



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Jacqueline Y. Collins - Barack Obama

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.625 new

Creates the Patient Safety Act. Creates the Patient Safety Authority that, among other duties, works with medical facilities and the Department of Public Health to reduce the number and severity of serious events and incidents that occur at the facility and receives reports from health care workers regarding serious events. Provides funding for the Authority and the administration of the Act through a surcharge on the medical facilities' licensing fees, which shall be deposited into the Patient Safety Trust Fund, a special fund in the State treasury. Requires medical facilities to develop, implement, and comply with an internal patient safety plan, designate a patient safety officer, and establish a patient safety committee. Provides that a health care worker who reasonably believes that a serious event or incident has occurred shall report the serious event or incident according to the patient safety plan of the medical facility, unless the health care worker knows that a report has already been made. Requires that the medical facility notify the patient or a family member of the patient of a serious event. Contains other provisions. Amends the State Finance Act to create the Patient Safety Authority Trust Fund. Effective January 1, 2005.

LRB093 20971 AMC 46958 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning patient safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Patient Safety Act.

6 Section 5. Definitions. As used in this Act:

7 "Ambulatory surgical treatment center" means an ambulatory
8 surgical treatment center licensed under the Ambulatory
9 Surgical Treatment Center Act.

10 "Authority" means the Patient Safety Authority established
11 in this Act.

12 "Board" means the board of directors of the Patient Safety
13 Authority.

14 "Department" means the Department of Public Health.

15 "Fund" means the Patient Safety Trust Fund.

16 "Health care worker" means an employee, independent
17 contractor, licensee, or other individual authorized to
18 provide services in a medical facility.

19 "Incident" means an event, occurrence, or situation
20 involving the clinical care of a patient in a medical facility
21 that could have injured the patient but did not either cause an
22 unanticipated injury or require the delivery of additional
23 health care services to the patient. "Incident" does not
24 include a serious event.

25 "Licensee" means an individual who is licensed or certified
26 to provide professional services in this State and is employed
27 by or authorized to provide professional services in a medical
28 facility.

29 "Medical facility" means an ambulatory surgical treatment
30 center or hospital.

31 "Patient safety officer" means an individual designated by
32 a medical facility under section 40.

1 "Serious event" means an event, occurrence, or situation
2 involving the clinical care of a patient in a medical facility
3 that results in death or compromises patient safety and results
4 in an unanticipated injury requiring the delivery of additional
5 health care services to the patient. "Serious event" does not
6 include an incident.

7 Section 10. Patient Safety Authority.

8 (a) There is established an entity to be known as the
9 Patient Safety Authority. The powers and duties of the
10 Authority shall be vested in and exercised by a board of
11 directors.

12 (b) The board of the Authority shall consist of 11 members
13 as follows:

14 (1) Two physicians who are licensed in Illinois and
15 reside in Illinois appointed by the Governor, who shall
16 serve initial terms of 3 years.

17 (2) A nurse who is licensed in Illinois and resides in
18 Illinois appointed by the Governor, who shall serve an
19 initial term of 3 years.

20 (3) A pharmacist who is licensed in Illinois and
21 resides in Illinois appointed by the Governor, who shall
22 serve an initial term of 2 years.

23 (4) A health care worker who is employed by a hospital
24 located in Illinois and resides in Illinois appointed by
25 the Governor, who shall serve an initial term of 2 years.

26 (5) Six residents of Illinois appointed by the
27 Governor, one of whom is a health care worker, who shall
28 each serve an initial term of 4 years.

29 (c) Members of the board shall serve for terms of 4 years
30 after completion of the initial terms designated in subsection
31 (b) and shall not be eligible to serve more than 2 full
32 consecutive terms.

33 (d) A majority of the members of the board shall constitute
34 a quorum. Notwithstanding any other provision of law, action
35 may be taken by the board at a meeting upon a vote of the

1 majority of its members present in person.

2 (e) The board shall meet at the call of the chairperson.
3 The board shall hold meetings at least quarterly. The meetings
4 shall be subject to the requirements of the Open Meetings Act.

5 (f) The chairperson shall be one of the physicians
6 appointed under item (1) of subsection (b), as determined by
7 the Governor.

8 (g) The Authority shall be formed within 60 days after the
9 effective date of this Act.

10 Section 15. Powers and duties of the Authority.

11 (a) The Authority shall have all of the following powers
12 and duties:

13 (1) Employ staff as necessary to implement this Act.

