AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," providing for reduction and prevention
16 of health care-associated infection AND FOR LONG-TERM CARE
17 NURSING FACILITIES.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The act of March 20, 2002 (P.L.154, No.13), known
21 as the Medical Care Availability and Reduction of Error (Mcare)
22 Act, is amended by adding a chapter to read:
CHAPTER 4
HEALTH CARE-ASSOCIATED INFECTIONS

Section 401. Scope.
This chapter relates to the reduction and prevention of health care-associated infections.

Section 402. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Antimicrobial agent." A general term for drugs, chemicals or other substances that kill or slow the growth of microbes, including, but not limited to, antibacterial drugs, antiviral agents, antifungal agents and antiparasitic drugs.

"Authority." The Patient Safety Authority ESTABLISHED UNDER THIS CHAPTER.

"CENTERS FOR DISEASE CONTROL AND PREVENTION" OR "CDC." THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES CENTERS FOR DISEASE CONTROL AND PREVENTION.

"Colonization." The first stage of microbial infection or the presence of nonreplicating microorganisms usually present in host tissues that are in contact with the external environment.

"COUNCIL." THE PENNSYLVANIA HEALTH CARE COST CONTAINMENT ACT ESTABLISHED UNDER THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN AS THE HEALTH CARE COST CONTAINMENT ACT.

"Department." The Department of Health of the Commonwealth.

"Fund." The Patient Safety Trust Fund as defined in section 305.

"Health care-associated infection." A localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that.
(1) occurs in a patient in a health care setting;

(2) was not present or incubating at the time of admission, unless the infection was related to a previous admission to the same setting; and

(3) if occurring in a hospital setting, meets the criteria for a specific infection site as defined by the Centers for Disease Control and Prevention and its National Health Care Safety Network.

"Health care facility." A hospital or nursing home licensed or otherwise regulated to provide health care services under the laws of this Commonwealth.

"Health payer." An individual or entity providing a group health, sickness or accident policy, subscriber contract or program issued or provided by an entity subject to any one of the following:

(1) The act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

(2) The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.


(4) The act of May 18, 1976 (P.L.123, No.54), known as the Individual Accident and Sickness Insurance Minimum Standards Act.

(5) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations).

"Medicaid." The program established under Title XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.).

"MEDICAL ASSISTANCE." THE COMMONWEALTH'S MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER THE ACT OF JUNE 13, 1967 (P.L.31, 2007S0968B1298 - 3 -

"Methicillin Resistant Staphylococcus Aureus" or "MRSA." A strain of bacteria that is resistant to certain antibiotics and is difficult to treat medically.

"Multidrug resistant organism" or "MDRO." Microorganisms, predominantly bacteria, that are resistant to one or more classes of antimicrobial agents.

"NATIONAL HEALTHCARE SAFETY NETWORK" OR "NHSN." A SECURE INTERNET-BASED DATA COLLECTION SYSTEM MANAGED BY THE DIVISION OF HEALTHCARE QUALITY PROMOTION AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"Nationally recognized standards." Standards developed by organizations specializing in the control of infectious diseases such as the Society for the Healthcare Epidemiology of America (SHEA), the Association for Professionals in Infection Control and Epidemiology (APIC) and the Infectious Disease Society of America (IDSA) and such methods, recommendations and guidelines developed by the Centers for Disease Control and Prevention (CDC) and its National Healthcare Safety Network.

"SURVEILLANCE SYSTEM." A COMPREHENSIVE METHOD OF MEASURING HEALTH STATUS, OUTCOMES AND RELATED PROCESSES OF CARE, ANALYZING DATA AND PROVIDING INFORMATION FROM A DATA SOURCE TO ASSIST IN REDUCING HEALTH CARE-ASSOCIATED INFECTIONS.

Section 403. Infection control plan.

