

HOUSE No. 4720

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

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:

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

4 “Medical peer review committee” or “committee”, (a) a committee of health care
5 providers, which functions to:

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

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

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

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

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

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

18 (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. Chapter 111 of the General Laws, as so appearing, is hereby amended by
27 adding to section 51H the following subsection:—

28 (e) The department shall encourage the development and implementation of Methicillin-
29 Resistant Staphylococcus Aureus (MRSA) screening and precautionary procedures that reduce
30 MRSA infection rates. The department shall develop model MRSA screening and precautionary
31 procedures for high-risk patients, as defined by the department, which may be implemented by
32 facilities; provided however, that facilities may develop and implement MRSA screening and
33 precautionary procedures independently.

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

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

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

39 (iii) the patient is being admitted to either the intensive care unit or the burn unit within
40 the healthcare facility.

41 (iv) the patient receives inpatient dialysis treatment.

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

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

46 SECTION 3. Chapter 111 of the General Laws, as so appearing, is hereby amended by
47 inserting after section 51H the following new section:—

48 Section 51I. As used in this section the following words shall, unless the context clearly
49 requires otherwise, have the following meanings:—

50 “Adverse Event”, injury to a patient resulting from a medical intervention, and not to the
51 underlying condition of the patient.

52 “Checklist of Care”, pre-determined steps to be followed by a team of healthcare
53 providers before, during, and after a given procedure to decrease the possibility of patient harm
54 by standardizing care.

55 “Facility,” a hospital, institution maintaining an Intensive Care Unit, institution providing
56 surgical services, or clinic providing ambulatory surgery.

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

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

64 SECTION 4. Chapter 111 of the General Laws, as so appearing, is hereby amended by
65 inserting at the end of section 204 the following subsection:-

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

71 SECTION 5. Chapter 112 of the General Laws is hereby amended by inserting after
72 section 77 the following new section:-

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

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

78 SECTION 6. Chapter 233 of the General Laws is hereby amended by inserting after
79 section 23D the following new section:-

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

82 “Family”, the spouse, parent, grandparent, stepmother, stepfather, child, grandchild,
83 brother, sister, half brother, half sister, adopted children of parent, or spouse's parents of an
84 injured party.

85 “Representative”, a legal guardian, attorney, person designated to make decisions on
86 behalf of a patient under a medical power of attorney, or any person recognized in law or custom
87 as a patient's agent.

88 “Unanticipated outcome” means the outcome of a medical treatment or procedure,
89 whether or not resulting from an intentional act, that differs from an intended result of such
90 medical treatment or procedure.

91 In any claim or civil action brought by or on behalf of a patient allegedly experiencing an
92 unanticipated outcome of medical care, any and all statements, affirmations, writings, gestures,
93 activities, or conduct expressing apology, regret, sympathy, commiseration, condolence,
94 compassion, or a general sense of benevolence which are made by a health care provider, an
95 employee or agent of a health care provider, or by a health care facility to the patient, family of
96 the patient, or a representative of the patient and which relate to the unanticipated outcome shall

97 be inadmissible as evidence in any judicial or administrative proceeding and shall not constitute
98 an admission of liability.

99 SECTION 7: Notwithstanding any general or special law to the contrary, the board of
100 registration of medicine, established pursuant to section 10 of Chapter 13, shall promulgate
101 regulations relative to the education and training of health care providers in the early disclosure
102 of adverse events, including, but not limited to, continuing medical education requirements.
103 Nothing in this section shall affect the total hours of continuing medical education required by
104 the board, including the number of hours required relative to risk management.

105 SECTION 8: Notwithstanding any general or special law to the contrary, the department
106 of public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical
107 Error Reduction, established pursuant to section 16E of Chapter 6A, shall create an independent
108 task force to study medication errors and adverse drug events. At least 1 member of the task
109 force shall be a health care consumer representative. The task force shall issue a report on the
110 frequency, nature, and location of occurrence of medication errors and adverse drug events. The
111 task force shall make recommendations for reducing medication errors and adverse drug events
112 across all settings of care. The task force shall file a report of its study, including its
113 recommendations and drafts of any legislation, if necessary, with the clerks of the Senate and
114 House of Representatives and the joint committees on public health and health care financing
115 within one year of the effective date of this act.

116 SECTION 9. Notwithstanding any general or special law to the contrary, the department
117 of public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical
118 Error Reduction, established pursuant to section 16E of Chapter 6A, shall create an independent

119 task force to study and reduce the practice of defensive medicine and medical overutilization in
120 the Commonwealth, including but not limited to the overuse of imaging and screening
121 technologies. At least 1 member of the task force shall be a health care consumer representative.
122 The task force shall issue a report on the financial and non-financial impacts of defensive
123 medicine and the impact of overutilization on patient safety. The task force shall file a report of
124 its study, including its recommendations and drafts of any legislation, if necessary, with the
125 clerks of the Senate and House of Representatives and the joint committees on public health and
126 health care financing within one year of the effective date of this act.