

MAINE STATE LEGISLATURE

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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 419, L.D. 1363, Bill, "An Act to Reduce Medical Errors and Improve Patient Health"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 22 MRSA c. 1684 is enacted to read:

CHAPTER 1684

SENTINEL EVENTS REPORTING

§8751. Sentinel event reporting

There is established under this chapter a system for reporting sentinel events for the purpose of improving the quality of health care and increasing patient safety.

§8752. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Division. "Division" means the Division of Licensing and Certification within the Bureau of Medical Services.

2. Health care facility. "Health care facility" or "facility" means a state institution as defined under Title 34-B, chapter 1 or a health care facility licensed by the division.

COMMITTEE AMENDMENT

2 except that it does not include a facility licensed as a nursing
facility or licensed under chapter 1665.

4 3. Major permanent loss of function. "Major permanent loss
of function" means sensory, motor, physiological or intellectual
6 impairment that requires continued treatment or imposes
persistent major restrictions in activities of daily living.

8 4. Sentinel event. "Sentinel event" means:

10 A. One of the following that is determined to be unrelated
12 to the natural course of the patient's illness or underlying
condition or proper treatment of that illness or underlying
14 condition or that results from the elopement of a
hospitalized inpatient who lacks the capacity, as defined in
16 Title 18-A, section 5-801, paragraph C, to make decisions:

18 (1) An unanticipated death; or

20 (2) A major permanent loss of function that is not
22 present when the patient is admitted to the health care
facility;

24 B. Surgery on the wrong patient or wrong body part;

26 C. Hemolytic transfusion reaction involving administration
28 of blood or blood products having major blood group
incompatibilities;

30 D. Suicide of a patient in a health care facility where the
patient receives inpatient care;

32 E. Infant abduction or discharge to the wrong family; or

34 F. Rape of a patient.

36 **§8753. Mandatory reporting of sentinel events**

38 A health care facility shall report to the division a
40 sentinel event that occurs to a patient while the patient is in
the health care facility as provided in this section.

42 1. Notification. A health care facility shall notify the
44 division of the occurrence of a sentinel event by the next
business day after the sentinel event has occurred or the next
46 business day after the facility determines that the event
occurred. The notification must include the date and time of
48 notification, the name of the health care facility and the type
of sentinel event pursuant to section 8752, subsection 4.

50

2 2. Reporting. A health care facility shall file a written
3 report no later than 45 days following the notification of the
4 occurrence of a sentinel event pursuant to subsection 1. The
5 written report must be signed by the chief executive officer of
6 the facility and must contain the following information:

7 A. Facility name and address;

8 B. Name, title and phone number of the contact person for
9 the facility;

10 C. The date and time of the sentinel event;

11 D. The type of sentinel event and a brief description of
12 the sentinel event;

13 E. Identification of clinical and organizational systems or
14 processes that may have contributed to the sentinel event;

15 F. Identification of changes that could be made that would
16 reduce the risk of such a sentinel event occurring in the
17 future; and

18 G. A brief description of any corrective action taken or
19 planned.

20 3. Cooperation. A health care facility that has filed a
21 notification or a report of the occurrence of a sentinel event
22 under this section shall cooperate with the division as necessary
23 for the division to fulfill its duties under section 8754.

24 4. Immunity. A person who in good faith reports a sentinel
25 event pursuant to this chapter is immune from any civil or
26 criminal liability for the act of reporting or participating in
27 the review by the division. "Good faith" does not include
28 instances when a false report is made and the person reporting
29 knows the report is false. This subsection may not be construed
30 to bar civil or criminal action regarding perjury or regarding
31 the sentinel event that led to the report.

32 **§8754. Division duties**

33 The division has the following duties under this chapter.

34 1. Initial review; other action. Upon receipt of a
35 notification or report of a sentinel event, the division shall
36 complete an initial review and may take such other action as the
37 division determines to be appropriate under applicable rules and
38 within the jurisdiction of the division. The division may
39 take such other action as the division determines to be appropriate
40 under applicable rules and within the jurisdiction of the division.

2 conduct on-site reviews of medical records and may retain the
3 services of consultants when necessary to the division.

4 2. Procedures. The division shall adopt procedures for the
5 reporting, reviewing and handling of information regarding
6 sentinel events. The procedures must provide for electronic
7 submission of notifications and reports.

8
9 3. Confidentiality. Notifications and reports of sentinel
10 events filed pursuant to this chapter and all information
11 collected or developed as a result of the filing and proceedings
12 pertaining to the filing, regardless of format, are confidential
13 and privileged information.

