LEGISLATIVE BILL 626

Approved by the Governor June 10, 1997

Introduced by Wesely, 26; Matzke, 47; Wickersham, 49

AN ACT relating to health care; to adopt the Statewide Trauma System Act.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 53 of this act shall be known and may be cited as the Statewide Trauma System Act.

Sec. 2. The Legislature finds and declares that:

(1) Trauma is a severe health problem in the State of Nebraska and a major cause of death and long-term disability;

(2) Trauma care is very limited in many parts of Nebraska, particularly in rural areas where there is a growing danger that some communities may be left without adequate emergency medical care;

(3) It is in the best interests of the citizens of Nebraska to establish an efficient and well-coordinated statewide trauma system to reduce costs and incidence of inappropriate and inadequate trauma care and emergency medical service; and

(4) The goals and objectives of a statewide trauma system are to: (a) Pursue trauma prevention activities to decrease the incidence of trauma; (b) provide optimal care for trauma victims; (c) prevent unnecessary death and disability from trauma and emergency illness without regard to insurance or ability to pay and utilize the protocols established in the rules and regulations adopted under the Statewide Trauma System Act; and (d) contain costs of trauma care and trauma system implementation.

Sec. 3. For purposes of the Statewide Trauma System Act, the definitions found in sections 4 to 35 of this act apply.

Sec. 4. Advanced level rehabilitation center means a rehabilitation center which, in addition to the services provided at basic level and general level rehabilitation centers, provides services to patients with traumatic brain or spinal injuries, complicated amputations, and other diagnoses resulting in functional impairment in more than one functional area, with moderate to severe impairment or complexity, and serves as a referral facility for basic level and general level rehabilitative services.

Sec. 5. Advanced level trauma center means a trauma center which, in addition to providing all of the services provided by basic level and general level trauma centers, also provides definitive care for complex and severe trauma, an emergency trauma team available twenty-four hours per day, inhouse operating room personnel who initiate surgery, a neurosurgeon available who provides neurological assessment and stabilization, a broad range of specialists available within fifteen minutes or less for consultation or care, comprehensive diagnostic capabilities and support equipment, and appropriate equipment for pediatric trauma patients in the emergency department, intensive care unit, and operating room.

Sec. 6. Basic level rehabilitation center means a rehabilitation center which provides services to individuals with musculoskeletal injuries, peripheral nerve injuries, uncomplicated lower extremity amputations, and other diagnoses resulting in functional impairment in one or more functional areas with minimum to moderate impairment or complexity and provides physical therapy, occupational therapy, and speech-language pathology services.

Sec. 7. Basic level trauma center means a trauma center which has a trauma-trained physician, nurse practitioner, or physician assistant available within fifteen minutes to provide stabilization and transfer to a higher level trauma center when appropriate, which has basic equipment for resuscitation and stabilization, and which may provide limited surgical intervention based upon the expertise of available onsite staff.

Sec. 8. Communications system means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in the trauma system.

Sec. 9. Complete data set means a predetermined set of demographic and medical definitions that includes the minimum data set with additional data points as set forth in the rules and regulations adopted under the Statewide Trauma System Act.

Sec. 10. Comprehensive level trauma center means a trauma center which (1) provides the highest level of definitive, comprehensive care for patients with complex traumatic injury, including inhouse, immediately available personnel who can initiate surgery and appropriate equipment for

pediatric trauma patients in the emergency department, intensive care unit, and operating room, and (2) is responsible for research, education, and outreach programs for trauma.

Sec. 11. Department means the Department of Health and Human Services Regulation and Licensure.

Sec. 12. Designated rehabilitation centers means advanced, basic, or general level rehabilitation centers.

Sec. 13. Designated trauma centers means advanced, basic, comprehensive, general, and specialty level trauma centers.

Sec. 14. Designation means a formal determination by the department that a hospital or health care facility is capable of providing designated trauma care or rehabilitative services as authorized in the Statewide Trauma System Act.

