

MINUTES OF THE SENATE HEALTH CARE STRATEGIES COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 P.M. on March 24, 2008 in Room 136-N of the Capitol.

Committee members absent: Senator Vicki Schmidt - excused
Senator David Haley - excused

Committee staff present: Ms. Emalene Correll, Kansas Legislative Research Department
Mrs. Terri Weber, Kansas Legislative Research Department
Ms. Renae Jefferies, Revisor of Statutes Office
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee: Ms. Callie Denton-Hartle, Kansas Association for Justice

Others in attendance: Please see attached Guest List

Handout

Upon calling the meeting to order, Chairperson Wagle asked the Committee to look at the information provided by Mr. Larry Buening, Executive Director, Kansas Board of Healing Arts regarding Senator Palmer's question asked of him at the end of the March 18, 2008 meeting. The Chair asked Senator Palmer to restate her question. Senator Palmer asked Mr. Buening if he could provide recommendations he might have regarding their staff, ex. How they might be more efficient? The Chair said there would be time to read the response after the Committee meeting and they would work the bill tomorrow (March 25, 2008.) A copy of Mr. Buening's handout is (Attachment1) attached hereto and incorporated into the Minutes by reference.

Continued hearing on HB2620 - an act concerning the State Board of Healing Arts, relating to non-disciplinary resolution; fingerprinting and criminal history records checks.

The Chair then said when they left Committee last week they did not have time to hear neutral testimony from Ms. Callie Denton-Hartle, Kansas Association for Justice and called her to the podium regarding **HB2620**. Ms. Hartle stated that the bill is a step in the right direction towards enabling the KBHA to fulfill its mission of protecting the public, but did ask that the Committee:

- consider strengthening the bill to address transparency of information about health care providers as an additional consumer protection measure;
- amend the bill to give KBHA the resources and direction to increase Kansans' access to information about both pending investigations of licensees as well as general information on all licensees. She went on to say that currently, information relating to pending investigations of health care providers is confidential and not subject to discovery and that the bill makes no changes to the current law in this respect.

Ms. Hartle offered the rules of the Kansas Supreme Court dealing with the discipline of attorneys which she felt, serves as a good model (Supreme Court Rule 222) and explaining that KsAJ believes the Supreme Court rule for discipline of attorneys should be considered as a model for increasing the transparency of the disciplinary process for KBHA licensees. She also offered a Colorado law, requiring all physician licensees to disclose specific information about their practices, including specialties, business interests, public disciplinary actions, and final criminal convictions and malpractice actions regarding accessing general information about KBHA's licensees, as a model that the Committee might consider. She went on to explain the Michael Skolnik Medical Transparency Act listing the information that is disclosed and made public to the public.

Ms. Hartle concluded by stating that since much of the information required under the Colorado law is not made available to the public in Kansas, such as regulatory, civil, or criminal actions in other states against a Kansas-licensed provider, KsAJ believes that the broader scope of information disclosed under Colorado

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law, compiled centrally and made available on-line, will make it easier for Kansas health care consumers to inform themselves about their physicians. A copy of her testimony and two pieces of legislation as attachments, including an article from the Colorado Department of Regulatory Agencies implementing "Physician Profile Requirements" and a copy of Colorado's HB07-1331, the Michael Skolnik Medical Transparency Act, are (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

The Chair asked if there were questions from the Committee. Senators Barnett and Wagle's questions and comments included:

- in your testimony you point out that the law in Colorado requires that studies show no significant correlation between malpractice history and a physician's competence. Is better data available that provides data on quality of care?

- is a transparency necessary in the case of a malpractice lawsuit, especially when you enter into an agreed upon settlement just to close the case? Do you think a transparency website would be complete without reporting malpractice?

The Chair then called upon Mr. Jerry Slaughter, Executive Director, Kansas Medical Society, and asked him on hearing this testimony does he have any or comments about the Colorado Act? He stated that first of all they are not opposed to transparency, but specifically about the Colorado Act, he felt it odd because it was determined that there was no negligence and they passed this law. Interestingly, he said, it would not have provided any answers that were not already there because there was no medical malpractice. He stated that the area most problematic to them is in the area of judgments and settlements.

A discussion between Senator Wagle, Mr. Slaughter, Mr. Buening, and Ms. Hartle ensued regarding KBHA's website. The "alpha" list offers easier accessibility, information on their website, the Dr. Bernard Megaffin case, ownership interest, accessing the national database, and all disciplinary information. The only information not available on the website are malpractice cases. Mr. Slaughter ended by again saying, they have no problem with transparency, but what effect it will have on the ability for physicians and their insurers to settle claims that probably ought to be settled rather than go to court.

The next discussion between Senators Wagle, Brungardt, and Journey, Mr. Slaughter, Ms. Hartle, and Mr. Buening, came from Senator Brungardt's question to Mr. Slaughter and Ms. Hartle asking if there were differences or distinctions in their amendments?

- if it becomes a disciplinary matter it should become public, if it does not rise to a level of egregious and can be handled in a non-disciplinary manner, then that would not be made public?

- with the attorneys, once the disciplinary administrator says there is probable cause, it goes to a hearing committee and the hearing committee process is public;

- feels the KBHA could act in a much more expeditious and accurate fashion if they could look into things in a less formal way;

- the KBHA disciplinary process is governed by the Kansas Administrative Procedure Act. The investigations and information they have and have gathered during the course of the disciplinary process is by two statutes (6528-39a & 6528-98a). However, once their disciplinary panel has said that there is probable cause to proceed and directs their staff to proceed, they file a petition, much like is filed in a court to revoke, suspend, or limit or otherwise take disciplinary action against the individual and from that point forward, that petition and everything is part of the hearing and is a matter of public record on their website.

- 22 other states participate in sharing of data and if your doctor has a license in any of these states, you can get the same verification as you can get from KBHA and for the rest of the states not participating you have the individual search site of each state right on the one website

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- questions for Mr. Buening:

- regarding history of the Dr. Megaffin case, did he have his residency long before he was convicted of being a sex predator and then went into a second residency in Kansas after his conviction in another state? (Dr. Megaffin was monitored for five years in which there were no problems identified, the monitoring was discontinued, the doctor moved to Wichita, and the problem occurred.)
- was he present during the Senate Judiciary Committee hearing?
- would more members on the Board of KBHA help smooth out the process?
- when you look at the proposal from Colorado, the addition of some factors for public inspection seems reasonable, what are your feelings on that recommendation?
- do you get information when medical insurance is cancelled? Did Dr. Schneider lose his medical liability insurance?
- do you get information when someone's DEA license is suspended, terminated or put on probation? All of these could be required to be self-reported, to maintain their licenses, even if we cannot get it from other sources.

