

By: Senator(s) Dearing

To: Public Health and Welfare

SENATE BILL NO. 2294

1 AN ACT TO CREATE THE "MISSISSIPPI PATIENT SAFETY ACT"; TO
2 REQUIRE THE DEVELOPMENT OF A PATIENT SAFETY PROGRAM FOR HOSPITALS,
3 AMBULATORY SURGICAL CENTERS AND MENTAL HOSPITALS; TO REQUIRE
4 HOSPITALS, AMBULATORY SURGICAL CENTERS AND MENTAL HOSPITALS TO
5 ANNUALLY REPORT TO THE STATE HEALTH OFFICER A LISTING OF CERTAIN
6 ERRORS OR OCCURRENCES; TO PROVIDE WHISLEBLOWER PROTECTION TO
7 CERTAIN EMPLOYEES; TO REQUIRE HOSPITALS TO MAINTAIN A PROGRAM
8 CAPABLE OF IDENTIFYING AND TRACKING HOSPITAL ACQUIRED INFECTIONS;
9 TO PRESCRIBE PENALTIES FOR VIOLATIONS OF THE ACT; AND FOR RELATED
10 PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** This act shall be known and may be cited as the
13 "Mississippi Patient Safety Act."

14 **SECTION 2.** (1) The department shall develop a patient
15 safety program for hospitals. The program must:

16 (a) Be administered by the hospital licensing program
17 within the department; and

18 (b) Serve as an information clearinghouse for hospitals
19 concerning best practices and quality improvement strategies.

20 (2) The department shall group hospitals by size for the
21 reports required by this act as follows:

22 (a) Less than fifty (50) beds;

23 (b) Fifty (50) to ninety-nine (99) beds;

24 (c) One hundred (100) to one hundred ninety-nine (199)
25 beds;

26 (d) Two hundred (200) to three hundred ninety-nine
27 (399) beds; and

28 (e) Four hundred (400) beds or more.

29 (3) The department shall combine two (2) or more categories
30 described by subsection (2) if the number of hospitals in any
31 category falls below forty (40).

32 (4) On renewal of a license under this act, a hospital shall
33 submit to the department an annual report that lists the number of
34 occurrences at the hospital or at an outpatient facility owned or
35 operated by the hospital of each of the following events during
36 the preceding year:

37 (a) A medication error resulting in a patient's
38 unanticipated death or major permanent loss of bodily function in
39 circumstances unrelated to the natural course of the illness or
40 underlying condition of the patient;

41 (b) A perinatal death unrelated to a congenital
42 condition in an infant with a birth weight greater than two
43 thousand five hundred (2,500) grams;

44 (c) The suicide of a patient in a setting in which the
45 patient received care twenty-four (24) hours a day;

46 (d) The abduction of a newborn infant patient from the
47 hospital or the discharge of a newborn infant patient from the
48 hospital into the custody of an individual in circumstances in
49 which the hospital knew, or in the exercise of ordinary care
50 should have known, that the individual did not have legal custody
51 of the infant;

52 (e) The sexual assault of a patient during treatment or
53 while the patient was on the premises of the hospital or facility;

54 (f) A hemolytic transfusion reaction in a patient
55 resulting from the administration of blood or blood products with
56 major blood group incompatibilities;

57 (g) A surgical procedure on the wrong patient or on the
58 wrong body part of a patient;

59 (h) A foreign object accidentally left in a patient
60 during a procedure; and

61 (i) A patient's death or serious disability associated
62 with the use or function of a device designed for patient care
63 that is used or functions other than as intended.

64 (5) The department may not require the annual report to
65 include any information other than the number of occurrences of
66 each event listed in subsection (4) of this section.

67 **SECTION 3.** (1) The department shall develop a patient
68 safety program for ambulatory surgical centers. The program must:

69 (a) Be administered by the ambulatory surgical center
70 licensing program within the department; and

71 (b) Serve as an information clearinghouse for
72 ambulatory surgical centers concerning best practices and quality
73 improvement strategies.

