

HCS#2 SCS SB 333 -- HEALTH AND SENIOR SERVICES

SPONSOR: Stouffer (Cooper, 155)

COMMITTEE ACTION: Voted "do pass" by the Committee on Health Care Policy by a vote of 8 to 0.

This substitute changes the laws regarding the Missouri Head Injury Advisory Council, protections for vulnerable adults and children, the Uniform Anatomical Gift Act, patient safety and medical errors, the Chronic Kidney Disease Task Force, and the Missouri Health Profession Shortage Planning Commission.

MISSOURI BRAIN INJURY ADVISORY COUNCIL

The substitute:

(1) Renames the Missouri Head Injury Advisory Council to the Missouri Brain Injury Advisory Council and transfers it to the Department of Health and Senior Services from the Office of Administration;

(2) Decreases the number of members on the council from 25 to 18;

(3) Requires the department director to appoint members to the council;

(4) Prohibits members of the council from receiving compensation for their services;

(5) Requires the department to plan and implement programs promoting rehabilitation and community reintegration, apply for and administer federal grants, and establish a means test to be applied to all programs and services funded by the department for determining eligibility;

(6) Prohibits the department from denying services based on race, sex, creed, marital status, national origin, handicap, or age; and

(7) Renames the Head Injury Fund to the Brain Injury Fund for use by the department.

PROTECTIONS FOR VULNERABLE ADULTS AND CHILDREN

The substitute:

(1) Transfers the Division of Aging from the Department of Social Services to the Department of Health and Senior Services;

(2) Adds financial exploitation of the elderly to the public education and awareness program administered by the Department of Health and Senior Services;

(3) Transfers the powers, duties, and functions of the Board of Nursing Home Administrators to the department;

(4) Requires any health service provider or employee and allows any other person having reasonable cause to believe that a patient or consumer has been a victim of the misappropriation of a patient's money to report the information to the department;

(5) Requires the department, upon receipt of an imminent danger report, to initiate an investigation promptly, but without a 24-hour time requirement. If an investigation indicates a crime has occurred, the appropriate law enforcement agency must be notified. The department must notify the resident's legal representative of the report and investigation status when it involves a resident who has been appointed a guardian and/or conservator or is incapacitated and resides at a state-licensed facility. The department may also notify the resident's family members or guardians;

(6) Requires the department to keep the names of individuals submitting abuse and misappropriation reports confidential unless the complainant agrees to the disclosure of his or her name, the name of the complainant is lawfully subpoenaed, the release of a name is required by the Administrative Hearing Commission, or the release of a name is requested by the Department of Social Services for the purpose of licensure under Chapter 210, RSMo;

(7) Protects a patient and the patient's family members from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the provisions of the substitute;

(8) Requires patients and consumers whose services are funded by the Missouri Medicaid Program to be checked against the sexual offender registry and requires the Department of Health and Senior Services to notify providers at the time of referral if a patient or consumer is on that registry;

(9) Makes any person failing to file a required report and any person or provider who misuses or diverts the consumer's use of any personal property or money or falsifies service delivery documents guilty of a class A misdemeanor. Any provider who knowingly conceals abuse or neglect that results in the death or serious injury of a patient will be guilty of a class D felony;

(10) Authorizes the department to assess a \$1,000 fine on any

provider who willfully and knowingly fails to report known abuse by an employee;

(11) Makes any person or entity that unlawfully discloses information from the employee disqualification list guilty of an infraction;

(12) Extends the time a person can be listed on the employee disqualification list by one year if he or she is employed in a prohibited position while on the list;

(13) Requires approved good cause waivers for employees to gain or retain employment from a provider as of August 28, 2008;

(14) Restates the department's rule-making authority to make any rule effective only if it complies with and is subject to the provisions of Chapter 536;

(15) Prohibits state and federal financial assistance to be used for the services of a personal care attendant who is listed on the employee disqualification list, is registered as a sexual offender, or has a disqualifying criminal history not excused by a good cause waiver; and

(16) Prohibits courts from suspending the imposition or execution of a sentence, imposing a fine instead of a term of imprisonment for first and second degree elder abuse cases and sexual misconduct cases, and sentencing persons guilty of a crime of violence against an elderly person to less than 30 consecutive days or imposing a fine instead of imprisonment.

#### UNIFORM ANATOMICAL GIFT ACT

The substitute:

(1) Requires coroners and medical examiners to cooperate with a procurement organization to maximize the opportunity to recover anatomical gifts;

(2) Specifies additional requirements for coroners and medical examiners to follow regarding anatomical gifts;

(3) Requires that the Department of Health and Senior Services establish or contract for the establishment of a first person consent donor registry;

(4) Specifies which documents are acceptable to make an anatomical gift;

(5) Specifies how an anatomical gift can be revoked;

- (6) Allows an individual to refuse to make an anatomical gift;
- (7) Specifies who is authorized to make an anatomical gift of a deceased individual's body and to whom an anatomical gift can be made;
- (8) Allows emergency personnel and hospital staff to search a deceased or near death individual for documentation as a donor;
- (9) Specifies that upon referral of a potential donor, a procurement organization will search an organ donor registry and other applicable records to determine if the individual has made an anatomical gift;
- (10) Allows a procurement organization to conduct a medical exam to ensure medical suitability of the donation;
- (11) Specifies that neither the attending physician at death nor the physician who determines time of death can participate in the removal or transplantation of a body part of the deceased;
- (12) Specifies that a person who knowingly purchases or sells a body part for transplantation will be guilty of a felony and subject to a fine of not greater than \$50,000, imprisonment not exceeding seven years, or both; and
- (13) Requires the Department of Revenue to cooperate with a state-established registry.

