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Public Law
123rd Legislature
Second Regular Session

Chapter 605
H.P. 1428 - L.D. 2044

An Act To Prohibit Health Care Facilities from Charging for Treatment To Correct Mistakes or Preventable Adverse Events

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1721 is enacted to read:

§ 1721. Prohibition on payment for health care facility mistakes or preventable adverse events

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Health care facility" means a hospital or ambulatory surgical center licensed under chapter 405.

B. "Mistake or preventable adverse event" means any of the following events that is within the health care facility's control to avoid:

(1) Surgery performed on the wrong body part;

(2) Surgery performed on the wrong patient;

(3) The wrong surgical procedure performed on a patient;

(4) Unintended retention of a foreign object in a patient after surgery or another procedure;

(5) Intraoperative or immediately postoperative preventable death of a patient classified as a normal healthy patient under guidelines published by a national association of anesthesiologists;

(6) Patient death or serious disability caused by the use of contaminated drugs, devices or biologics provided by a hospital or ambulatory surgical center;

(7) Patient death or serious disability caused by the use or function of a device in patient care in which the device is used for functions other than as intended;

(8) Patient death or serious disability caused by an intravascular air embolism that occurs while being cared for in a health care facility;

(9) An infant's being discharged to the wrong person;

(10) Patient death or serious disability caused by a patient's elopement for more than 4 hours;

(11) Patient suicide or attempted suicide resulting in serious disability while being cared for in a health care facility;

(12) Patient death or serious disability caused by a medication error such as an error involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation or wrong route of administration;

(13) Patient death or serious disability caused by a hemolytic reaction due to the administration of incompatible blood or blood products;

(14) Maternal death or serious disability caused by labor or delivery in a low-risk pregnancy, labor and delivery while being cared for in a health care facility;

(15) Patient death or serious disability caused by hypoglycemia, the onset of which occurs while the patient is being cared for in a health care facility;

(16) Death or serious disability caused by failure to identify and treat hyperbilirubinemia in neonates prior to discharge;

(17) Stage 3 or 4 pressure ulcers acquired after admission to a health care facility;

(18) Patient death or serious disability due to spinal manipulative therapy;

(19) Patient death or serious disability caused by an electric shock while being cared for in a health care facility;

(20) Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances;

(21) Patient death or serious disability caused by a burn incurred from any source while being cared for in a health care facility;

(22) Patient death caused by a fall by a patient who was or should have been identified as requiring precautions due to risk of falling while being cared for in a health care facility;

(23) Patient death or serious disability caused by the use of restraints or bedrails while being cared for in a health care facility;

(24) Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist or other licensed health care provider;

(25) Abduction of a patient of any age;

(26) Sexual assault of a patient within a health care facility;

(27) Death or significant injury of a patient resulting from a physical assault that occurs within a health care facility; and

(28) Artificial insemination with the wrong donor sperm or donor egg.

2. Prohibition. A health care facility is prohibited from knowingly charging a patient or the patient's insurer for health care services it provided as a result of or to correct a mistake or preventable adverse event caused by that health care facility.

3. Patient education. A health care facility is required to inform patients of the prohibition on payment for health care facility mistakes or preventable adverse events.