HOUSE DOCKET, NO. 01756 FILED ON: 01/20/2011

HOUSE . . . . No. 01519

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey Sánchez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act reducing medical errors and improving patient safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jeffrey Sánchez	*15th Suffolk*
Denise Provost	*27th Middlesex*
James J. Dwyer	*30th Middlesex*
Jason M. Lewis	*31st Middlesex*

HOUSE . . . . No. 01519

By Mr. Sánchez of Boston, a petition (accompanied by bill, House, No. 1519) of Jeffrey Sánchez and others relative to medical peer review and patient safety. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act reducing medical errors and improving patient safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 111 of the General Laws, as appearing in the 2008
2 edition, is hereby amended by striking out the definition of "Medical peer review committee" or
3 "committee", and inserting in place thereof the following definition:-

4 "Medical peer review committee" or "committee", (a) a committee of health care providers,
5 which functions to:

6 (i) evaluate or improve the quality of health care rendered by providers of health care services;

7 (ii) determine whether health care services were performed in compliance with the applicable
8 standards of care;

9 (iii) determine whether the costs of health care services were performed in compliance with the
10 applicable standards of care;

11 (iv) determine whether the cost of the health care services rendered was considered reasonable

12 by the providers of health services in the area;

13 (v) determine whether a health care provider's actions call into question such health care

14 provider's fitness to provide health care services; or

15 (vi) evaluate and assist health care providers impaired or allegedly impaired by reason of

16 alcohol, drugs, physical disability, mental instability or otherwise.

17 (b) "Medical peer review committee" shall also include:

18 (i) a committee of a pharmacy society or association that is authorized to evaluate the quality of

19 pharmacy services or the competence of pharmacists and suggest improvements in pharmacy

20 systems to enhance patient care; or

21 (ii) a pharmacy peer review committee established by a person or entity that owns a licensed

22 pharmacy or employs pharmacists that is authorized to evaluate the quality of pharmacy services

23 or the competence of pharmacists and suggest improvements in pharmacy systems to enhance

24 patient care.

25 SECTION 2. Subsection (a) of said section 51H of Chapter 111 of the General Laws, as so

26 appearing, is hereby amended by inserting after the definition of "Healthcare-associated

27 infection" the following definition:-

28 "Multi-drug resistant organism", microorganisms, predominantly bacteria, that have developed

29 resistance to antimicrobial drugs.

30 SECTION 3. Chapter 111 of the General Laws, as so appearing, is hereby amended by adding to

31 section 51H the following subsection:–

32 (e) The department shall encourage the development and implementation of screening and
33 precautionary procedures that reduce infection rates for multidrug-resistant organisms (MDRO),
34 including but not limited to Methicillin-Resistant Staphylococcus Aureus (MRSA), vancomycin-
35 resistant enterococci (VRE), and certain gram-negative bacilli (GNB). The department shall
36 develop model MDRO screening and precautionary procedures for high-risk patients, as defined
37 by the department, which may be implemented by facilities; provided however, that facilities
38 may develop and implement MDRO screening and precautionary procedures independently.

39 The department definition of high-risk patients may include the following:

40 (i) the patient has documented medical conditions making them more susceptible to infection and
41 is scheduled for an inpatient surgery.

42 (ii) the patient has been documented as having been previously discharged from a general acute
43 hospital within the past 30 days prior to the current hospital admission.

44 (iii) the patient is being admitted to either an intensive care unit or a burn unit at the healthcare
45 facility.

46 (iv) the patient receives inpatient dialysis treatment.

47 (v) the patient is being transferred from a nursing facility.

48 Facilities shall report on their use or non-use of MDRO screening and precautionary procedures
49 to the department and the Betsy Lehman Center for Patient Safety and Medical Error Reduction.
50 Reports shall be made in the manner and form established by the department.

51 SECTION 4. Chapter 111 of the General Laws, as so appearing, is hereby amended by inserting
52 after section 51H the following new section:–

53 Section 51I. As used in this section the following words shall, unless the context clearly requires

54 otherwise, have the following meanings:-

55 “Adverse Event”, injury to a patient resulting from a medical intervention, and not to the

56 underlying condition of the patient.

57 “Checklist of Care”, pre-determined steps to be followed by a team of healthcare providers

58 before, during, and after a given procedure to decrease the possibility of patient harm by

59 standardizing care.

60 “Facility,” a hospital, institution maintaining an Intensive Care Unit, institution providing

61 surgical services, or clinic providing ambulatory surgery.

