

# House File 2716 - Enrolled

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1 3 AN ACT  
1 4 RELATING TO CIVIL ACTIONS FOR PERSONAL INJURY OR DEATH,  
1 5 INCLUDING CERTAIN EVIDENTIARY, REPORTING, AND STUDY  
1 6 INFORMATION REQUIREMENTS.  
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1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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1 10 Section 1. Section 135.40, Code 2005, is amended to read  
1 11 as follows:  
1 12 135.40 COLLECTION AND DISTRIBUTION OF INFORMATION.  
1 13 Any person, hospital, sanatorium, nursing or rest home or  
1 14 other organization may provide information, interviews,  
1 15 reports, statements, memoranda, or other data relating to the  
1 16 condition and treatment of any person to the department, the  
1 17 Iowa medical society or any of its allied medical societies,  
1 18 ~~or the Iowa osteopathic medical association, or any in-~~  
1 19 ~~hospital staff committee, or the Iowa healthcare~~  
1 20 ~~collaborative,~~ to be used in the course of any study for the  
1 21 purpose of reducing morbidity or mortality, and no liability  
1 22 of any kind or character for damages or other relief shall  
1 23 arise or be enforced against any person or organization that  
1 24 has acted reasonably and in good faith, by reason of having  
1 25 provided such information or material, or by reason of having  
1 26 released or published the findings and conclusions of such  
1 27 groups to advance medical research and medical education, or  
1 28 by reason of having released or published generally a summary  
1 29 of such studies.  
1 30 For the purposes of this section, and section 135.41, the  
1 31 "Iowa healthcare collaborative" means an organization which is  
1 32 exempt from federal income taxation under section 501(c)(3) of  
1 33 the Internal Revenue Code and which is established to provide  
1 34 direction to promote quality, safety, and value improvement  
1 35 collaborative efforts by hospitals and physicians.  
2 1 Sec. 2. Section 135.41, Code 2005, is amended to read as  
2 2 follows:  
2 3 135.41 PUBLICATION.  
2 4 The department, the Iowa medical society or any of its  
2 5 allied medical societies, ~~or the Iowa osteopathic medical~~  
2 6 ~~association, or any in-hospital staff committee, or the Iowa~~  
2 7 ~~healthcare collaborative~~ shall use or publish said material  
2 8 only for the purpose of advancing medical research or medical  
2 9 education in the interest of reducing morbidity or mortality,  
2 10 except that a summary of such studies may be released by any  
2 11 such group for general publication. In all events the  
2 12 identity of any person whose condition or treatment has been  
2 13 studied shall be confidential and shall not be revealed under  
2 14 any circumstances. A violation of this section shall  
2 15 constitute a simple misdemeanor.  
2 16 Sec. 3. NEW SECTION. 505.27 MEDICAL MALPRACTICE  
2 17 INSURANCE == REPORTS REQUIRED.  
2 18 1. An insurer providing medical malpractice insurance  
2 19 coverage to Iowa health care providers shall file annually on  
2 20 or before June 1 with the commissioner a report of all medical  
2 21 malpractice insurance claims, both open claims and closed  
2 22 claims filed during the reporting period, against any such  
2 23 Iowa insureds during the preceding calendar year.  
2 24 2. The report shall be in writing and contain all of the  
2 25 following information aggregated by specialty area and paid  
2 26 loss and paid expense categories established by the  
2 27 commissioner:  
2 28 a. The total number of claims in the reporting period and  
2 29 the nature and substance of such claims.  
2 30 b. The total amounts paid within six months after final  
2 31 disposition of the claims.  
2 32 c. The total amount reserved for the payment of claims  
2 33 incurred and reported but not disposed.  
2 34 d. The expenses, as set forth by rule, related to the  
2 35 claims.  
3 1 e. Any other additional information as required by the  
3 2 commissioner by rule.  
3 3 3. The commissioner shall compile annually the data

3 4 included in reports filed by insurers pursuant to this section  
3 5 into an aggregate form by insurer, except that such data shall  
3 6 not include information that directly or indirectly identifies  
3 7 any individual, including a patient, an insured, or a health  
3 8 care provider. The commissioner shall submit a written report  
3 9 summarizing such data along with any recommendations to the  
3 10 general assembly and the governor by December 1, 2007, with  
3 11 subsequent reports submitted to the general assembly and the  
3 12 governor annually thereafter.

3 13 4. A report prepared pursuant to subsection 1 or 3 shall  
3 14 be open to the public and shall be made available to a  
3 15 requesting party by the commissioner at no charge, except that  
3 16 any identifying information of any individual, including a  
3 17 patient, an insured, or health care provider, shall remain  
3 18 confidential.

3 19 5. For purposes of this section, "health care provider"  
3 20 means the same as defined in section 135.61, a hospital  
3 21 licensed pursuant to chapter 135B, or a health care facility  
3 22 licensed pursuant to chapter 135C, and "insurer" means an  
3 23 insurance company authorized to transact insurance business in  
3 24 this state. "Insurer" does not include a health care provider  
3 25 who maintains professional liability insurance coverage  
3 26 through a self-insurance plan, an unauthorized insurance  
3 27 company transacting business with an insured person in this  
3 28 state, or a person not authorized to transact insurance  
3 29 business in this state.

3 30 Sec. 4. NEW SECTION. 622.31 EVIDENCE OF REGRET OR  
3 31 SORROW.

3 32 In any civil action for professional negligence, personal  
3 33 injury, or wrongful death or in any arbitration proceeding for  
3 34 professional negligence, personal injury, or wrongful death  
3 35 against a person in a profession represented by the examining  
4 1 boards listed in section 272C.1 and any other licensed  
4 2 profession recognized in this state, a hospital licensed  
4 3 pursuant to chapter 135B, or a health care facility licensed  
4 4 pursuant to chapter 135C, based upon the alleged negligence in  
4 5 the practice of that profession or occupation, that portion of  
4 6 a statement, affirmation, gesture, or conduct expressing  
4 7 sorrow, sympathy, commiseration, condolence, compassion, or a  
4 8 general sense of benevolence that was made by the person to  
4 9 the plaintiff, relative of the plaintiff, or decision maker  
4 10 for the plaintiff that relates to the discomfort, pain,  
4 11 suffering, injury, or death of the plaintiff as a result of an  
4 12 alleged breach of the applicable standard of care is  
4 13 inadmissible as evidence. Any response by the plaintiff,  
4 14 relative of the plaintiff, or decision maker for the plaintiff  
4 15 to such statement, affirmation, gesture, or conduct is  
4 16 similarly inadmissible as evidence.

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4 20 CHRISTOPHER C. RANTS  
4 21 Speaker of the House  
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4 24 JEFFREY M. LAMBERTI  
4 25 President of the Senate  
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4 28 I hereby certify that this bill originated in the House and  
4 29 is known as House File 2716, Eighty-first General Assembly.

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4 32 \_\_\_\_\_  
4 33 MARGARET THOMSON  
4 34 Chief Clerk of the House

4 35 Approved \_\_\_\_\_, 2006

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5 4 THOMAS J. VILSACK  
5 5 Governor