74 (2) On renewal of a license under this chapter, an
75 ambulatory surgical center shall submit to the department an
76 annual report that lists the number of occurrences at the center
77 or at an outpatient facility owned or operated by the center of
78 each of the following events during the preceding year:

79 (a) A medication error resulting in a patient's
80 unanticipated death or major permanent loss of bodily function in
81 circumstances unrelated to the natural course of the illness or
82 underlying condition of the patient;

83 (b) The suicide of a patient;

84 (c) The sexual assault of a patient during treatment or
85 while the patient was on the premises of the center or facility;

86 (d) A hemolytic transfusion reaction in a patient
87 resulting from the administration of blood or blood products with
88 major blood group incompatibilities;

89 (e) A surgical procedure on the wrong patient or on the
90 wrong body part of a patient;

91 (f) A foreign object accidentally left in a patient
92 during a procedure; and

93 (g) A patient's death or serious disability associated
94 with the use or function of a device designed for patient care
95 that is used or functions other than as intended.

96 (3) The department may not require the annual report to
97 include any information other than the number of occurrences of
98 each event listed in subsection (2).

99 **SECTION 4.** (1) The department shall develop a patient
100 safety program for mental hospitals licensed by the department.
101 The program must:

102 (a) Be administered by the licensing program within the
103 department; and

104 (b) Serve as an information clearinghouse for hospitals
105 concerning best practices and quality improvement strategies.

106 (2) On renewal of a license under this chapter, a mental
107 hospital shall submit to the department an annual report that
108 lists the number of occurrences at the hospital or at an
109 outpatient facility owned or operated by the hospital of each of
110 the following events during the preceding year:

111 (a) A medication error resulting in a patient's
112 unanticipated death or major permanent loss of bodily function in
113 circumstances unrelated to the natural course of the illness or
114 underlying condition of the patient;

115 (b) The suicide of a patient in a setting in which the
116 patient received care twenty-four (24) hours a day;

117 (c) The sexual assault of a patient during treatment or
118 while the patient was on the premises of the hospital or facility;

119 (d) A hemolytic transfusion reaction in a patient;
120 resulting from the administration of blood or blood products with
121 major blood group incompatibilities; and

122 (e) A patient's death or serious disability associated
123 with the use or function of a device designed for patient care
124 that is used or functions other than as intended.

125 (3) The department may not require the annual report to
126 include any information other than the number of occurrences of
127 each event listed in subsection (2) of this section.

128 **SECTION 5.** (1) In this section, "root cause analysis" means
129 the process that identifies basic or causal factors underlying a
130 variation in performance leading to an event listed in subsection
131 (2) of Section 2, 3 or 4 of this act and that:

132 (a) Focuses primarily on systems and processes;

133 (b) Progresses from special causes in clinical
134 processes to common causes in organizational processes; and

135 (c) Identifies potential improvements in processes or
136 systems.

137 (2) Not later than the 45th day after the date a hospital,
138 ambulatory surgical center or mental hospital becomes aware of an
139 event listed in subsection (2) of Section 2, 3 or 4 of this act,
140 the facility shall:

141 (a) Conduct a root cause analysis of the event; and

142 (b) Develop an action plan that identifies strategies
143 to reduce the risk of a similar event occurring in the future.

144 (3) The department may review a root cause analysis or
145 action plan related to an event listed in subsection (2) of
146 Section 2, 3 or 4 of this act during a survey, inspection or
147 investigation of a hospital, ambulatory surgical center or
148 mental hospital.

149 (4) The department may not require a root cause analysis or
150 action plan to be submitted to the department.

151 (5) The department, or an employee or agent of the
152 department, may not in any form, format or manner remove, copy,
153 reproduce, redact or dictate from all or any part of a root cause
154 analysis or action plan.

