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Massachusetts bill would give patients the right to film surgery

Hospital officials say the measure would increase liability costs and present challenges to infection control. Physicians question the logistics of videographers in the OR.

By KEVIN B. O'REILLY, amednews staff. Posted June 27, 2011.

A bill that would give Massachusetts patients the right to have a video recording of their surgery is drawing opposition from organizations representing physicians and hospitals.

Hearings on the bill and related medical legislation were held in June before the Joint House-Senate Committee on Public Health.

"The costs would be paid by the patient, and the camera would be there if the family wanted to see what went on in the operating room," said State Rep. Martin J. Walsh, who filed the bill.

The proposal was inspired by a constituent of Walsh's who believes he never got the entire story about what happened during the surgery his mother underwent shortly before she died. Cameras in the operating room could help improve safety and make it easier to communicate with families, Walsh said.

The legislation calls for a "licensed medical videographer" to record audio and video of each surgery, with a copy going to the hospital at no charge. Any hospital refusing to allow recording would be fined \$10,000. The state health department would establish criteria to license medical videographers.

Concerns about OR intrusions

In testimony submitted to the Committee on Public Health, the Massachusetts Hospital Assn. said the bill represents a costly, unfunded mandate, increases liability costs related to nonstandard equipment in operating rooms, delays procedures due to camera setups and poses infection-control challenges.

"We do not believe that this bill would offer any benefit to patient care," the association's testimony said. "Hospitals also have concerns about the intrusive nature of videography, as it could easily inhibit the free flow of communication among members of the surgical team."

Walsh said he is willing to address hospitals' concerns but added that a compromise has been elusive. "We've been willing to sit down with the Massachusetts Hospital Assn. to talk about it, but we've not come to any understanding on it."

The Massachusetts Medical Society also submitted testimony opposing the bill.

"The logistics of how [videography] could be available for all procedures without compromising patient care are extremely challenging, and the clinical benefit is not apparent," the medical society said in its testimony.

The bill Walsh filed this year is a more lenient version of what he has proposed previously. In 2007, he wrote a bill that would have mandated video recording all surgeries in the state. The bill never got to the House floor for a vote.

Video recording for patient safety purposes is not unprecedented. In 2009, Rhode Island Hospital was ordered by the state's health department to install audio and video recording equipment in all its operating rooms. The enforcement action came after five wrong-site surgeries at the Providence hospital during the previous two years.

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