As there was no further questions or discussion, the Chair closed the hearing on **HB2620** and announced intent to work it tomorrow at 1:30 p.m.

Action of SCR1618 - a concurrent resolution memorializing Congress to allow states greater flexibility in the use of federal health care funding

The Chair then asked the Committee to turn their attention to **SCR1618**.

Senator Haley made a motion to pass favorably **SCR 1618** It was seconded by Senator Gilstrap and the motion carried.

Adjournment

As there was no further business, the meeting was adjourned. The time was 2:30 p.m.

The next meeting is scheduled for March 25, 2008.



KATHLEEN SEBELIUS
GOVERNOR

STATE BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Senate Health Care Strategies Committee

FROM: Lawrence T. Buening, Jr.
Executive Director

DATE: March 24, 2008

RE: Additional Testimony on H.B. No. 2620

At the conclusion of your meeting last Tuesday, Senator Palmer requested information on the utilization of resources to meet recommendations made by the Legislative Post Audit Division and decisions made by the Board.

Section 88 of 2007 H.B. No. 2367 established 39.0 FTE positions for the Board for both FY08 and FY09. This was an increase from 32.0 FTE positions that had been authorized for FY2007. The Board's FTE limitation was 29.0 for FY2000. For FY2006, the FTE limitation was increased to 32.0 by adding an Administrative Assistant to assist in the licensing and renewal of approximately 2500 newly-credentialed radiologic technologists, another Special Investigator II, and a Legal Assistant.

By way of background, the Board is a biennial budget agency. In the budget request submitted September 15, 2006, the Board requested enhancements for FY08 and FY09 that would include the addition of seven new FTE positions. Two of the FTE positions were requested to continue two unclassified non-FTE positions---the temporary, full-time Attorney approved by the Governor June 21, 2004 and the Administrative Assistant position authorized by the 2006 Omnibus Appropriations Bill (Senate Substitute for H.B. No. 2968, Section 5(a); L. 2006, Chapter 216, Section 5(a)). The other five new FTE positions were: Public Service Administrator I under the direction of Disciplinary Counsel, Legal Assistant for Litigation Counsel, Assistant General Counsel, Administrative Assistant under the Licensing Administrator, and Senior Administrative Assistant for the Executive Assistant.

As a result of the October 2006 Legislative Post Audit Report, the Board's budget request submitted September 13, 2007, deleted the requests for the Administrative Assistant position under the Licensing Administrator and Senior Administrative Assistant for the

Senate Health Care Strategies Comm.
Date: March 24, 2008
Attachment 1

BOARD MEMBERS: BETTY McBRIDE, Public Member, PRESIDENT, Columbus - VINTON K. ARNETT, D.C., VICE PRESIDENT, Hays - MICHAEL J. BEEZLEY, M.D., Lenexa
MYRA J. CHRISTOPHER, Public Member, Fairway - RAY N. CONLEY, D.C., Overland Park - GARY L. COUNSELMAN, D.C., Topeka - FRANK K. GALBRAITH, D.P.M., Wichita
MERLE J. "BOO" HODGES, M.D., Salina - SUE ICE, Public Member, Newton - M. MYRON LEINWETTER, D.O., Rossville - MARK A. McCUNE, M.D., Overland Park - CAROLINA M. SORIA, D.O., Wichita
ROGER D. WARREN, M.D., Hanover - NANCY J. WELSH, M.D., Topeka - RONALD N. WHITMER, D.O., Ellsworth

235 SW TOPEKA BLVD., TOPEKA, KS 66603
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Executive Assistant. Instead, the Board asked that these be a Special Investigator II and a Special Investigator I. The organization chart included with the Board's September 13, 2007 budget submission is attached. With the exception of the Investigator I position authorized by the 2007 Legislature, the chart accurately reflects the current staff positions.

The Board has continued to utilize the new full-time FTE attorney position in the same capacity as this person has been utilized since June 21, 2004, when the Governor authorized the position on a temporary, full-time basis. This person has taken over responsibility for new applications submitted by those individuals who have committed past conduct that may be grounds for denial of their application. This person also serves as the prosecuting attorney of disciplinary matters involving licensees who are audited and cannot provide documentation of having met the continuing education and insurance requirements and those involving continuation of practice after a license is canceled for failure to renew.

The Administrative Assistant position originally authorized for only one year by the 2006 Omnibus Appropriations Bill has continued to coordinate the inspections of offices at which surgery is performed. This position also is being utilized to provide secretarial support to the Litigation, Disciplinary and Associate Counsels as well as to provide support on special projects to the Special Investigators. These projects often include inputting prescription information obtained from pharmacies into a standardized and searchable database. Other duties include preparing agendas and materials for Review Committee and Disciplinary Panel meetings and taking and maintaining the minutes of these meetings, and preparing closure letters to complainants and licensees.

The Assistant General Counsel is providing much-needed assistance to the Board's General Counsel. This individual assists in providing legal advice and information to the Board, staff and other customers. The Assistant General Counsel attends and provides legal assistance to all advisory councils to the Board. This position also provides assistance to both the General Counsel and Executive Director in the preparation of rules and regulations and Board policies. Further, the Assistant General Counsel assists the General Counsel in matters involving the unlicensed or unauthorized practice of any of the professions regulated by the Board. The Assistant General Counsel has also been instrumental in the development of a formal list of graduated sanctions. The Board's committee studying this issue has met on October 10, 2007, and January 22, 2008, and is scheduled to meet again on April 4, 2008.

The duties of the Public Service Administrator I primarily involve reviewing and screening complaints so that the agency standard of reviewing complaints within two weeks is met. This position has also undertaken the supervisory responsibilities for three individuals previously supervised by the Disciplinary Counsel and the new Administrative Assistant position. This has relieved the Disciplinary Counsel of these responsibilities so that she can concentrate primarily on the investigations and supervision of the Special Investigators. The Public Service Administrator I also reviews

investigations for completeness prior to forwarding them to the appropriate review committee or advisory council for recommendation.

