

FIRST REGULAR SESSION

SENATE BILL NO. 704

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time March 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2584S.011

AN ACT

To amend chapter 192, RSMo, by adding thereto five new sections relating to the implementation of a health care quality report card.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 192, RSMo, is amended by adding thereto five new sections, to be known as sections 192.550, 192.553, 192.556, 192.559, and 192.562, to read as follows:

192.550. 1. For purposes of sections 192.550 to 192.562, the following terms shall mean:

(1) "Advisory panel", the health care quality advisory panel established under section 192.559;

(2) "Commission", the health care quality report card commission established under 192.562;

(3) "Other health care facility", a facility determined by the health care quality advisory panel established under section 192.559 or the health care quality report card commission established under section 192.562 to fall under the provisions of sections 192.550 to 192.562.

2. The department of health and senior services shall implement a health care quality program for the purpose of making available a health care quality report card to allow consumers to compare and assess the quality of health care services. The department shall submit the initial plan for the program to the general assembly by January 1, 2008, and shall update the plan and report on the status of its implementation annually thereafter. The department shall identify the process and time frames for implementation of the plan. Hospitals, ambulatory surgical centers, or other health care facilities shall

21 provide such data in compliance with this section.

22 3. The department shall determine which quality and
23 performance outcome and patient charge data is currently collected
24 from health care facilities under current state and federal law. The
25 department may consider such additional measures that are adopted
26 by the Centers of Medicare and Medicaid Services, National Quality
27 Forum, the Joint Commission on Accreditations of Healthcare
28 Organizations, the Agency for Healthcare Research and Quality, or any
29 other similar state or national entity that establishes standards to
30 measure the performance of health care providers.

31 4. The department shall not require the re-submission of data
32 which has been submitted to the department of health and senior
33 services or any other state departments under other provisions of
34 law. The department of health and senior services shall accept data
35 submitted by associations or related organizations on behalf of health
36 care providers by entering into binding agreements negotiated with
37 such associations or related organizations to obtain data deemed
38 necessary by the department for compliance with the provisions of this
39 section.

40 5. Using the recommendations of the health care quality advisory
41 panel established under section 192.559, as a guide, by July 1, 2008, the
42 department shall promulgate rules specifying the standards and
43 procedures for the collection, analysis, risk adjustment, and reporting
44 of health care quality data and procedures to be monitored under
45 sections 192.550 to 192.562. In promulgating such rules, the department
46 shall:

47 (1) Use methodologies and systems for data collection established
48 by the organizations specified in subsection 2 of this section, or its
49 successors; and

50 (2) Consider the findings and recommendations of the health
51 care quality advisory panel established under section 192.559.

52 6. The department, in consultation with the advisory panel or the
53 health care quality report card commission, shall be authorized to
54 collect and report data on subsets of each type of specialty or health
55 care setting specified in subsection 1 of this section. In consultation
56 with the advisory panel or commission, the department shall develop,
57 disseminate and update the data quarterly. The reports submitted to

58 the department shall account for each hospital's ambulatory surgical
59 center's or other health care facility's risk-adjusted health care quality
60 data. Such data shall include, but not be limited to the following:

61 (1) The accreditation of hospitals, as well as sanctions and other
62 violations found by accreditation or state licensing boards;

63 (2) The volume of various procedures performed;

64 (3) The quality of care for various patient populations, including
65 pediatric populations and racial and ethnic minority populations;

66 (4) The availability of emergency rooms, intensive care units,
67 obstetrical units and burn units;

68 (5) The quality of care in various hospitals settings, including
69 inpatient, outpatient, emergency, maternity, intensive care unit,
70 ambulatory surgical center, and physician practice settings;

71 (6) The use of health information technology, telemedicine, and
72 electronic medical records;

73 (7) Staffing levels of nurses and other health professionals, as
74 appropriate;

75 (8) Training hours completed in a quarterly basis, by category of
76 staff and type of training;

77 (9) Average staffing levels, patient acuity, and duty hours by
78 nursing unit or department and staff retention rates by nursing unit or
79 department;

80 (10) The availability of interpreter services on-site;

81 (11) Ongoing patient safety initiatives; and

82 (12) Other measures determined by the director, advisory panel
83 or commission.

84 7. The initial health care quality report card shall be issued by
85 the department not later than December 31, 2009, and the report card
86 shall be made available on its Internet website. The reports shall be
87 distributed to the governor and members of the general assembly
88 annually and to the general public upon request. The data on the
89 website shall be disclosed in a manner that allows consumers to
90 conduct an interactive search that allows them to view and compare
91 the information for specific hospitals, ambulatory surgical centers or
92 other health care facilities. The department shall develop and
93 disseminate the public reports based on data compiled for a period of
94 at least twelve months and the website must include such additional

95 information as is deemed necessary to ensure that the website enhances
96 informed decision making among consumers and health care
97 purchasers.