(a) Development and compliance.--Within 120 days of the effective date of this section, a health care facility as defined under subsection (D), shall develop and implement an internal infection control plan that shall be established for
the purpose of improving the health and safety of patients and health care workers and shall include:

1. A multidisciplinary committee including representatives from each of the following if applicable to that specific health care facility:

   1. Medical staff.
   2. Administration.
   3. Laboratory.
   4. Nursing.
   5. Pharmacy.
   6. The community.
   7. MEDICAL STAFF, INCLUDING A CHIEF MEDICAL OFFICER OR NURSING HOME ADMINISTRATOR.
   8. ADMINISTRATION, INCLUDING THE CHIEF EXECUTIVE OFFICER AND THE CHIEF FINANCIAL OFFICER. FOR A NURSING HOME, IT SHALL INCLUDE THE NURSING HOME ADMINISTRATOR.
   9. LABORATORY PERSONNEL.
   10. NURSING, INCLUDING THE DIRECTOR OF NURSING.
   11. PHARMACY, INCLUDING THE CHIEF OF PHARMACY.
   12. PHYSICAL PLANT PERSONNEL.
   13. A PATIENT SAFETY OFFICER.
   14. MEMBERS FROM THE INFECTION CONTROL TEAM, WHICH COULD INCLUDE A HOSPITAL EPIDEMIOLOGIST.
   15. THE COMMUNITY, EXCEPT THAT THESE REPRESENTATIVES MAY NOT BE AN AGENT, EMPLOYEE OR CONTRACTOR OF THE HEALTH CARE FACILITY.

2. Effective measures for the detection, control and prevention of health care-associated infections.

3. An active culture surveillance process and policies.

4. A system to identify and designate patients known to
be colonized or infected with MRSA or other MDRO that includes:

(I) The procedures necessary for requiring cultures and screenings for nursing home residents admitted to a hospital.

(5) The procedure for identifying other high-risk patients admitted to the facility who shall receive routine cultures and screenings.

(5) The procedures and protocols for staff that include receiving cultures and screenings, prophylaxis and follow-up care after potential exposure to a patient or resident known to be colonized or infected with MRSA or MDRO.

(6) An outreach process for notifying a receiving health care facility of any patient known to be colonized prior to transfer within or between facilities.

(7) A required infection-control intervention protocol which includes:

(i) Infection-control precautions, based on nationally recognized standards, for general surveillance of infected or colonized patients.

(ii) Treatment INTERVENTION protocols based on evidence-based standards.

(iii) Isolation procedures.

(iv) Physical plant operations related to infection control.

(v) Appropriate use of antimicrobial agents and antibiotics.

(vi) Mandatory educational programs for personnel.

(vii) Fiscal and human resource requirements.
(9) THE PROCEDURES TO DISTRIBUTE ADVISORIES ISSUED UNDER SECTION 405(C)(1) SO THEY ARE EASILY ACCESSIBLE AND WIDELY DISTRIBUTED IN EACH HEALTH CARE FACILITY TO ADMINISTRATIVE STAFF, MEDICAL PERSONNEL AND HEALTH CARE WORKERS.

(9) A STRATEGIC ASSESSMENT ON THE UTILITY AND EFFICACY OF IMPLEMENTING A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM PURSUANT TO SECTION 404(C) AND (D) FOR THE PURPOSES OF IMPROVING INFECTION CONTROL AND PREVENTION. THIS ASSESSMENT SHALL ALSO INCLUDE AN EXAMINATION OF FINANCIAL AND TECHNOLOGICAL BARRIERS TO IMPLEMENTING A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM PURSUANT TO SECTION 404(C) AND (D).

(b) Department review.--The department shall review each health care facility's infection control plan to ensure compliance with this section in accordance with the department's authority under 28 Pa. Code § 146 (relating to infection control) or 28 Pa. Code § 211.1 (relating to reportable diseases) during its regular licensure inspection process.

(c) Notification.--Upon review (B) NOTIFICATION.--UPON APPROVAL BY THE DEPARTMENT of its infection control plan, a health care facility shall notify all health care workers, PHYSICAL PLANT PERSONNEL and medical staff of the health care facility of the infection control plan. Compliance with the infection control plan shall be enforced by the facility.

(d) Compliance.--For purposes of compliance with this section, a health care facility with an existing infection control plan that meets the criteria set forth in subsection (a) shall be deemed to be in compliance.