Sec. 15. Emergency medical service means the organization responding to a perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

Sec. 16. Emergency medical services and trauma plan means the statewide plan that identifies statewide emergency medical service and trauma care objectives and priorities and identifies equipment, facilities, personnel, training, and other needs required to create and maintain the statewide trauma system established in section 39 of this act. Emergency medical services and trauma plan also includes a plan of implementation that identifies the state and regional activities that will create, operate, maintain, and enhance the system. The plan shall be formulated by incorporating the regional trauma plans required under the Statewide Trauma System Act. The plan shall be updated every two years.

Sec. 17. General level rehabilitation center means a rehabilitation center that provides (1) rehabilitative services to individuals with musculoskeletal trauma, peripheral nerve lesions, lower extremity amputations, and other diagnoses resulting in functional impairment in one or more functional areas, with moderate to severe impairment or complexity, and (2) a twenty-four-hour program of coordinated, integrated medical and rehabilitative services by an interdisciplinary team comprised of practitioners of rehabilitation medicine, psychology, rehabilitation nursing, social work, therapeutic recreation, and the therapy services offered by basic level rehabilitative centers.

Sec. 18. General level trauma center means a trauma center that (1) provides initial evaluation and stabilization, including surgical stabilization if appropriate, and general medical and surgical inpatient services to patients who can be maintained in a stable or improving condition without specialized care, (2) prepares for transfer and transfers patients meeting predetermined criteria pursuant to the rules and regulations adopted under the Statewide Trauma System Act to higher level trauma centers, (3) is physician directed within a formally organized trauma team, (4) provides trauma-trained physicians and nurses to the emergency department within fifteen minutes of notification, (5) has personnel available who can initiate surgery, (6) has appropriate diagnostic capabilities and equipment, and (7) maintains appropriate equipment for pediatric trauma patients in the emergency department, intensive care unit, and operating room.

Sec. 19. Hospital means a health care facility licensed pursuant to sections 71-2017 to 71-2029 or a comparable health care facility operated by the federal government or located and licensed in another state.

Sec. 20. Interfacility or intrafacility transfer and bypass means the transfer of every trauma patient to the highest appropriate level center that is deemed medically appropriate for his or her injury.

Sec. 21. Minimum data set means a predetermined set of demographic and medical definitions set forth in the rules and regulations adopted under the Statewide Trauma System Act.

Sec. 22. On-line medical controller means a physician or a qualified physician surrogate, preferably within the region, who is in contact with the on-scene medical director providing medical direction to the emergency medical service providing life support and stabilization and includes interfacility or intrafacility transfer and bypass to a higher level trauma center.

Sec. 23. On-scene medical director means the highest level emergency service provider from a licensed emergency medical service who is in contact with and directed by the on-line medical controller.

Sec. 24. Patient care protocols means the written procedures adopted by the medical staff of a trauma center, specialty level burn or pediatric trauma center, or rehabilitation center that direct the care of the patient, based upon the assessment of the patient's medical needs. Patient

care protocols shall follow minimum statewide standards for trauma care services.

Sec. 25. Pediatric trauma patient means a trauma patient known or estimated to be less than sixteen years of age.

Sec. 26. Physician medical director means a qualified physician who is responsible for the medical supervision of out-of-hospital emergency care providers and verification of skill proficiency of out-of-hospital emergency care providers.

Sec. 27. Qualified physician surrogate means a qualified, trained medical person, designated by a qualified physician in writing to act as an agent for the physician in directing the actions of out-of-hospital emergency care providers.

Sec. 28. Regional medical director means a physician licensed under the Uniform Licensing Law who shall report to the Director of Regulation and Licensure and be a member of the State Trauma Advisory Board, chair the regional trauma advisory board, and carry out the regional plan for his or her region.

Sec. 29. Rehabilitative services means a formal program of multidisciplinary, coordinated, and integrated services for evaluation, treatment, education, and training to help trauma patients who have sustained neurologic or musculoskeletal injury and who need physical or cognitive intervention to return to home, work, or society and to achieve and maintain optimal functional independence in physical, psychosocial, social, vocational, and avocational realms.