The Legal Assistant is primarily under the supervision of the Litigation Counsel, but also provides assistance to the two Associate Counsels. These three attorneys are responsible for prosecuting disciplinary actions authorized by the Board's Disciplinary Panel. These duties include: assisting at hearings and depositions; preparing subpoenas for witnesses at hearings; interviewing and preparing witnesses for hearings; assisting with medical and legal research; and drafting of documents and discovery requests.

The new Special Investigator II position was filled on February 24, 2008. This position will provide assistance to the other six Special Investigator II positions in the conduct of investigations of the 13 health care professions regulated by the Board. As you are aware, the Legislative Division of Post Audit issued a report in October 2006. That report recommended that the Board investigate allegations of substandard patient care when they are received, rather than waiting for a pattern of such complaints to develop. As a result, the Board adopted Policy Statement No. 07-02 in October 2007. This was attached to my testimony last week. This Policy Statement directs that all complaints received and reports of adverse findings submitted by medical care facilities involving standard of care be investigated, whether or not prior complaints have been received. As a result, additional investigative cases are being opened. This individual will be utilized to conduct these additional investigations.

At its meeting February 22, 2008, the Board discussed the best utilization of the remaining position authorized by the 2007 Legislature. This position has been initially classified as a Special Investigator I. The Board reviewed the current organizational structure and needs and discussed the best utilization of this position. The Board decided to hire a clinical reviewer to assist both the investigative staff and the litigation staff in the development of cases. The position description and classification are currently being developed and we expect to advertise the position by April 1, 2008.

In summary, the status of each of the seven new FTE positions is as follows:

Assistant General Counsel---hired June 17, 2007

Associate Counsel---hired June 17, 2007

Administrative Assistant to Disciplinary Counsel---hired June 17, 2007

Legal Assistant to Litigation Counsel---hired July 30, 2007

Public Service Administrator I for Disciplinary Counsel---hired December 2, 2007

Special Investigator II---hired February 24, 2008

Special Investigator I---position description and classification developed by April 1, 2008

Several factors have contributed to not all of the new positions being filled for all of FY2008. In June 2005, the Board's fee fund was swept in the amount of \$750,000. This resulted in cash flow problems in April and May 2006 and 2007, due to the fact that approximately one-half of the Board's fee income is derived from M.D. renewals which occur the latter part of May and during June and July. Secondly, the increased income

necessary to support the salaries for five of the seven new positions had not been included in the September 2006 budget request. Once the Legislature enacted 2007 H.B. No. 2368, the Board proceeded to take steps to adopt fee increases in sufficient amount to offset the additional salary expenses. Adoption of permanent amendments to rules and regulations takes approximately 120 days. Further, the greatest impact of these fee increases will not be seen until M.D.s renew in May and June, 2008. Thirdly, the Board has continued to study and discuss the best utilization of the new positions to meet ongoing Board operations and the issues raised in the Post Audit Report. It was only when the Board adopted Policy 07-02 in October that it became obvious it would be necessary to have at least one additional Special Investigator to conduct the additional investigations. Finally, there is the practical consideration of the impact of hiring five new FTE positions. Space and office equipment are required. Also, the orientation and training of new personnel require substantial supervisory time in order to successfully integrate the new personnel into the Board staff and operations.

The targeted impact that is expected with the policies that have been implemented since the issuance of the Post Audit Report and the hiring of the new FTE positions includes:

1. With the addition of the Public Service Administrator I, review of all complaints received within 10 days of receipt, with immediate review of any complaints that allege a situation that may constitute an imminent danger to the public health and welfare;
2. With the addition of the Public Service Administrator I and the adoption of new policies by the Board above described, all complaints that allege potential violations of the pertinent practice act will be assigned for investigation;
3. With the addition of the new Special Investigator II position, investigations will be concluded within the time standards established by the Board;
4. With the adoption of Board Policy No. 07-02 and the addition of the new Special Investigator II position, all standard of care complaints will be assigned for investigation upon receipt;
5. With the addition of the Administrative Assistant position, all cases authorized for closure will be closed within a reasonable time frame;
6. With the addition of the Legal Assistant and continuation of the Associate Counsel position, matters authorized for disciplinary action will proceed more expeditiously to hearing and final determination.
7. With the addition of the Assistant General Counsel, the Board is developing a policy on graduated sanctions to ensure that enforcement actions or discipline ordered by the Board is consistent and equitable.

In response to the testimony provided by the Kansas Medical Society last week, I have attached balloon amendments to Sections 2 and 3. The proposed changes to Section 3 are identical to that proposed by KMS. The proposed amendment to Section 2 would allow the Board to receive nonconviction information from the KBI and FBI, but would delete juvenile adjudications and expungements from the information the Board would receive. Currently, the Board asks each applicant whether they have been arrested. Allowing the Board to receive nonconviction information would simply be a means to check the accuracy of the information provided by the applicant. Further, deletion of

“nonconvictions” would result in a conflict with K.S.A. 65-2839a(c) which already allows the Board to receive from the KBI “such criminal history record information (including arrest and nonconviction data)...”. However, K.S.A. 65-2839a does not authorize fingerprints and FBI background check. Therefore, we have sought this authority through the introduction of S.B. No. 81, the language of which was inserted as Section 2 of H.B. No. 2620 by the House. If the Board receives authority to receive criminal history information from the FBI, including nonconvictions, the Board will be required to enter into an agreement acknowledging the confidentiality of the information and restricting redisclosure.

