

**§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. [PL 2007, c. 605, §1 (NEW).]
- 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. [PL 2007, c. 605, §1 (NEW).]
- [PL 2007, c. 605, §1 (NEW).]

**2. Prohibition.** A health care facility is prohibited from knowingly charging a patient or the patient's insurer or the patient's employer as defined in Title 39-A, section 102, subsection 12 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.  
[PL 2009, c. 31, §1 (AMD).]

**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.  
[PL 2007, c. 605, §1 (NEW).]

**REVISOR'S NOTE:** §1721. Voluntary restraint (As enacted by PL 2007, c. 629, Pt. C, §1 is REALLOCATED TO TITLE 22, SECTION 1722)

#### SECTION HISTORY

RR 2007, c. 2, §9 (RAL). PL 2007, c. 605, §1 (NEW). PL 2007, c. 629, Pt. C, §1 (NEW). PL 2009, c. 31, §1 (AMD).

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