

HOUSE No. 4862

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 as appearing in the 2008 edition, is hereby
2 amended by striking out the definition of “Medical peer review committee” or “committee”, and
3 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;

(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:

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

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

SECTION 2. Chapter 111 as so appearing, is hereby amended by inserting after section 51H the following new section:—

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

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

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

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

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

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

SECTION 3. Chapter 111, as so appearing, is hereby amended by inserting at the end of section 204 the following subsection:-

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

SECTION 4. Chapter 112 is hereby amended by inserting after section 77 the following new section:-

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

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

SECTION 5. Chapter 233 is hereby amended by inserting after section 23D the following new section:-

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

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

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

SECTION 6: Notwithstanding any general or special law to the contrary, the board of registration of nursing, established pursuant to section 74 of chapter 112, , in consultation with the Betsy Lehman Center for Patient Safety and Medical Error Reduction, established pursuant to section 16E of Chapter 6A, shall study medication errors and adverse drug events in nursing homes. The board shall file a report of its study, including its recommendations and drafts of

78 any legislation, if necessary, with the clerks of the Senate and House of Representatives and the
79 joint committees on public health and health care financing by July 1, 2011. .

80 SECTION 7. Notwithstanding any general or special law to the contrary, the department
81 of public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical
82 Error Reduction, established pursuant to section 16E of Chapter 6A, shall study ways to improve
83 patient safety and reduce medical malpractice in primary care settings. The department shall file
84 a preliminary report of its study, including its recommendations and drafts of any legislation, if
85 necessary, with the clerks of the Senate and House of Representatives and the joint committees
86 on public health and health care financing by July 1, 2011. The department shall file a final
87 report of its study, including its recommendations and drafts of any legislation, if necessary, with
88 the clerks of the Senate and House of Representatives and the joint committees on public health
89 and health care financing by July 1, 2013.