HOUSE DOCKET, NO. 1756 FILED ON: 1/20/2011

HOUSE . . . . . No. 1519

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey Sánchez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act reducing medical errors and improving patient safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jeffrey Sánchez	*15th Suffolk*
Denise Provost	*27th Middlesex*
James J. Dwyer	*30th Middlesex*
Jason M. Lewis	*31st Middlesex*

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HOUSE . . . . . No. 1519

By Mr. Sánchez of Boston, a petition (accompanied by bill, House, No. 1519) of Jeffrey Sánchez and others relative to medical peer review and patient safety. Public Health.

The Commonwealth of Massachusetts

An Act reducing medical errors and improving patient safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of Chapter 111 of the General Laws, as appearing in the 2008 edition, is hereby amended by striking out the definition of "Medical peer review committee" or "committee", and inserting in place thereof the following definition:-

"Medical peer review committee" or "committee", (a) a committee of health care providers, which functions to:

(i) evaluate or improve the quality of health care rendered by providers of health care services;

(ii) determine whether health care services were performed in compliance with the applicable standards of care;

(iii) determine whether the costs of health care services were performed in compliance with the applicable standards of care;

(iv) determine whether the cost of the health care services rendered was considered reasonable by the providers of health services in the area;

(v) determine whether a health care provider's actions call into question such health care provider's fitness to provide health care services; or

(vi) evaluate and assist health care providers impaired or allegedly impaired by reason of alcohol, drugs, physical disability, mental instability or otherwise.

(b) "Medical peer review committee" shall also include:

19 (i) a committee of a pharmacy society or association that is authorized to evaluate the
20 quality of pharmacy services or the competence of pharmacists and suggest improvements in
21 pharmacy systems to enhance patient care; or

22 (ii) a pharmacy peer review committee established by a person or entity that owns a
23 licensed pharmacy or employs pharmacists that is authorized to evaluate the quality of pharmacy
24 services or the competence of pharmacists and suggest improvements in pharmacy systems to
25 enhance patient care.

26 SECTION 2. Subsection (a) of said section 51H of Chapter 111 of the General Laws, as
27 so appearing, is hereby amended by inserting after the definition of "Healthcare-associated
28 infection" the following definition:-

29 "Multi-drug resistant organism", microorganisms, predominantly bacteria, that have
30 developed resistance to antimicrobial drugs.

31 SECTION 3. Chapter 111 of the General Laws, as so appearing, is hereby amended by
32 adding to section 51H the following subsection:–

33 (e) The department shall encourage the development and implementation of screening
34 and precautionary procedures that reduce infection rates for multidrug-resistant organisms
35 (MDRO), including but not limited to Methicillin-Resistant Staphylococcus Aureus (MRSA),
36 vancomycin-resistant enterococci (VRE), and certain gram-negative bacilli (GNB). The
37 department shall develop model MDRO screening and precautionary procedures for high-risk
38 patients, as defined by the department, which may be implemented by facilities; provided
39 however, that facilities may develop and implement MDRO screening and precautionary
40 procedures independently.

41 The department definition of high-risk patients may include the following:

42 (i) the patient has documented medical conditions making them more susceptible to
43 infection and is scheduled for an inpatient surgery.

44 (ii) the patient has been documented as having been previously discharged from a general
45 acute hospital within the past 30 days prior to the current hospital admission.

46 (iii) the patient is being admitted to either an intensive care unit or a burn unit at the
47 healthcare facility.

48 (iv) the patient receives inpatient dialysis treatment.

49 (v) the patient is being transferred from a nursing facility.

50 Facilities shall report on their use or non-use of MDRO screening and precautionary
51 procedures to the department and the Betsy Lehman Center for Patient Safety and Medical Error
52 Reduction. Reports shall be made in the manner and form established by the department.

53 SECTION 4. Chapter 111 of the General Laws, as so appearing, is hereby amended by
54 inserting after section 51H the following new section:–

55 Section 51I. As used in this section the following words shall, unless the context clearly
56 requires otherwise, have the following meanings:-

57 "Adverse Event", injury to a patient resulting from a medical intervention, and not to the
58 underlying condition of the patient.

59 "Checklist of Care", pre-determined steps to be followed by a team of healthcare
60 providers before, during, and after a given procedure to decrease the possibility of patient harm
61 by standardizing care.

62 "Facility," a hospital, institution maintaining an Intensive Care Unit, institution providing
63 surgical services, or clinic providing ambulatory surgery.

