

1 A bill to be entitled
2 An act relating to patient safety; creating s.
3 381.0271, F.S.; providing definitions; creating
4 the Florida Patient Safety Corporation, which
5 shall be registered, incorporated, organized,
6 and operated in compliance with ch. 617, F.S.;
7 authorizing the corporation to create
8 not-for-profit subsidiaries; specifying that
9 the corporation is not an agency within the
10 meaning of s. 20.03(11), F.S.; requiring the
11 corporation to be subject to public meetings
12 and records requirements; specifying that the
13 corporation is not subject to the provisions of
14 ch. 297, F.S., relating to procurement of
15 personal property and services; providing a
16 purpose for the corporation; establishing the
17 membership of the board of directors of the
18 corporation; requiring the formation of certain
19 advisory committees for the corporation;
20 requiring the Agency for Health Care
21 Administration to provide assistance in
22 establishing the corporation; specifying the
23 powers and duties of the corporation; requiring
24 annual reports; requiring the Office of Program
25 Policy Analysis and Government Accountability,
26 in consultation with the Agency for Health Care
27 Administration and the Department of Health, to
28 develop performance measures for the
29 corporation; requiring a performance audit;
30 requiring a report to the Governor and the
31 Legislature; requiring the Patient Safety

1 Center at the Florida State University College
2 of Medicine to study the return on investment
3 by hospitals from implementing computerized
4 physician order entry and other information
5 technologies related to patient safety;
6 providing requirements for the study; requiring
7 a report to the Governor and the Legislature;
8 amending s. 395.1012, F.S.; providing
9 additional duties of the patient safety
10 committee at hospitals and other licensed
11 facilities; requiring such facilities to adopt
12 a plan to reduce medication errors and adverse
13 drug events, including the use of computerized
14 physician order entry and other information
15 technologies; repealing s. 766.1016(3), F.S.,
16 which requires a patient safety organization to
17 promptly remove patient-identifying information
18 from patient safety data reported to the
19 organization and requires such organization to
20 maintain the confidentiality of
21 patient-identifying information; providing
22 appropriations; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Section 381.0271, Florida Statutes, is
27 created to read:

28 381.0271 Florida Patient Safety Corporation.--

29 (1) DEFINITIONS.--As used in this section, the term:

30 (a) "Adverse incident" has the same meanings as

31 provided in ss. 395.0197, 458.351, and 459.026.

1 (b) "Corporation" means the Florida Patient Safety
2 Corporation created in this section.

3 (c) "Patient safety data" has the same meaning as
4 provided in s. 766.1016.

5 (2) CREATION.--

6 (a) There is created a not-for-profit corporation to
7 be known as the Florida Patient Safety Corporation, which
8 shall be registered, incorporated, organized, and operated in
9 compliance with chapter 617. Upon the prior approval of the
10 board of directors, the corporation may create not-for-profit
11 corporate subsidiaries, organized under the provisions of
12 chapter 617, as necessary to fulfill the mission of the
13 corporation.

14 (b) The corporation or any authorized and approved
15 subsidiary is not an agency within the meaning of s.
16 20.03(11).

17 (c) The corporation and its authorized and approved
18 subsidiaries are subject to the public meetings and records
19 requirements of s. 24, Art I of the State Constitution,
20 chapter 119, and s. 286.011.

21 (d) The corporation and its authorized and approved
22 subsidiaries are not subject to the provisions of chapter 287.

23 (e) The corporation is a patient safety organization
24 for purposes of s. 766.1016.

25 (3) PURPOSE.--

26 (a) The purpose of the Florida Patient Safety
27 Corporation is to serve as a learning organization dedicated
28 to assisting health care providers in the state to improve the
29 quality and safety of health care rendered and to reduce harm
30 to patients. The corporation shall promote the development of
31 a culture of patient safety in the health care system in the

1 state. The corporation may not regulate health care providers
2 in this state.

3 (b) In the fulfillment of its purpose, the corporation
4 shall work with a consortium of patient safety centers and
5 other patient safety programs within the universities in this
6 state.

7 (4) BOARD OF DIRECTORS; MEMBERSHIP.--The corporation
8 shall be governed by a board of directors. The board of
9 directors shall consist of:

10 (a) The chairperson of the Council of Medical School
11 Deans.

12 (b) The person responsible for patient safety issues
13 for the authorized health insurer with the largest market
14 share as measured by premiums written in the state for the
15 most recent calendar year, appointed by such insurer.

16 (c) A representative of the authorized medical
17 malpractice insurer with the largest market share as measured
18 by premiums written in the state for the most recent calendar
19 year, appointed by such insurer.

20 (d) The president of the Florida Health Care
21 Coalition.

