

HCS#2 HB 1933, 1375, 1662, 1816, 1940, 1971, 2240, 2313, 2423 & 2435 -- HEALTH CARE

SPONSOR: Schaaf

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Healthcare Transformation by a vote of 6 to 1.

This substitute changes the laws regarding health care.

HEALTH CARE WHISTLEBLOWER PROTECTION ACT

The substitute establishes the Health Care Whistleblower Protection Act which prohibits employers from taking retaliatory action against employees who disclose or threaten to disclose alleged prohibited activities or provide information or testify before any public body regarding violations which the employee reasonably believes constitutes improper quality of patient care. Hospitals and surgical centers are required to allow employees reporting violations to do so anonymously.

Within one year, an employee may bring a civil action against any employer violating these provisions. The substitute allows the court to issue an injunction to stop the employer's illegal activity; reinstate the employee's position, benefits, and seniority rights; and order payment of lost wages, reasonable litigation costs, attorney fees, and punitive damages. If an employee brings an action without basis in law or fact, a court may order the employee to pay reasonable attorney fees and court costs. Employers must conspicuously display notices of the employee protections specified in the substitute. Employers violating these provisions may be fined an amount of up to \$1,000 for a first offense and up to \$5,000 for a subsequent offense.

HOSPITAL PATIENT SAFETY

The substitute:

- (1) Requires each hospital to establish a safe patient handling committee by January 1, 2009, to design and recommend the process for implementing a safe patient handling program;
- (2) Requires each hospital to establish a safe patient handling program by July 1, 2009, to implement a safe handling policy for all shifts, conduct a patient handling hazard assessment, conduct annual performance evaluations of the program, and consider incorporating patient handling equipment in future hospital remodels;
- (3) Requires each hospital, by January 1, 2012, to acquire their

choice of a specified minimum of patient lifting equipment and to train staff on policies, equipment, and devices at least annually;

(4) Requires each hospital to develop procedures for employees to refuse to perform or be involved in patient handling or movement that will expose the patient or employee to an unacceptable risk of injury;

(5) Requires the Division of Workers' Compensation within the Department of Labor and Industrial Relations to develop rules to provide a reduced premium for hospitals that implement a safe patient handling program by January 1, 2010, and to complete an evaluation and report on the results of the reduced premium to the appropriate committees of the General Assembly by December 1, 2013, and December 1, 2015; and

(6) Specifies that hospitals can apply to the Missouri Health and Educational Falsities Authority for low-cost loans to purchase their choice of patient handling equipment.

MEDICAL ASSISTANCE PROGRAM PROVIDER REIMBURSEMENT

The substitute specifies that under the MO HealthNet Program, the successor to the Missouri Medicaid Program, providers can receive enhanced reimbursement for certain services. Subject to appropriations, the enhanced rate will be 100% of the federal Medicare reimbursement rate for new and established patients. In order to qualify for the enhanced reimbursement, the provider must:

- (1) Become the health care home for a MO HealthNet patient;
- (2) Complete a patient history and consultation for the patient; and
- (3) File a treatment plan for the patient.

MO HEALTHNET PROGRAM BENEFITS

Subject to appropriations, the substitute adds medically necessary home telemonitoring and chiropractic services to the list of covered services under the MO HealthNet Program. An electronic web-based prior authorization system using guidelines consistent with national standards will be used to verify the medical need.

Subject to appropriations, the substitute also adds home nursing visits and follow-up care as needed until an infant's second birthday for certain at-risk newborns to the list of covered

services under the MO HealthNet Program. The MO HealthNet Division within the Department of Social Services is required to request the appropriate waivers or state plan amendments from the federal Department of Health and Human Services to provide these services as a three-year pilot in the counties of Buchanan, Greene, and Jackson.

ACCESS TO PSYCHOTROPIC MEDICATIONS

Currently, under the MO HealthNet Program, fee for service eligible policies for prescribing psychotropic medications are prohibited from including any new limits to initial drug access requirements. The substitute applies these provisions to any additional geographic areas or participant populations designated to receive benefits through a care plan other than a fee for service plan.

MO HEALTHNET OVERSIGHT COMMITTEE

The number of members on the MO HealthNet Oversight Committee is increased from 18 to 23 by removing one public member and adding one podiatrist, one nurse, two mental health professionals, one representative of federally qualified health centers, and one representative of rural health clinics.

HEARING INSTRUMENT DISCLOSURE REQUIREMENTS

Audiologists and hearing instrument dealers and fitters are required to include the total price to be paid for a hearing instrument in the purchase agreement.

Audiologists and hearing instrument dealers and fitters must, at the time of initial examination, provide prospective purchasers information about magnetic coupling options which are available in hearing instruments, the proper use of magnetic coupling technologies, and the Telecommunications Equipment Distribution Program established under Section 209.253, RSMo.

PAYMENT OF INSURANCE CLAIMS

The substitute requires the notice of the status of a claim that includes a request for additional information from a health carrier or third-party contractor to specify the information requested and from whom it is requested, such as the claimant, the patient, or another health care provider. If a denied claim does not include a specific reason for denial, the claim will not be considered denied.

RECOMMENDATIONS FOR SWITCHING MEDICATIONS

All switch communications must clearly identify the originally prescribed medication and disclose any financial interest that the health care insurer, pharmacy benefits manager, or prescribing physician has in the patient's decision to switch medications. Any person who issues or delivers or causes to be issued or delivered a switch communication that has not been approved, provides a misrepresentation or false statement in a switch communication, or commits any other material violation of these provisions will be subject to a fine of up to \$25,000.

