SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2471

STATE OF NEW JERSEY

DATED: JANUARY 26, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2471.

This substitute directs the Department of Health and Senior Services (DHSS) to include in the New Jersey Hospital Performance Report issued annually by DHSS hospital-specific data concerning the following 12 patient safety indicators (PSI) developed by the Agency for Healthcare Research and Quality, as well as two patient safety indicators describing events that occur while the patient is in the hospital for which the federal Centers for Medicare and Medicaid Services (CMS) do not provide reimbursement:

(1) Foreign Body Left During Procedure (PSI 5) Discharges with foreign body accidentally left in during procedure per 1,000 discharges;

(2) Iatrogenic Pneumothorax (PSI 6) Cases of iatrogenic pneumothorax per 1,000 discharges. Excludes trauma, thoracic surgery, lung or pleural biopsy, or cardiac surgery patients, and MDC 14;

(3) Postoperative Hip Fracture (PSI 8) Cases of in-hospital hip fracture per 1,000 surgical discharges. Excludes patients in MDC 8, with conditions suggesting fracture present on admission and MDC 14;

(4) Postoperative Hemorrhage or Hematoma (PSI 9) Cases of hematoma or hemorrhage requiring a procedure per 1,000 surgical discharges. Excludes MDC 14;

(5) Postoperative PE or DVT (PSI 12) Cases of deep vein thrombosis or pulmonary embolism per 1,000 surgical discharges. Excludes obstetric patients;

(6) Postoperative Sepsis (PSI 13) Cases of sepsis per 1,000 elective surgery patients, with length of stay more than three days. Excludes principal diagnosis of infection, or any diagnosis of immunocompromised state or cancer, and obstetric admissions;

(7) Postoperative Wound Dehiscence (PSI 14) Cases of reclosure of postoperative disruption of abdominal wall per 1,000 cases of abdominopelvic surgery. Excludes obstetric admissions;

(8) Accidental Puncture or Laceration (PSI 15) Cases of technical difficulty (e.g., accidental cut or laceration during procedure) per 1,000 discharges. Excludes obstetric admissions;

(9) Transfusion Reaction (PSI 16) Cases of transfusion reaction per 1,000 discharges;

(10) Birth Trauma— Injury to Neonate (PSI 17) Cases of birth trauma, injury to neonate, per 1,000 liveborn births. Excludes some preterm infants and infants with osteogenic imperfecta;

(11) Obstetric Trauma— Vaginal Delivery with Instrument (PSI 18) Cases of obstetric trauma (3rd or 4th degree lacerations) per 1,000 instrument-assisted vaginal deliveries;

(12) Obstetric Trauma— Vaginal Delivery without Instrument (PSI 19) Cases of obstetric trauma (3rd or 4th degree lacerations) per 1,000 vaginal deliveries without instrument assistance;

(13) Air embolism; and

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

DHSS will use data from procedure and diagnosis codes recorded in hospital bills to compile the required information on patient safety indicators. Most of the patient safety indicators listed in the substitute are currently risk-adjusted by age, sex, diagnosis, and comorbidities, and are externally validated as suitable for hospital quality comparisons. With the exception of air embolism and wrong surgeries, the patient safety indicators listed in the substitute were developed by the Agency for Healthcare Research and Quality. The air embolism and wrong surgery indicators are added because they are already included by CMS in the list of hospital-acquired conditions or "never" events that are not eligible for payment under the Medicare or Medicaid programs.

The substitute also authorizes the Commissioner of Health and Senior Services, in consultation with the Quality Improvement Advisory Committee in DHSS, to include additional patient safety indicators in the annual report, by regulation. The commissioner shall consider indicators that: (1) are recommended by the federal Agency for Healthcare Research and Quality or CMS; (2) are suitable for comparative reporting and public accountability, and are risk adjusted; (3) have a strong evidence base with no substantial evidence against their use for comparative reporting; and (4) can be measured through data that are available through hospital procedure and diagnosis codes.

The substitute also seeks to insure hospital and physician accountability with respect to hospital acquired conditions that are not eligible for payment under CMS regulations by providing that a general hospital shall not seek to obtain payment from a patient or any third party payer for costs associated with a condition that is subject to

the hospital acquired condition payment provisions of the Medicare program. A physician who acknowledges responsibility for causing a condition for which the hospital cannot seek to obtain reimbursement is likewise prohibited from seeking payment. The substitute further provides that hospitals shall file claim information that accurately reflects all services provided, and shall notify their patients of the non-payment provisions. In addition, the substitute specifies that nothing in the billing prohibition is to be construed to deny any party access to any existing payment appeals process.

Currently CMS does not reimburse the extra cost of treating the following categories of conditions that occur while the patient is in the hospital:

- pressure ulcer stages III and IV;
- certain falls and trauma;
- surgical site infection after bariatric surgery for obesity, certain orthopedic procedures, and bypass surgery (mediastinitis);
- vascular-catheter associated infection;
- catheter-associated urinary tract infection;
- administration of incompatible blood;
- air embolism; and
- foreign object unintentionally retained after surgery.

In addition, CMS issued three National Coverage Determinations establishing non-coverage for any services related to surgery on the wrong side, wrong body part, wrong person, or wrong surgery performed on a patient.

Finally, the substitute provides that the commissioner shall request the Quality Improvement Advisory Committee in DHSS to recommend how to expand public reporting by DHSS of patient pressure ulcers, patient infections due to hospital care, and falls by patients.

The substitute takes effect on the 180th day after enactment.