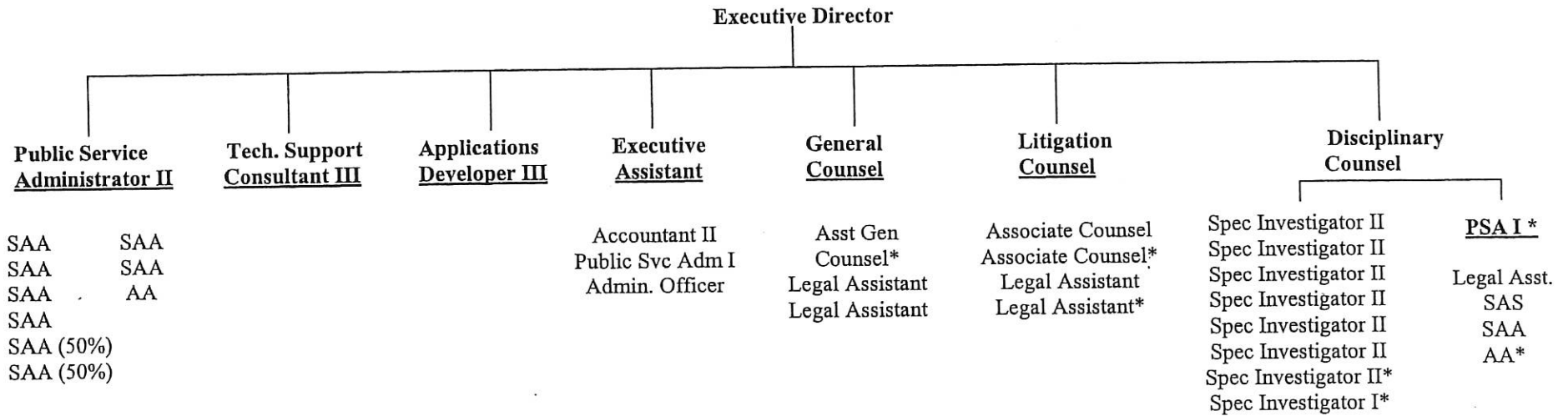
Thank you for the opportunity to provide this additional information. I would be happy to respond to any questions.

KANSAS STATE BOARD OF HEALING ARTS
 Organization of Positions

Attachment #1

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1

15-MEMBER BOARD



*Authorized by 2007 H.B. 2367, Section 73 & 88, L. 2007, Ch. 167, Sections 73 & 88.

01

Sec. 2. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the state board of healing arts may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of healing arts is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of healing arts may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the state board of healing arts in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult and juvenile convictions, adjudications, expungements, and nonconvictions to the state board of healing arts.

Deleted: and
juvenile

Deleted: , expungements

(c) The state board of healing arts may fix and collect a fee as may be required by the board in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the healing arts fee fund.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

[Sec. 3. (a) The board shall adopt, through rules and regulations, a formal list of graduated sanctions for violations of the Kansas healing arts act which shall specify the number and severity of violations may be used by the board as a reference guide for the imposition of each level of sanction.

Deleted: , through rules and regulations,

Deleted: shall specify the number and severity of violations

[(b) This section shall be part of and supplemental to the Kansas healing arts act.]

Sec. 2-3. [4.] This act shall take effect and be in force from and after its publication in the statute book.

Inserted

Your rights. Our mission.

To: Senator Susan Wagle, Chairperson
Members of the Senate Health Care Strategies Committee

From: Callie Denton Hartle

Date: March 18, 2008

Re: HB 2620 State Board of Healing Arts; Non-disciplinary
Resolutions--**NEUTRAL**

The Kansas Association for Justice is a statewide nonprofit organization of attorneys who serve Kansans seeking justice. Our association's position on HB 2620 as amended by the House is neutral.

HB 2620 as amended by the House is a step in the right direction towards enabling the Kansas Board of Healing Arts (BOHA) to fulfill its mission of protecting the public. We ask that the Committee consider strengthening HB 2620 to address transparency of information about health care providers as an additional consumer protection measure.

As we move towards consumer-driven health care, all elements of the health care equation must reflect open access for consumers to information that affects their decision-making. To respond to the public's need and demand for information on health care providers, KsAJ suggests the Committee amend HB 2620 to give BOHA the resources and direction to increase Kansans' access to information about both pending investigations of licensees as well as general information on all licensees.

Currently, information relating to pending investigations of health care providers is confidential and not subject to discovery. HB 2620 makes no changes to the current law in this respect.

Cloaking the disciplinary process in complete secrecy does not protect the public. There must be a balance struck between the public's need for

Senate Health Care Strategies
Committee
Date March 24, 2008
Attachment 2

information and affording licensees a fair review. The rules of the Kansas Supreme Court dealing with the discipline of attorneys serve as a good model (Supreme Court Rule 222).

Under Supreme Court rules, all proceedings, reports and records of disciplinary investigations and hearings of attorneys are private and not accessible to the public with two critical exceptions. First, after an initial investigation proceeds to a recommendation by the Disciplinary Administrator that formal charges should be pursued before a hearing panel, subsequent proceedings, and the record, are public. Disciplinary action, even censures and admonitions, are published in the Kansas Reports.

Second, as a fail safe measure, the Disciplinary Administrator must divulge information about pending investigations of attorneys upon order of the Supreme Court or subpoena or order of any other court of competent jurisdiction.

We believe the Supreme Court rule for discipline of attorneys should be considered as a model for increasing the transparency of the disciplinary process for BOHA licensees. Such a rule protects licensees during the initial investigation phase by keeping the investigation confidential, unless the court orders that such information be made public. However, the rule appropriately balances the public's interest in knowing about formal investigations, only after a finding of "probable cause to believe there has been a violation."

KsAJ also believes that Kansans desire and would benefit from access to general information about BOHA licensees. A law passed by our sister state, Colorado, is a model that the Committee should consider. It requires all physician licensees to disclose specific information about their practices, including specialties, business interests, public disciplinary actions, and final criminal convictions and malpractice actions.

The Michael Skolnik Medical Transparency Act requires that the following information be disclosed and made available to the public:

- Name
- Aliases
- Current Address
- Telephone number
- Information regarding all medical licenses ever held
- Current Board Certifications
- Practice Specialty (ies)

- Affiliations with hospitals and health care facilities
- Current ownership interests in businesses
- Current employment **contracts**
- **Public** disciplinary actions against a medical license
- Agreements and Stipulations to temporarily cease medical practice
- Involuntary hospital or health care facility privileging actions
- Involuntary surrender of a DEA registration
- **Final** criminal convictions or plea arrangements for felonies and crimes of moral turpitude
- **Final** judgments, settlements and arbitration awards for medical malpractice claims, and not the mere filing of a suit
- Refusal by an insurance carrier to issue medical liability insurance

Information disclosed under the act will be made available to the public via a website. The Colorado law also requires posting of public education statements indicating that studies show no significant correlation between malpractice history and a physician's competence.

The Colorado bill was supported by both the Colorado Medical Society and the Colorado Board of Medical Examiners as a reasonable consumer protection mechanism.

Currently, final disciplinary actions are published on BOHA's website. But much of the information required under the Colorado law is not made available to the public in Kansas, such as regulatory, civil, or criminal actions in other states against a Kansas-licensed provider. We believe the broader scope of information disclosed under Colorado law, compiled centrally and made available on-line, will make it easier for Kansas health care consumers to inform themselves about their physicians.

