

FIRST REGULAR SESSION

SENATE BILL NO. 308

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 4, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1658S.011

AN ACT

To amend chapter 192, RSMo, by adding thereto five new sections relating to a health care quality report card.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 192, RSMo, is amended by adding thereto five new sections, to be known as sections 192.550, 192.553, 192.556, 192.559, and 192.562, to read as follows:

192.550. 1. Sections 192.550 to 192.562, may be known and may be cited as the "Health Care Quality Report Card Act".

2. The department of health and senior services shall implement a health care quality program for the purpose of making available a health care quality report card to allow consumers to compare and assess the quality of health care services. The program shall be implemented in two phases as specified in sections 192.553 and 192.559.

192.553. 1. By January 1, 2010, hospitals and ambulatory surgical centers shall submit to the department outcome data that is submitted to the federal Centers for Medicare and Medicaid Services, including heart attack, heart failure, pneumonia, and surgical infection prevention core measures.

2. The department shall determine which quality and performance outcome and patient charge data is currently collected from hospitals and ambulatory surgical centers under state and federal law and make such data available on its Internet web site by December 31, 2010.

3. The data on the web site made available under the provisions of this section shall be disclosed in a manner that allows consumers to conduct an interactive search that allows them to view and compare

14 the information for specific hospitals and ambulatory surgical centers.

192.556. 1. There is hereby established a "Health Care Quality
2 Report Card Commission" within the department of health and senior
3 services. The commission shall be comprised of seventeen members
4 appointed by the governor with the advice and consent of the senate,
5 from a list of recommended appointees provided by the director of the
6 department of health and senior services, on or before January 1,
7 2010. The commission shall consist of the following members:

8 (1) Three employees of the department of health and senior
9 services, representing the functions of hospital and ambulatory surgical
10 center licensure and quality and health data analysis. Such members
11 shall serve as ex officio nonvoting members of the panel;

12 (2) Two representatives of the general public;

13 (3) Two members representing hospitals;

14 (4) Two board-certified or board-eligible physicians licensed
15 under chapter 334, RSMo, who are affiliated with a Missouri hospital
16 or medical school, active members of an organization that focuses on
17 health care quality improvement and who have demonstrated interest
18 and expertise in quality control;

19 (5) Two health researchers, policymakers, and other experts in
20 the field of health care quality;

21 (6) Two health care practitioners, at least one of whom shall be
22 practicing in a rural hospital or setting and at least one of whom shall
23 be a registered professional nurse licensed under chapter 335, RSMo;

24 (7) A medical statistician with an advanced degree in such
25 specialty;

26 (8) One representative from a healthcare-related labor
27 organization;

28 (9) One representative of business; and

29 (10) One representative of consumers of health care services.

30 2. Additional members representing other health care facilities
31 may be added to the commission if and when the commission
32 determines that other health care facilities shall fall under the
33 provisions of sections 192.550 to 192.562.

34 3. A chair and vice-chair of the commission shall be selected by
35 the members. Of the members first appointed to the commission by the
36 governor, nine members shall serve a term of two years, eight members

37 shall serve a term of one year, and thereafter, members shall serve a
38 term of two years. Members shall continue to serve until their
39 successor is duly appointed and qualified. Any vacancy on the
40 commission shall be filled in the same manner as the original
41 appointment.

42 4. The commission shall:

43 (1) Meet on at least three occasions annually, or more if
44 necessary, and issue recommendations to the department regarding a
45 long-range plan for producing an annual health care quality report
46 card and on the appropriateness of implementing all or part of the
47 health care quality data collection, analysis, and public reporting
48 requirements of sections 192.550 to 192.562;

49 (2) Develop a plan of action for the identification, collection,
50 standardization, sharing, and coordination of health-related data across
51 federal, state, and local government and private sector entities;

52 (3) Develop a review process to ensure cooperative planning
53 among departments and agencies that collect or maintain health-
54 related data;

55 (4) Create ad hoc issue-oriented technical workgroups on an as-
56 needed basis to make recommendations to the commission; and

57 (5) Develop recommendations and submit a report based on such
58 recommendations to the governor, chairpersons of standing health
59 committees of the general assembly and the department of health and
60 senior services no later than July 1, 2011, and annually thereafter.

