professionals and by removing the licenses of

those health care professionals who are a danger to the public health and welfare.

(b) PURPOSE.—It is the purpose of this Act—

(1) to create a national program of medical malpractice prevention by requiring State medical boards to be controlled by members of the public and not of the profession being monitored;

(2) to ensure that State medical boards are more effective in identifying and disciplining incompetent, unethical, and negligent health care professionals by ensuring that such boards are adequately staffed and funded to fulfill their purpose of permitting only qualified and fit individuals to practice medicine;

(3) to provide ready access to consumers of information regarding their health care providers and professionals; and

(4) to ensure that all health care professionals remain abreast of new information regarding the efficacy of medical tests and procedures and to assist in the identification of incompetent health care professionals, thereby reducing the incidence of the practice of unnecessary medicine and the incidence of preventable injuries to patients.

SEC. 102. PREEMPTION.

The provisions of this Act shall preempt State law only to the extent that the Secretary finds that State law does not protect the health and safety of patients in the State at least as effectively as the provisions of this Act.

SEC. 103. DEFINITIONS.

As used in this Act:

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(2) HEALTH CARE PROFESSIONAL OR LICENSEE.—The terms ''health care professional'' and ''licensee'' mean an individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(3) INJURY.—The term ''injury'' means any illness, disease, or other harm that is the subject of a quality of care complaint or a medical malpractice claim.

(4) QUALITY OF CARE COMPLAINT.—The term ''quality of health care complaint'' means a claim in which the claimant alleges to a State medical board or any entity of the Federal Government which sanctions health care professionals that injury was caused by the provision of (or the failure to provide) health care services.

(5) MEDICAL MALPRACTICE ACTION.—The term ''medical malpractice action'' means a civil action (other than an action in which the plaintiff's sole allegation is an allegation of an intentional tort) brought in a State or Federal court against a health care provider or health care professional (regardless of the theory of liability on which the action is based) in which the plaintiff alleges a medical malpractice claim.

(6) MEDICAL MALPRACTICE CLAIM.—The term ''medical malpractice claim'' means a claim in which an individual alleges that injury was caused by the provision of (or the failure to provide) health care services.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(8) STATE.—The term ''State'' means the 50 States, the District of Columbia, Puerto Rico, the

Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(9) STATE MEDICAL BOARD.—The term ''State medical board'' means the entity (as determined by a State) with responsibility for the disciplining or licensing of health care professionals, and includes a subdivision of such an entity.

SEC. 104. EFFECTIVE DATE.

This Act shall take effect January 1, 1996.

TITLE II—CREATION OF INDEPENDENT AND EFFECTIVE STATE MEDICAL BOARDS

SEC. 201. REQUIREMENTS FOR STATE MEDICAL BOARDS.

(a) IN GENERAL.—Each State medical board shall meet the following requirements:

(1) COMPOSITION.—Not less than 51 percent of the members of a State medical board shall be public members with no current or previous significant business, professional, or pecuniary connection with a health care professional, medical education facility, or health care provider (other than as a patient or potential patient), in accordance with regulations of the Secretary. The number of members of the board shall be based on the State's physician population (as prescribed by the Secretary), except that in no

event may a board have fewer than 12 members. The Chairperson and Vice-Chairperson of the board shall be public members.

(2) TERM OF SERVICE.—Each member of the board shall serve a term of 3 years.

(3) CONSUMER ASSISTANCE UNIT.—

(A) IN GENERAL.—A special consumer assistance unit shall be created within the board to deal directly with complainants. The staff of the unit shall consist of consumer protection officers with medical or social work background.

(B) TOLL-FREE HOTLINE.—The consumer assistance unit shall operate a toll-free phone number through which the unit—

(i) shall advise the public of any hearing pending pursuant to formal charges filed against a health care professional, any summary suspension or other disciplinary action taken by the board against a health care professional, and the charges (excluding patient identifying information) against the professional on which such hearing or action is based (in a manner that does not disclose the identity of an individual patient);

(ii) accept consumer complaints about suspected health care professional misconduct (other than complaints over billing disputes); and

(iii) provide information to consumers on health care professionals, including the date the professional was first licensed, the registration status of the professional, the professional's hospital affiliations, and the names of other States in which the professional holds a license.