(C) COMPLIANCE.--A HEALTH CARE FACILITY SHALL SUBMIT ITS INFECTION CONTROL PLAN TO THE DEPARTMENT WITHIN 60 DAYS AFTER

(D) DEFINITION.—FOR PURPOSES OF THIS SECTION, A HEALTH CARE FACILITY SHALL INCLUDE ANY HEALTH CARE FACILITY PROVIDING CLINICALLY RELATED HEALTH SERVICES, INCLUDING, BUT NOT LIMITED TO, A GENERAL OR SPECIAL HOSPITAL, INCLUDING PSYCHIATRIC HOSPITALS, REHABILITATION HOSPITALS, AMBULATORY SURGICAL FACILITIES, NURSING HOMES, CANCER TREATMENT CENTERS USING RADIATION THERAPY ON AN AMBULATORY BASIS AND INPATIENT DRUG AND ALCOHOL TREATMENT FACILITIES, BOTH PROFIT AND NONPROFIT AND INCLUDING THOSE OPERATED BY AN AGENCY OR STATE OR LOCAL GOVERNMENT. THE TERM SHALL ALSO INCLUDE A RESIDENTIAL OR INPATIENT HOSPICE. THE TERM SHALL NOT INCLUDE AN OFFICE USED PRIMARILY FOR PRIVATE OR GROUP PRACTICE BY HEALTH CARE PRACTITIONERS WHERE NO REVIEWABLE CLINICALLY RELATED HEALTH SERVICE IS OFFERED, A FACILITY PROVIDING TREATMENT SOLELY ON THE BASIS OF PRAYER OR SPIRITUAL MEANS IN ACCORDANCE WITH THE TENETS OF ANY CHURCH OR RELIGIOUS DENOMINATION OR A FACILITY CONDUCTED BY A RELIGIOUS ORGANIZATION FOR THE PURPOSE OF PROVIDING HEALTH CARE SERVICES EXCLUSIVELY TO CLERGY OR OTHER PERSONS IN A RELIGIOUS PROFESION WHO ARE MEMBERS OF THE RELIGIOUS DENOMINATIONS CONDUCTING THE FACILITY.

SECTION 404. HEALTH CARE FACILITY REPORTING.
(A) GENERALLY.--ALL HEALTH CARE-ASSOCIATED INFECTIONS SHALL BE REPORTED BY THE HEALTH CARE FACILITY TO THE DEPARTMENT, THE AUTHORITY AND THE COUNCIL USING CDC DEFINITIONS IN CONJUNCTION WITH NATIONALLY RECOGNIZED STANDARDS PROVIDED THAT THE DATA IS REPORTED ON A PATIENT-SPECIFIC BASIS IN THE FORM, TIME FOR REPORTING AND FORMAT AS DETERMINED BY THE DEPARTMENT IN CONSULTATION WITH THE AUTHORITY AND THE COUNCIL.

(B) QUALIFIED ELECTRONIC SURVEILLANCE SYSTEMS.--BY JANUARY 1, 2008, THE DEPARTMENT SHALL, IN CONSULTATION WITH THE AUTHORITY AND THE COUNCIL, IDENTIFY QUALIFIED ELECTRONIC SURVEILLANCE SYSTEMS, WHICH MAY BE USED BY A HEALTH CARE FACILITY TO REPORT HEALTH CARE-ASSOCIATED INFECTIONS TO THE COUNCIL AND FOR USE BY THE FACILITY IN ITS HEALTH CARE-ASSOCIATED INFECTION CONTROL EFFORTS. QUALIFIED SYSTEMS SHALL INCLUDE THE FOLLOWING MINIMUM ELEMENTS:

(1) EXTRACTIONS OF EXISTING ELECTRONIC CLINICAL DATA FROM HOSPITAL SYSTEMS ON AN ONGOING CONSTANT AND CONSISTENT BASIS.

(2) TRANSLATION OF NONSTANDARDIZED LABORATORY, PHARMACY AND/OR RADIOLOGY DATA INTO UNIFORM INFORMATION THAT CAN BE ANALYZED ON A POPULATIONWIDE BASIS.

(3) CLINICAL SUPPORT, EDUCATIONAL TOOLS AND TRAINING TO ENSURE THAT INFORMATION PROVIDED UNDER THIS SUBSECTION WILL LEAD TO CHANGE AND MEET OR EXCEED BENCHMARKS.

(4) CLINICAL IMPROVEMENT MEASUREMENT AND THE STRUCTURE TO PROVIDE ONGOING POSITIVE AND NEGATIVE FEEDBACK TO HOSPITAL STAFF WHO ARE IMPLEMENTING CHANGE.

(5) COLLECTION OF DATA THAT IS PATIENT-SPECIFIC AND FOR THE ENTIRE FACILITY.