64 The department shall encourage the development and implementation of checklists of
65 care that prevent adverse events and reduce healthcare-associated infection rates. The
66 department shall develop model checklists of care, which may be implemented by facilities;
67 provided however, facilities may develop and implement checklists independently.

68 Facilities shall report data and information relative to their use or non-use of checklists to
69 the department and the Betsy Lehman Center for Patient Safety and Medical Error Reduction.
70 Reports shall be made in the manner and form established by the department.

71 SECTION 5. Chapter 111 of the General Laws, as so appearing, is hereby amended by
72 inserting at the end of section 204 the following subsection:-

73 (f) The provisions of this section shall apply to any committee formed by an individual or
74 group to perform the duties or functions of medical peer review, notwithstanding the fact that the
75 formation of the committee is not required by law or regulation or that the individual or group is
76 not solely affiliated with a public hospital or licensed hospital or nursing home or health
77 maintenance organization.

78 SECTION 6. Chapter 112 of the General Laws is hereby amended by inserting after
79 section 77 the following new section:-

80 Section 77A: No person filing a complaint or reporting or providing information
81 pursuant to this section or assisting the board at its request in any manner in discharging its
82 duties and functions, shall be liable in any cause of action arising out of the board's receipt of

83 such information or assistance, provided the person making the complaint or reporting or
84 providing such information or assistance does so in good faith and without malice.

85 SECTION 7. Chapter 233 of the General Laws is hereby amended by inserting after
86 section 23D the following new section:-

87 Section 23 D 1/2: As used in this section, the following words shall, unless the context
88 clearly requires otherwise, have the following meanings;

89 "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild,
90 brother, sister, half brother, half sister, adopted children of parent, or spouse's parents of an
91 injured party.

92 "Representative", a legal guardian, attorney, person designated to make decisions on
93 behalf of a patient under a medical power of attorney, or any person recognized in law or custom
94 as a patient's agent.

95 "Unanticipated outcome" means the outcome of a medical treatment or procedure,
96 whether or not resulting from an intentional act, that differs from an intended result of such
97 medical treatment or procedure.

98 In any claim, complaint or civil action brought by or on behalf of a patient allegedly
99 experiencing an unanticipated outcome of medical care, any and all statements, affirmations,
100 writings, gestures, activities, or conduct expressing apology, regret, sympathy, commiseration,
101 condolence, compassion, mistake, error, or a general sense of benevolence which are made by a
102 health care provider, an employee or agent of a health care provider, or by a health care facility
103 to the patient, family of the patient, or a representative of the patient and which relate to the
104 unanticipated outcome shall be inadmissible as evidence in any judicial or administrative
105 proceeding and shall not constitute an admission of liability or a statement against interest.

106 SECTION 8: Notwithstanding any general or special law to the contrary, the board of
107 registration of medicine, established pursuant to section 10 of Chapter 13, shall promulgate
108 regulations relative to the education and training of health care providers in the early disclosure
109 of adverse events, including, but not limited to, continuing medical education requirements.
110 Nothing in this section shall affect the total hours of continuing medical education required by
111 the board, including the number of hours required relative to risk management.

112 SECTION 9: Notwithstanding any general or special law to the contrary, the department
113 of public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical
114 Error Reduction, established pursuant to section 16E of Chapter 6A, shall create an independent
115 task force to study medication errors and adverse drug events. At least 1 member of the task
116 force shall be a health care consumer representative. The task force shall issue a report on the
117 frequency, nature, and location of occurrence of medication errors and adverse drug events. The

118 task force shall make recommendations for reducing medication errors and adverse drug events
119 across all settings of care. The task force shall file a report of its study, including its
120 recommendations and drafts of any legislation, if necessary, with the clerks of the Senate and
121 House of Representatives and the joint committees on public health and health care financing
122 within one year of the effective date of this act.

123 SECTION 10. Notwithstanding any general or special law to the contrary, the
124 department of public health, in consultation with the Betsy Lehman Center for Patient Safety and
125 Medical Error Reduction, established pursuant to section 16E of Chapter 6A, shall create an
126 independent task force to study and reduce the practice of defensive medicine and medical
127 overutilization in the Commonwealth, including but not limited to the overuse of imaging and
128 screening technologies. At least 1 member of the task force shall be a health care consumer
129 representative. The task force shall issue a report on the financial and non-financial impacts of
130 defensive medicine and the impact of overutilization on patient safety. The task force shall file
131 a report of its study, including its recommendations and drafts of any legislation, if necessary,
132 with the clerks of the Senate and House of Representatives and the joint committees on public
133 health and health care financing within one year of the effective date of this act.