(C) POSTING REQUIREMENT.—The toll-free phone number described in subparagraph (B) shall be conspicuously posted by all health care providers and professionals in the State and shall be added to any printed materials distributed to the public by the board, together with a clear statement that the number is not to be used for filing complaints over billing disputes.

(4) DISCLOSURE OF INFORMATION TO NATIONAL PRACTITIONER DATA BANK.—Each State medical board shall report the information received under title III to the Secretary in accordance with

section 424 of the Health Care Quality Improvement Act of 1986.

(b) ADDITIONAL STATE REQUIREMENTS.—

(1) OVERSIGHT PANEL.—As prescribed by the Secretary, each State shall establish an oversight panel to independently assess and audit the State medical board process and hear appeals from complainants whose claims have been dismissed by State medical boards. The panel shall consist of 7 members appointed by the Governor and shall include not more than 2 physicians.

(2) FUNDING.—Each State shall ensure that the State medical boards are fully supported by the revenues generated from their activities, including fees, charges, and reimbursed costs. The health care professional licensing fees charged in the State may not be less than $500 annually. All revenues generated by this fee shall be used exclusively for State medical board activities.

SEC. 202. GUIDELINES FOR INVESTIGATIONS.

(a) MANDATORY INVESTIGATION OF CERTAIN REPORTS AND NATIONAL PRACTITIONER DATA BANK INFORMATION.—

(1) IN GENERAL.—Upon receipt of reports pursuant to section 302 of the Health Care Quality Im-

provement Act, and upon querying the National Practitioner Data Bank while performing its registration or reregistration functions, the State medical board shall investigate any evidence which appears to show that a health care professional is or may be medically incompetent, has engaged in unprofessional conduct, or is mentally or physically unable to engage safely in the performance of health care services.

(2) SPECIFIC GROUNDS FOR INVESTIGATIONS.—In addition to other information the reporting of which may constitute grounds for an investigation, receipt of reports disclosing the following information may be grounds for instituting an investigation with respect to a health care professional:

(A) Quality of care complaints or medical malpractice actions brought against the health care professional.

(B) Payments in settlement (or partial settlement) of, or in satisfaction of a judgment or arbitration award in, a medical malpractice action or claim.

(C) Professional liability insurance cancellations for reasons related to liability claims

or actions brought against the health care professional.

(D) Sanctions or disciplinary actions taken against the health care professional by another State or jurisdiction, a peer review body, a health care provider, or a medical or professional association or society.

(E) The failure of the professional to meet the requirements of section 302(b) (relating to annual reports to health care consumers).

(F) The filing of a report by a medical examiner under section 302(c) indicating that a death may have been the result of the professional's negligence or incompetence.

(G) The failure of the professional to meet the requirements of section 401(b) (relating to providing information to patients on rights established under title IV).

(b) INVESTIGATORY POWERS AND PROCEDURES.—

(1) IN GENERAL.—The State shall ensure that the State medical boards are given sufficient powers and follow certain procedural guidelines sufficient to ensure efficient and effective performance of their investigatory duties.

(2) STAFFING.—The Secretary shall establish guidelines for the duties of and qualifications for staff positions of State medical boards, addressing the appropriate separation of investigatory and adjudicatory functions. The Board's staff may include, but need not be limited to—

(A) an executive director,

(B) 1 or more hearing officers trained to conduct hearings (whose decision shall be reviewed, approved, modified, or disapproved by the Board), and

(C) 1 or more investigators trained in the investigation of medical and related health care practice.

(3) INVESTIGATIVE POWERS.—The State shall ensure that the State medical boards have at least the following investigative powers:

(A) The power to subpoena documents and individuals possessing information relevant to investigations:

(B) The power to swear in witnesses.

(C) The power to require professional competency examinations upon reasonable suspicion of incompetence. For purposes of this clause, a

single act of alleged negligence may serve as a reasonable suspicion of incompetence.

