

Medical error law signed

Secrecy of reports will be protected

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President Bush Friday signed into law legislation to reduce medical errors by encouraging medical care providers to report mistakes without the risk of the information being used against them in lawsuits.

The law has been on a six-year journey that began when the U.S. health-care system was embarrassed by a landmark 1999 study by the Institute of Medicine that showed as many as 98,000 people die each year as a result of medical errors.

But doctors, hospitals and nurses say a significant hurdle to reporting such errors has been fear that such information would be used against them--leading to abysmal reporting of errors to the government or to non-profit health groups that collect such data.

Error reporting is still voluntary under the new law, which has no federal penalties for failing to provide information.

"It does not require anybody to do anything," said Carlton Carl, spokesman for the Association of Trial Lawyers of America, which took no official stance on the bill.

But at the White House signing ceremony Friday, Bush said the law would help researchers obtain more accurate information about medical treatments.

"And by providing doctors with information about what treatments work and what treatments cause problems, we will reduce medical errors that injure and cause the deaths of thousands of Americans each year," Bush said.

The Bush administration said the law would create a national database of medical errors, the confidential data from which would be used to develop "best practices" for reducing errors and improving patient care.

Information will be reported voluntarily to so-called "patient safety organizations," which would be protected from subpoena.

Patient-safety organizations will evaluate the data for any trends and recommend steps back to the reporting providers to avoid future mistakes. It is also possible the government could use the trends to publish and widely disseminate reports. Patients and care providers would not be identified.

The reporting of an error by a hospital does not result in the hospital being granted immunity from a lawsuit, of course. It's just that the reporting conduit is protected from subpoena. A lawyer would not be able to discover what the hospital admitted. That would be kept confidential.

The bill had a diverse range of support from the lobbies for doctors, health insurance companies and large employers such as Deere & Co.

Still, some observers say there are no guarantees doctors and hospitals will report their mistakes. Others were disappointed that there will not be federal penalties because reports will be given voluntarily.

Some of the leading health-care organizations that tally errors and work with doctors and hospitals to improve quality say care providers routinely underreport their errors and mistakes. Such low reporting, these people say, contributes to medical errors because it makes it difficult to find solutions to problems that created the errors in the first place.

The Oakbrook Terrace-based Joint Commission on Accreditation of Healthcare Organizations said it receives fewer than 1,000 reports of medical errors each year to its "sentinel event database."

The commission accredits more than 15,000 health-care organizations, including nearly 5,000 hospitals. All of the organizations can submit reports on errors to the Joint Commission but obviously do not, in view of the low reporting rate.

"There's no incentive to report useful information if you know it is going to be used against you," said Margaret VanAmringe, vice president for public policy and government relations for the commission. "If you don't have the information then you are not going to solve the problem."

The commission said it may be one of the organizations that would create a subsidiary "patient safety organization" that would collect medical errors. But even its patient safety organization would have to set up a firewall so it did not use the data to take action against a hospital.

VanAmringe said the information from such organizations will eventually be reviewed by federal health officials, who will be able to report suggestions for improvement back to health-care providers.

Providers of medical care say the law, along with new technology and information systems that reduce paper records and manual

order entry, can go a long way to reduce medical errors.

American Medical Association President Dr. Edward Hill described the law as "the catalyst we need to transform the current culture of blame and punishment into one of open communication and prevention."

"Future errors can be avoided as we learn from past mistakes," Hill said. "This law strikes the proper balance between confidentiality and the need to ensure responsibility throughout the health-care system."