

SENATE BILL 2247

By Kyle

AN ACT to amend Tennessee Code Annotated, Section 68-11-211, relative to health data reporting.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-211, is amended by deleting the section in its entirety and substituting instead the following:

(a) This section shall be known as the "Health Data Reporting Act of 2009."

(b) The purpose of this act is to collect and assimilate relevant health data to facilitate the development and implementation of best practices among health care providers to enhance the quality of health care services delivered to Tennesseans.

(c) The following definitions shall apply to this section:

(1) "abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish;

(2) "board" means the board for licensing health care facilities;

(3) "commissioner" means the commissioner of health;

(4) "department" means the department of health;

(5) "facility" means any facility licensed under this part;

(6) "misappropriation of patient property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent;

(7) "neglect" means the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness; and

(8) "patient" means a person receiving health care services from a facility, and includes a resident at a nursing home facility.

(d) Except for those facilities required to report abuse, neglect, or misappropriation pursuant to 42 CFR 483.13, each facility shall report incidents of abuse, neglect, and misappropriation that occur at the facility to the department within seven (7) business days from the facility's identification of the incident.

(e) Within forty (40) days of the identification of the incident, the facility shall file with the department a corrective action report for each incident. The corrective action report shall either:

(1) Explain why a corrective action report is not necessary; or

(2) Detail the actions taken to correct any error identified that contributed to the incident; the date the corrections were implemented; how the facility will prevent the error from recurring in the future; and who will monitor the implementation of the corrective action plan.

(f) The department shall approve the corrective action report, if the department is satisfied that the corrective action plan appropriately addresses errors that contributed to the incident and takes necessary steps to prevent recurrence of the errors. If the department fails to approve the corrective action report, then the department shall provide the facility with a list of actions that the department believes are necessary to address the errors. The facility shall be offered an informal meeting with the commissioner or the commissioner's representative to attempt to resolve any disagreement over the corrective action report. If the department and the facility fail to agree on an appropriate corrective action plan, then the final determination on the adequacy of the corrective action plan shall be made by the board after a contested case hearing.

(g) The incident report, corrective action report, or any amended report obtained by the department pursuant to this section, shall be confidential and not subject to discovery, subpoena or legal compulsion for release to any person or entity, nor shall the report be admissible in any civil or administrative proceeding, other than a disciplinary proceeding by the department or the appropriate regulatory board. The report is not discoverable or admissible in any civil or administrative action, except that information in any such report may be transmitted to an appropriate regulatory board having jurisdiction for disciplinary or licensing sanctions against the impacted facility; however, the department must reveal, upon request, its awareness that a specific incident has been reported. The affected patient and the patient's family, as may be appropriate, shall also be notified of the incident by the facility. The provisions of this subsection (d) and of § 68-11-804(c)(23) shall not affect any of the provisions of § 63-6-219, or the protections provided by § 63-6-219.

(h) Each facility shall also report specific incidents, including but not limited to the following, that might result in a disruption in the delivery of health care services at the facility within seven (7) days after the facility becomes aware of the incident:

- (1) Strike by the staff at the facility;
- (2) External disaster impacting the facility;
- (3) Disruption of any service vital to the continued safe operation of the facility or to the health and safety of its patients and personnel; and
- (4) Fires at the facility that disrupt the provision of patient care services or cause harm to the patients or staff, or that are reported by the facility to any entity, including but not limited to a fire department charged with preventing fires.

(i) In the event that health care services are provided in the patient's home, then the facility shall only report those incidents that are witnessed or known by the person delivering health care services.

(j) This section does not preclude the department from using information obtained under this section in a disciplinary action commenced against a facility, or from taking disciplinary action against a facility. This section does not preclude the department from sharing such information with any appropriate governmental agency charged by federal or state law with regulatory oversight of the facility; however, all such information shall be confidential and not a public record. A facility's failure to report an incident of abuse, neglect, or misappropriation, to submit a corrective action report, or to comply with a plan of correction, may be grounds for disciplinary action against the facility pursuant to § 68-11-207.

(k) The department shall work with facility representatives and other interested parties to develop recommendations and educational programs for best practices and the improvement of quality health care.

(l) Nothing in this section shall be construed to eliminate or alter in any manner the required reporting of abuse, neglect, or exploitation of children or adults, or any other provisions of title 37, chapter 1, parts 4 and 6, and title 71, chapter 6, part 1.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.