14 (2) Make, execute, and deliver contracts and other
15 instruments.

16 (3) Apply for, solicit, receive, establish priorities
17 for, allocate, disburse, contract for, administer, and
18 spend funds in the Fund and other funds that are made
19 available to the Authority from any source consistent with
20 the purposes of this Act.

21 (4) Contract with a for-profit or registered nonprofit
22 entity, other than a health care provider, to do any of the
23 following:

24 (A) Collect, analyze, and evaluate data regarding
25 reports of serious events and incidents, including the
26 identification of performance indicators and patterns
27 in frequency or severity at certain medical facilities
28 or in certain regions of Illinois.

29 (B) Transmit to the Authority recommendations for
30 changes in health care practices and procedures that
31 may be instituted for the purpose of reducing the
32 number and severity of serious events and incidents.

33 (C) Directly advise reporting medical facilities
34 of immediate changes that can be instituted to reduce
35 serious events and incidents.

1 (D) Conduct reviews in accordance with subsection
2 (b).

3 (5) Receive and evaluate recommendations made by the
4 entity contracted with in accordance with item (4) and
5 report those recommendations to the Department. The
6 Department shall approve or disapprove the recommendations
7 within 30 days.

8 (6) After consultation with and approval by the
9 Department, issue recommendations to medical facilities on
10 a facility-specific or on a Statewide basis regarding
11 changes, trends, and improvements in health care practices
12 and procedures for the purpose of reducing the number and
13 severity of serious events and incidents. Prior to issuing
14 recommendations, consideration shall be given to the
15 following factors: expectation of improved quality care,
16 implementation feasibility, other relevant implementation
17 practices, and the cost impact to patients, payors, and
18 medical facilities. Statewide recommendations shall be
19 issued to medical facilities on a continuing basis and
20 shall be published and posted on the Department's and the
21 Authority's publicly accessible World Wide Web site.

22 (7) Meet with the Department for purposes of
23 implementing this Act.

24 (b) A health care worker who has complied with the
25 reporting requirements of subsection (a) of the Section 35 may
26 file an anonymous report regarding a serious event with the
27 Authority. Upon receipt of the report, the Authority shall give
28 notice to the affected medical facility that a report has been
29 filed. The Authority shall conduct its own review of the
30 report, unless the medical facility has already commenced an
31 investigation of the serious event. The medical facility shall
32 provide the Authority with the results of its investigation no
33 later than 30 days after receiving notice pursuant to this
34 subsection. If the Authority is dissatisfied with the adequacy
35 of the investigation conducted by the medical facility, the
36 Authority shall perform its own review of the serious event and

1 may refer a medical facility and any involved licensee to the
2 Department for failure to report.

3 (c) The Authority shall report no later than December 31,
4 2005 and annually thereafter to the Department and the General
5 Assembly on the Authority's activities in the preceding year.
6 The report shall include:

7 (1) A schedule of the year's meetings.

8 (2) A list of contracts entered into pursuant to this
9 Section, including the amounts awarded to each contractor.

10 (3) A summary of the Fund receipts and expenditures,
11 including a financial statement and balance sheet.

12 (4) The number of serious events and incidents reported
13 by medical facilities on a geographical basis.

14 (5) The information derived from the data collected
15 including any recognized trends concerning patient safety.

16 (6) The number of anonymous reports filed and reviews
17 conducted by the Authority.

18 (7) The number of referrals to licensure boards for
19 failure to report under this Act.

20 (8) Recommendations for statutory or regulatory
21 changes that may help improve patient safety in Illinois.

22 The annual report shall be made available for public
23 inspection and shall be posted on the Authority's publicly
24 accessible World Wide Web site.

25 Section 20. Patient Safety Trust Fund.

26 (a) There is created a special fund in State treasury to be
27 known as the Patient Safety Trust Fund. The monies in the Fund
28 shall be used by the Authority for the administration of this
29 Act. All interest earned from the investment or deposit of
30 moneys accumulated in the Fund shall be deposited in the Fund
31 for the same use.

32 (b) Commencing July 1, 2005, each medical facility shall
33 pay the Department a surcharge on its licensing fee as provided
34 by rule in an amount necessary to provide sufficient revenues
35 to operate the Authority. The total assessment for all medical

1 facilities shall not exceed \$5,000,000. The Department shall
2 transfer the total assessment amount to the Fund within 30 days
3 of receipt.