22 (e) Two representatives of hospitals in this state
23 that are implementing innovative patient safety initiatives,
24 appointed by the Florida Hospital Association.

25 (f) A physician with expertise in patient safety,
26 appointed by the Florida Medical Association.

27 (g) A physician with expertise in patient safety,
28 appointed by the Florida Osteopathic Medical Association.

29 (h) A nurse with expertise in patient safety,
30 appointed by the Florida Nurses Association.

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1 (i) An institutional pharmacist, appointed by the
2 Florida Society of Health System Pharmacists, Inc.

3 (j) A representative of Florida AARP, appointed by the
4 state director of the Florida AARP.

5 (k) An independent consultant on health care
6 information systems, appointed jointly by the Central Florida
7 Chapter and the South Florida Chapter of the Healthcare
8 Information and Management Systems Society.

9 (l) A physician with expertise in patient safety,
10 appointed by the Florida Podiatric Medical Association.

11 (m) A physician with expertise in patient safety,
12 appointed by the Florida Chiropractic Association.

13 (n) A dentist with expertise in patient safety,
14 appointed by the Florida Dental Association.

15 (o) A representative with expertise in patient safety
16 from the authorized health maintenance organization with the
17 largest market share, as measured by premiums written in the
18 state for the most recent calendar year, appointed by such
19 health maintenance organization.

20 (5) ADVISORY COMMITTEES.--In addition to any
21 committees that the corporation may establish, the corporation
22 shall establish the following advisory committees:

23 (a) A scientific research advisory committee that
24 includes, at a minimum, a representative from each patient
25 safety center or other patient safety program in the
26 universities of this state who is a physician licensed under
27 chapter 458 or chapter 459, with experience in patient safety
28 and evidence-based medicine. The duties of the scientific
29 research advisory committee shall include, but not be limited
30 to, the analysis of existing data and research to improve
31 patient safety and encourage evidence-based medicine.

1 (b) A technology advisory committee that includes, at
2 a minimum, a representative of a hospital that has implemented
3 a computerized physician order entry system and a health care
4 provider that has implemented an electronic medical records
5 system. The duties of the technology advisory committee shall
6 include, but not be limited to, fostering development and use
7 of new patient safety technologies, including electronic
8 medical records.

9 (c) A health care provider advisory committee that
10 includes, at a minimum, representatives of hospitals,
11 ambulatory surgical centers, physicians, nurses, and
12 pharmacists licensed in this state and a representative of the
13 Veterans Integrated Service Network & VA Patient Safety
14 Center. The duties of the health care provider advisory
15 committee shall include, but not be limited to, promotion of a
16 culture of patient safety that reduces errors.

17 (d) A health care consumer advisory committee that
18 includes, at a minimum, representatives of businesses that
19 provide health insurance coverage to their employees, consumer
20 advocacy groups, and representatives of patient organizations.
21 The duties of the health care consumer advisory committee
22 shall include, but not be limited to, identification of
23 incentives to encourage patient safety and the efficiency and
24 quality of care.

25 (e) A state agency advisory committee that includes,
26 at a minimum, a representative from each state agency that has
27 regulatory responsibilities related to patient safety. The
28 duties of the state agency advisory committee shall include,
29 but not be limited to, fostering coordination of patient
30 safety activities among state agencies.

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1 (f) A litigation alternatives advisory committee that
2 includes, at a minimum, representatives of attorneys who
3 represent plaintiffs and defendants in medical malpractice
4 cases, a representative of each law school in the state,
5 physicians, and health care facilities. The duties of the
6 litigation alternatives advisory committee shall include, but
7 not be limited to, identification of alternative systems to
8 compensate for injuries.

9 (g) An education advisory committee that includes, at
10 a minimum, the associate dean for education, or the equivalent
11 position, as a representative from each school of medicine,
12 nursing, public health, or allied health to provide advice on
13 the development, implementation, and measurement of core
14 competencies for patient safety to be considered for
15 incorporation in the educational programs of the universities
16 and colleges of this state.

17 (6) ORGANIZATION; MEETINGS.--

18 (a) The Agency for Health Care Administration shall
19 assist the corporation in its organizational activities
20 required under chapter 617, including, but not limited to:

21 1. Eliciting appointments for the initial board of
22 directors.

23 2. Convening the first meeting of the board of
24 directors and assisting with other meetings of the board of
25 directors, upon the request of the board of directors, during
26 the first year of operation of the corporation.

27 3. Drafting articles of incorporation for the board of
28 directors and, upon the request of the board of directors,
29 delivering articles of incorporation to the Department of
30 State for filing.

31 4. Drafting proposed bylaws for the corporation.

1 5. Paying fees related to incorporation.
2 6. Providing office space and administrative support,
3 at the request of the board of directors, but not beyond July
4 1, 2005.