155 **SECTION 6.** The department annually shall compile and make
156 available to the public a summary of the events reported by mental
157 hospitals as required by subsection (2) of Section 2, 3 or 4 of
158 this act. The summary shall identify events by specific hospital,
159 ambulatory surgical center or mental hospital but shall not
160 directly or indirectly identify:

- 161 (a) An individual, or
162 (b) A specific reported event or the circumstances or
163 individuals surrounding the event.

164 SECTION 7. (1) A hospital, ambulatory surgical center or
165 mental hospital shall provide to the department at least one (1)
166 report of best practices and safety measures related to a reported
167 event.

168 (2) A hospital, ambulatory surgical center or mental
169 hospital may provide to the department a report of other best
170 practices and the safety measures that are effective in improving
171 patient safety.

172 (3) The department by rule may prescribe the form and format
173 of a best practices report. The department may not require a best
174 practices report to exceed one (1) page in length. The department
175 shall accept, in lieu of a report in the form and format
176 prescribed by the department, a copy of a report submitted by a
177 hospital, ambulatory surgical center or mental hospital to a
178 patient safety organization.

179 (4) The department periodically shall:

180 (a) Review the best practices reports;

181 (b) Compile a summary of the best practices reports
182 determined by the department to be effective and recommended as
183 best practices; and

184 (c) Make the summary available to the public by posting
185 it on the department's Web site and distributing its availability
186 to interested parties as widely as practical.

187 (5) The summary shall identify best practices by specific
188 hospital, ambulatory surgical center or mental hospital but shall
189 not directly or indirectly identify:

190 (a) An individual; or

191 (b) A specific reported event or the circumstances or
192 individuals surrounding the event.

193 **SECTION 8.** (1) Not later than January 1, 2008, the State
194 Health Officer shall:

195 (a) Evaluate the patient safety program established
196 under this act; and

197 (b) Report the results of the evaluation and make
198 recommendations to the Legislature.

199 (2) The State Health Officer shall conduct the evaluation in
200 consultation with licensed hospitals, ambulatory surgical centers
201 or mental hospitals.

202 (3) The evaluation must address:

203 (a) The degree to which the department was able to
204 detect statewide trends in errors based on the types and numbers
205 of events reported;

206 (b) The degree to which the statewide summaries of
207 events compiled by the department were accessed by the public;

208 (c) The effectiveness of the department's best
209 practices summary in improving patient care; and

210 (d) The impact of national studies on the effectiveness
211 of state or federal systems of reporting medical errors.

212 (4) The department shall publicize the report and its
213 availability as widely as practical to interested parties,
214 including, but not limited to, hospitals, providers, media
215 organizations, health insurers, health maintenance organizations,
216 purchasers of health insurance, organized labor, consumer or
217 patient advocacy groups and individual consumers. The annual
218 report shall be made available to any person upon request.

219 **SECTION 9.** The department may accept and administer a gift,
220 grant or donation from any source to carry out the purposes of
221 this act.

222 **SECTION 10.** (1) An employer shall not take retaliatory
223 action against an employee because the employee does any of the
224 following:

225 (a) Discloses or threatens to disclose to any person or
226 entity any activity, policy, practice, procedure, action or
227 failure to act of the employer or agent of the employer that the
228 employee reasonably believes is a violation of any law or that the
229 employee reasonably believes constitutes improper quality of
230 patient care;

231 (b) Provides information to, or testifies before, any
232 public body conducting an investigation, a hearing or an inquiry
233 that involves allegations that the employer has violated any law
234 or has engaged in behavior constituting improper quality of
235 patient care; and

236 (c) Objects to or refuses to participate in any
237 activity, policy or practice of the employer or agent that the
238 employee reasonably believes is in violation of a law or
239 constitutes improper quality of patient care.