4 (c) In the event that the Fund is discontinued or the
5 Authority is dissolved by operation of law, any balance
6 remaining in the Fund, after deducting administrative costs of
7 liquidation, shall be returned to the medical facilities in
8 proportion to their financial contributions to the Fund in the
9 preceding licensing period.

10 (d) If, after 30 days' notice, a medical facility fails to
11 pay a surcharge levied by the Department under this Act, the
12 Department may assess an administrative penalty of \$1,000 per
13 day until the surcharge is paid.

14 Section 25. Responsibilities of the Department of Public
15 Health.

16 (a) The Department shall have all of the following
17 responsibilities:

18 (1) Review and approve patient safety plans in
19 accordance with section 30.

20 (2) In conjunction with the Authority, analyze and
21 evaluate existing health care procedures and approve
22 recommendations issued by the Authority under items (6) and
23 (7) of subsection (a) of Section 15.

24 (3) Meet with the Authority for purposes of
25 implementing this Act.

26 (b) The recommendations made to medical facilities
27 pursuant to item (2) of subsection (a) may be considered by the
28 Department for licensure purposes under the the Ambulatory
29 Surgical Treatment Center Act and the Hospital Licensing Act,
30 but shall not be considered mandatory unless adopted by the
31 Department as rules.

32 Section 30. Patient safety plans.

33 (a) A medical facility must develop, implement, and comply
34 with an internal patient safety plan that shall be established

1 for the purpose of improving the health and safety of patients.
2 The plan shall be developed in consultation with the licensees
3 providing health care services in the medical facility.

4 (b) A patient safety plan shall:

5 (1) Designate a patient safety officer as set forth in
6 Section 40.

7 (2) Establish a patient safety committee as set forth
8 in Section 45.

9 (3) Establish a system for the health care workers of a
10 medical facility to report serious events and incidents
11 that shall be accessible 24 hours a day, 7 days a week.

12 (4) Prohibit any retaliatory action against a health
13 care worker for reporting a serious event or incident in
14 accordance with the Whistleblower Act.

15 (5) Provide for written notification to patients in
16 accordance with subsection (b) of Section 35.

17 (c) Within 60 days after the effective date of this Act, a
18 medical facility shall submit its patient safety plan to the
19 Department for approval consistent with the requirements of
20 this Section. If the Department does not approve or reject the
21 plan within 60 days after receipt, the plan shall be deemed
22 approved.

23 (d) Upon approval of the patient safety plan, a medical
24 facility shall notify all health care workers of the medical
25 facility of the patient safety plan. Compliance with the
26 patient safety plan shall be required as a condition of
27 employment or credentialing at the medical facility.

28 Section 35. Reporting and notification.

29 (a) A health care worker who reasonably believes that a
30 serious event or incident has occurred shall report the serious
31 event or incident according to the patient safety plan of the
32 medical facility, unless the health care worker knows that a
33 report has already been made. The report shall be made
34 immediately or as soon thereafter as reasonably practicable,
35 but in no event later than 24 hours after the occurrence or

1 discovery of a serious event or incident.

2 (b) A medical facility, through an appropriate designee,
3 shall provide written notification to a patient affected by a
4 serious event or, with the consent of the patient, to an
5 available family member or designee, within 7 days of the
6 occurrence or discovery of a serious event. If the patient is
7 unable to give consent, the notification shall be given to an
8 adult member of the immediate family. If an adult member of the
9 immediate family cannot be identified or located, notification
10 shall be given to the closest adult family member. For
11 unemancipated patients who are under 18 years of age, the
12 parent or guardian shall be notified in accordance with this
13 subsection. The notification requirements of this subsection
14 shall not be subject to the provisions of subsection (a) of
15 Section 50. Notification under this subsection shall not
16 constitute an acknowledgment or admission of liability.

17 (c) A health care worker who reports the occurrence of a
18 serious event or incident in accordance with subsection (a) or
19 (b) shall not be subject to any retaliatory action for
20 reporting the serious event or incident and shall have the
21 protections and remedies set forth in the Whistleblower Act.

22 (d) Nothing in this Section shall limit a medical
23 facility's ability to take appropriate disciplinary action
24 against a health care worker for failure to meet defined
25 performance expectations or to take corrective action against a
26 licensee for unprofessional conduct, including making false
27 reports or failure to report serious events under this Act.

28 Section 40. Patient safety officer. A patient safety
29 officer of a medical facility shall do all of the following:

30 (1) Serve on the patient safety committee.

