

Medical Transparency

This Act directs the state board of medical examiners to set up and make available, primarily through the Internet, a database of information about doctors who practice in the state. The Act requires physicians who apply for a license to practice medicine in the state, or to reinstate or reactivate an existing license, disclose specific information that can be accessed by the public via the Internet.

Submitted as:

Colorado

[HB 1331](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “The Medical Transparency Act.”

2
3 Section 2. [*Legislative Findings.*] The [legislature] declares:

4 (1) The people of this state need to be fully informed about the past practices of
5 people practicing medicine in this state in order to make informed decisions when choosing a
6 medical care provider and determining whether to proceed with a particular regimen of care
7 recommended by a medical care provider;

8 (2) The purpose of this Act is to provide transparency to the public regarding the
9 competency of people engaged in the practice of medicine in this state; and

10 (3) It is important to make information about people engaged in the practice of
11 medicine available to the public in a manner that is efficient, cost-effective, and maintains the
12 integrity of the information, and to that end, the [legislature] encourages people to file the required
13 information with the [state board of medical examiners] electronically, to the extent possible.

14
15 Section 3. [*Information Medical Practitioners Must Provide to the State Board of Medical*
16 *Examiners.*]

17 (a) On and after the effective date of this section, any person applying for a new license, or
18 to renew, reinstate, or reactivate a license to practice medicine in this state, shall provide the
19 following information to the [state board of medical examiners], in a form and manner determined
20 by that [board] that is consistent with the requirements of this Act:

21 (1) The applicant’s full name, including any known aliases; current address of
22 record and telephone number; information pertaining to any license to practice medicine held by
23 the applicant at any time, including the license number, type, status, original issue date, last
24 renewal date, and expiration date; any board certifications and specialties, if applicable; any
25 affiliations with hospitals or health care facilities; any business ownership interests; and
26 information pertaining to any employment contracts with any entities;

27 (2) Any public disciplinary action taken against the applicant by the [state board of
28 medical examiners] or by the board or licensing agency of any other state or country. The
29 applicant shall provide a copy of the action to the [board] at the time the application is made.

30 (3) Any agreement or stipulation entered into between the [state board of medical
31 examiners] or the board or licensing agency of any other state or country and the applicant
32 whereby the applicant agrees to temporarily cease or restrict his or her practice of medicine or any

33 board order restricting or suspending the applicant's medical license. The applicant shall provide a
34 copy of the action to the [state board of medical examiners] at the time the application is made.

35 (4) (I) Any involuntary limitation or probationary status on or reduction,
36 nonrenewal, denial, revocation, or suspension of the applicant's medical staff membership or
37 clinical privileges at any hospital or health care facility. To report the information required by this
38 paragraph (4)(I), the applicant shall complete a form developed by the [state board of medical
39 examiners] that requires the applicant to report only the following information regarding the
40 action:

- 41 (i) the name of the facility or entity that took the action;
- 42 (ii) the date the action was taken;
- 43 (iii) the type of action taken, including any terms and conditions of
44 the action;
- 45 (iv) the duration of the action; and
- 46 (v) whether the applicant has fulfilled the terms or conditions of the
47 action, if applicable.

48 (II) Notwithstanding [insert citation], the form completed by the applicant
49 pursuant to paragraph (4)(I) of this section shall be a public record and shall not be confidential.
50 Compliance with paragraph (4)(I) of this section shall not constitute a waiver of any privilege or
51 confidentiality conferred by any other applicable state or federal law.

52 (5) Any involuntary surrender of the applicant's United States Drug Enforcement
53 Administration Registration. The applicant shall provide a copy of the order requiring the
54 surrender of such Registration to the [board] at the time the application is made.

55 (6) Any final criminal conviction or plea arrangement resulting from the
56 commission or alleged commission of a felony or crime of moral turpitude in any jurisdiction. The
57 applicant shall provide a copy of the final conviction or plea arrangement to the [board] at the time
58 the application is made.