(D) To the extent necessary to complete an investigation, the power to conduct an unannounced on-site review of the licensee's entire practice, including but not limited to a comprehensive review of patient records of the licensee and such office records of the licensee as are relevant to the investigation, and a review of procedures and safeguards in the offices.

(E) The power to obtain the involuntary, temporary, and summary suspension of a licensee from practice who poses an imminent threat to patient health.

(F) The power to order immediate supervision of certain procedures by another licensee.

(G) The power to require the licensee to submit to 1 or more physical or mental examinations.

(H) The power to order drug testing of the licensee.

(4) PROCEDURAL GUIDELINES.—The State shall ensure that State medical boards adhere to the following procedures:

(A) All investigations of cases alleging patient harm and conducted pursuant to this section shall be completed within 90 days of the receipt of the report initiating the investigation, except that such deadline may be extended for reasonable cause.

(B) In conducting an investigation of a licensee, the State medical board shall, at no cost, query the National Practitioner Data Bank for all available information relating to the professional competence and conduct of the licensee.

SEC. 203. DISCIPLINARY HEARINGS.

(a) GROUNDS FOR HEARING.—If following an investigation, the State medical board finds there is probable cause to believe that a health care professional has provided substandard treatment, has engaged in unprofessional conduct, is medically incompetent or is mentally or physically unable to engage safely in the performance of health care services, a disciplinary hearing shall be conducted in accordance with procedures established by State law (consistent with the requirements of subsection (b)).

(b) REQUIREMENTS FOR HEARING.—

(1) TIMING.—A disciplinary hearing with respect to a health care professional shall be held

promptly after the conclusion of the State medical board's investigation of the health care professional, and a decision shall be rendered not later than 60 days following completion of the hearing (except that such deadline may be extended for reasonable cause).

(2) POWERS OF BOARD.—In conducting a disciplinary hearing with respect to a health care professional, the State medical board may subpoena documents and individuals possessing relevant information and may swear in witnesses.

(3) EVIDENTIARY STANDARD.—The decision under a disciplinary hearing shall be based on the preponderance of the evidence.

(4) DISSEMINATION OF INFORMATION.—The State medical board shall make summaries of ongoing disciplinary proceedings available to the public, except that such summaries shall not include any information that may disclose the identity of, or identifying information on, an individual patient.

SEC. 204. DISCIPLINARY ACTIONS.

(a) PENALTIES DESCRIBED.—The penalties that may be imposed on a health care professional by a State medical board are as follows:

(1) Revocation or suspension of a license.

(2) Restriction or limitation of the extent, scope, or type of practice, if such limitation is conducted under the presence and guidance of a supervising licensee.

(3) Imposition of an administrative fine of at least $1,000 for each count or separate offense.

(4) Issuance of a warning or reprimand.

(5) Probation with or without conditions (such as submission to treatment, attendance at continuing education courses, reexamination, or practice only under the presence and guidance of a supervising licensee).

(6) Assessment of the reasonable costs of investigation, hearing, and review, and the costs of probation supervision.

(b) SUMMARY LICENSE SUSPENSION.—

(1) IN GENERAL.—The State medical board may suspend the license of a health care professional without the opportunity for a prior hearing if the board finds that at least one of the following conditions exists:

(A) The individual's continued practice creates a clear and present danger to public health.

(B) The individual has been found or has pleaded guilty to a felony charge within the State or in another jurisdiction relating to the individual's professional activities.

(C) The individual's license has been suspended or revoked in another jurisdiction, without regard to whether such suspension or revocation has occurred or is pending.

(2) TIMING FOR FORMAL HEARING.—After the summary suspension of a license pursuant to paragraph (1), the State medical board shall hold a formal hearing as soon as practicable following the summary suspension (but in no event later than 90 days after such summary suspension).

(c) NOTIFICATION OF PATIENTS.—Any health care professional subject to probation or a restriction or limitation on the scope of practice shall notify patients of such probation, restriction, or limitation.

(d) TERMINATION OF SANCTION.—

(1) NO STAY OF SUSPENSION OR REVOCATION DURING APPEAL.—Under no circumstances may a board stay the suspension or revocation of a license pending an appeal, and the licensee may not resume practice unless and until the penalty is overturned upon such appeal.