61 5. The department of health and senior services shall provide
62 such support as the commission members require to aid it in the
63 performance of its duties.

64 6. Commission members shall not be related to any member of
65 the general assembly or governor within the third degree of
66 consanguinity. Commission members shall not be compensated for
67 their services but shall be reimbursed for their actual and necessary
68 expenses incurred in the performance of their duties.

192.559. 1. By December 31, 2012, the department shall
2 implement the recommendations from the health care quality report
3 card commission and issue the first health care quality report card on
4 its Internet web site. The reports shall be distributed to the governor
5 and members of the general assembly annually and to the general

6 public upon request. The data on the web site shall be disclosed in a
7 manner that allows consumers to conduct an interactive search that
8 allows them to view and compare the information for specific hospitals
9 and ambulatory surgical centers. The department shall develop and
10 disseminate the public reports based on data compiled for a period of
11 at least twelve months and the web site must include such additional
12 information as is deemed necessary to ensure that the web site
13 enhances informed decision making among consumers and health care
14 purchasers.

15 2. Based on the continuing recommendations of the commission,
16 the department shall issue an annual report card on the thirty-first of
17 December on its web site and update the requirements for the
18 submission of the data as well as including new health care facilities,
19 entities or professionals, as appropriate. The department may consider
20 such additional measures that are adopted by the Centers for Medicare
21 and Medicaid Services, National Quality Forum, the Joint Commission
22 on Accreditations of Healthcare Organizations, the Agency for
23 Healthcare Research and Quality, or any other similar state or national
24 entity that establishes standards to measure the performance of health
25 care providers.

26 3. The department, in consultation with the health care quality
27 report card commission, shall be authorized to collect and report data
28 required under this section. In consultation with the commission, the
29 department shall develop, disseminate and update the data
30 quarterly. The reports submitted to the department shall account for
31 each hospital's or ambulatory surgical center's risk-adjusted health
32 care quality data. Such data shall include, but not be limited to the
33 following:

34 (1) The accreditation of hospitals, as well as sanctions and other
35 violations found by accreditation or state licensing boards;

36 (2) The volume of various procedures performed;

37 (3) The quality of care for various patient populations, including
38 pediatric populations and racial and ethnic minority populations;

39 (4) The availability of emergency rooms, intensive care units,
40 obstetrical units and burn units;

41 (5) The quality of care in various hospital settings, including
42 inpatient, outpatient, emergency, maternity, intensive care unit,

43 ambulatory surgical center, and physician practice settings;

44 (6) The use of health information technology, telemedicine, and
45 electronic medical records;

46 (7) Average staffing levels of nurses and other health
47 professionals, patient acuity, and duty hours by nursing unit or
48 department and staff retention rates by nursing unit or department;

49 (8) Training hours completed in a quarterly basis, by category of
50 staff and type of training;

51 (9) Ongoing patient safety initiatives; and

52 (10) Other measures determined by the director or commission.

53 4. The department shall not require the re-submission of data
54 which has been submitted to the department of health and senior
55 services or any other state departments under other provisions of
56 law. The department of health and senior services shall accept data
57 submitted by associations or related organizations on behalf of health
58 care providers by entering into binding agreements negotiated with
59 such associations or related organizations to obtain data deemed
60 necessary by the department for compliance with the provisions of this
61 section.

62 5. Using the recommendations of the commission as a guide, by
63 July 1, 2011, the department shall promulgate rules specifying the
64 standards and procedures for the collection, analysis, risk adjustment,
65 and reporting of health care quality data and procedures to be
66 monitored under sections 192.550 to 192.562. In promulgating such
67 rules, the department shall:

68 (1) Use methodologies and systems for data collection established
69 by the organizations specified in subsection 2 of this section, or its
70 successors; and

71 (2) Consider the findings and recommendations of the
72 commission established under section 192.556.