240 (2) Subsection (1)(a) and (c) of this section shall not
241 apply unless an employee first reports the alleged violation of
242 law or improper quality of patient care to the employer,
243 supervisor or other person designated by the employer to address
244 reports by employees of improper quality of patient care, and the
245 employer has had a reasonable opportunity to address the
246 violation. The employer shall address the violation under its
247 compliance plan, if one exists. The employee shall not be
248 required to make a report under this subsection if the employee
249 reasonably believes that doing so would be futile because making
250 the report would not result in appropriate action to address the
251 violation.

252 **SECTION 11.** (1) The department may assess an administrative
253 penalty against a person who violates this act or a rule adopted
254 under this act.

255 (2) The penalty may not exceed One Thousand Dollars
256 (\$1,000.00) for each violation. Each day of a continuing
257 violation constitutes a separate violation.

258 (3) In determining the amount of an administrative penalty
259 assessed under this section, the department shall consider:

260 (1) The seriousness of the violation;

261 (2) The history of previous violations;

262 (3) The amount necessary to deter future violations;

263 (4) Efforts made to correct the violation;

264 (5) Any hazard posed to the public health and safety by
265 the violation; and

266 (6) Any other matters that justice may require.

267 (4) All proceedings for the assessment of an administrative
268 penalty under this section are considered to be contested cases
269 under the Administrative Procedures Act.

270 **SECTION 12.** (1) If, after investigation of a possible
271 violation and the facts surrounding that possible violation, the
272 department determines that a violation has occurred, the
273 department shall give written notice of the violation to the
274 person alleged to have committed the violation. The notice shall
275 include:

276 (a) A brief summary of the alleged violation;

277 (b) A statement of the amount of the proposed penalty
278 based on the factors set forth in Section 8(3) of this act; and

279 (c) A statement of the person's right to a hearing on
280 the occurrence of the violation, the amount of the penalty, or
281 both the occurrence of the violation and the amount of the
282 penalty.

283 (2) Not later than the 20th day after the date on which the
284 notice is received, the person notified may accept the
285 determination of the department made under this section, including
286 the proposed penalty, or make a written request for a hearing on
287 that determination.

288 (3) If the person notified of the violation accepts the
289 determination of the department, the State Health Officer or his

290 designee shall issue an order approving the determination and
291 ordering that the person pay the proposed penalty.

292 **SECTION 13.** (1) If the person notified fails to respond in
293 a timely manner to the notice under Section 12(2) of this act, or
294 if the person requests a hearing, the department shall:

295 (a) Set a hearing;

296 (b) Give written notice of the hearing to the person;

297 and

298 (c) Designate a hearings examiner to conduct the
299 hearing.

300 (2) The hearings examiner shall make findings of fact and
301 conclusions of law and shall promptly issue to the State Health
302 Officer a proposal for a decision as to the occurrence of the
303 violation and a recommendation as to the amount of the proposed
304 penalty if a penalty is determined to be warranted.

305 (3) Based on the findings of fact and conclusions of law and
306 the recommendations of the hearings examiner, the State Health
307 Officer or his designee by order may find that a violation has
308 occurred and may assess a penalty or may find that no violation
309 has occurred.

310 **SECTION 14.** (1) The department shall give notice of the
311 order under Section 12 of this act to the person notified. The
312 notice must include:

313 (a) Separate statements of the findings of fact and
314 conclusions of law;

315 (b) The amount of any penalty assessed; and

316 (c) A statement of the right of the person to judicial
317 review of the order.

318 (2) Not later than the 30th day after the date on which the
319 decision is final, the person shall either:

320 (a) Pay the penalty;

321 (b) Pay the penalty and file a petition for judicial
322 review contesting the occurrence of the violation, the amount of

323 the penalty, or both the occurrence of the violation and the
324 amount of the penalty; or

325 (c) Without paying the penalty, file a petition for
326 judicial review contesting the occurrence of the violation, the
327 amount of the penalty, or both the occurrence of the violation and
328 the amount of the penalty.

