

SECOND REGULAR SESSION

SENATE BILL NO. 678

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAAF.

Read 1st time January 18, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4627S.02I

AN ACT

To amend chapter 191, RSMo, by adding thereto five new sections relating to serious reportable events in health care.

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

Section A. Chapter 191, RSMo, is amended by adding thereto five new sections, to be known as sections 191.1250, 191.1255, 191.1260, 191.1265, and 191.1270, to read as follows:

191.1250. As used in sections 191.1250 to 191.1270, the following terms shall mean:

(1) "Department", the department of health and senior services;

(2) "Health care facility", a hospital as defined under section 197.020, an ambulatory surgical center as defined under section 197.200 and a long-term care facility licensed under chapter 198;

(3) "Reportable incident", an occurrence of a serious reportable event in health care;

(4) "Reportable incident prevention plan", a written plan that:

(a) Defines, based on a root cause analysis, specific changes in organizational policies and procedures designed to reduce the risk of similar incidents occurring in the future or that provides a rationale acceptable to the department that no such changes are warranted;

(b) Sets deadlines for the implementation of such changes;

(c) Establishes who is responsible for making the changes; and

(d) Provides a mechanism for evaluating the effectiveness of such changes;

(5) "Root cause analysis", a structured process for identifying basic or causal factors that underlie variation in performance, including but not limited to the occurrence or possible occurrence of

21 a reportable incident. A root cause analysis focuses primarily on
22 systems and process rather than individual performance and
23 progresses from special causes in clinical processes to common causes
24 in organizational processes and identifies potential improvements in
25 processes or systems that would tend to decrease the likelihood of such
26 events in the future, or determines after analysis that no such
27 improvement opportunities exist;

28 (6) "Serious reportable event in health care", as initially defined
29 by the National Quality Forum in its March 2002 report and
30 subsequently updated by the National Quality Forum, including all
31 criteria established for identifying such events.

191.1255. 1. A health care facility shall report each reportable
2 incident to the department under sections 191.1250 to 191.1270. The
3 department shall, by rule, define the form and content of information
4 submitted. The department may require the use of a reporting format
5 prior to the adoption of rules. Such rules shall protect patient
6 confidentiality by requiring that patient-identifying data, as well as the
7 identities of health care professionals and facility employees, be
8 redacted from information provided to the department. The
9 department's rules may provide for identification of the patient using
10 an alternative patient identification system. The department shall
11 design the reporting system so that a health care facility may file by
12 electronic means the reports required under this section and shall also
13 encourage a facility to use the electronic filing option when that option
14 is feasible. The department may consult with experts and organizations
15 familiar with patient safety when developing the format for reporting
16 and in further defining reportable incidents in order to be consistent
17 with industry standards.

18 2. The health care facility's initial report of the incident shall be
19 submitted to the department as soon as is reasonably and practically
20 possible, but no later than five working days after discovery of the
21 incident. The health care facility shall, within forty-five days after the
22 incident occurs, submit a completed root cause analysis and a
23 reportable incident prevention plan to the department.

191.1260. 1. If a reportable incident is disclosed to the
2 department under sections 191.1250 to 191.1270 and a reportable
3 incident prevention plan and root cause analysis is submitted and

4 approved by the department, the incident shall not be deemed to be
5 grounds for a finding of a licensure deficiency under sections 197.010
6 to 197.120, sections 197.200 to 197.240 or chapter 198, unless within five
7 years of the reportable incident another reportable incident occurs and
8 is a violation of the health care facility's reportable incident prevention
9 plan or as otherwise authorized by subsection 2 of this section.

10 2. The department shall promulgate rules establishing criteria
11 for defining cases in which reportable incidents have occurred in a
12 health care facility with a frequency or possible pattern of adverse
13 outcomes so as to necessitate departmental intervention to protect the
14 public. The department may impose license sanctions against such
15 health care facilities based on such reportable incidents,
16 notwithstanding the provisions of subsection 1 of this section.

17 3. The provisions of this section shall not be construed to:

18 (1) Restrict the availability of information gleaned from original
19 sources;

20 (2) Limit the disclosure or use of information regarding a
21 reportable incident to:

22 (a) State or federal agencies or law enforcement under law or
23 regulation; or

24 (b) Health care facility accreditation agencies.

25 4. Nothing in sections 191.1250 to 191.1270 shall modify the duty
26 of a health care facility to report disciplinary actions or medical
27 malpractice actions against a health care professional under law.

28 5. A health care facility may report adverse events other than
29 reportable incidents to the department under sections 191.1250 to
30 191.1270 and such reports shall be subject to the same protections and
31 requirements as provided by sections 191.1250 to 191.1270 for
32 reportable incidents.

191.1265. The department shall publish an annual report to the
2 public on reportable incidents. The annual report shall be on its
3 website and available as a publication upon request. The first report
4 shall include twelve months of reported data and shall be published not
5 more than fifteen months after the effective date of rules promulgated
6 by the department to implement the provisions of sections 191.1250 to
7 191.1270. Thereafter, the department shall update the report on its
8 website on a monthly basis. The report shall show the number and rate

9 per patient encounter by region and by category of reportable incident,
10 as such categories are established by the National Quality Forum in
11 defining reportable incidents, and may identify reportable incidents by
12 type of facility. The report shall include recommendations for any
13 additions, deletions, or modifications to the reportable incidents. For
14 purposes of the annual report, the state shall be divided into no fewer
15 than three regions, with the St. Louis metropolitan area being one of
16 the regions.

191.1270. 1. Any health care facility that reports a reportable
2 incident shall not charge for or bill any entity, including third party
3 payors and patients, for all services related to the reportable incident.
4 If a third party payor denies a claim, in whole or in part, because there
5 is no coverage for services that resulted in any of the reportable
6 incidents described in this section, then the health care professional or
7 facility that provided such services is prohibited from billing the
8 patient for such services.

9 2. For purposes of this section, "third party payor" means a
10 health carrier as defined in section 376.1350, an organization entering
11 into a preferred provider arrangement, and a third party administrator
12 for a self-funded health benefit plan.

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