While HB 2620 as amended by the House is a step in the right direction, we believe the public would be served and the bill improved by addressing the transparency of information about health care providers licensed by BOHA.

Thank you for the opportunity to provide you with our comments and recommendations on HB 2620.



Dora

Department of Regulatory Agencies

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Board of Medical Examiners

Medical Board Implementing Physician Profile Requirements

The Colorado Board of Medical Examiners ("the Board") will be implementing the requirements of the [Michael Skolnik Medical Transparency Act](#) ("the Act"), which was enacted into law by the Colorado General Assembly in 2007. The Act requires all physicians who submit an application for an initial license to practice medicine on or after January 1, 2008 to disclose specific information that can be accessed by the public. These requirements also apply to physicians who make application on or after January 1, 2008 to reinstate or reactivate an existing license.

Please note that pursuant to the requirements of the Act, physicians who hold an active or inactive license issued by the Board or whose application for medical licensure was received prior to January 1, 2008 are not required to comply with the requirements of the Act until the May 31, 2009 license renewal period.

The Act requires that the following information be disclosed to the public:

- Name
- Aliases
- Current Address
- Telephone number
- Information regarding all medical licenses ever held
- Current Board Certifications
- Practice Specialty (ies)
- Affiliations with hospitals and health care facilities
- Current ownership interests in businesses
- Current employment contracts
- Public disciplinary actions against a medical license
- Agreements and Stipulations to temporarily cease medical practice
- Involuntary hospital or health care facility privileging actions
- Involuntary surrender of a DEA registration
- Criminal convictions or plea arrangements for felonies and crimes of moral turpitude
- Judgments, settlements and arbitration awards for medical malpractice claims
- Refusal by an insurance carrier to issue medical liability insurance

It is the Board's goal to have this information available electronically by April 30, 2008. In the interim, physician applicants will provide the physician profile in hard copy form and that hard copy information will be made available to the public upon request. Once the electronic, Internet-based system is functional, the hard copy profiles that have been received will be converted to an electronically available profile. More information about the electronic system will be provided as soon as it is available.

The Board has adopted clarifying [rules and policies](#) that you are strongly encouraged to review. Please direct any questions regarding the act to Tracey Martinez, Physician Profile Administrator, at tracey.martinez@dora.state.co.us or at 303-894-5965. Click [here](#) to view the [profile form and instructions](#).

[View the list of physicians who have a profile currently available.](#)

An Act

HOUSE BILL 07-1331

BY REPRESENTATIVE(S) Carroll M. and Stafford, Borodkin, Buescher, Butcher, Carroll T., Gagliardi, Garcia, Gibbs, Green, Hodge, Jahn, Kefalas, Labuda, Levy, Liston, Madden, McGihon, Peniston, Primavera, Riesberg, Rose, Solano, Stephens, and Todd;
also SENATOR(S) Tochtrop, Boyd, Fitz-Gerald, Groff, and Williams.

CONCERNING INFORMATION REQUIRED TO BE DISCLOSED REGARDING PERSONS LICENSED BY THE STATE BOARD OF MEDICAL EXAMINERS, AND, IN CONNECTION THEREWITH, CREATING THE "MICHAEL SKOLNIK MEDICAL TRANSPARENCY ACT", AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 36 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-36-111.5. Michael Skolnik medical transparency act - disclosure of information about licensees - rules. (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "MICHAEL SKOLNIK MEDICAL TRANSPARENCY ACT".

(2) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DETERMINES

THAT:

(I) THE PEOPLE OF COLORADO NEED TO BE FULLY INFORMED ABOUT THE PAST PRACTICES OF PERSONS PRACTICING MEDICINE IN THIS STATE IN ORDER TO MAKE INFORMED DECISIONS WHEN CHOOSING A MEDICAL CARE PROVIDER AND DETERMINING WHETHER TO PROCEED WITH A PARTICULAR REGIMEN OF CARE RECOMMENDED BY A MEDICAL CARE PROVIDER.

(II) THE PURPOSE OF THIS SECTION IS TO PROVIDE TRANSPARENCY TO THE PUBLIC REGARDING THE COMPETENCY OF PERSONS ENGAGED IN THE PRACTICE OF MEDICINE IN THIS STATE TO ASSIST CITIZENS IN MAKING INFORMED HEALTH CARE DECISIONS.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS IMPORTANT TO MAKE INFORMATION ABOUT PERSONS ENGAGED IN THE PRACTICE OF MEDICINE AVAILABLE TO THE PUBLIC IN A MANNER THAT IS EFFICIENT, COST-EFFECTIVE, AND MAINTAINS THE INTEGRITY OF THE INFORMATION, AND TO THAT END, THE GENERAL ASSEMBLY ENCOURAGES PERSONS TO FILE THE REQUIRED INFORMATION WITH THE STATE BOARD OF MEDICAL EXAMINERS ELECTRONICALLY, TO THE EXTENT POSSIBLE.

(3) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, ANY PERSON APPLYING FOR A NEW LICENSE OR TO RENEW, REINSTATE, OR REACTIVATE A LICENSE TO PRACTICE MEDICINE IN THIS STATE SHALL PROVIDE THE FOLLOWING INFORMATION TO THE BOARD, IN A FORM AND MANNER DETERMINED BY THE BOARD THAT IS CONSISTENT WITH THE REQUIREMENTS OF SECTION 12-36-111 (1) OR 12-36-123 (1):

(a) THE APPLICANT'S FULL NAME, INCLUDING ANY KNOWN ALIASES; CURRENT ADDRESS OF RECORD AND TELEPHONE NUMBER; INFORMATION PERTAINING TO ANY LICENSE TO PRACTICE MEDICINE HELD BY THE APPLICANT AT ANY TIME, INCLUDING THE LICENSE NUMBER, TYPE, STATUS, ORIGINAL ISSUE DATE, LAST RENEWAL DATE, AND EXPIRATION DATE; ANY BOARD CERTIFICATIONS AND SPECIALTIES, IF APPLICABLE; ANY AFFILIATIONS WITH HOSPITALS OR HEALTH CARE FACILITIES; ANY BUSINESS OWNERSHIP INTERESTS; AND INFORMATION PERTAINING TO ANY EMPLOYMENT CONTRACTS WITH ANY ENTITIES;

(b) ANY PUBLIC DISCIPLINARY ACTION TAKEN AGAINST THE APPLICANT BY THE BOARD OR BY THE BOARD OR LICENSING AGENCY OF ANY

OTHER STATE OR COUNTRY. THE APPLICANT SHALL PROVIDE A COPY OF THE ACTION TO THE BOARD AT THE TIME THE APPLICATION IS MADE.

