Will a 'National Patient Safety Board,' modeled after the NTSB, actually fly?

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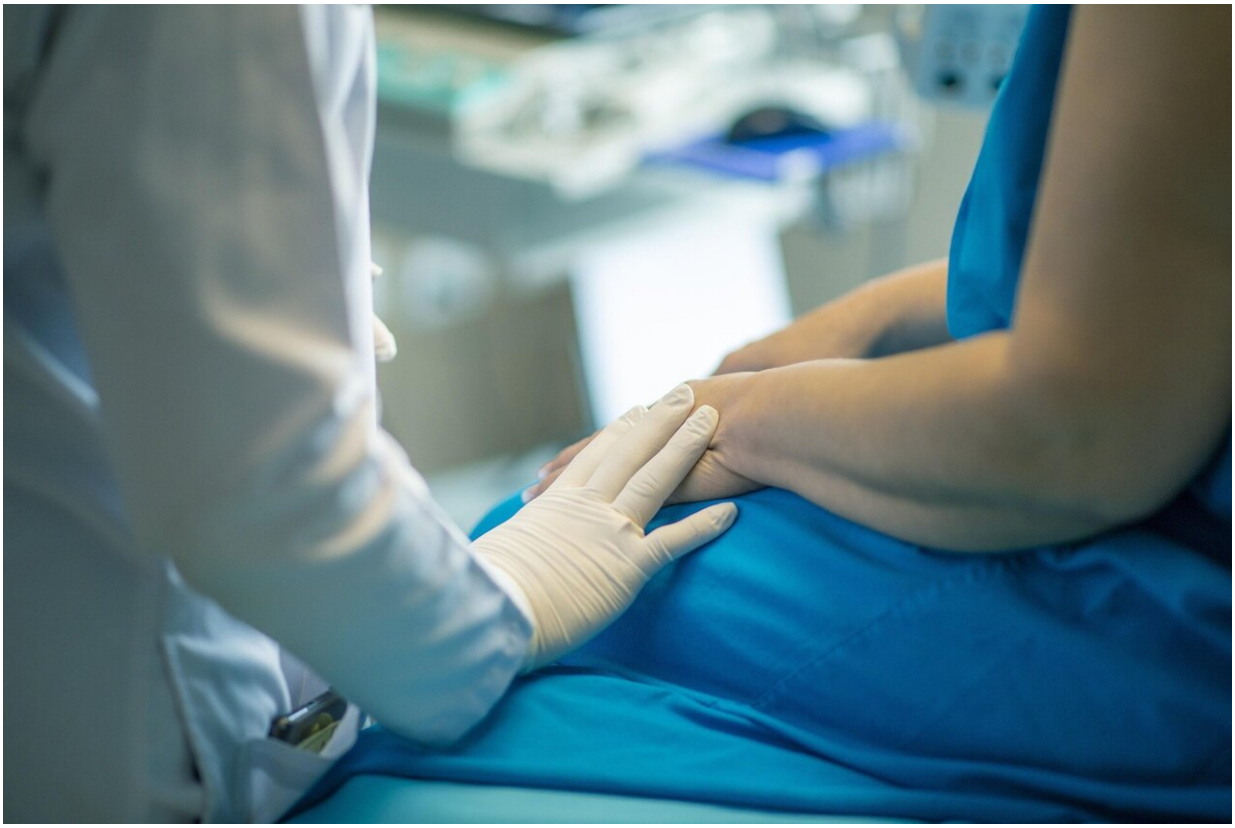

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People concerned about the safety of patients often compare health care to aviation. Why, they ask, can't hospitals learn from medical errors the way airlines learn from plane crashes?

That's the rationale behind calls to create a "National Patient Safety Board," an independent federal agency that would be loosely modeled after the National Transportation Safety Board, which is credited with increasing the safety of skies, railways, and highways by investigating why accidents occur and recommending steps to avoid future mishaps.

But as worker shortages strain the U.S. health care system, heightening concerns about unsafe care, one proposal to create such a board has some patient safety advocates fearing that it wouldn't provide the transparency and accountability they believe is necessary to drive improvement. One major reason: the power of the hospital industry.

Two measures are underway to create a safety board: A bill filed in the U.S. House in December by Rep. Nanette Diaz Barragán, D-Calif., which is expected to be refiled this session, calls for the creation of a board to help federal agencies monitor safety events, identify conditions under which problems occur, and suggest preventive measures.

However, the board would need permission from health care organizations to probe safety events and could not identify any health care provider or setting in its reports. That differs from the NTSB, which can subpoena both witnesses and evidence, and publish detailed accident reports that list locations and companies.

A related measure under review by a presidential advisory council would create such a board by executive order. Its details have not been made public.

The push comes as many patients continue to get hurt, according to recent reviews of medical records. The Department of Health and Human Services' inspector general found that 13% of hospitalized Medicare patients experienced a preventable harm during a hospital stay in October 2018. A *New England Journal of Medicine* study of patients

hospitalized in Massachusetts in 2018 showed that 7% had a preventable adverse event with 1% suffering a preventable injury that was serious, life-threatening, or fatal.

