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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4200

03/05/2020 Authored by Cantrell, Liebling and Gruenhagen
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health; requiring notice prior to placing a hospital patient in observation
1.3 status; permitting licensing actions against hospitals that fail to provide notice;
1.4 prohibiting billing and collections for hospital services to patients in observation
1.5 status who did not receive prior notice; amending Minnesota Statutes 2018, sections
1.6 144.55, subdivision 6; 144.586, subdivision 1.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 144.55, subdivision 6, is amended to read:

1.9 Subd. 6. Suspension, revocation, and refusal to renew. (a) The commissioner may
1.10 refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

1.11 (1) violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards
1.12 issued pursuant thereto, or Minnesota Rules, chapters 4650 and 4675;

1.13 (2) permitting, aiding, or abetting the commission of any illegal act in the institution;

1.14 (3) conduct or practices detrimental to the welfare of the patient; or

1.15 (4) obtaining or attempting to obtain a license by fraud or misrepresentation; or

1.16 (5) with respect to hospitals and outpatient surgical centers, if the commissioner
1.17 determines that there is a pattern of conduct that one or more physicians who have a "financial
1.18 or economic interest," as defined in section 144.6521, subdivision 3, in the hospital or
1.19 outpatient surgical center, have not provided the notice and disclosure of the financial or
1.20 economic interest required by section 144.6521; or

1.21 (6) with respect to hospitals, the commissioner determines that a hospital violated the
1.22 notice of observation status requirements under section 144.586, subdivision 1.

2.1 (b) The commissioner shall not renew a license for a boarding care bed in a resident
2.2 room with more than four beds.

2.3 Sec. 2. Minnesota Statutes 2018, section 144.586, subdivision 1, is amended to read:

2.4 Subdivision 1. ~~Observation stay~~ Notice of observation status. (a) Each hospital, as
2.5 defined under section 144.50, subdivision 2, shall provide prior oral and written notice of
2.6 observation status to each patient ~~that the hospital places in observation status of such~~
2.7 ~~placement not later than 24 hours after such placement.~~ The oral and written notices must
2.8 include:

2.9 (1) a statement that the patient is not admitted to the hospital but is ~~under~~ in observation
2.10 status;

2.11 (2) a statement that observation status may affect the patient's Medicare health care
2.12 coverage for:

2.13 (i) hospital services, including medications and pharmaceutical supplies; or

2.14 (ii) home or community-based care or care at a skilled nursing facility upon the patient's
2.15 discharge; and

2.16 (3) a recommendation that the patient contact the patient's health insurance provider or
2.17 the Office of the Ombudsman for Long-Term Care or Office of the Ombudsman for State
2.18 Managed Health Care Programs or the Beneficiary and Family Centered Care Quality
2.19 Improvement Organization to better understand the implications of placement in observation
2.20 status.

2.21 (b) The hospital shall document ~~the date~~ in the patient's record the date that the notice
2.22 ~~required in paragraph (a)~~ of observation status was provided to the patient, ~~and~~ by obtaining
2.23 the patient's signature or the patient's designated representative's signature on the notice of
2.24 observation status. The hospital shall also document in the patient's record the patient's
2.25 designated representative such as the patient's health care agent, legal guardian, conservator,
2.26 or another person acting as the patient's representative.

2.27 (c) If a hospital cannot obtain a patient's signature or the patient's designated
2.28 representative's signature on a notice of observation status because the patient cannot
2.29 communicate and the patient's designated representative is unavailable or unknown, the
2.30 hospital may not place the patient on observation status but must admit the patient if the
2.31 patient requires hospital services.

3.1 (d) If a hospital fails to meet the notice of observation status requirements under this
3.2 subdivision, the hospital shall not be paid by an insurer, self-insurer, or group self-insurer
3.3 for hospital services, including medications and pharmaceutical supplies provided while
3.4 the patient was in observation status. The hospital shall not be reimbursed or attempt to
3.5 collect reimbursement for hospital services, including medications and pharmaceutical
3.6 supplies provided while the patient was in observation status from any other source, including
3.7 the patient, another insurer, medical assistance, or MinnesotaCare. Lack of a signed notice
3.8 of observation status is an affirmative defense to any legal action for collection or
3.9 enforcement.