(C) SURVEILLANCE.--BY DECEMBER 31, 2008, A HEALTH CARE
FACILITY MUST IMPLEMENT A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM OR UNTIL SUCH TIME AS A HEALTH CARE FACILITY IMPLEMENTS A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM, THE FACILITY SHALL USE A SURVEILLANCE SYSTEM THAT INCLUDES:

(1) A WRITTEN PLAN OF THE ELEMENTS OF THE SURVEILLANCE PROCESS TO INCLUDE, BUT NOT BE LIMITED TO, DEFINITIONS, COLLECTION OF SURVEILLANCE DATA AND REPORTING OF INFORMATION.

(2) IDENTIFICATION OF PERSONNEL RESOURCES THAT WILL BE USED IN THE SURVEILLANCE PROCESS.

(3) IDENTIFICATION OF INFORMATION OR TECHNOLOGICAL SUPPORT NEEDED TO IMPLEMENT THE SURVEILLANCE SYSTEM.

(4) A PROCESS FOR PERIODIC EVALUATION AND VALIDATION TO ENSURE ACCURACY OF SURVEILLANCE.

(D) COMPLIANCE.--A HEALTH CARE FACILITY THAT HAS IMPLEMENTED A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM THAT REPORTS DATA UNDER SUBSECTION (A) SHALL BE DEEMED IN COMPLIANCE WITH REPORTING REQUIREMENTS UNDER THIS SECTION.

(E) CONTINUED REPORTING.--UNTIL SUCH TIME AS PERMITTED BY THIS CHAPTER, A HEALTH CARE FACILITY UNDER THIS SECTION SHALL CONTINUE TO MEET THE REQUIREMENTS PURSUANT TO SECTION 6 OF THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN AS THE HEALTH CARE COST CONTAINMENT ACT.

Section 404 405. Patient Safety Authority jurisdiction.

(a) Health care facility reports to authority.--The occurrence of a health care-associated infection in a health care facility shall be deemed a serious event or incident, as applicable, as defined in section 302 and shall be reported to the authority within 24 hours of the health care facility's confirmation of its occurrence. The report to the authority shall be in a form and manner prescribed by the authority and
shall not include the name of any patient or any other identifiable individual information. The report to the authority shall also be subject to all of the confidentiality protections set forth in section 311.

(b) Report submission.--Subject to the notice and reporting requirements set forth in subsection (c)(4), a health care facility shall begin reporting health care-associated infections in its facility as serious events or incidents, consistent with the requirements of this section and the provisions of Chapter 3.

(c) Duties.--In addition to its existing responsibilities, the authority is responsible for all of the following:

(1) Establishing uniform definitions based on nationally recognized standards for the identification and reporting of health care-associated infections.

(2) Developing and implementing uniform reporting requirements utilizing the uniform definitions established under paragraph (1), which a health care facility shall follow for purposes of reporting health care-associated infections if applicable to that specific health care facility:

(i) to the authority pursuant to subsection (b);
(ii) to the Health Care Cost Containment Council pursuant to section 6(e)(7) of the act of July 8, 1986 (P.L.408, No.89), known as the Health Care Cost Containment Act; and
(iii) to any other State agency, including independent State agencies.

(3) Developing a methodology using nationally recognized standards for determining and assessing the rate of health
care-associated infections that occur in health care facilities in this Commonwealth as compared with the rate of health care-associated infections occurring in health care facilities on a nationwide basis.

(4) (1) Publishing a notice in the Pennsylvania Bulletin stating the uniform reporting requirements established pursuant to this subsection and the effective date for the commencement of required reporting by health care facilities consistent with this chapter, which, at a minimum, shall begin 120 days after publication of the notice.

(5) Issuing advisories under

(2) ISSUING ADVISORIES TO HEALTH CARE FACILITIES IN A MANNER SIMILAR TO section 304(a)(7).

(6) (3) Including a separate category for providing information about health care-associated infections in the annual report under section 304(c).

(4) CREATING AND CONDUCTING TRAINING PROGRAMS FOR INFECTION CONTROL TEAMS, HEALTH CARE WORKERS, PHYSICAL PLANT PERSONNEL AND CONSUMERS ABOUT THE PREVENTION AND CONTROL OF HEALTH CARE-ASSOCIATED INFECTIONS. NOTHING IN THIS ACT PRECLUDES THE AUTHORITY FROM WORKING WITH THE DEPARTMENT OR ANY ORGANIZATION IN CONDUCTING THESE PROGRAMS.