Sec. 30. Specialty level burn or pediatric trauma center means a trauma center that (1) provides specialized care in the areas of burns or pediatrics, (2) is designated or verified by its professional association governing body, (3) provides continuous accessibility regardless of day, season, or patient's ability to pay, and (4) has entry access from each of the designation levels as its on-line medical controller deems appropriate.

Sec. 31. State trauma medical director means a physician licensed under the Uniform Licensing Law who reports to the Director of Regulation and Licensure, chairs the State Trauma Advisory Board, and carries out duties under the Statewide Trauma System Act.

Sec. 32. Trauma means a major single-system or multisystem injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability. For purposes of this section, major has the definition of the American Society for Testing and Materials.

Sec. 33. Trauma care regions means geographic areas established by the department under section 50 of this act.

Sec. 34. Trauma team means a team of physicians, nurses, medical technicians, and specialists compiled to create a seamless response to a medical emergency in a hospital emergency room.

Sec. 35. Trauma system means an organized approach to providing care to trauma patients that provides personnel, facilities, and equipment for effective and coordinated trauma care. The trauma system shall identify facilities with specific capabilities to provide care and provide that trauma patients be treated at a designated trauma center appropriate to the patient's level of injury. Trauma system includes prevention, prehospital or out-of-hospital care, hospital care, and rehabilitative services regardless of insurance carrier or ability to pay. The trauma system shall not restrict transfers for rehabilitative services.

Sec. 36. The State Trauma Advisory Board is created. The board shall be composed of representatives knowledgeable in emergency medical services and trauma care, including emergency medical providers such as physicians, nurses, hospital personnel, prehospital or out-of-hospital providers, local government officials, state officials, consumers, and persons affiliated professionally with health science schools. The Director of Regulation and Licensure shall appoint the members of the board for staggered terms of three years each. The department shall provide administrative support to the board. All members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as such members as provided in sections 81-1174 to 81-1177. The terms of members representing the same field shall not expire at the same time. A member of the Nebraska Trauma Systems Development Board shall serve as an ex officio member of the State Trauma Advisory Board during the implementation phase of the trauma system development.

The board shall elect a vice-chairperson whose term of office shall be for two years. The board shall meet at least twice per year by written request of the director or the chairperson.

Sec. 37. The State Trauma Advisory Board shall:

(1) Advise the department regarding trauma care needs throughout the

state;

(2) Advise the Board of Emergency Medical Services regarding trauma care to be provided throughout the state by out-of-hospital and emergency medical services;

(3) Review the regional trauma plans and recommend changes to the department before the department adopts the plans;

(4) Review proposed departmental rules and regulations for trauma care;

(5) Recommend modifications in rules regarding trauma care; and

(6) Draft a two-year statewide prevention plan that each trauma care region shall implement.

Sec. 38. The State Trauma System Cash Fund is created. The department may apply for, receive, and accept gifts and other payments, including property and services, for the fund from any governmental or other public or private entity or person and may utilize the fund for activities related to the design, maintenance, or enhancements of the statewide trauma system. Disbursements from the fund shall be made by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 39. (1) The department, in consultation with and having solicited the advice of the State Trauma Advisory Board, shall establish the statewide trauma system.

(2) The department, with the advice of the board, shall adopt and promulgate rules and regulations to carry out the Statewide Trauma System Act.

(3) The Director of Regulation and Licensure shall appoint the state trauma medical director and the regional medical directors.

Sec. 40. The department shall establish the following on a statewide basis:

(1) By February 1998, trauma system objectives and priorities;

(2) By March 1998, minimum trauma standards for facilities, equipment, and personnel for advanced, basic, comprehensive, and general level trauma centers and specialty level burn or pediatric trauma centers;

(3) By March 1998, minimum standards for facilities, equipment, and personnel for advanced, basic, and general level rehabilitation centers;

(4) By April 1998, minimum trauma standards for the development of facility patient care protocols;

(5) By April 1998, trauma care regions as provided for in section 50 of this act;

(6) By September 1998, recommendations for an effective trauma transportation system;

(7) By September 1998, the minimum number of hospitals and health care facilities in the state and within each trauma care region that may provide designated trauma care services based upon approved regional trauma plans;