329 (3) Within the thirty-day period, a person who acts under
330 subsection (2)(c) of this section may:

331 (a) Stay the enforcement of the penalty by:

332 (i) Paying the penalty to the court for placement
333 in an escrow account; or

334 (ii) Giving to the court a supersedeas bond that
335 is approved by the court for the amount of the penalty and that is
336 effective until all judicial review of the order is final; or

337 (b) Request the court to stay the enforcement of the
338 penalty by:

339 (i) Filing with the court a sworn affidavit of the
340 person stating that the person is financially unable to pay the
341 amount of the penalty and is financially unable to give the
342 supersedeas bond; and

343 (ii) Giving a copy of the affidavit to the
344 department by certified mail.

345 (4) If the department receives a copy of an affidavit under
346 subsection (3)(b) of this section, the department may file with
347 the court, within five (5) days after the date the copy is
348 received, a contest to the affidavit. The court shall hold a
349 hearing on the facts alleged in the affidavit as soon as
350 practicable and shall stay the enforcement of the penalty on
351 finding that the alleged facts are true. The person who files an
352 affidavit has the burden of proving that the person is financially
353 unable to pay the penalty and to give a supersedeas bond.

354 (5) If the person does not pay the penalty and the
355 enforcement of the penalty is not stayed, the department may refer
356 the matter to the Attorney General for collection of the penalty.

357 (6) Upon judicial review, if the court sustains the
358 occurrence of the violation, the court may uphold or reduce the
359 amount of the penalty and order the person to pay the full or
360 reduced amount of the penalty. If the court does not sustain the
361 occurrence of the violation, the court shall order that no penalty
362 is owed.

363 (7) When the judgment of the court becomes final, the court
364 shall proceed under this subsection. If the person paid the
365 amount of the penalty under subsection (2)(b) and if that amount
366 is reduced or is not upheld by the court, the court shall order
367 that the department pay the appropriate amount plus accrued
368 interest to the person. The rate of the interest is the rate
369 charged on loans to depository institutions by the New York
370 Federal Reserve Bank, and the interest shall be paid for the
371 period beginning on the date the penalty was paid and ending on
372 the date the penalty is remitted. If the person paid the penalty
373 under subsection (3)(a)(i) or gave a supersedeas bond under
374 subsection (3)(a)(ii) and if the amount of the penalty is not
375 upheld by the court, the court shall order the release of the
376 escrow account or bond. If the person paid the penalty under
377 subsection (3)(a)(i) and the amount of the penalty is reduced, the
378 court shall order that the amount of the penalty be paid to the
379 department from the escrow account and that the remainder of the
380 account be released. If the person gave a supersedeas bond and if
381 the amount of the penalty is reduced, the court shall order the
382 release of the bond after the person pays the amount.

383 **SECTION 15.** For purposes of this act:

384 (a) "Department" means the State Department of Health.

385 (b) "Hospital" means an acute care health care facility
386 licensed under Sections 41-9-1 through 41-9-35.

387 (c) "Hospital acquired infection" means a localized or
388 systemic condition (i) that results from adverse reaction to the
389 presence of an infectious agent(s) or its toxin(s) as determined
390 by clinical examination, and (ii) that was not present or
391 incubating at the time of admission to the hospital unless the
392 infection was related to a previous admission to the same
393 facility.

394 **SECTION 16.** (1) Each hospital shall maintain a program
395 capable of identifying and tracking hospital acquired infections
396 for the purpose of public reporting under this section and quality
397 improvement. Such programs shall have the capacity to identify
398 the following elements: the specific infectious agents or toxins
399 and site of each infection; the clinical department or unit within
400 the facility where the patient first became infected; and the
401 patient's diagnoses and any relevant specific surgical, medical or
402 diagnostic procedure performed during the current admission. The
403 department shall establish guidelines, definitions, criteria,
404 standards and coding for hospital identification, tracking and
405 reporting of hospital acquired infections that shall be consistent
406 with the recommendations of recognized centers of expertise in the
407 identification and prevention of hospital acquired infections
408 including, but not limited to, the National Health Care Safety
409 Network of the Centers for Disease Control and Prevention or its
410 successor. The department shall solicit and consider public
411 comment prior to such establishment. Hospitals initially shall be
412 required to identify, track and report hospital acquired
413 infections that occur in critical care units to include surgical
414 wound infections, central line-related bloodstream infections, and
415 ventilator associated pneumonia. Subsequent to the initial
416 requirements, the department may, from time to time, require the
417 tracking and reporting of other types of hospital acquired
418 infections that occur in hospitals in consultation with technical
419 advisors who are regionally or nationally recognized experts in