Learning about safety concerns at specific facilities remains difficult. While transportation crashes are public spectacles that make news, creating demand for public accountability, medical errors often remain confidential, sometimes even ordered into silence by court settlements. Meaningful and timely information for consumers can be challenging to find. However, patient advocates said, unsafe providers should not be shielded from reputational consequences.

"People pay vast amounts of money for health care," said Helen Haskell, president of South Carolina-based Mothers Against Medical Error, an advocacy group she founded because her 15-year-old son died from septic shock following elective surgery in 2000. "Providers shouldn't be able to sweep things under the rug."

Barragán's bill follows a 2014 effort to create a national patient safety board to investigate incidents and make more providers' safety records publicly available. It stemmed from the Institute of Medicine's landmark 1999 report that called medical error in hospitals a leading cause of death and recommended a nationwide mandatory reporting system for serious adverse events. That campaign never got enough traction to become a congressional bill.

Patients and their families would still like to know the rate of harm in every hospital, said Lisa McGiffert, president of the Patient Safety Action Network, a group discontented with some aspects of the current bill. "We are so far away from that now," she added.

But Karen Wolk Feinstein, president and CEO of the Jewish Healthcare Foundation, a Pittsburgh-based philanthropy that leads more than 70

groups pushing the latest safety board campaign, said during an online forum in January that public reporting would compromise data integrity by leading hospitals to scrub records to hide bad events.

"You're going to have to protect data for a while—de-identify it," she said, "so that we can do what needs to be done."

She said that a patient safety board "will not happen" without broad support, including from hospitals and medical societies. Those groups have long opposed measures to publicly identify facilities where errors occur.

That industry influence is "the elephant in the room," said McGiffert. Hospitals, nursing homes, and medical professionals pour hundreds of millions of dollars into federal political campaigns each election cycle and spent $220 million lobbying Congress last year, according to OpenSecrets, a nonprofit that tracks money in U.S. politics.

Moreover, health care is the dominant employer in at least 47 states, according to Health Affairs, which means that, when legislation is in play, the industry "can always drum up local people to talk about how it affects them," McGiffert added.

Feinstein agreed that legislators always ask about the position of their local health systems. "That is the first question," she said during the January forum.

Although patient safety groups represent the interests of millions of people, they don't have the same financial firepower on hand as the health care industry does. McGiffert said her own organization's bank balance is $6,000. Feinstein said her foundation is using its endowment—created with proceeds from the sale of a tax-exempt hospital—to fund the patient safety board campaign, among other

initiatives. The foundation reported assets of nearly $186 million in 2021.

The American Hospital Association declined to comment about the patient safety board proposal because it was still reviewing it, said spokesperson Colin Milligan. He provided a statement from the association's senior director of quality and patient safety policy, Akin Demehin, saying hospitals are "deeply committed" to safety and have urged that "publicly reported measures assess hospitals accurately and fairly while giving patients meaningful information."

The safety board campaign initially declared the NTSB as its model. However, Feinstein said, it now envisions it as "something of a hybrid" of the NTSB and the Commercial Aviation Safety Team, a lesser-known government-industry partnership that analyzes a massive amount of data to detect emerging risks.

Christopher Hart, a former NTSB chairperson who serves on the board of the Joint Commission, a health care accrediting body, likened the proposed patient safety board to the voluntary reporting of aviation errors and near misses, which are statutorily protected from public disclosure. Protecting such tips about non-public events has "enabled a flood of voluntarily provided information" that is "foundational to improving airline safety," Hart said.

But some consumer advocates argue that in health care, secrecy and voluntarism have fallen short. They point to the 2005 Patient Safety Act, which lets health care providers submit data confidentially to research groups called patient safety organizations. As of 2018, about 40% of hospitals reimbursed by Medicare didn't report to such organizations despite liability and public disclosure protections, and most of the organizations didn't submit data to national research databases, according to the HHS inspector general.

With safety indicators worsening during the pandemic, supporters of a patient safety board argue the current proposal would be a step forward. It could hasten adoption of surveillance technology, launch a national portal for anyone to report events, and coordinate efforts of states, federal agencies, and accrediting bodies.

Barragán will reintroduce the bill in the current term but declined to give a date, said spokesperson Kevin McGuire. "From our understanding, the stakeholders we are working with are discussing the concerns" raised by advocates, McGuire said.

Sue Sheridan, a co-founder of Patients For Patient Safety US, became a patient safety advocate after untreated jaundice left her son brain-damaged and her husband died of cancer that went untreated for months because a pathology result was not properly communicated. She now is a member of a working group for the presidential advisory council and said she expects consumer-friendly tweaks to the proposal, including putting patient representatives on the board itself—a step she said she would support. And she backs the overall effort, despite saying the plan needs to be somewhat refined.

"We will be safer with it than without it," Sheridan said.