73 6. No later than July 1, 2010, the department shall review and
74 update its current regulations governing health care quality control as
75 it relates to the quality measures to be collected in the report card
76 under this section. Such standards shall be based upon nationally
77 recognized standards developed by the organizations enumerated in
78 subsection 2 of this section and shall include, but not be limited to,
79 standards for effectiveness and safety.

192.562. 1. The department of health and senior services shall
2 have access to all data and information held by hospitals or ambulatory
3 surgical centers. Failure to provide such access shall be grounds for
4 full or partial licensure suspension or revocation under section 197.293,
5 RSMo, sections 197.010 to 197.100, RSMo, or sections 197.200 to 197.240,
6 RSMo. If the department determines that the hospital or ambulatory
7 surgical center is willfully impeding access to such information, the
8 department shall be authorized to direct all state agencies to suspend
9 all or a portion of state payments to such facility until such time as the
10 desired information is obtained by the department.

11 2. In addition to any other remedy provided by law, upon a
12 determination by the director that a hospital or ambulatory surgical
13 center has violated a provision of sections 192.550 to 192.562 or a
14 standard, limitation, order, rule or regulation promulgated thereunder,
15 the director may issue an order assessing an administrative penalty
16 upon the violator under this section. An administrative penalty shall
17 not be imposed until the director has sought to resolve the violations
18 through conference, conciliation and persuasion. If the violation is
19 resolved through conference, conciliation and persuasion, no
20 administrative penalty shall be assessed unless the violation has caused
21 a risk to public health.

22 3. The maximum amount of administrative penalties assessed
23 under this section for each hospital or ambulatory surgical center shall
24 be no more than one thousand dollars per day, or part thereof, for each
25 violation, up to a maximum of twenty-five thousand dollars for each
26 violation. In determining the amount of the administrative penalty, the
27 department shall take into consideration all relevant circumstances,
28 including, but not limited to, the harm which the violation causes or
29 may cause, the violator's previous compliance record, the nature and
30 persistence of the violation, any corrective actions taken, and any other
31 factors which the department may reasonably deem relevant.

32 4. Any order assessing an administrative penalty shall state that
33 an administrative penalty is being assessed under this section and that
34 the person subject to the penalty may appeal as provided by this
35 section. Any such order which fails to state the law or regulation under
36 which the penalty is being sought, the manner of collection or rights of
37 appeal, shall result in the state's waiving any right to collection of the

38 penalty. An administrative penalty shall be paid within sixty days from
39 the date of issuance of the order assessing the penalty. Any person
40 subject to an administrative penalty may appeal to the administrative
41 hearing commission. Any appeal shall stay the due date of such
42 administrative penalty until the appeal is resolved. Any person who
43 fails to pay an administrative penalty by the final due date shall be
44 liable to the state for a surcharge of fifteen percent of the penalty plus
45 ten percent per annum on any amounts owed. Any administrative
46 penalty paid pursuant to this section shall be handled in accordance
47 with section 7 of article IX of the Missouri constitution. An action may
48 be brought in the appropriate circuit court to collect any unpaid
49 administrative penalty, and for attorney's fees and costs incurred
50 directly in the collection thereof.

51 5. An administrative penalty shall not be increased in those
52 instances where department action, or failure to act, has caused a
53 continuation of the violation that was a basis for the penalty. Any
54 administrative penalty shall be assessed within two years following the
55 department's initial discovery of such alleged violation, or from the
56 date the department in the exercise of ordinary diligence should have
57 discovered such alleged violation.

58 6. Any final order imposing an administrative penalty is subject
59 to judicial review upon the filing of a petition pursuant to section
60 536.100, RSMo, by any person subject to the administrative penalty. No
61 judicial review shall be available, however, until all administrative
62 remedies are exhausted.

63 7. The state may elect to assess an administrative penalty, or, in
64 lieu thereof, to request that the attorney general or prosecutor file an
65 appropriate legal action seeking a civil penalty in the appropriate
66 circuit court.

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