

**CHAPTER 157**

**HB 514 – FINAL VERSION**

2005 SESSION

05-0047

01/09

HOUSE BILL ***514***

AN ACT establishing the New Hampshire health care quality assurance commission.

SPONSORS: Rep. Craig, Hills 9; Rep. Batula, Hills 19; Rep. S. Francoeur, Rock 15; Rep. Price, Hills 26; Rep. Miller, Straf 7; Sen. D'Allesandro, Dist 20; Sen. Gottesman, Dist 12

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes the New Hampshire health care quality assurance commission to review and analyze information concerning medical errors. Under this bill, the commission shall terminate in 5 years.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

05-0047

01/09

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Five*

AN ACT establishing the New Hampshire health care quality assurance commission.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

157:1 Statement of Intent. The general court recognizes that the practice of medicine is becoming increasingly more complex and expensive. The general court further recognizes that the cost of medical malpractice insurance is becoming overly burdensome to the medical profession. The general court notes that in order to reduce the incidence of adverse outcomes from medical care and the cost of insuring against medical malpractice, it is important for health care providers to be able to share information about adverse outcomes without exposing themselves to increased risk of malpractice litigation. Therefore, the general court hereby establishes the New Hampshire health care quality assurance commission to enable health care providers to share information about adverse outcomes and prevention strategies in learning environments which foster candor and self-critical analysis while maintaining the confidentiality of the information submitted to the commission, the proceedings of the commission, and the results of the commission's deliberations.

157:2 New Chapter; New Hampshire Health Care Quality Assurance Commission. Amend RSA by inserting after chapter 151-F the following new chapter:

## CHAPTER 151-G

### NEW HAMPSHIRE HEALTH CARE QUALITY ASSURANCE COMMISSION

151-G:1 Commission Established; Membership.

I. There is established a commission to review and analyze quality of care issues including, but not limited to, medical errors, unexpected adverse outcomes, and near misses, and to propose changes to improve health care.

II. The members of the commission shall be as follows:

(a) One representative of each acute care hospital in New Hampshire, nominated by the hospital and appointed by the governor.

(b) One representative of each freestanding ambulatory surgical center in New Hampshire, nominated by the ambulatory surgical center and appointed by the governor.

(c) The commissioner of the department of health and human services, or designee.

151-G:2 Duties. The commission shall review and analyze quality care issues including, but not limited to, medical errors, unexpected adverse outcomes, and near misses, and it shall propose changes that will improve health care. Sources of data may include, but are not limited to, reviews and reports currently required by or submitted to state or national regulatory and accrediting

organizations.

151-G:3 Chair; Vice-Chair; Secretary. The members of the commission shall elect a chair, vice-chair, and secretary from among the members at the first meeting. The term of the chair, vice-chair, and secretary shall be one year and until successors are elected. The chair shall be responsible for the orderly proceedings of the commission meetings and for compliance with mandates of this chapter. The vice-chair shall serve in the absence of the chair. The duty of the secretary shall be to keep minutes necessary to comply with the reporting requirement of this chapter. The first meeting of the committee shall be called by the first-named member. The first meeting of the committee shall be held within 45 days of the effective date of this section and the commission shall meet at least quarterly on dates set by the chair.

151-G:4 Education. Each member of the commission shall be responsible for the dissemination of commission discussions to his or her respective institutions. All such information shall be disseminated through each participant's quality assurance program in order to protect the confidentiality of all participants and patients involved in any incident or topic discussed.

151-G:5 Confidentiality. All information of any type submitted to or collected by the commission, including, but not limited to, written, oral, and electronic information; records and proceedings of the commission, including, but not limited to, oral testimony and discussions, notes, minutes, summaries, analyses, and reports; and information disseminated by the commission or its members to acute care hospitals and ambulatory surgical centers, shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial, administrative, or other type of proceeding. The provision of information to the commission and the dissemination of information by the commission shall not be deemed to void, waive, or impair in any manner the confidentiality protection of this section or which the information may have under any other law or regulation. However, information, documents, or records otherwise available from original sources shall not be construed as immune from discovery or use in any civil or administrative action merely because they were presented to the commission. Furthermore, any person who supplies information to or testifies before the commission shall not be immune from discovery in such civil or administrative action because the information or testimony was presented to the commission, but such witness shall not be asked about and shall not provide information about his or her testimony before this commission or opinions formed by him or her as a result of commission participation.

151-G:6 Administration. The commission may delegate to the Foundation for Healthy Communities the functions of collecting, analyzing, and disseminating quality assurance information, organizing and convening meetings of the commission, and other substantive and administrative tasks as may be incident to these activities or directed by the commission. The activities of the Foundation for Healthy Communities and its employees or agents shall be subject to the same confidentiality provisions as those that apply to the commission.

151-G:7 Reports. On or before June 1 of each year, the commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, and the governor. Such report shall describe the activities of the commission, indicate the extent of each institution's participation, state the aggregate relative frequency of the causes of the medical errors, unexpected adverse outcomes, and near misses reviewed and, to the extent possible, identify strategies for reducing preventable adverse events. Any information about processes or

clinical outcomes provided pursuant to this section shall be aggregate data only and shall not reference individual incidents, patients, health care providers, or institutions.

151-G:8 Rulemaking. The commissioner of health and human services, with the advice and consent of a majority of members of the commission, shall adopt rules pursuant to RSA 541-A, to assure de-identification of all individuals and facilities involved in the cases reviewed.

157:3 Prospective Repeal. RSA 151-G, relative to the New Hampshire health care quality assurance commission, is repealed.

157:4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2010.

II. The remainder of this act shall take effect 60 days after its passage.

(Approved: June 21, 2005)

(Effective Date: I. Section 3 shall take effect July 1, 2010.

II. Remainder shall take effect August 20, 2005)