(7) (5) Appointing an advisory panel of health care-associated infection control experts, including at least one representative of a nursing home and at least one REPRESENTATIVE OF A NOT-FOR-PROFIT NURSING HOME, AT LEAST ONE REPRESENTATIVE OF A FOR-PROFIT NURSING HOME AND AT LEAST ONE representative of a hospital, to assist in carrying out the requirements of this chapter.
screenings.

The full cost of routine cultures and screenings performed on patients in compliance with a health care facility’s infection control plan shall be considered a reimbursable cost to be paid by health payors and Medicaid, SUBJECT TO FEDERAL APPROVAL, MEDICAL ASSISTANCE. THESE COSTS SHALL BE subject to any copayment, coinsurance or deductible in amounts imposed in any applicable policy issued by a health payor and to any agreements between a health care facility and payor.

Section 406 407. Incentive payment. (a) General rule.--Commencing on January 1, 2009, a health care facility that achieves at least a 10% reduction for that facility in the total number of reported health care-associated infections over the preceding year PURSUANT TO SECTION 408(7)(I) shall be eligible to receive an incentive payment. For calendar year 2010 and thereafter, the Department of Public Welfare shall consult with the authority DEPARTMENT to establish appropriate percentage benchmarks for the reduction of health care-associated infections in EACH health care facilities in order to be eligible for an incentive payment pursuant to this section. (B) ADDITIONAL INCENTIVE PAYMENTS.--NOTHING IN THIS SECTION SHALL PREVENT THE DEPARTMENT OF PUBLIC WELFARE IN CONSULTATION WITH THE DEPARTMENT FROM PROVIDING ADDITIONAL INCENTIVE PAYMENTS TO A HEALTH CARE FACILITY THAT HAS IMPLEMENTED A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM AND ACHIEVES OR EXCEEDS THE REDUCTIONS IN THE TOTAL NUMBER OF REPORTED HEALTH CARE-ASSOCIATED INFECTIONS ESTABLISHED IN SUBSECTION (A). (C) ELIGIBILITY.--IN ADDITION TO THE REQUIREMENTS CONTAINED IN THIS SECTION, TO BE ELIGIBLE FOR AN INCENTIVE PAYMENT UNDER THIS SECTION A HEALTH CARE FACILITY MUST BE IN COMPLIANCE WITH
HEALTH CARE-ASSOCIATED REPORTING REQUIREMENTS CONTAINED IN THIS
ACT AND THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN AS THE
HEALTH CARE COST CONTAINMENT ACT.

(b) (D) Distribution of funds.--Funds for the purpose of implementing this section shall be appropriated to the
Department of Public Welfare and distributed to eligible health care facilities as set forth in this section. Incentive payments to health care facilities shall be limited to funds available for this purpose.

Section 407 408. Duties of Department of Health. The department is responsible for the following:

(1) The development of a public health awareness campaign on health care-associated infections to be known as the Community Awareness Program. The program shall provide information to the public on causes and symptoms of health care-associated infections, diagnosis and treatment prevention methods and the proper use of antibiotics.

(2) The consideration and determination of the feasibility of establishing an active surveillance program involving other entities, such as athletic teams, correctional facilities or other entities to identify those persons in the community that are actively colonized and at risk of susceptibility to and transmission of MRSA bacteria.

(3) The review of each health care facility's infection control plan during its regular licensure inspection process to ensure compliance with this chapter. This review shall be performed pursuant to the department's authority under the health care facilities act and the regulations promulgated thereunder.

(4) The development of recommendations and practices
REGARDING BEST PRACTICES TO IMPLEMENT AND EFFECTUATE SCREENING AND CULTURES CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER AND OTHER MEANS OF REDUCTION AND ELIMINATION OF HEALTH CARE-ASSOCIATED INFECTIONS AND HOW THESE RECOMMENDATIONS AND PRACTICES MAY APPLY TO HEALTH CARE FACILITIES.

(5) The development of recommendations regarding evidence-based screening protocols of patients and nursing home residents for MRSA and MDRO upon admission and during the inpatient period or nursing home stay.