(c) ANY AGREEMENT OR STIPULATION ENTERED INTO BETWEEN THE BOARD OR THE BOARD OR LICENSING AGENCY OF ANY OTHER STATE OR COUNTRY AND THE APPLICANT WHEREBY THE APPLICANT AGREES TO TEMPORARILY CEASE OR RESTRICT HIS OR HER PRACTICE OF MEDICINE OR ANY BOARD ORDER RESTRICTING OR SUSPENDING THE APPLICANT'S MEDICAL LICENSE. THE APPLICANT SHALL PROVIDE A COPY OF THE AGREEMENT, STIPULATION, OR ORDER TO THE BOARD AT THE TIME THE APPLICATION IS MADE.

(d) (I) ANY INVOLUNTARY LIMITATION OR PROBATIONARY STATUS ON OR REDUCTION, NONRENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF THE APPLICANT'S MEDICAL STAFF MEMBERSHIP OR CLINICAL PRIVILEGES AT ANY HOSPITAL OR HEALTH CARE FACILITY. TO REPORT THE INFORMATION REQUIRED BY THIS PARAGRAPH (d), THE APPLICANT SHALL COMPLETE A FORM DEVELOPED BY THE BOARD THAT REQUIRES THE APPLICANT TO REPORT ONLY THE FOLLOWING INFORMATION REGARDING THE ACTION:

(A) THE NAME OF THE FACILITY OR ENTITY THAT TOOK THE ACTION;

(B) THE DATE THE ACTION WAS TAKEN;

(C) THE TYPE OF ACTION TAKEN, INCLUDING ANY TERMS AND CONDITIONS OF THE ACTION;

(D) THE DURATION OF THE ACTION; AND

(E) WHETHER THE APPLICANT HAS FULFILLED THE TERMS OR CONDITIONS OF THE ACTION, IF APPLICABLE.

(II) NOTWITHSTANDING ARTICLE 36.5 OF TITLE 12, C.R.S., AND ARTICLE 3 OF TITLE 25, C.R.S., THE FORM COMPLETED BY THE APPLICANT PURSUANT TO THIS PARAGRAPH (d) SHALL BE A PUBLIC RECORD AND SHALL NOT BE CONFIDENTIAL. COMPLIANCE WITH THIS PARAGRAPH (d) SHALL NOT CONSTITUTE A WAIVER OF ANY PRIVILEGE OR CONFIDENTIALITY CONFERRED BY ANY APPLICABLE STATE OR FEDERAL LAW.

(e) ANY INVOLUNTARY SURRENDER OF THE APPLICANT'S UNITED

STATES DRUG ENFORCEMENT ADMINISTRATION REGISTRATION. THE APPLICANT SHALL PROVIDE A COPY OF THE ORDER REQUIRING THE SURRENDER OF SUCH REGISTRATION TO THE BOARD AT THE TIME THE APPLICATION IS MADE.

(f) ANY FINAL CRIMINAL CONVICTION OR PLEA ARRANGEMENT RESULTING FROM THE COMMISSION OR ALLEGED COMMISSION OF A FELONY OR CRIME OF MORAL TURPITUDE IN ANY JURISDICTION. THE APPLICANT SHALL PROVIDE A COPY OF THE FINAL CONVICTION OR PLEA ARRANGEMENT TO THE BOARD AT THE TIME THE APPLICATION IS MADE.

(g) ANY FINAL JUDGMENT AGAINST, SETTLEMENT ENTERED INTO BY, OR ARBITRATION AWARD PAID ON BEHALF OF THE APPLICANT FOR MEDICAL MALPRACTICE. TO REPORT THE INFORMATION REQUIRED BY THIS PARAGRAPH (g), THE APPLICANT SHALL COMPLETE A FORM DEVELOPED BY THE BOARD THAT REQUIRES THE APPLICANT TO REPORT ONLY THE FOLLOWING INFORMATION REGARDING THE MEDICAL MALPRACTICE ACTION:

(I) WHETHER THE ACTION WAS RESOLVED BY A FINAL JUDGMENT AGAINST, SETTLEMENT ENTERED INTO BY, OR ARBITRATION AWARD PAID ON BEHALF OF THE APPLICANT;

(II) THE DATE OF THE JUDGMENT, SETTLEMENT, OR ARBITRATION AWARD;

(III) THE LOCATION OR JURISDICTION IN WHICH THE ACTION OCCURRED OR WAS RESOLVED; AND

(IV) THE COURT IN WHICH THE FINAL JUDGMENT WAS ORDERED, THE MEDIATOR THAT AIDED IN THE SETTLEMENT, IF APPLICABLE, OR THE ARBITRATOR THAT GRANTED THE ARBITRATION AWARD.

(h) ANY REFUSAL BY AN ISSUER OF MEDICAL MALPRACTICE INSURANCE TO ISSUE A MEDICAL MALPRACTICE INSURANCE POLICY TO THE APPLICANT DUE TO PAST CLAIMS EXPERIENCE. THE APPLICANT SHALL PROVIDE A COPY OF THE REFUSAL TO THE BOARD AT THE TIME THE APPLICATION IS MADE.

(4) THE BOARD SHALL MAKE THE INFORMATION SPECIFIED IN SUBSECTION (3) OF THIS SECTION THAT IS SUBMITTED BY AN APPLICANT

READILY AVAILABLE TO THE PUBLIC IN A MANNER THAT ALLOWS THE PUBLIC TO SEARCH THE INFORMATION BY NAME, LICENSE NUMBER, BOARD CERTIFICATION OR SPECIALTY AREA, OR CITY OF THE LICENSEE'S ADDRESS OF RECORD. THE BOARD MAY SATISFY THIS REQUIREMENT BY POSTING AND ALLOWING THE ABILITY TO SEARCH THE INFORMATION ON THE BOARD'S WEBSITE. IF THE INFORMATION IS MADE AVAILABLE ON ITS WEBSITE, THE BOARD SHALL UPDATE THE WEBSITE AT LEAST MONTHLY AND SHALL INDICATE ON THE WEBSITE THE DATE WHEN THE INFORMATION WAS LAST UPDATED.