(2) MINIMUM PERIOD OF REVOCATION.—After revocation of a license by a State medical board, a health care professional may not petition for reinstatement for at least a 3-year period.

(3) IMPOSITION OF CONDITIONS.—The State medical board may condition the restoration of a suspended or revoked license or the removal of limitations on a license upon the health care professional obtaining minimum results on one or more physical, mental, or professional competency examinations.

SEC. 205. DISCLOSURE OF DISCIPLINARY ACTIONS.

(a) IN GENERAL.—

(1) PUBLICATION OF NEWSLETTER.—State medical boards shall report regularly (but not less often than monthly) in a published newsletter all final disciplinary actions taken and formal charges filed after State medical board investigation of a complaint, including the names of the professionals involved, a description of the acts or omissions subject to discipline or listed as the formal charge and the nature of the actions taken.

(2) ANNUAL REPORTS.—State medical boards shall publish annual reports compiling statistics on disciplinary actions taken during a year (in accordance with criteria established by the Secretary).

(b) DISSEMINATION OF DISCIPLINARY ACTION REPORTS.—The reports published under subsection (a) shall be widely disseminated to the public (free of charge) by advertising their availability through the news media, and shall be forwarded to—

(1) health care providers in the State;

(2) the Secretary;

(3) the Medicare peer review organization serving geographic areas in the State under title XVIII of the Social Security Act;

(4) entities offering medical malpractice insurance within the State; and

(5) Federal depository libraries.

SEC. 206. FEDERAL ASSUMPTION OF RESPONSIBILITIES.

(a) DETERMINATION OF STATE COMPLIANCE.—Not later than October 1 of each year (beginning with 1995), the Secretary shall determine whether a State's medical board meets the requirements of this title and title III for the following calendar year.

(b) FEDERAL ASSUMPTION OF RESPONSIBILITY.—If the Secretary determines that a State medical board does not meet the requirements of this title and title III for a year—

(1) the Secretary shall carry out all functions of the board in the State during the year; and

(2) the State shall reimburse the Secretary (at such time and in such manner as the Secretary may require) for the costs incurred by the Secretary during the year as a result of the application of paragraph (1).

TITLE III—REQUIREMENTS FOR HEALTH CARE PROFESSIONALS AND PROVIDERS

SEC. 301. RENEWAL OF LICENSE REQUIRED EVERY 2 YEARS.

(a) IN GENERAL.—Every 2 years, each health care professional and health care provider shall demonstrate to the satisfaction of the State medical board the professional's continuing qualification for medical licensing.

(b) SIGNATURE REQUIRED.—An application for reregistration of a license submitted under this section shall be signed by the applicant and notarized, and shall contain a statement of the applicant affirming (under penalty of perjury) that the information provided is true to the best of the applicant's knowledge.

SEC. 302. REPORTING REQUIREMENTS.

(a) RENEWAL OF LICENSE.—

(1) IN GENERAL.—As a condition of the renewal of a license under section 301, at the time of reregistration a health care professional or health

care provider shall report (on a form prescribed and promulgated by the Secretary) the following information:

(A) Any pending investigation or preliminary or final action taken against the licensee by—

(i) any jurisdiction or authority (whether in the United States or a foreign nation) which licenses or authorizes the practice of medicine;

(ii) any peer review body;

(iii) any health care provider;

(iv) any professional medical society or association;

(v) any law enforcement agency;

(vi) any court; or

(vii) any governmental agency,

for acts or conduct which may constitute grounds for disciplinary action described in section 204.

(B) Any pending medical malpractice claim which has been filed against the licensee.

(C) Any adverse judgment, settlement, or award against the licensee arising from a medical malpractice claim.

(D) The licensee's voluntary surrender of a license or authorization to practice medicine in any jurisdiction (including military, public health, and foreign) or voluntary limitation on the scope of services which the licensee would otherwise be authorized to provide under the license.

(E) Any denial to the licensee of a license or authorization to practice medicine by any jurisdiction (including military, public health, and foreign).