98 8. The department shall require that each hospital, ambulatory
99 surgical center, or other health care facility have in place procedures
100 for monitoring and enforcing compliance with health care quality
101 regulations and standards. Such procedures shall be coordinated with
102 the facilities' administrative staff, personnel staff, and quality
103 improvement programs.

104 9. Members of the medical staff who report in good faith health
105 care quality concerns to the hospital or ambulatory surgical center
106 administration or medical staff leadership of other health care facilities
107 shall not be subject to retaliation or discrimination for doing so and
108 shall be afforded the protections provided under section 197.285,
109 RSMo. Nothing in this section shall prevent or shield medical staff
110 members from being subject to professional review actions for
111 substandard care or breach of standards established in hospital policy,
112 rules, or medical staff bylaws.

192.553. 1. No later than July 1, 2008, the department shall
2 review and update its current regulations governing health care quality
3 control as it relates to the quality measures to be collected in the
4 report card under section 192.550. Such standards shall be based upon
5 nationally recognized standards developed by the organizations
6 enumerated in subsection 2 of section 192.550 and shall include, but not
7 be limited to, standards for effectiveness and safety.

8 2. Every hospital, ambulatory surgical center, or other health
9 care facility shall, beginning July 1, 2010, provide each patient an
10 opportunity to submit to the hospital, ambulatory surgical center, or
11 other health care facility administration complaints, comments, and
12 suggestions related to the care they received or their personal
13 observations related to the quality of care provided. The department
14 shall promulgate rules to implement this section.

192.556. 1. The department of health and senior services shall
2 have access to all data and information held by hospitals, ambulatory
3 surgical centers, or other health care facilities related to their health
4 care quality data and measurements. Failure to provide such access
5 shall be grounds for full or partial licensure suspension or revocation

6 under section 197.293, RSMo, sections 197.010 to 197.100, RSMo, or
7 sections 197.200 to 197.240, RSMo. If the department determines that
8 the hospital, ambulatory surgical center, or other health care facility
9 is willfully impeding access to such information, the department shall
10 be authorized to direct all state agencies to suspend all or a portion of
11 state payments to such facility until such time as the desired
12 information is obtained by the department.

13 2. In addition to any other remedy provided by law, upon a
14 determination by the director that a provision of sections 192.550 to
15 192.562 or a standard, limitation, order, rule or regulation promulgated
16 thereunder, the director may issue an order assessing an
17 administrative penalty upon the violator under this section. An
18 administrative penalty shall not be imposed until the director has
19 sought to resolve the violations through conference, conciliation and
20 persuasion. If the violation is resolved through conference, conciliation
21 and persuasion, no administrative penalty shall be assessed unless the
22 violation has caused a risk to public health.

23 3. The maximum amount of administrative penalties assessed
24 under this section for each hospital, ambulatory surgical center or
25 other health care facility shall be no more than one thousand dollars
26 per day, or part thereof, for each violation, up to a maximum of twenty-
27 five thousand dollars for each violation. In determining the amount of
28 the administrative penalty, the department shall take into
29 consideration all relevant circumstances, including, but not limited to,
30 the harm which the violation causes or may cause, the violator's
31 previous compliance record, the nature and persistence of the
32 violation, any corrective actions taken, and any other factors which the
33 department may reasonably deem relevant.

34 4. Any order assessing an administrative penalty shall state that
35 an administrative penalty is being assessed under this section and that
36 the person subject to the penalty may appeal as provided by this
37 section. Any such order which fails to state the law or regulation under
38 which the penalty is being sought, the manner of collection or rights of
39 appeal shall result in the state's waiving any right to collection of the
40 penalty. An administrative penalty shall be paid within sixty days from
41 the date of issuance of the order assessing the penalty. Any person
42 subject to an administrative penalty may appeal to the administrative

43 hearing commission. Any appeal shall stay the due date of such
44 administrative penalty until the appeal is resolved. Any person who
45 fails to pay an administrative penalty by the final due date shall be
46 liable to the state for a surcharge of fifteen percent of the penalty plus
47 ten percent per annum on any amounts owed. Any administrative
48 penalty paid pursuant to this section shall be handled in accordance
49 with section 7 of article IX of the Missouri Constitution. An action may
50 be brought in the appropriate circuit court to collect any unpaid
51 administrative penalty, and for attorney's fees and costs incurred
52 directly in the collection thereof.