(8) By September 1998, the minimum number of prehospital or out-of-hospital care providers in the state and within each trauma care region that may provide trauma care services based upon approved regional trauma plans;

(9) By September 1998, a format for submission of the regional trauma plans to the department;

(10) By December 1998, a program for emergency medical services and trauma care research and development;

(11) By December 1998, review and approve regional trauma plans;

(12) By January 2000, the initial designation of hospitals and health care facilities to provide designated trauma care services in accordance with needs identified in the approved regional trauma plan;

(13) By April 2000, the trauma implementation plan incorporating the regional trauma plans; and

(14) On or before January 1, 2002, all emergency medical services when responding to a trauma call shall have access to an on-line medical controller, which could be the physician medical director, available twenty-four hours a day, seven days a week.

Sec. 41. The department shall coordinate the statewide trauma system to assure integration and smooth operation among the trauma care regions and facilitate coordination of the State Trauma Advisory Board and the Board of Emergency Medical Services to monitor the system.

Sec. 42. By December 1998, the department shall:

(1) Purchase the statewide trauma registry pursuant to section 48 of this act to assess the effectiveness of trauma delivery and modify standards and other requirements of the statewide trauma system, to improve the provision of emergency medical services and trauma care;

(2) Develop patient outcome measures to assess the effectiveness of trauma care in the system;

(3) Develop standards for regional trauma care quality assurance programs; and

(4) Begin coordination and development of trauma prevention and education programs.

The department shall administer funding allocated to the department for the purpose of creating, maintaining, or enhancing the statewide trauma system.

Sec. 43. Designated trauma centers and rehabilitation centers that receive trauma patients shall be categorized according to designation under the Statewide Trauma System Act. All levels of centers shall have contractual relationships with higher-level and lower-level centers, as appropriate, to facilitate a seamless patient-flow system.

Sec. 44. Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center that desires to be a designated center shall request designation from the department whereby each agrees to maintain a level of commitment and resources sufficient to meet responsibilities and standards required by the statewide trauma system and to have an on-line medical controller available to out-of-hospital emergency medical services twenty-four hours a day, seven days a week. By December 1998, the department shall determine by rule and regulation the manner and form of such requests. Upon receiving a request, the department shall review the request to determine whether there is compliance with standards for the trauma care level for which designation is desired. Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center which meets such standards shall be designated by the department and shall be included in the trauma system or plan established under the Statewide Trauma System Act. Any medical facility applying for designation may appeal its designation. The appeal shall be in accordance with the Administrative Procedure Act.

Designation is valid for a period of four years and is renewable upon receipt of a request from the medical facility for renewal prior to expiration. Any medical facility that is currently verified by the American College of Surgeons shall be designated at the corresponding level of designation in Nebraska without the necessity of an onsite review by the department. Regional trauma advisory boards shall be notified promptly of designated medical facilities in their region so they may incorporate them into the regional plan. The department may revoke or suspend a designation if it determines that the medical facility is substantially out of compliance with the standards and has refused or been unable to comply after a reasonable period of time has elapsed. The department shall promptly notify the regional trauma advisory board of designation suspensions and revocations. Any rehabilitation or trauma center the designation of which has been revoked or suspended may request a hearing to review the action of the department.

Sec. 45. As part of the process to designate and renew the designation of hospitals and health care facilities as advanced, basic, comprehensive, or general level trauma centers, advanced, basic, or general level rehabilitation centers, or specialty level burn or pediatric trauma centers, the department may contract for onsite reviews of such hospitals and health care facilities to determine compliance with required standards. Members of onsite review teams and staff included in onsite visits shall not divulge and cannot be subpoenaed to divulge information obtained or reports written pursuant to this section in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department: (1) In actions arising out of the designation of a hospital or health care facility pursuant to section 44 of this act; (2) in actions arising out of the revocation or suspension of a designation under such section; or (3) in actions arising out of the restriction or revocation of the clinical or staff privileges of a health care provider, subject to any further restrictions on disclosure that may apply. Information that identifies an individual patient shall not be publicly disclosed without the patient's consent. When a medical facility requests designation for more than one service, the department may coordinate the joint consideration of such requests. Composition and qualification of the designation team shall be set forth in rules and regulations adopted under the Statewide Trauma System Act.

