

Nadler
2

Failed 7-9

AMENDMENT TO JUDICIARY COMMITTEE PRINT

112-6

OFFERED BY MR. NADLER OF NEW YORK

Page 11, after line 21, insert the following and re-designate the succeeding sections accordingly:

1 **SEC. 9. RESTRICTIONS ON PROTECTIVE ORDERS AND SEAL-**
2 **ING OF CASES AND SETTLEMENTS.**

3 (a)(1) In any health care lawsuit in which the plead-
4 ings state facts that are relevant to the protection of pub-
5 lic health or safety, a court shall not enter, by stipulation
6 or otherwise, an order otherwise authorized restricting the
7 disclosure of information obtained through discovery, an
8 order otherwise authorized approving a settlement agree-
9 ment that would restrict the disclosure of such informa-
10 tion, or an order otherwise authorized restricting access
11 to court records unless in connection with such order the
12 court has first made independent findings of fact that—

13 (A) such order would not restrict the disclosure
14 of information which is relevant to the protection of
15 public health or safety; or

16 (B)(i) the public interest in the disclosure of
17 past, present, or potential public health or safety
18 hazards is outweighed by a specific and substantial

1 between or among parties that prohibits one or more par-
2 ties from—

3 (A) disclosing the fact that such settlement was
4 reached or the terms of such settlement (excluding
5 any money paid) that involve matters relevant to the
6 protection of public health or safety; or

7 (B) discussing matters relevant to the protec-
8 tion of public health or safety involved in such
9 health care lawsuit.

10 (2) Paragraph (1) applies unless the court has made
11 independent findings of fact that—

12 (A) the public interest in the disclosure of past,
13 present, or potential public health or safety hazards
14 is outweighed by a specific and substantial interest
15 in maintaining the confidentiality of the information
16 in question; and

17 (B) the requested order is no broader than nec-
18 essary to protect the confidentiality interest as-
19 serted.

20 (d) Notwithstanding subsections (a)(1)(B)(i) and
21 (e)(2)(A), when weighing the interest in maintaining con-
22 fidentiality under this section, there shall be a rebuttable
23 presumption that the interest in protecting personally
24 identifiable information of an individual outweighs the
25 public interest in disclosure.