PHYSICIAN OVERRIDE OF DRUG RESTRICTIONS

A prescribing physician can override any step therapy or fail first protocol when the treatment has been ineffective in treating the patient's disease or medical condition, is expected to be ineffective, or is likely to cause an adverse reaction. The duration of any step therapy or fail first protocol cannot last longer than 14 days. For medications with no generic equivalent and for which the prescribing physician feels there is no appropriate therapeutic alternative, the health carrier or pharmacy benefit manager is required to provide access to United States Food and Drug Administration labeled medications without restriction.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Unknown but Greater than \$16,243,644 in FY 2009, Unknown but Greater than \$20,195,315 in FY 2010, and Unknown but Greater than \$21,062,324. Estimated Cost on Other State Funds of \$44,718 in FY 2009, \$54,192 in FY 2010, and \$55,817 in FY 2011.

PROPOSERS: Supporters of House Bill 1933 say that the bill can save money on MO HealthNet Program patients and reduce emergency room use and the length of hospital stays. Multiple types of services can be performed through telemarketing such as blood pressure checks, blood sugar checks, and weight monitoring.

Supporters of House Bill 1375 say that the bill increases access to health care, rewards physicians for the time they spend with patients, and motivates physicians to be engaged in the process.

Supporters of House Bill 1662 say that the bill provides consumers with information regarding price, features, and available technology associated with hearing devices.

Supporters of House Bill 1940 say that the bill will benefit hospitals and nurses, save hospitals money on workers' compensation claims, and reduce the number of lost work days.

Supporters of House Bill 1971 say that the bill will save the MO HealthNet Program money because participants can be treated

without requiring any further intervention.

Supporters of House Bill 2240 say that the bill will provide information to patients when their medication has been switched from one drug to another. The bill does not prevent physicians from prescribing generic or generic alternative medications.

Supporters of House Bill 2313 say that the bill makes an important addition to the committee.

Supporters of House Bill 2423 say that the bill helps children in at-risk environments, saves lives, and makes good use of state funds.

Supporters of House Bill 2435 say that the bill strengthens the current prompt payment law and helps physicians receive timely reimbursement for services they have provided.

Testifying for HB 1933 were Representative Schaaf; Roy Holand, MD; Missouri Hospital Association; and Missouri Nurses Association.

Testifying for HB 1375 were Representative Portwood; and Missouri Academy of Family Physicians.

Testifying for HB 1662 were Representative Deeken; Diane Golden, Missouri Assistive Technology; Angela Graves, Missouri Commission for Deaf and Hard of Hearing; and Kim Davis.

Testifying for HB 1816 were Representative LeVota; Susan Nye, Service Employees International Union Nurse Alliance; and Nurses United.

Testifying for HB 1940 were Representative Page; Patty Cyr, Service Employees International Union Nurse Alliance; Dana Ming; Susan Nye, Service Employees International Union Nurse Alliance; Nurses United; and Missouri Nurses Association.

Testifying for HB 1971 were Representative Portwood; and Missouri State Chiropractors Association.

Testifying for HB 2240 were Representative Stevenson; Tracey Joyce; Wal-Mart Stores, Incorporated; Missouri Pharmacy Association; and Sean Taylor, Epilepsy Foundation.

Testifying for HB 2313 were Representative Schaaf for Representative Hobbs; and Missouri Association of Rural Health Clinics.

Testifying for HB 2423 were Representatives Holsman and Storch;

Sharon Rohrbach, Nurses for Newborns; Partnership for Children; Signature Health Services; and Patrick Dougherty.

Testifying for HB 2435 were Representative Lembke; Signature Health Services; Karen Reuschle, Metro Heart Group of St. Louis Incorporated; Jeanne Blumm, Surgery Center of St. Louis; and Missouri State Medical Association.

OPPONENTS: Those who oppose House Bill 1816 say that the bill duplicates investigations and increases costs for hospitals. Some of the standards are unclear, and reporting would be more difficult.

Those who oppose House Bill 2240 say that the bill creates a cumbersome, complex, and contradictory procedure requiring information that is impossible to obtain. Medication switching is only performed when based on recommendations and review. Insurance plans already have an appeal process for when a physician feels that a certain drug is necessary for a patient.

Those who oppose House Bill 2435 say that the bill will cause problems for health care providers, there are already penalties for unreasonably denying a claim, and the Department of Insurance, Financial Institutions, and Professional Registration already fines insurers for prompt pay problems in market conduct examinations.

Testifying against HB 1816 were Missouri Hospital Association; and Missouri Pharmacy Association.

Testifying against HB 2240 were Express Scripts; MEDCO Health Solutions, Incorporated; Missouri Retailers Association; Anthem Blue Cross Blue Shield; Coventry Health Care of Kansas, Incorporated; Missouri Insurance Coalition; and CVS/Caremark Rx, Incorporated.

Testifying against HB 2435 were Coventry Health Care of Kansas, Incorporated; Blue Cross Blue Shield of Kansas City; State Farm Insurance Companies; and Missouri Insurance Coalition.

OTHERS: Others testifying on House Bill 1940 say that many hospitals have lifting equipment that isn't used and they don't want hospitals to have to purchase additional equipment that won't get used.

Others testifying on House Bill 2435 provided information regarding the accrual of interest and market conduct examinations.

Testifying on HB 1940 was Missouri Hospital Association.

Testifying on HB 2435 was Department of Insurance, Financial Institutions, and Professional Registration.