(F) The licensee's removal from the medical staff of any health care provider or limitation of staff privileges at such a provider (whether voluntary or involuntary), if such removal or limitation occurred while the licensee was under formal or informal investigation by the provider or a committee thereof for any reason related to possible medical incompetence, unprofessional conduct, or mental or physical inability to safely perform health care services.

(G) The licensee's resignation or withdrawal from a national, State, or county medical society, association, or organization (whether voluntary or involuntary) if that action oc-

curred while the licensee was under formal or informal investigation or review by that body for any reason related to possible medical incompetence, unprofessional conduct, or mental or physical inability to safely perform health care services.

(H) Whether the licensee has been treated for an alcohol or chemical substance problem during the 5-year period preceding the submission of the report.

(I) Any denial or restriction of the licensee's privileges to prescribe controlled substances.

(J) Whether the licensee has had any physical injury or disease or mental disability within the reregistration period which could reasonably be expected to affect the licensee's ability to safely perform health care services.

(K) The licensee's completion of continuing medical education or other forms of professional maintenance or evaluation, including specialty board certification or recertification, within the reregistration period, including participation in malpractice prevention programs required by a State medical board.

(L) Any loss or restriction of medical malpractice insurance coverage in any jurisdiction (including military, public health and foreign).

(M) Any name change or change of home or professional address.

(N) In the case of a health care professional, the information contained in the professional's annual report made available to consumers under subsection (b)(2).

(2) REVIEW OF REPORTS SUBMITTED.—

(A) IN GENERAL.—The State medical board shall review the information reported by a licensee under paragraph (1) to determine whether reregistration of a medical license to the licensee is appropriate and whether an investigation or disciplinary action should be initiated against the licensee.

(B) FALSE OR INCOMPLETE REPORTING.—A licensee who knowingly and willfully submits false or incomplete information on an application for license reregistration shall be subject to disciplinary action, including civil money penalties.

(b) ANNUAL REPORTS TO CONSUMERS.—

(1) HEALTH CARE PROVIDERS.—

(A) IN GENERAL.—Each health care provider shall make an annual report (in such form and manner as the Secretary prescribes) available free of charge to all health care consumers in the provider's service area.

(B) CONTENTS OF REPORT.—The annual report referred to in subparagraph (A) shall include—

(i) a list of all health services which the provider is licensed to offer;

(ii) a list of all routine preoperative and other medical tests frequently performed by the provider, together with the cost of such tests;

(iii) the number and types of quality of care complaints and medical malpractice actions claims decided or settled against the provider for the year, including the identity of all health care professionals named in the complaints and claims;

(iv) a list of the names and addresses of the members of the provider's board of trustees (if any), the provider's chief administrator, chief medical officer, and chief nursing administrator;

(v) the provider's accreditation status and any contingencies on accreditation, Medicare certification, or licensure and a description of all plans and current efforts to correct deficiencies resulting in any such contingencies; and

(vi) such other information as the Secretary may require.

(2) HEALTH CARE PROFESSIONALS.—

(A) IN GENERAL.—Each health care professional shall make an annual report (in such form and manner as the Secretary prescribes) available free of charge to all members of the public health care consumers in the professional's service area.

(B) CONTENTS OF REPORT.—The report referred to in subparagraph (A) shall include—

(i) information regarding the professional's education, experience, qualifications, certification by a board recognized by the Board of American Medical Specialties, and license to provide health care services, including a list of the States in which such professional is licensed and any limitations on such professional's licenses;

(ii) any disciplinary actions relating to the scope of the professional's practice taken against the professional by any health care provider, State medical board, the Federal Government, or medical accreditation or certification organization;

(iii) any quality of care complaints or medical malpractice claims decided or settled against the professional;

(iv) a disclosure of any ownership interest the professional may have in any health care provider, laboratory, or supplier of health care items; and

(v) such other information as the Secretary may require.

(3) RETROACTIVE REPORTING.—The initial annual report made under this subsection by a health care professional or provider shall include information for the 3 years prior to date the report is made.