53 5. An administrative penalty shall not be increased in those
54 instances where department action, or failure to act, has caused a
55 continuation of the violation that was a basis for the penalty. Any
56 administrative penalty shall be assessed within two years following the
57 department's initial discovery of such alleged violation, or from the
58 date the department in the exercise of ordinary diligence should have
59 discovered such alleged violation.

60 6. Any final order imposing an administrative penalty is subject
61 to judicial review upon the filing of a petition pursuant to section
62 536.100, RSMo, by any person subject to the administrative penalty. No
63 judicial review shall be available, however, until all administrative
64 remedies are exhausted.

65 7. The state may elect to assess an administrative penalty, or, in
66 lieu thereof, to request that the attorney general or prosecutor file an
67 appropriate legal action seeking a civil penalty in the appropriate
68 circuit court.

192.559. 1. The department shall appoint a "Health Care Quality
2 Advisory Panel" for the purposes of implementing sections 192.550 to
3 192.562.

4 2. Members of the health care quality advisory panel, appointed
5 by the director of the department of health and senior services shall
6 include:

7 (1) Two public members;

8 (2) Three board-certified or board-eligible physicians licensed
9 under chapter 334, RSMo, who are affiliated with a Missouri hospital
10 or medical school, active members of an organization that focuses on
11 health care quality improvement and who have demonstrated interest

12 and expertise in quality control;

13 (3) One physician licensed under chapter 334, RSMo, who is
14 active in the practice of medicine in Missouri and who holds medical
15 staff privileges at a Missouri hospital;

16 (4) Two health researchers, policymakers and other experts in
17 the field of health care quality;

18 (5) Four health care practitioners, at least two of whom shall be
19 practicing in a rural hospital or setting and at least two of whom shall
20 be registered professional nurses licensed under chapter 335, RSMo;

21 (6) A medical statistician with an advanced degree in such
22 specialty; and

23 (7) Three employees of the department, representing the
24 functions of hospital and ambulatory surgical center licensure, quality
25 and health data analysis, who shall serve as ex officio nonvoting
26 members of the panel.

27 3. It shall be the duties of the advisory panel to:

28 (1) Issue recommendations to the department of health and
29 senior services for the promulgation of rules specifying the standards
30 and procedures for the collection, analysis, risk adjustment, and
31 reporting of health care quality data and procedures to be monitored
32 under sections 192.550 to 192.562;

33 (2) Review and advise on the addition of other health care
34 facilities for inclusion in the requirements under sections 192.550 to
35 192.562.

36 4. Panel members shall not be related to any member of the
37 general assembly or governor within the third degree of
38 consanguinity. Panel members shall not be compensated for their
39 services but shall be reimbursed for their actual and necessary
40 expenses incurred in the performance of their duties.

41 5. The provisions of this section shall expire on December 31,
42 2009.

192.562. 1. There is hereby established a "Health Care Quality
2 Report Card Commission" within the department of health and senior
3 services. The commission shall be comprised of the following thirteen
4 members appointed by the director of the department of health and
5 senior services, unless otherwise specified, on or before January 1,
6 2010:

7 (1) One representative of the department of health and senior
8 services;

9 (2) Two representatives of the general public, appointed by the
10 governor;

11 (3) One member representing licensed registered nurses from a
12 list of recommended appointees provided by the Missouri Nurses
13 Association;

14 (4) Two members from a list of recommended appointees
15 provided by the Missouri Hospital Association;

16 (5) One member representing licensed physicians from a list of
17 recommended appointees provided by the Missouri State Medical
18 Association;

19 (6) One representative from a healthcare related labor
20 organization;

21 (7) One representative of business;

22 (8) One representative of consumers of health care services;

23 (9) A medical statistician with an advanced degree in such
24 specialty; and

25 (10) Two health researchers, policymakers and other experts in
26 the field of health care quality.

27 2. Additional members representing other health care facilities
28 may be added to the commission if and when the advisory panel or
29 commission determine that other health care facilities shall fall under
30 the provisions of sections 192.550 to 192.562.

31 3. The commission shall meet twice a year, or more if necessary,
32 and issue recommendations to the department regarding the
33 appropriateness of implementing all or part of the health care quality
34 data collection, analysis, and public reporting requirements of sections
35 192.550 to 192.562. The commission shall develop recommendations and
36 submit an annual report based on such recommendations to the
37 governor, chairpersons of standing health committees of the general
38 assembly and the department of health and senior services no later
39 than December thirty-first of each year.

40 4. The department of health and senior services shall provide
41 such support as the commission members require to aid it in the
42 performance of its duties.

43 5. Commission members shall not be related to any member of

44 the general assembly or governor within the third degree of
45 consanguinity. Commission members shall not be compensated for
46 their services but shall be reimbursed for their actual and necessary
47 expenses incurred in the performance of their duties.

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