5 (b) The board of directors must conduct its first
6 meeting no later than August 1, 2004, and shall meet
7 thereafter as frequently as necessary to carry out the duties
8 of the corporation.

9 (7) POWERS AND DUTIES.--In addition to the powers and
10 duties prescribed in chapter 617 and the articles and bylaws
11 adopted under that chapter, the corporation shall directly or
12 through contract:

13 (a) Secure staff necessary to properly administer the
14 corporation.

15 (b) Collect, analyze, and evaluate patient safety
16 data, quality and patient safety indicators, medical
17 malpractice closed claims, and adverse incidents reported to
18 the Agency for Health Care Administration and the Department
19 of Health for the purpose of recommending changes in practices
20 and procedures which may be implemented by health care
21 practitioners and health care facilities to improve the
22 quality of health care and to prevent future adverse
23 incidents. Notwithstanding any other law, the Agency for
24 Health Care Administration and the Department of Health shall
25 make available to the corporation any adverse incident report
26 submitted under s. 395.0197, s. 458.351, or s. 459.026. To the
27 extent that adverse incident reports submitted under s.
28 395.0197 are confidential and exempt from disclosure, the
29 confidential and exempt status of such reports must be
30 maintained by the corporation.

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1 (c) Establish a "near-miss," patient safety reporting
2 system. The purpose of the near-miss reporting system is
3 to: identify potential systemic problems that could lead to
4 adverse incidents; enable publication of systemwide alerts of
5 potential harm; and facilitate development of both
6 facility-specific and statewide options to avoid adverse
7 incidents and improve patient safety. The reporting system
8 shall record "near-misses" submitted by hospitals, birthing
9 centers, and ambulatory surgical centers and other providers.
10 For the purpose of the reporting system:

11 1. A "near-miss" means any potentially harmful event
12 that could have had an adverse result but, through chance or
13 intervention in which, harm was prevented.

14 2. The "near-miss" reporting system shall be voluntary
15 and anonymous and independent of mandatory reporting systems
16 used for regulatory purposes.

17 3. "Near-miss" data submitted to the corporation is
18 patient safety data as defined in s. 766.1016.

19 4. Reports of "near-miss" data shall be published on a
20 regular basis and special alerts shall be published as needed
21 regarding newly identified, significant risks.

22 5. Aggregated data shall be made available publicly.

23 6. The corporation shall report the performance and
24 results of the reporting system in its annual report.

25 (d) Work collaboratively with the appropriate state
26 agencies in the development of electronic health records.

27 (e) Provide for access to an active library of
28 evidence-based medicine and patient safety practices, together
29 with the emerging evidence supporting their retention or
30 modification, and make this information available to health
31 care practitioners, health care facilities, and the public.

1 Support for implementation of evidence-based medicine shall
2 include:

3 1. A report to the Governor, the President of the
4 Senate, the Speaker of the House of Representatives, and the
5 Agency for Health Care Administration by January 1, 2005, on:

6 a. The ability to join or support efforts for the use
7 of evidence-based medicine already underway, such as those of
8 the Leapfrog Group, the international group Bandolier, and the
9 Healthy Florida Foundation.

10 b. The means by which to promote research using
11 Medicaid and other data collected by the Agency for Health
12 Care Administration to identify and quantify the most
13 cost-effective treatment and interventions, including disease
14 management and prevention programs.

15 c. The means by which to encourage development of
16 systems to measure and reward providers who implement
17 evidence-based medical practices.

18 d. The review of other state and private initiatives
19 and published literature for promising approaches and the
20 dissemination of information about them to providers.

21 e. The encouragement of the Florida health care boards
22 under the Department of Health to regularly publish findings
23 related to the cost-effectiveness of disease-specific,
24 evidence-based standards.

25 f. Public and private sector initiatives related to
26 evidence-based medicine and communication systems for the
27 sharing of clinical information among caregivers.

28 g. Regulatory barriers that interfere with the sharing
29 of clinical information among caregivers.

30 2. An implementation plan reported to the Governor,
31 the President of the Senate, the Speaker of the House of

1 Representatives, and the Agency for Health Care Administration
2 by September 1, 2005, that must include, but need not be
3 limited to: estimated costs and savings, capital investment
4 requirements, recommended investment incentives, initial
5 committed provider participation by region, standards of
6 functionality and features, a marketing plan, and
7 implementation schedules for key components.

8 (f) Assess the patient safety culture at volunteering
9 hospitals and recommend methods to improve the working
10 environment related to patient safety at these hospitals.

11 (g) Inventory the information technology capabilities
12 related to patient safety of health care facilities and health
13 care practitioners and recommend a plan for expediting
14 implementation of safety technologies statewide.