(6) The review of strategic assessments under Section 403(A)(9) and offer of assistance to health care facilities to implement a qualified electronic surveillance system pursuant to the requirements of Section 404(A) and (B).

(7) The development of a methodology, in consultation with the authority and the council, for determining and assessing the rate of health care-associated infections that occur in health care facilities in this commonwealth. This methodology shall be used:

(I) to determine the rate of reduction in health care-associated infection rates within a health care facility during a reporting period;

(II) to compare health care-associated infection rates between health care facilities within this commonwealth; and

(III) to compare health care-associated infection rates among health care facilities nationwide.

(8) The development, in consultation with the authority and the council, of reasonable benchmarks against which to measure the progress of health care facilities to reduce
HEALTH CARE-ASSOCIATED INFECTIONS. ALL HEALTH CARE FACILITIES SHALL BE MEASURED AGAINST THE BENCHMARKS. THOSE HEALTH CARE FACILITIES WITH RATES OF HEALTH CARE-ASSOCIATED INFECTIONS THAT ARE ABOVE THE BENCHMARK SHALL BE REQUIRED TO SUBMIT A PLAN OF REMEDIATION TO THE DEPARTMENT WITHIN 60 DAYS AFTER BEING NOTIFIED OF MISSING THE STANDARD. IF AFTER 180 DAYS, THE FACILITY HAS NOT SHOWN PROGRESS IN REDUCING RATES OF INFECTIONS, THE FACILITY IS REQUIRED TO CONSULT WITH THE DEPARTMENT TO DEVELOP A NEW PLAN OF REMEDIATION TO BE APPROVED BY THE DEPARTMENT THAT SHALL INCLUDE A LIST OF RESOURCES AVAILABLE TO ASSIST THE HEALTH CARE FACILITY. IF AFTER AN ADDITIONAL 180 DAYS THE FACILITY CONTINUES TO FAIL TO SHOW PROGRESS IN LOWERING ITS RATES OF INFECTION, THE DEPARTMENT MAY TAKE ACTION PURSUANT TO THE HEALTH CARE FACILITIES ACT.

(9) PUBLISH A NOTICE IN THE PENNSYLVANIA BULLETIN OF THE SPECIFIC BENCHMARKS THE DEPARTMENT SHALL USE TO MEASURE THE PROGRESS OF HEALTH CARE FACILITIES IN REDUCING HEALTH CARE-ASSOCIATED INFECTIONS.

(10) PUBLISH A NOTICE IN THE PENNSYLVANIA BULLETIN OF THE UNIFORM REPORTING REQUIREMENTS ESTABLISHED UNDER SECTION 404(A), INCLUDING FORM, TIME FOR REPORTING AND FORMAT, FOR HEALTH CARE-ASSOCIATED INFECTIONS. THESE REQUIREMENTS SHALL APPLY AND BE UTILIZED FOR ALL REPORTS, EXCEPT THOSE REQUIRED UNDER SECTION 405, MADE TO THE DEPARTMENT, THE COUNCIL AND THE AUTHORITY. THE REPORTING REQUIREMENTS CONTAINED IN SECTION 6 OF THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN AS THE HEALTH CARE COST CONTAINMENT ACT, SHALL CONTINUE TO REMAIN IN EFFECT AS THEY RELATE TO HEALTH CARE-ASSOCIATED INFECTIONS UNTIL 120 DAYS AFTER PUBLICATION OF THE NOTICE.
Section 408-409. Nursing home assessment to Patient Safety Authority.

(a) Assessment.—Commencing January JULY 1, 2008, each nursing home shall pay the department a surcharge on its licensing fee as necessary to provide sufficient revenues to operate the authority for its responsibilities under this chapter. The total annual assessment for all nursing homes shall not be more than an aggregate amount of $1,000,000. The department shall transfer the total assessment amount to the fund within 30 days of receipt.

(b) Base amount.—For each succeeding calendar year, the authority shall determine the appropriate assessment amount and the department shall assess each nursing home its proportionate share of the authority's budget for its responsibilities under this chapter. The total assessment amount shall not be more than $1,000,000 in fiscal year 2007-2008 2008-2009 and shall be increased according to the Consumer Price Index in each succeeding fiscal year.

(c) Expenditures.—Money appropriated to the fund under this chapter shall be expended by the authority to implement this chapter.