The department may establish fees to defray the costs of carrying out onsite reviews required by this section, but such fees shall not be assessed to health care facilities designated as basic or general level trauma centers or basic level rehabilitation centers.

This section does not restrict the authority of a hospital or a

health care provider to provide services which it has been authorized to provide by state law.

Sec. 46. By May 1998, the department shall begin the development of the regional trauma system. The department shall:

(1) Assess and analyze regional trauma care needs;

(2) Identify personnel, agencies, facilities, equipment, training, and education needed to meet regional needs;

(3) Identify specific activities necessary to meet statewide standards and patient care outcomes and develop a plan of implementation for regional compliance;

(4) Establish agreements with providers outside the region to facilitate patient transfer;

(5) Establish a regional budget;

(6) Establish the minimum number and level of facilities to be designated which are consistent with state standards and based upon availability of resources and the distribution of trauma within the region; and

(7) Include other specific elements defined by the department.

Sec. 47. By December 1998, in each trauma region, a regional trauma system quality assurance program shall be established by the health care facilities designated as advanced, basic, comprehensive, and general level trauma centers. The quality assurance program shall evaluate trauma care delivery, patient care outcomes, and compliance with the Statewide Trauma System Act. The regional medical director and all health care providers and facilities which provide trauma care services within the region shall be invited to participate in the quality assurance program.

Sec. 48. By December 1998, the department shall establish a statewide trauma registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The registry shall be used to improve the availability and delivery of prehospital or out-of-hospital care and hospital trauma care services. Specific data elements of the registry shall be defined by rule and regulation of the department. Every health care facility designated as an advanced, a basic, a comprehensive, or a general level trauma center, a specialty level burn or pediatric trauma center, an advanced, a basic, or a general level rehabilitation center, or a prehospital or out-of-hospital provider shall furnish data to the registry. All other hospitals may furnish trauma data as required by the department by rule and regulation.

Sec. 49. All data collected under section 48 of this act shall be held confidential pursuant to sections 81-663 to 81-675. Confidential patient medical record data shall only be released as Class I, II, or IV medical records under sections 81-663 to 81-675.

Patient care quality assurance proceedings, records, and reports developed pursuant to this section and section 48 of this act are confidential and are not subject to discovery by subpoena or admissible as evidence in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department, pursuant to section 25-12,123.

Sec. 50. By December 1998, the department shall designate trauma care regions so that all parts of the state are within such a region. The regional designations shall be made on the basis of efficiency of delivery of needed trauma care and shall be consistent with the regions established pursuant to the Nebraska Partnership for Health and Human Services Act.

Sec. 51. The department shall establish a regional trauma advisory board within each trauma care region. The department shall appoint members, to be comprised of a balance of hospital representatives and out-of-hospital emergency services providers, local elected officials, consumers, local law enforcement representatives, and local government agencies involved in the delivery of emergency medical services and trauma care recommended by the local emergency medical services providers and medical facilities located within the region. All members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as such members pursuant to sections 81-1174 to 81-1177.

Sec. 52. The regional trauma advisory boards:

(1) Shall advise the department on matters relating to the delivery of trauma care services within the trauma care region;

(2) Shall provide data required by the department to assess the effectiveness of the statewide trauma system; and

(3) May apply for, receive, and accept gifts and other payments, including property and services, from any governmental or other public or private entity or person and may make arrangements as to the use of these receipts, including any activities related to the design, maintenance, or

enhancements of the statewide trauma system in the trauma care region. Regional trauma advisory boards shall report in the regional budget the amount, source, and purpose of all gifts and payments.

Sec. 53. (1) If there are conflicts between the Statewide Trauma System Act and the Emergency Medical Services Act pertaining to out-of-hospital emergency medical services, the Emergency Medical Services Act shall control.

(2) Nothing in the Statewide Trauma System Act shall limit a patient's right to choose the physician, hospital, facility, rehabilitation center, specialty level burn or pediatric trauma center, or other provider of health care services.