62 The department shall encourage the development and implementation of checklists of care that

63 prevent adverse events and reduce healthcare-associated infection rates. The department shall

64 develop model checklists of care, which may be implemented by facilities; provided however,

65 facilities may develop and implement checklists independently.

66 Facilities shall report data and information relative to their use or non-use of checklists to the

67 department and the Betsy Lehman Center for Patient Safety and Medical Error Reduction.

68 Reports shall be made in the manner and form established by the department.

69 SECTION 5. Chapter 111 of the General Laws, as so appearing, is hereby amended by inserting

70 at the end of section 204 the following subsection:-

71 (f) The provisions of this section shall apply to any committee formed by an individual or group

72 to perform the duties or functions of medical peer review, notwithstanding the fact that the

73 formation of the committee is not required by law or regulation or that the individual or group is

74 not solely affiliated with a public hospital or licensed hospital or nursing home or health
75 maintenance organization.

76 SECTION 6. Chapter 112 of the General Laws is hereby amended by inserting after section 77
77 the following new section:-

78 Section 77A: No person filing a complaint or reporting or providing information pursuant to this
79 section or assisting the board at its request in any manner in discharging its duties and functions,
80 shall be liable in any cause of action arising out of the board's receipt of such information or
81 assistance, provided the person making the complaint or reporting or providing such information
82 or assistance does so in good faith and without malice.

83 SECTION 7. Chapter 233 of the General Laws is hereby amended by inserting after section
84 23D the following new section:-

85 Section 23 D 1/2: As used in this section, the following words shall, unless the context clearly
86 requires otherwise, have the following meanings;

87 "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother,
88 sister, half brother, half sister, adopted children of parent, or spouse's parents of an injured party.

89 "Representative", a legal guardian, attorney, person designated to make decisions on behalf of a
90 patient under a medical power of attorney, or any person recognized in law or custom as a
91 patient's agent.

92 "Unanticipated outcome" means the outcome of a medical treatment or procedure, whether or
93 not resulting from an intentional act, that differs from an intended result of such medical
94 treatment or procedure.

95 In any claim, complaint or civil action brought by or on behalf of a patient allegedly
96 experiencing an unanticipated outcome of medical care, any and all statements, affirmations,
97 writings, gestures, activities, or conduct expressing apology, regret, sympathy, commiseration,
98 condolence, compassion, mistake, error, or a general sense of benevolence which are made by a
99 health care provider, an employee or agent of a health care provider, or by a health care facility
100 to the patient, family of the patient, or a representative of the patient and which relate to the
101 unanticipated outcome shall be inadmissible as evidence in any judicial or administrative
102 proceeding and shall not constitute an admission of liability or a statement against interest.

103 SECTION 8: Notwithstanding any general or special law to the contrary, the board of
104 registration of medicine, established pursuant to section 10 of Chapter 13, shall promulgate
105 regulations relative to the education and training of health care providers in the early disclosure
106 of adverse events, including, but not limited to, continuing medical education requirements.
107 Nothing in this section shall affect the total hours of continuing medical education required by
108 the board, including the number of hours required relative to risk management.

109 SECTION 9: Notwithstanding any general or special law to the contrary, the department of
110 public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical Error
111 Reduction, established pursuant to section 16E of Chapter 6A, shall create an independent task
112 force to study medication errors and adverse drug events. At least 1 member of the task force
113 shall be a health care consumer representative. The task force shall issue a report on the
114 frequency, nature, and location of occurrence of medication errors and adverse drug events. The
115 task force shall make recommendations for reducing medication errors and adverse drug events
116 across all settings of care. The task force shall file a report of its study, including its
117 recommendations and drafts of any legislation, if necessary, with the clerks of the Senate and

118 House of Representatives and the joint committees on public health and health care financing

119 within one year of the effective date of this act.

120 SECTION 10. Notwithstanding any general or special law to the contrary, the department of

121 public health, in consultation with the Betsy Lehman Center for Patient Safety and Medical Error

122 Reduction, established pursuant to section 16E of Chapter 6A, shall create an independent task

123 force to study and reduce the practice of defensive medicine and medical overutilization in the

124 Commonwealth, including but not limited to the overuse of imaging and screening technologies.

125 At least 1 member of the task force shall be a health care consumer representative. The task

126 force shall issue a report on the financial and non-financial impacts of defensive medicine and

127 the impact of overutilization on patient safety. The task force shall file a report of its study,

128 including its recommendations and drafts of any legislation, if necessary, with the clerks of the

129 Senate and House of Representatives and the joint committees on public health and health care

130 financing within one year of the effective date of this act.