(c) SPECIAL REQUIREMENTS FOR MEDICAL EXAMINERS.—

(1) INITIAL REPORT ON DEATHS RESULTING FROM PROVIDER NEGLIGENCE.—Each medical examiner shall file a report with the State medical board upon receiving information (based on findings

that were reached by or documented and approved by a board-certified or board-eligible pathologist) indicating that a death may be the result of a health care professional's or provider's negligence or incompetence, and shall include in the report the name of the decedent, date and place of death, attending physician, and all other relevant information available.

(2) AUTOPSY.—Not later than 90 days after filing the report described in paragraph (1), a medical examiner shall file with the State medical board copies of the medical examiner's report, autopsy protocol, and all other relevant information available.

(d) SANCTIONS FOR FAILURE TO REPORT.—Any health care provider or professional who knowingly and willfully fails to comply with the reporting requirements of this section shall be subject, in addition to other penalties that may be prescribed by law, to a civil monetary penalty of not more than $10,000 for each such failure.

SEC. 303. REEXAMINATION REQUIRED AFTER 6 YEARS.

(a) IN GENERAL.—Each State medical board shall require a health care professional licensed by the board to be reexamined every 6 years as a condition of licensure.

(b) CLINICAL PERFORMANCE EVALUATIONS FOR CERTAIN LICENSEES.—A State medical board may re-

quire a licensee to undergo a clinical performance evaluation as part of the licensee's reexamination under this section if—

(1) the licensee practices exclusively in a private office setting; or

(2) a medical malpractice claim has been filed against the licensee since the licensee's most recent reexamination.

(c) REVIEW OF PATIENT MEDICAL RECORDS.—In the case of a licensee described in subsection (b)(1), the State medical board may conduct a review of the medical records of the licensee's patients as part of the reexamination under this section.

SEC. 304. AUDITS.

(a) PERFORMANCE AUDITS.—On a regular basis, a State medical board shall conduct audits of the office-based practices of licensees to assess performance and improve practices. In furtherance of this audit function, State medical boards shall be granted the authority to subpoena office-based and provider-based patient records.

(b) PHARMACY AUDITS.—On an annual basis, State medical boards shall conduct audits of a randomly selected sample of pharmacy records to detect illegal drug diversion and other misuse or overprescribing of controlled substances.

SEC. 305. MANDATORY MEDICAL MALPRACTICE INSURANCE.

A State medical board may not issue or renew the license of a health care professional or provider unless the professional or provider certifies that the professional or provider is covered under malpractice insurance in an amount determined by the Secretary.

SEC. 306. STUDY OF MEDICAL NEGLIGENCE.

(a) STUDY.—The Secretary shall conduct (either directly or through contract) a national interdisciplinary study modeled on the Harvard Medical Practice Study to evaluate—

(1) the incidence of injuries regulating from medical interventions and the percentage of such injuries that resulted from the negligence or fault of a health care professional or health care provider;

(2) appropriate measures of the costs of medical expenses, lost wages, and lost household production to individuals who suffer medical injuries and their families, and the compensation provided for such losses under the current medical injury compensation system; and

(3) appropriate methods to prevent the occurrence of medical negligence.

(b) ACCESS TO RECORDS.—The Secretary shall have the power to examine the medical records of patients of

a health care provider or health care professional (in a manner that does not disclose the identity of, or identifying information on, any individual patient) to the extent necessary to conduct the study under subsection (a).

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a).

TITLE IV—PUBLIC ACCESS TO PRACTITIONER DATA BANK

SEC. 401. PROVIDING PUBLIC ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Section 427(a) of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137(a)) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(2) by inserting after subsection (a) the following new subsection:

''(b) AVAILABILITY OF INFORMATION TO THE PUBLIC.—

''(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this subsection and every 6 months thereafter, the Secretary shall publish and make available to the public the following information reported under this part:

''(A) Information reported under section 421, except the following:

''(i) The social security number of the physician or practitioner.

''(ii) Information disclosing the identity of the patient involved in such incident.

''(B) Information reported under section 422(a).

''(C) Information reported under section 423 (a) and (b).

''(2) DISSEMINATION.—The Secretary shall—

''(A) disseminate the information described in paragraph (1) to public libraries without charge; and

''(B) establish a 24-hour toll-free hotline through which individuals may obtain such information.''.

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