31 (2) Ensure the investigation of all reports of serious
32 events and incidents.

33 (3) Take such action as is immediately necessary to
34 ensure patient safety as a result of any investigation.

35 (4) Report to the patient safety committee regarding

1 any action taken to promote patient safety as a result of
2 investigations commenced pursuant to this Section.

3 Section 45. Patient safety committee.

4 (a) A hospital's patient safety committee shall be composed
5 of the medical facility's patient safety officer, at least 3
6 health care workers of the medical facility, and at least 2
7 residents of the community served by the medical facility who
8 are not agents, employees, or contractors of the medical
9 facility. No more than one member of the patient safety
10 committee shall be a member of the medical facility's board of
11 trustees. The committee shall include members of the medical
12 facility's medical and nursing staff. The committee shall meet
13 at least monthly.

14 An ambulatory surgical treatment center's patient safety
15 committee shall be composed of the medical facility's patient
16 safety officer, at least one health care worker of the medical
17 facility, and at least one resident of the community served by
18 the ambulatory surgical facility who is not an agent, employee
19 or contractor of the ambulatory surgical facility. No more than
20 one member of the patient safety committee shall be a member of
21 the medical facility's board of governance. The committee shall
22 include members of the medical facility's medical and nursing
23 staff. The committee shall meet at least quarterly.

24 (b) A patient safety committee of a medical facility shall
25 do all of the following:

26 (1) Receive reports from the patient safety officer.

27 (2) Evaluate investigations and actions of the patient
28 safety officer on all reports.

29 (3) Review and evaluate the quality of patient safety
30 measures utilized by the medical facility. A review shall
31 include the consideration of reports made under item (4) of
32 subsection (a) and subsection (b) of Section 15 and
33 subsection (a) of Section 35.

34 (4) Make recommendations to eliminate future serious
35 events and incidents.

1 (5) Report to the administrative officer and governing
2 body of the medical facility on a quarterly basis regarding
3 the number of serious events and incidents and its
4 recommendations to eliminate future serious events and
5 incidents.

6 Section 50. Confidentiality and compliance.

7 (a) Any documents, materials, or information solely
8 prepared or created for the purpose of compliance with
9 subsection (b) of Section 45 or of reporting under item (4) of
10 subsection (a) and subsection (b) of Section 15 and subsection
11 (a) of Section 35 that arise out of matters reviewed by the
12 patient safety committee or the governing board of a medical
13 facility pursuant to subsection (b) of Section 45 are
14 confidential and shall not be discoverable or admissible as
15 evidence in any civil or administrative action or proceeding.
16 Any documents, materials, records, or information that would
17 otherwise be available from original sources shall not be
18 construed as immune from discovery or use in any civil or
19 administrative action or proceeding merely because they were
20 presented to the patient safety committee or governing board of
21 a medical facility.

22 (b) No person who performs responsibilities for or
23 participates in meetings of the patient safety committee or
24 governing board of a medical facility pursuant to subsection
25 (b) of Section 45 shall be allowed to testify as to any matters
26 within the knowledge gained by the person's responsibilities or
27 participation on the patient safety committee or governing
28 board of a medical facility, provided that the person shall be
29 allowed to testify as to any matters within the person's
30 knowledge that was gained outside of the persons's
31 responsibilities or participation on the patient safety
32 committee or governing board of a medical facility.

33 (c) The confidentiality protections set forth in
34 subsections (a) and (b) shall only apply to the documents,
35 materials, or information prepared or created pursuant to the

1 responsibilities of the patient safety committee or governing
2 board of a medical facility set forth in subsection (b) of
3 Section 45.

4 (d) Any documents, materials or information made
5 confidential by subsection (a) shall not be subject to requests
6 under the Freedom of Information Act.

7 (e) Notwithstanding any other provision of law, no person
8 providing information or services to the patient safety
9 committee, governing board of a medical facility, Authority, or
10 Department shall be held, by reason of having provided such
11 information or services, to have violated any criminal law or
12 to be civilly liable under any law, unless such information is
13 false and the person providing such information knew, or had
14 reason to believe, that such information was false and was
15 motivated by malice toward any person directly affected by such
16 action.

17 Section 90. The State Finance Act is amended by adding
18 Section 5.625 as follows:

19 (30 ILCS 105/5.625 new)

20 Sec. 5.625. The Patient Safety Trust Fund.

21 Section 99. Effective date. This Act takes effect January
22 1, 2005.