420 the prevention, identification and control of hospital acquired
421 infection and the public reporting of performance data.

422 (2) Each hospital shall regularly report to the department
423 the hospital acquired infection data it has collected. The
424 department shall establish data collection and analytical
425 methodologies that meet accepted standards for validity and
426 reliability. In no case shall the frequency of reporting be
427 required to be more frequently than once every six (6) months, and
428 reports shall be submitted not more than sixty (60) days after the
429 close of the reporting period.

430 (3) The State Health Officer shall establish a statewide
431 database of all reported hospital acquired infection information
432 for the purpose of supporting quality improvement and infection
433 control activities in hospitals. The database shall be organized
434 so that consumers, hospitals, health care professionals,
435 purchasers and payers may compare individual hospital experience
436 with that of other individual hospitals as well as regional and
437 statewide averages and, where available, national data.

438 (4) (a) Subject to paragraph (c) of this subsection, on or
439 before January 1 of each year the State Health Officer shall
440 submit a report to the Governor and the Legislature, which shall
441 simultaneously be published in its entirety on the department's
442 Web site, that includes, but is not limited to, hospital acquired
443 infection rates adjusted for the potential differences in risk
444 factors for each reporting hospital, an analysis of trends in the
445 prevention and control of hospital acquired infection rates in
446 hospitals across the state, regional and, if available, national
447 comparisons for the purpose of comparing individual hospital
448 performance, and a narrative describing lessons for safety and
449 quality improvement that can be learned from leadership hospitals
450 and programs.

451 (b) The State Health Officer shall consult with
452 technical advisors who have regionally or nationally acknowledged

453 expertise in the prevention and control of hospital acquired
454 infection and infectious disease in order to develop the
455 adjustment for potential differences in risk factors to be used
456 for public reporting.

457 (c) (i) No later than one (1) year subsequent to the
458 effective date of this act, the department shall establish a
459 hospital acquired infection reporting system capable of receiving
460 electronically transmitted reports from hospitals. Hospitals
461 shall begin to submit such reports as directed by the State Health
462 Officer but in no case later than six (6) months subsequent to the
463 establishment of such reporting system.

464 (ii) The first year of data submission under this
465 section shall be considered the "pilot phase" of the statewide
466 hospital acquired infection reporting system. The purpose of the
467 pilot phase is to ensure, by various means, including any audit
468 process referred to in subsection (6) of this section, the
469 completeness and accuracy of hospital acquired infection reporting
470 by hospitals. For data reported during the pilot phase, hospital
471 identifiers shall be encrypted by the department in any and all
472 public databases and reports. The department shall provide each
473 hospital with an encryption key for that hospital only to
474 permit access to its own performance data for internal quality
475 improvement purposes.

476 (iii) No later than one hundred eighty (180) days
477 after the conclusion of the pilot phase, the department shall
478 issue a report to hospitals assessing the overall accuracy of the
479 data submitted in the pilot phase and provide guidance for
480 improving the accuracy of hospital acquired infection reporting.
481 The department shall issue a report to the Governor and the
482 Legislature assessing the overall completeness and accuracy of the
483 data submitted by hospitals during the pilot phase and make
484 recommendations for the improvement or modification of hospital
485 acquired infection data reporting based on the pilot phase, as

486 well as share lessons learned in prevention of hospital acquired
487 infections. No hospital-identifiable data shall be included in
488 the pilot phase report, but aggregate or otherwise de-identified
489 data may be included.

