§ 2805-l. Adverse event reporting. 1. (a) All hospitals shall be required to report events described by subdivision two of this section to the department in a manner and within time periods as may be specified by regulation of the department.

(b) For purposes of this section, "hospital" means any general hospital or diagnostic and treatment center.

2. The following adverse events shall be reported to the department:

(a) patients' deaths or impairments of bodily functions in circumstances other than those related to the natural course of illness, disease or proper treatment in accordance with generally accepted medical standards;

(b) fires in the hospital which disrupt the provision of patient care services or cause harm to patients or staff;

(c) equipment malfunction during treatment or diagnosis of a patient which did or could have adversely affected a patient or hospital personnel;

(d) poisoning occurring within the hospital;

(e) strikes by hospital staff;

(f) disasters or other emergency situations external to the hospital environment which affect hospital operations; and

(g) termination of any services vital to the continued safe operation of the hospital or to the health and safety of its patients and personnel, including but not limited to the anticipated or actual termination of telephone, electric, gas, fuel, water, heat, air conditioning, rodent or pest control, laundry services, food or contract services.

3. Notwithstanding any provision of this section to the contrary, the commissioner is authorized, as appropriate in the interest of promoting patient safety, and after consulting with clinicians, hospital administrators, researchers, and consumers with expertise in the area of patient safety and quality improvement, to add, modify or eliminate one or more adverse events set forth in subdivision two of this section, by regulation, consistent with national consensus standards endorsed by the consensus-based entity selected for the purpose of pursuing certain activities relating to healthcare performance measurement by the U.S.

Department of Health and Human Services pursuant to the Medicare Improvements for Patients and Providers Act (Pub. L. 110-275).

4. The hospital shall conduct an investigation of events described in paragraphs (a) through (d) of subdivision two of this section within thirty days of obtaining knowledge of any information which reasonably appears to show that such an event has occurred, provided that, if the hospital reasonably expects such investigation to extend beyond such thirty day period, the hospital shall notify the department of such expectation and the reason therefor, and shall inform the department of the expected completion date of the investigation. The hospital shall provide to the department a copy of the investigation report within twenty-four hours of completion. Nothing herein shall limit the authority of the department to conduct an investigation of events occurring in hospitals.

5. The department shall:

(a) analyze event reports, findings of the investigations, their root cause analyses, and corrective action plans to determine patterns of systemic failure in the health care system and identify successful methods to correct these failures; and

(b) communicate to facilities the department's conclusions, if any, regarding event reports, patterns of systemic failure, and recommendations for corrective action resulting from the analysis of submissions from facilities; and may release, in a format that does not identify specific patients and does not provide reasonable basis to believe that the information can be used to identify a patient; (i) analyses and findings derived from the adverse event data to hospitals or the public and (ii) adverse event data to researchers for patient safety research projects approved by the commissioner, subject to any terms and conditions imposed by the commissioner concerning the security and confidentiality of the data and their use; and provided that no such data, record, documentation or action subject to subdivision two of section twenty-eight hundred five-m of this article, shall be subject to disclosure under article six of the public officers law nor article thirty-one of the civil practice law and rules.

6. The commissioner shall establish protocols for hospital personnel where a patient under the age of eighteen years dies during transportation to the hospital or while at the hospital, under circumstances other than those related to the natural course of illness, disease or proper treatment in accordance with generally accepted medical standards. Such protocols shall address matters including, but not limited to, the following:

(a) medical and social history, and examination of the patient;

(b) preservation of evidence and chain of custody;

(c) questioning of the patient's family, guardian or person in parental authority;

(d) circumstances surrounding the injury resulting in death;

(e) determination of the cause of death;

(f) notification of law enforcement personnel; and

(g) reporting requirements under title six of article six of the social services law.

In developing such protocols, the commissioner shall consult with the office of children and family services, local departments of social services, coordinators of child fatality review teams established pursuant to section four hundred twenty-two-b of the social services law, law enforcement agencies, pediatricians preferably with expertise in the area of child abuse and maltreatment or forensic pediatrics, and such other persons as the commissioner deems necessary.

7. The commissioner shall make, adopt, promulgate and enforce such rules and regulations as he may deem appropriate to effectuate the purposes of this section.