IC 16-40-5

Chapter 5. Patient Safety Programs

IC 16-40-5-1

"Agency"

Sec. 1. As used in this chapter, "agency" means:

(1) an independent entity:

(A) that certifies that it meets the criteria under 42 U.S.C. 299b-24 as a patient safety organization and whose certification has been accepted by the federal Department of Health and Human Services; or

(B) that has been determined by the state department to satisfy the criteria in 42 U.S.C. 299b-24 for certification as a patient safety organization to a degree sufficient to enable the entity to perform the activities of an agency under this chapter; or

(2) an academic institution if:

(A) the academic institution is most qualified; or

(B) there is not an independent entity as described in subdivision (1); and

the academic institution has entered an agreement with the state department under section 4 of this chapter.

As added by P.L.101-2007, SEC.3.

IC 16-40-5-2

"Health care facility"

Sec. 2. As used in this chapter, "health care facility" includes the following:

(1) An abortion clinic licensed under IC 16-21-2.

(2) An ambulatory outpatient surgical center licensed under IC 16-21-2.

(3) A birthing center licensed under IC 16-21-2.

(4) A hospital licensed under IC 16-21-2.

(5) An office-based setting under IC 25-22.5-2-7(10) including a facility, clinic, center, office or other setting where procedures are performed that require moderate sedation, deep sedation, general anesthesia, or regional anesthesia.

As added by P.L.101-2007, SEC.3.

IC 16-40-5-3

"Personnel of the agency"

Sec. 3. As used in this chapter, "personnel of the agency" means the agency's directors, officers, employees, representatives, agents, attorneys, investigators, assistants, clerks, staff, and any other individual or organization serving the agency in any capacity.

As added by P.L.101-2007, SEC.3.

IC 16-40-5-4

Patient safety agency agreement; procedures; identifying information; duties

Sec. 4. (a) Subject to appropriation by the general assembly, the state department shall enter into an agreement with an agency that collects, analyzes, interprets, and disseminates findings on a statewide basis regarding patient safety that are based on confidential and privileged information voluntarily submitted to the agency by:

(1) a health care facility;

(2) a health care professional; or

(3) an individual.

(b) The state department shall ensure that the agency's board has sufficient procedures in place to allow the agency to fairly, objectively, and accurately perform the duties set forth in the agency's agreement under this chapter with the state department.

(c) Information submitted by the agency to the state department may not contain information that identifies the health care provider or the patient.

(d) The agency shall analyze data, develop policies, and disseminate and assist in the implementation of procedures that enhance patient safety.

As added by P.L.101-2007, SEC.3.

IC 16-40-5-5

Report of patient harm

Sec. 5. A health care facility, a health care professional, or an individual may file with the agency referred to in section 4 of this chapter a report that alleges that a health care facility or a health care professional, by an action taken or a failure to act, caused or could have caused harm to a patient, including harm that resulted from or could have resulted from:

(1) an adverse drug event; or

(2) an unexpected infection, including an infection that was probably acquired in the health care facility.

As added by P.L.101-2007, SEC.3.

IC 16-40-5-6

Confidential and privileged information

Sec. 6. (a) Except as provided in subsections (d) and (e), the following are confidential and privileged from use as evidence in an administrative or a judicial proceeding:

(1) Oral or written information or reports given to the agency.

(2) Proceedings, records, deliberations, and findings of the agency;

that are generated, undertaken, or performed as a result of a report described in section 5 of this chapter or under the agreement described in section 4(a) of this chapter.

(b) Neither the personnel of the agency nor any participant or witness in an agency proceeding or deliberation may disclose to a person outside of the agency the contents of:

(1) communications to the agency;

(2) agency records; or

(3) agency findings;

that are generated, undertaken, or performed as a result of a report described in section 5 of this chapter or under the agreement described in section 4(a) of this chapter.

(c) Information that is otherwise discoverable or admissible from original sources is not immune from discovery or use in any proceeding merely because it was presented during proceedings or deliberations of the agency. Neither the personnel of the agency nor any participant or witness in any agency proceeding or deliberation may be prevented from testifying:

(1) as to matters within the individual's own knowledge; and

(2) in accordance with the other provisions of this chapter.

However, a witness cannot be questioned about testimony on other matters before the agency or about opinions formed by the witness as a result of the agency's proceedings or deliberations.

(d) The agency may disclose information concerning patient safety or quality of health care matters addressed in the agreement described in section 4(a) of this chapter, including information reported to the agency by a health care facility, a health care professional, or an individual, if the information does not disclose any of the following:

(1) The identity of the health care facility, health care provider, or patient.

(2) The identity of a person that provided information to the agency.

(3) Information that could reasonably be expected to result in the identification of a health care facility, health care provider, patient, or person that has provided information to the agency.

(e) Information or material that is confidential and privileged under this section may be used as evidence in a criminal proceeding only if the court first makes an in camera determination that the information:

(1) is relevant to the criminal proceeding;

(2) is material to the proceeding; and

(3) is not reasonably available from another source.

As added by P.L.101-2007, SEC.3.

IC 16-40-5-7

Rules

Sec. 7. The state department may adopt rules under IC 4-22-2 to administer this chapter.

As added by P.L.101-2007, SEC.3.

IC 16-40-5-8

Expiration

Sec. 8. This chapter expires June 30, 2010.

As added by P.L.101-2007, SEC.3.