14
15 A. Privileged and confidential information under this
16 subsection is not:

17 (1) Subject to public access under Title 1, chapter
18 13, except for data developed from the reports that do
19 not identify or permit identification of the health
20 care facility;

21 (2) Subject to discovery, subpoena or other means of
22 legal compulsion for its release to any person or
23 entity; or

24 (3) Admissible as evidence in any civil, criminal,
25 judicial or administrative proceeding.

26
27 B. The transfer of any information to which this chapter
28 applies by a health care facility to the division or to a
29 national organization that accredits health care facilities
30 may not be treated as a waiver of any privilege or
31 protection established under this chapter or other laws of
32 this State.

33 C. The division shall take appropriate measures to protect
34 the security of any information to which this chapter
35 applies.

36
37 D. This section may not be construed to limit other
38 privileges that are available under federal law or other
39 laws of this State that provide for greater peer review or
40 confidentiality protections than the peer review and
41 confidentiality protections provided for in this subsection.

42
43 E. For the purposes of this subsection, "privileged and
44 confidential information" does not include:

45 (1) Any final administrative action;

- 2 (2) Information independently received pursuant to a
- 4 3rd-party complaint investigation conducted pursuant to
- department rules; or
- 6 (3) Information designated as confidential under rules
- and laws of this State.

8
10 This subsection does not affect the obligations of the department
12 relating to federal law.

12 4. Report. The division shall develop an annual report to
14 the Legislature, health care facilities and the public that
16 includes summary data of the number and types of sentinel events
18 of the prior calendar year by type of health care facility, rates
 of change and other analyses and an outline of areas to be
 addressed for the upcoming year. The report must be submitted by
 February 1st each year.

20 **§8755. Compliance**

22 A health care facility that knowingly violates any provision
24 of this chapter or rules adopted pursuant to this chapter is
26 subject to a civil penalty payable to the State of not more than
28 \$5,000 per unreported sentinel event to be recovered in a civil
 action. Funds collected pursuant to this section must be
 deposited in a dedicated special revenue account to be used to
 support sentinel event reporting and education.

30 **§8756. Rulemaking**

32 The department shall adopt rules to implement this chapter.
34 Rules adopted pursuant to this section are routine technical
 rules as defined in Title 5, chapter 375, subchapter II-A.

36 Sec. 2. Appropriations and allocations. The following
38 appropriations and allocations are made.

40 **HUMAN SERVICES, DEPARTMENT OF**

42 **Bureau of Medical Services**

44 Initiative: Provides funding to establish a system for
46 receiving, reviewing, and reporting serious medical errors,
48 referred to as sentinel events, and adds 2 Health Services
 Consultant positions, one Planning and Research Associate
 position and one Clerk III position for this purpose.

50 <u>General Fund</u>	<u>2001-02</u>	<u>2002-03</u>
Positions - Legislative Count	(0.000)	(4.000)

COMMITTEE AMENDMENT **A**" to S.P. 419, L.D. 1363

2	Personal Services	\$0	\$152,981
	All Other	0	95,000
4	Total	\$0	\$247,981'

6 Further amend the bill by inserting at the end before the
summary the following:

10 **FISCAL NOTE**

12 **2002-03**

14 **APPROPRIATIONS/ALLOCATIONS**

16 General Fund \$247,981

18
20 In order to meet the bill's requirements to establish a
22 system to receive, review and report serious medical errors,
24 referred to as sentinel events, the bill adds 2 Health Service
26 Consultant positions, one Planning and Research Associate
28 position and one Clerk III position in the Department of Human
30 Services, Bureau of Medical Services. The bill includes a
General Fund appropriation of \$247,981 in fiscal year 2002-03.
Of this appropriation, \$152,981 is to fund the salary and related
benefit costs of the 4 positions, \$20,000 is to fund computer and
work stations for the positions and \$75,000 is for the costs of
designing and implementing a web-based computer system to record
and report on sentinel events.

32 The additional workload and administrative costs associated
34 with the minimal number of new cases filed in the court system
36 can be absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
General Fund revenue by minor amounts.'

38 **SUMMARY**

40
42 This amendment is the report of the committee. It replaces
44 the bill. It establishes a system for reporting serious medical
46 errors, referred to as sentinel events, to the Department of
48 Human Services, Bureau of Medical Services, Division of Licensing
and Certification. It protects the confidentiality of sentinel
event information while allowing the release of certain
information, such as final administrative action taken by the
department. The amendment adds an appropriation section and a
fiscal note.

COMMITTEE AMENDMENT