59 (7) Any final judgment against, settlement entered into by, or arbitration award
60 paid on behalf of the applicant for medical malpractice. To report the information required by this
61 paragraph, the applicant shall complete a form developed by the [state board of medical
62 examiners] that requires the applicant to report only the following information regarding the
63 medical malpractice action:

- 64 (I) whether the action was resolved by a final judgment against, settlement
65 entered into by, or arbitration award paid on behalf of the applicant;
- 66 (II) the date of the judgment, settlement, or arbitration award;
- 67 (III) the location or jurisdiction in which the action occurred or was
68 resolved; and
- 69 (IV) the court in which the final judgment was ordered, the mediator that
70 aided in the settlement, if applicable, or the arbitrator that granted the arbitration award.

71 (8) Any refusal by an issuer of medical malpractice insurance to issue a medical
72 malpractice insurance policy to the applicant due to past claims experience. The applicant shall
73 provide a copy of the refusal to the [board] at the time the application is made.

74 (b) The [state board of medical examiners] shall make the information specified in this
75 subsection (a) of this section of this Act that is submitted by an applicant readily available to the
76 public in a manner that allows the public to search the information by name, license number, board
77 certification or specialty area, or city of the licensee's address of record. The [board] may satisfy
78 this requirement by posting and allowing the ability to search the information on the [board's]
79 Website. If the information is made available on its Website, the [board] shall update the Website
80 at least monthly and shall indicate on the Website the date when the information was last updated.

81 (c) When disclosing information regarding a licensee or applicant to the public, the [board]
82 shall include the following statement or a similar statement that communicates the same meaning:
83

84 “Some studies have shown that there is no significant correlation between malpractice
85 history and a doctor’s competence. At the same time, the [state board of medical examiners]
86 believes that consumers should have access to malpractice information. To make the best health
87 care decisions, you should view this information in perspective. You could miss an opportunity for
88 high quality care by selecting a doctor based solely on malpractice history. When considering
89 malpractice data, please keep in mind:

90 • Malpractice histories tend to vary by specialty. Some specialties are more likely
91 than others to be the subject of litigation.

92 • You should take into account how long the doctor has been in practice when
93 considering malpractice averages.

94 • The incident causing the malpractice claim may have happened years before a
95 payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to move
96 through the legal system.

97 • Some doctors work primarily with high-risk patients. These doctors may have
98 malpractice histories that are higher than average because they specialize in cases or patients who
99 are at very high risk for problems.

100 • Settlement of a claim may occur for a variety of reasons that do not necessarily
101 reflect negatively on the professional competence or conduct of the physician. A payment in
102 settlement of a medical malpractice action or claim should not be construed as creating a
103 presumption that medical malpractice has occurred.

104 • You may wish to discuss information provided by the [board], and malpractice
105 generally, with your doctor.

106 • The information posted on the [state board of medical examiners] website was
107 provided by applicants for a medical license and applicants for renewal, reinstatement, or
108 reactivation of a medical license.”
109

110 (d) A person licensed by the [board] pursuant to [insert citation] shall ensure that the
111 information required by subsection (a) of this section (3) is current and shall report any updated
112 information and provide copies of the required documentation to the [board] within [thirty days]
113 after the date of the action described in said subsection or as otherwise determined by the [board]
114 by rule to ensure that the information provided to the public is as accurate as possible.

115 (e) The [board] may impose an administrative fine not to exceed [five thousand dollars]
116 against an applicant who fails to comply with this section 3 of this Act. The imposition of an
117 administrative fine pursuant to this paragraph shall not constitute a disciplinary action pursuant to
118 [insert citation] and shall not preclude the [board] from taking disciplinary action against an
119 applicant for failure to comply with this section 3 of this Act. The [board] shall not issue a license
120 to or renew, reinstate, or reactivate the license of an applicant who has failed to pay a fine imposed
121 pursuant to this paragraph.

122 (f) The [board] may adopt rules, as necessary, to implement this section.
123

124 Section 4. [*Severability.*] [Insert severability clause.]
125

126 Section 5. [*Repealer.*] [Insert repealer clause.]
127

128 Section 6. [*Effective Date.*] [Insert effective date.]