(5) WHEN DISCLOSING INFORMATION REGARDING A LICENSEE OR APPLICANT TO THE PUBLIC, THE BOARD SHALL INCLUDE THE FOLLOWING STATEMENT OR A SIMILAR STATEMENT THAT COMMUNICATES THE SAME MEANING:

SOME STUDIES HAVE SHOWN THAT THERE IS NO SIGNIFICANT CORRELATION BETWEEN MALPRACTICE HISTORY AND A DOCTOR'S COMPETENCE. AT THE SAME TIME, THE STATE BOARD OF MEDICAL EXAMINERS BELIEVES THAT CONSUMERS SHOULD HAVE ACCESS TO MALPRACTICE INFORMATION. TO MAKE THE BEST HEALTH CARE DECISIONS, YOU SHOULD VIEW THIS INFORMATION IN PERSPECTIVE. YOU COULD MISS AN OPPORTUNITY FOR HIGH QUALITY CARE BY SELECTING A DOCTOR BASED SOLELY ON MALPRACTICE HISTORY. WHEN CONSIDERING MALPRACTICE DATA, PLEASE KEEP IN MIND:

* MALPRACTICE HISTORIES TEND TO VARY BY SPECIALTY. SOME SPECIALTIES ARE MORE LIKELY THAN OTHERS TO BE THE SUBJECT OF LITIGATION.

* YOU SHOULD TAKE INTO ACCOUNT HOW LONG THE DOCTOR HAS BEEN IN PRACTICE WHEN CONSIDERING MALPRACTICE AVERAGES.

* THE INCIDENT CAUSING THE MALPRACTICE CLAIM MAY HAVE HAPPENED YEARS BEFORE A PAYMENT IS FINALLY MADE. SOMETIMES, IT TAKES A LONG TIME FOR A MALPRACTICE LAWSUIT TO MOVE THROUGH THE LEGAL SYSTEM.

* SOME DOCTORS WORK PRIMARILY WITH HIGH-RISK PATIENTS. THESE DOCTORS MAY HAVE MALPRACTICE HISTORIES THAT ARE HIGHER THAN AVERAGE BECAUSE THEY SPECIALIZE IN CASES OR PATIENTS WHO ARE AT VERY HIGH RISK FOR PROBLEMS.

* SETTLEMENT OF A CLAIM MAY OCCUR FOR A VARIETY OF REASONS THAT DO NOT NECESSARILY REFLECT NEGATIVELY ON THE PROFESSIONAL COMPETENCE OR CONDUCT OF THE PHYSICIAN. A PAYMENT IN SETTLEMENT OF A MEDICAL MALPRACTICE ACTION OR CLAIM SHOULD NOT BE CONSTRUED AS CREATING A PRESUMPTION THAT MEDICAL MALPRACTICE HAS OCCURRED.

YOU MAY WISH TO DISCUSS INFORMATION PROVIDED BY THE BOARD, AND MALPRACTICE GENERALLY, WITH YOUR DOCTOR.

THE INFORMATION POSTED ON THE STATE BOARD OF MEDICAL EXAMINER'S WEBSITE WAS PROVIDED BY APPLICANTS FOR A MEDICAL LICENSE AND APPLICANTS FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF A MEDICAL LICENSE.

(6) A PERSON LICENSED BY THE BOARD PURSUANT TO THIS ARTICLE SHALL ENSURE THAT THE INFORMATION REQUIRED BY SUBSECTION (3) OF THIS SECTION IS CURRENT AND SHALL REPORT ANY UPDATED INFORMATION AND PROVIDE COPIES OF THE REQUIRED DOCUMENTATION TO THE BOARD WITHIN THIRTY DAYS AFTER THE DATE OF THE ACTION DESCRIBED IN SAID SUBSECTION OR AS OTHERWISE DETERMINED BY THE BOARD BY RULE TO ENSURE THAT THE INFORMATION PROVIDED TO THE PUBLIC IS AS ACCURATE AS POSSIBLE.

(7) THE BOARD MAY IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED FIVE THOUSAND DOLLARS AGAINST AN APPLICANT WHO FAILS TO COMPLY WITH THIS SECTION. THE IMPOSITION OF AN ADMINISTRATIVE FINE PURSUANT TO THIS SUBSECTION (7) SHALL NOT CONSTITUTE A DISCIPLINARY ACTION PURSUANT TO SECTION 12-36-118 AND SHALL NOT PRECLUDE THE BOARD FROM TAKING DISCIPLINARY ACTION AGAINST AN APPLICANT FOR FAILURE TO COMPLY WITH THIS SECTION. THE BOARD SHALL NOT ISSUE A

LICENSE TO OR RENEW, REINSTATE, OR REACTIVATE THE LICENSE OF AN APPLICANT WHO HAS FAILED TO PAY A FINE IMPOSED PURSUANT TO THIS SUBSECTION (7).

(8) THE BOARD MAY ADOPT RULES, AS NECESSARY, TO IMPLEMENT THIS SECTION.

SECTION 2. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the executive director's office, for legal services, for the fiscal year beginning July 1, 2007, the sum of five thousand four hundred twenty-two dollars (\$5,422), or so much thereof as may be necessary, for the implementation of this act.

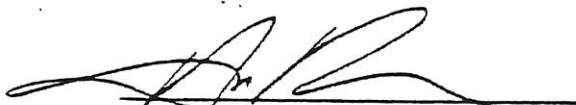
(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for regulation of persons licensed by the state board of medical examiners, for the fiscal year beginning July 1, 2007, the sum of one hundred fifty-seven thousand six hundred ninety-seven dollars (\$157,697) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

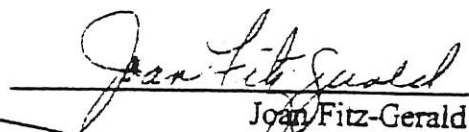
(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2007, the sum of five thousand four hundred twenty-two dollars (\$5,422), or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from cash funds exempt received from the executive director's office out of the appropriation made in subsection (1) of this section.


SECTION 3. Effective date. (1) This act shall take effect January 1, 2008.

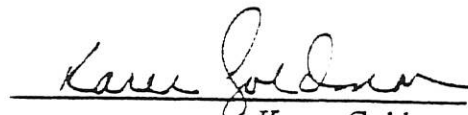
(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final

adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.


Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Joan Fitz-Gerald
PRESIDENT OF
THE SENATE


Marilyn Edkins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES


Karen Goldman
SECRETARY OF
THE SENATE

APPROVED May 24, 2007 at 3:49 p.m.


Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO



Measure born of couple's grief to become law

By Bill Scanlon

Monday, December 31, 2007

If only she'd known.

The refrain kept running through Patty Skolnik's head as she mourned her son's death - a death she blames on a doctor who, unbeknownst to her, had been the subject of a malpractice claim in another state.

Skolnik couldn't let go of the pain, so, with her husband and state legislators, she helped push through House Bill 1331.

Like more than 25 other bills from the 2007 General Assembly, it becomes law Tuesday.

The Michael Skolnik Medical Transparency Act will make public, via a Web site, information about doctors' license status and malpractice settlements.

The information will trickle in with the new year because Colorado's 16,000 licensed doctors don't have to provide the information until they renew their licenses, and the next big round of that is in May of 2009.

But doctors new to the state have to provide the information right away.

Eventually, Colorado consumers will be able to find out whether their doctors have had any malpractice convictions.

The aim of the act is to let consumers make informed decisions on their choice of doctors, say bill co-sponsors State Rep. Morgan Carroll, D-Aurora, and State Sen. Lois Tochtrop, D-Adams County.

If someone is scheduled for hip surgery, say, or removal of a brain aneurism, it's important to know if the surgeon has had any malpractice settlements, said Skolnik. And it isn't enough to just check in Colorado because some surgeons move out of state after malpractice judgments, hoping their past won't catch up with them, she said.

Skolnik's only son, Michael, 22, was studying to be a pediatric nurse when he blacked out one day in 2001.

She says a series of mistakes led to her son getting unnecessary surgery from an inexperienced doctor who jostled his brain.

A few months later, while the neurosurgeon was saying Michael would be fine after rehab, Craig

Hospital doctors said her son was half-blind, partly paralyzed, was psychotic and had the reasoning ability of a third-grader.

There followed two years of hell, a half-dozen hospitals and \$4.8 million in medical expenses.

"He couldn't walk or talk," Skolnik said of her son. "Every day, he would put his hand to his head, like pointing a gun."

On June 4, 2004, Michael mouthed the words, "I love you," to his father, David, and died.

Skolnik said if she had known that the neurosurgeon, Dr. David Wayne Miller, had a malpractice claim and settlement in Georgia, she would have sought a different physician. She discovered later he'd done the procedure only once before, she said.

Colorado doctors at first were skeptical of the bill, worrying that a frivolous malpractice lawsuit could unfairly follow a physician forever.]

But the Colorado Medical Society advocated for the bill, after wording clarified that only settlements or final judgments to malpractice suits would be publicized, not the mere filing of a suit.]

Upon application for, or renewal of a license, doctors must provide information on the following:

- * any public disciplinary action taken by a medical board of any state or country,
- * any agreement whereby the doctor temporarily ceased or restricted practice,
- * any involuntary limitation on the doctor's privilege to practice at a hospital or clinic,
- * any involuntary surrender of the doctor's registration with the Drug Enforcement Administration,
- * any final criminal conviction or plea arrangement connected to a felony or crime of moral turpitude anywhere,
- * any final judgment, settlement or arbitration award for medical malpractice.

"We see this as a consumer protection mechanism," said Chris Lines, spokesman for the state Department of Regulatory Agencies, which houses the Colorado Board of Medical Examiners.] *

The act includes a statement that studies show there isn't much of a correlation between malpractice history and a doctor's competence.

For now, people can look up newly licensed physicians by going to doradls.state.co.us/alison.php. In six to eight weeks, a glitch should be corrected that will make access easier, said Lines. Still, most doctors won't have their information online until sometime in 2009.

Skolnik said Miller paid an undisclosed amount of money to her family to settle the malpractice claims against him.

Miller now works as a neurosurgeon in Glenwood Springs. Colleagues there praised his work to the *Grand Junction Sentinel* last month. Dr James Denton, a former colleague at Medical Center of Aurora

called Miller "the finest neurosurgeon I have ever worked with."

The Colorado Board of Medical Examiners reviewed the Skolnik case and found no wrongdoing.

Miller acknowledges that he has settled two malpractice claims. Miller said brain surgeries have a high risk of complications and that people die from complications all the time in the absence of mistakes.

"I did my best to help her son," he told the *Sentinel*. "If she doesn't think I wake up every day thinking about Michael Skolnik, she's mistaken."

Skolnik continues to believe the surgery itself was a mistake because she said it was unnecessary. She hopes the new measure will be replicated by other states.

"I'm really pleased that it became law, and I'm pleased it went through with Michael's name on it," Skolnik said.

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New year's resolutions

About 25 bills become law New Year's Day, including a high-profile measure that bans smoking in casinos and another that requires the state to pay for cervical cancer vaccines for uninsured girls as young as 11. A sampling of the laws that will go into effect:

- * **HB 1301 creates the Cervical Cancer Center Immunization Program**, which is meant to educate and immunize women and girls against cervical cancer. The measure requires the Children's Basic Health Plan to cover cervical cancer vaccines for uninsured middle and high school girls. About 1,506 girls are expected to receive the vaccine in 2008.
- * **HB 1269 extends the statewide smoking ban** enacted in 2006 to the casinos in Black Hawk, Central City and Cripple Creek. The state legislature yanked the casinos' initial exemption last spring.
- * **HB 1355 prohibits health insurance providers** from using past claims and an employee's health status when determining health insurance rates for small employers.
- * **SB 36 requires health insurance policies** to include coverage for certain mental disorders.
- * **SB 203 seeks to crack down on mortgage fraud** by requiring all mortgage brokers to be licensed by the state and undergo criminal history checks. Under the bill, brokers could face fines up to \$2,000 for engaging in fraudulent activities, such as misleading a party in a real estate transaction; acting in the interest of more than one party without prior disclosure; mishandling and misusing money belonging to others; knowingly violating state and federal fair housing laws; failing to keep adequate records for a four-year period; engaging in deceit and fraud.
- * **SB 211 provides health care coverage for all low-income children by 2010**, increasing the state's Medicaid costs by an estimated \$164 million by then. Portions of the measure were enacted in July.

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