15 (h) Facilitate the development of core competencies
16 relevant to patient safety which can be made available to be
17 considered for incorporation into the undergraduate and
18 graduate curriculums in schools of medicine, nursing, and
19 allied health in this state.

20 (i) Facilitate continuing professional education
21 regarding patient safety for practicing health care
22 practitioners.

23 (j) Study and facilitate the testing of alternative
24 systems of encouraging the implementation of effective risk
25 management strategies and clinical best practices, and of
26 compensating injured patients as a means of reducing and
27 preventing medical errors and promoting patient safety.

28 (k) Develop programs to educate the public about the
29 role of health care consumers in promoting patient safety.

30 (l) Provide interagency coordination of patient safety
31 efforts in this state.

1 (m) Conduct other activities identified by the board
2 of directors to promote patient safety in this state.

3 (8) ANNUAL REPORT.--By December 1, 2004, the
4 corporation shall prepare a report on the start-up activities
5 of the corporation and any proposals for legislative action
6 needed to enable the corporation to fulfill its purposes under
7 this section. By December 1 of each year thereafter, the
8 corporation shall prepare a report for the preceding fiscal
9 year. The report, at a minimum, must include:

10 (a) A description of the activities of the corporation
11 under this section.

12 (b) Progress made in improving patient safety and
13 reducing medical errors.

14 (c) A compliance and financial audit of the accounts
15 and records of the corporation at the end of the preceding
16 fiscal year conducted by an independent certified public
17 accountant.

18 (d) An assessment of the ability of the corporation to
19 fulfill the duties specified in subsection (7) and the
20 appropriateness of those duties for the corporation.

21 (e) Recommendations for legislative action needed to
22 improve patient safety in this state.

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24 The corporation shall submit the report to the Governor, the
25 President of the Senate, and the Speaker of the House of
26 Representatives.

27 (9) PERFORMANCE EXPECTATIONS.--The Office of Program
28 Policy Analysis and Government Accountability, in consultation
29 with the Agency for Health Care Administration, the Department
30 of Health, and the corporation, shall develop performance
31 standards by which to measure the success of the corporation

1 in organizing to fulfill and beginning to implement the
2 purposes and duties established in this section. The Office of
3 Program Policy Analysis and Government Accountability shall
4 conduct a performance audit of the corporation during 2006,
5 using the performance standards, and shall submit a report to
6 the Governor, the President of the Senate, and the Speaker of
7 the House of Representatives by January 1, 2007.

8 Section 2. The Patient Safety Center at the Florida
9 State University College of Medicine, in collaboration with
10 researchers at other state universities, shall conduct a study
11 to analyze the return on investment that hospitals in this
12 state could realize from implementing computerized physician
13 order entry and other information technologies related to
14 patient safety. For the purposes of this analysis, the return
15 on investment shall include both financial results and
16 benefits relating to quality of care and patient safety. The
17 study must include a representative sample of large and small
18 hospitals, located in urban and rural areas, in the north,
19 central, and southern regions of the state. By February 1,
20 2005, the Patient Safety Center at the Florida State
21 University College of Medicine must submit a report to the
22 Governor, the President of the Senate, and the Speaker of the
23 House of Representatives concerning the results of the study.

24 Section 3. Section 395.1012, Florida Statutes, is
25 amended to read:

26 395.1012 Patient safety.--

27 (1) Each licensed facility must adopt a patient safety
28 plan. A plan adopted to implement the requirements of 42
29 C.F.R. part 482.21 shall be deemed to comply with this
30 requirement.

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1 (2) Each licensed facility shall appoint a patient
2 safety officer and a patient safety committee, which shall
3 include at least one person who is neither employed by nor
4 practicing in the facility, for the purpose of promoting the
5 health and safety of patients, reviewing and evaluating the
6 quality of patient safety measures used by the facility,
7 recommending improvements in the patient safety measures used
8 by the facility, and assisting in the implementation of the
9 facility patient safety plan.

10 (3) Each licensed facility shall adopt a plan to
11 reduce medication errors and adverse drug events, which must
12 consider the use of computerized physician order entry and
13 other information technologies related to patient safety.

14 Section 4. Subsection (3) of section 766.1016, Florida
15 Statutes, is repealed.

16 Section 5. The sum of \$350,000 in nonrecurring general
17 revenue funds is appropriated to the Agency for Health Care
18 Administration to support the establishment of and to contract
19 with the Florida Patient Safety Corporation to implement the
20 provisions of section 1 of this act during the 2004-2005
21 fiscal year.

22 Section 6. The sum of \$113,500 in nonrecurring general
23 revenue funds is appropriated to the Florida State University
24 College of Medicine for the purpose of conducting the study
25 required in section 2 of this act during the 2004-2005 fiscal
26 year.

27 Section 7. This act shall take effect upon becoming a
28 law.

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