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SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED JANUARY 26, 2009

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SYNOPSIS

Requires DHSS to report certain patient safety indicators on a hospital by hospital basis and prohibits hospitals from charging for certain medical errors.

CURRENT VERSION OF TEXT

As reported by the Assembly Health and Senior Services Committee on May 7, 2009, with amendments.

(Sponsorship Updated As Of: 5/22/2009)

1 **AN ACT** concerning patient safety and supplementing Title 26 of the
2 Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. The Department of Health and Senior Services shall
8 include in the New Jersey Hospital Performance Report issued
9 annually by the department hospital-specific data from hospital
10 procedure and diagnosis codes concerning the following patient
11 safety indicators:

12 (1) Foreign body left during procedure (PSI 05);

13 (2) Iatrogenic pneumothorax (PSI 06);

14 (3) Postoperative hip fracture (PSI 08);

15 (4) Postoperative hemorrhage or hematoma (PSI 09);

16 (5) Postoperative deep vein thrombosis (DVT) or pulmonary
17 embolism (PE) (PSI 12);

18 (6) Postoperative sepsis (PSI 13);

19 (7) Postoperative wound dehiscence (PSI 14);

20 (8) Accidental puncture or laceration (PSI 15);

21 (9) Transfusion reaction (PSI 16);

22 (10) Birth trauma (PSI 17);

23 (11) Obstetric trauma-vaginal delivery with instrument (PSI 18);

24 (12) Obstetric trauma- vaginal delivery without instrument (PSI
25 19);

26 (13) Air embolism; and

27 (14) Surgery on the wrong side, wrong body part, or wrong
28 person, or wrong surgery performed on a patient.

29 b. The Commissioner of Health and Senior Services, in
30 consultation with the Quality Improvement Advisory Committee in
31 the Department of Health and Senior Services, may include
32 additional patient safety indicators in the annual report, by
33 regulation. The commissioner shall consider indicators that: (1) are
34 recommended by the federal Agency for Healthcare Research and
35 Quality or the Centers for Medicare and Medicaid Services; (2) are
36 suitable for comparative reporting and public accountability, and
37 are risk adjusted; (3) have a strong evidence base with no
38 substantial evidence against their use for comparative reporting; and
39 (4) can be measured through data that are available through hospital
40 procedure and diagnosis codes.

41 c. The commissioner shall request the Quality Improvement
42 Advisory Committee to study and make recommendations to the
43 commissioner on how to expand public reporting by the department

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted March 10, 2009.

² Assembly AHE committee amendments adopted May 7, 2009.

1 of patient pressure ulcers, patient infections due to hospital care,
2 and falls by patients in general hospitals.

3 d. The commissioner shall, in accordance with the
4 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
5 seq.), adopt such rules and regulations as the commissioner deems
6 necessary to carry out the provisions of this act.
7

8 2. a. A general hospital licensed pursuant to P.L.1971, c.136
9 (C.26:2H-1 et seq.) shall not seek to obtain payment from a patient
10 or any third party payer for costs associated with ²[a hospital
11 acquired condition subject to the hospital acquired condition
12 payment provisions of the Medicare program, as established by
13 regulation of the Centers for Medicare and Medicaid Services] any
14 of the following conditions or events subject to the hospital
15 acquired condition payment policy for the Medicare program
16 established by the Centers for Medicare and Medicaid Services:
17 transfusion reaction; air embolism; foreign body left during the
18 procedure; surgery on the wrong side, wrong body part, or wrong
19 person; or wrong surgery performed on a patient². Notwithstanding
20 the payment prohibition in this subsection, the hospital shall file
21 claim information that accurately reflects all services provided.
22 ²The provisions of this subsection shall not be construed to prohibit
23 a hospital from seeking to obtain payment from a patient or any
24 third party payer for any services that the hospital provides for
25 which it is otherwise permitted to seek to obtain payment.²

26 b. ²[A physician licensed by the State Board of Medical
27 Examiners pursuant to Title 45 of the Revised Statutes, who
28 acknowledges responsibility for ¹[causing]¹ a condition for which a
29 hospital is prohibited from obtaining payment from a patient or any
30 third party payer pursuant to subsection a. of this section, shall not
31 charge or otherwise seek to obtain payment from a patient or any
32 third party payer for costs associated with the condition.

33 c.]² A general hospital shall be required to notify its patients of
34 the provisions of this section.

35 ²[d.] c.² Nothing in this section shall be construed to deny any
36 party access to any existing payment appeals process.

37 ²[¹e.] d.² In any civil action alleging professional negligence
38 against a general hospital ²[or physician]², the provisions of this
39 section shall not modify the requirement, where applicable, for
40 expert testimony in accordance with the established case law of this
41 State.

42 ²[¹f.] e.² The Commissioners of Health and Senior Services and
43 Banking and Insurance ²[and the Director of the Division of
44 Consumer Affairs in the Department of Law and Public Safety]²
45 shall collaborate in developing standards for ²[health care

1 providers] general hospitals² and third party payers to implement
2 the provisions of this section.¹

3

4 3. This act shall take effect on the 180th day after enactment,
5 but the Commissioner of Health and Senior Services may take such
6 anticipatory administrative action in advance thereof as shall be
7 necessary for the implementation of this act.