#### PATIENT SAFETY AND MEDICAL ERRORS

The substitute:

- (1) Requires hospitals to report certain patient safety incidents to a patient safety organization no later than the close of business on the next business day after the incident is discovered;
- (2) Requires the hospital's initial report to include actions taken to minimize the risk of harm to patients and prevent a reoccurrence;
- (3) Requires the hospital to submit a completed root cause analysis and reportable incident prevention plan to the patient safety organization within 20 days;
- (4) Requires the patient safety organization to forward the incident report, description of immediate actions taken, root cause analysis, and reportable incident prevention plan to the Department of Health and Senior Services;

(5) Requires the department to investigate the incident, determine if the hospital's response and plan are sufficient to reduce the risk of future incidents, and ensure that the plan is being followed and the results are reviewed. The department must also periodically review the patient safety organization regarding report submissions and reviews;

(6) Specifies that the department can charge a fee for investigating and responding to incident reports;

(7) Specifies that if a reportable incident is disclosed and an incident prevention plan and root cause analysis are submitted and approved by the department, the incident will not be considered grounds for licensure deficiency;

(8) Requires the department to consult with patient safety organizations and hospital representatives to establish criteria to identify cases in which reportable incidents have occurred in a hospital with a frequency or possible pattern of negative outcomes that require departmental intervention to protect the public. The department can impose license sanctions against hospitals based on the reportable incidents as specified in the substitute;

(9) Requires the patient safety center to work with the department to publish an annual report on reportable incidents;

(10) Specifies that a hospital can report other adverse events to a patient safety organization and the department and these reports will be subject to the same protections and requirements as reportable incidents;

(11) Specifies that actions, decisions, proceedings, discussions, or deliberations occurring at a patient safety organization meeting will not be disclosed, except to carry out the purposes of the organization;

(12) Specifies that a patient safety work product is privileged and confidential and will not be disclosed for any purpose including any criminal, civil, or administrative proceeding;

(13) Prohibits the discovery, disclosure, or admission into evidence of a patient safety work product. If the product is admitted into evidence, it constitutes grounds for a mistrial or similar termination of the proceeding;

(14) Requires a patient safety organization to create educational and evidence-based information that providers can use to improve care; and

(15) Specifies that a provider furnishing services to a patient safety organization will not be liable for civil damages unless the act, omission, decision, or other conduct is done with malice, fraudulent intent, or in bad faith.

#### CHRONIC KIDNEY DISEASE TASK FORCE

The substitute:

(1) Establishes the Chronic Kidney Disease Task Force and requires the Department of Health and Senior Services to provide the necessary staff, research, and meeting facilities; and

(2) Requires the task force to:

(a) Develop a plan to educate the public and health care professionals about early screening, diagnosis, treatment, and complications of chronic kidney disease;

(b) Make recommendations regarding the implementation of the plan;

(c) Identify barriers to the adoption of best practices; and

(d) Submit a report of its findings and recommendations to the General Assembly within one year of the first task force meeting.

#### MISSOURI HEALTH PROFESSION SHORTAGE PLANNING COMMISSION

The Missouri Health Profession Shortage Planning Commission is established within the Department of Economic Development. Members appointed to the commission are to be recognized as experts in the field of health, finance, economics, or health facility management and must be appointed within 30 days of the effective date of the substitute. Non-legislative members will serve a three-year term, while legislative members will serve through their current legislative term.

The commission's duties include monitoring data and trends in the health profession workforce, making recommendations on the economic cluster for health care professions, identifying recruitment and retention strategies for higher education health care programs, promoting diversity, making recommendations on financial and other assistance to students enrolled in health care programs, and identifying recruitment and retention strategies for health care employers.

The commission will annually submit a report on its findings and recommendations to the appropriate standing committees of the General Assembly.

The provisions regarding the Missouri Health Profession Shortage Planning Commission will expire on August 30, 2012.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Greater than \$1,312,576 in FY 2008, Greater than \$765,640 in FY 2009, and Greater than \$798,200 in FY 2010. No impact on Other State Funds in FY 2008, FY 2009, and FY 2010.

PROPOSERS: Supporters say that the bill allows early treatment in the first 18-month period after a brain injury when treatment is most critical. The change of the term "head injury" to "brain injury" more accurately describes the nature of the injury.

Testifying for the bill were Senator Stouffer; and Department of Health and Senior Services.

OPPOSERS: There was no opposition voiced to the committee.