490 (iv) After the pilot phase is completed, all data
491 submitted under this section and compiled in the statewide
492 hospital acquired infection database established herein and all
493 public reports derived therefrom shall include hospital
494 identifiers.

495 (5) Subject to subsection (4) of this section, a summary
496 table, in a format designed to be easily understood by lay
497 consumers, that includes individual facility hospital acquired
498 infection rates adjusted for potential differences in risk factors
499 and comparisons with regional and/or state averages shall be
500 developed and posted on the department's Web site. The State
501 Health Officer shall consult with consumer and patient advocates
502 and representatives of reporting facilities for the purpose of
503 ensuring that such summary table report format is easily
504 understandable by the public, and clearly and accurately portrays
505 comparative hospital performance in the prevention and control of
506 hospital acquired infections.

507 (6) To assure the accuracy of the self-reported hospital
508 acquired infection data and to assure that public reporting fairly
509 reflects what actually is occurring in each hospital, the
510 department shall develop and implement an audit process.

511 (7) For the purpose of ensuring that hospitals have the
512 resources needed for ongoing staff education and training in
513 hospital acquired infection prevention and control, the department
514 may make such grants to hospitals within amounts appropriated
515 therefor.

516 **SECTION 17.** (1) The provisions of this section regarding
517 the confidentiality of information or materials compiled or
518 reported by a hospital in compliance with or as authorized under

519 this act do not restrict access, to the extent authorized by law,
520 by the patient or the patient's legally authorized representative
521 to records of the patient's medical diagnosis or treatment or to
522 other primary health records.

523 (2) It is the expressed intent of the Legislature that a
524 patient's right of confidentiality shall not be violated in any
525 manner. Patient social security numbers and any other information
526 that could be used to identify an individual patient shall not be
527 released notwithstanding any other provision of law.

528 **SECTION 18.** (1) No employer shall take retaliatory action
529 against any employee because the employee does any of the
530 following:

531 (a) Discloses or threatens to disclose to any person or
532 entity any activity, policy, practice, procedure, action or
533 failure to act of the employer or agent of the employer that the
534 employee reasonably believes is a violation of any law or that the
535 employee reasonably believes constitutes improper quality of
536 patient care.

537 (b) Provides information to, or testifies before, any
538 public body conducting an investigation, a hearing, or an inquiry
539 that involves allegations that the employer has violated any law
540 or has engaged in behavior constituting improper quality of
541 patient care.

542 (c) Objects to or refuses to participate in any
543 activity, policy, or practice of the employer or agent that the
544 employee reasonably believes is in violation of a law or
545 constitutes improper quality of patient care.

546 (2) Subsection (1)(a) and (c) of this section shall not
547 apply unless an employee first reports the alleged violation of
548 law or improper quality of patient care to the employer,
549 supervisor or other person designated by the employer to address
550 reports by employees of improper quality of patient care, and the
551 employer has had a reasonable opportunity to address the

552 violation. The employer shall address the violation under its
553 compliance plan, if one exists. The employee shall not be
554 required to make a report under this subsection if the employee
555 reasonably believes that doing so would be futile because making
556 the report would not result in appropriate action to address the
557 violation.

558 **SECTION 19.** A determination that a hospital has violated the
559 provisions of this act may result in any of the following:

560 (a) Termination of licensure or other sanctions
561 relating to licensure under Sections 41-9-1 through 41-9-35.

562 (b) A civil penalty of up to One Thousand Dollars
563 (\$1,000.00) per day per violation for each day the hospital is in
564 violation of this act.

565 **SECTION 20.** The department shall be responsible for ensuring
566 compliance with this act as a condition of licensure under
567 Sections 41-9-1 through 41-9-35 and shall enforce such compliance
568 according to the provisions under Sections 41-9-1 through 41-9-35.

569 **SECTION 21.** This act shall take effect and be in force from
570 and after July 1, 2006.