(d) Dissolution.—In the event that the fund is discontinued or the authority is dissolved by operation of law, any balance paid by nursing homes remaining in the fund, after deducting administrative costs of liquidation, shall be returned to the nursing homes in proportion to their financial contributions to the fund in the preceding licensing period.

(e) Failure to pay surcharge.—If after 30 days' notice a nursing home fails to pay a surcharge levied by the department under this chapter, the department may assess an administrative
penalty of $1,000 per day until the surcharge is paid.

(F) REIMBURSABLE COST.--SUBJECT TO FEDERAL APPROVAL, THE
ANNUAL ASSESSMENT AMOUNT PAID BY A NURSING HOME SHALL BE A
REIMBURSABLE COST UNDER THE MEDICAL ASSISTANCE PROGRAM. THE
DEPARTMENT OF PUBLIC WELFARE SHALL PAY EACH NURSING HOME, AS A
SEPARATE, PASS-THROUGH PAYMENT, AN AMOUNT EQUAL TO THE
ASSESSMENT PAID BY A NURSING HOME MULTIPLIED BY THE FACILITY'S
MEDICAL ASSISTANCE OCCUPANCY RATE AS REPORTED IN ITS ANNUAL COST
REPORT.

Section 409-410. Scope of reporting.

For purposes of reporting health care-associated infections
to the Commonwealth, its agencies and independent agencies, this
chapter sets forth the applicable criteria to be utilized by
health care facilities in making such reports. NOTHING IN THIS
ACT SHALL SUPERSEDE THE REQUIREMENTS SET FORTH IN THE ACT OF
APRIL 23, 1956 (1955 P.L.1510, NO.500), KNOWN AS THE DISEASE
PREVENTION AND CONTROL LAW OF 1955, AND THE REGULATIONS
PROMULCATED THEREUNDER.

Section 410-411. Penalties.

(a) Violation of Health Care Facilities Act.--The failure of
a health care facility to report a health care-associated
infection as a serious event or incident as required by this
chapter or the failure of a health care facility to develop,
implement and comply with its infection control plan in
accordance with the requirements of section 403 shall be a
violation of the act of July 19, 1979 (P.L.130, No.48), known as
the Health Care Facilities Act.

(b) Administrative penalty.--In addition to any penalty that
may be imposed under the Health Care Facilities Act or under 18
Pa.C.S. Ch. 32 (relating to abortion), a health care facility
Section 2. This act shall take effect in 30 days.

SECTION 2. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

(1) THE ADDITION OF SECTION 403 OF THE ACT SHALL TAKE EFFECT IMMEDIATELY.

(2) SECTION 408(10) SHALL TAKE EFFECT IN 90 DAYS.

(3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

(4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 180 DAYS.

SECTION 401. SCOPE.

THIS CHAPTER RELATES TO THE REDUCTION AND PREVENTION OF HEALTH CARE-ASSOCIATED INFECTIONS.

SECTION 402. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"AMBULATORY SURGICAL FACILITY." AN ENTITY DEFINED AS AN AMBULATORY SURGICAL FACILITY UNDER THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT.

"ANTIMICROBIAL AGENT." A GENERAL TERM FOR DRUGS, CHEMICALS OR OTHER SUBSTANCES THAT KILL OR SLOW THE GROWTH OF MICROBES, INCLUDING, BUT NOT LIMITED TO, ANTIBACTERIAL DRUGS, ANTIVIRAL AGENTS, ANTIFUNGAL AGENTS AND ANTIHUMAN SERVICES DRUGS.

"AUTHORITY." THE PATIENT SAFETY AUTHORITY ESTABLISHED UNDER THIS ACT.

"CENTERS FOR DISEASE CONTROL AND PREVENTION" OR "CDC." THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES CENTERS FOR DISEASE CONTROL AND PREVENTION.
"COLONIZATION." THE FIRST STAGE OF MICROBIAL INFECTION OR
THE PRESENCE OF NONREPLICATING MICROORGANISMS USUALLY PRESENT IN
HOST TISSUES THAT ARE IN CONTACT WITH THE EXTERNAL ENVIRONMENT.
"COUNCIL." THE PENNSYLVANIA HEALTH CARE COST CONTAINMENT
COUNCIL ESTABLISHED UNDER THE ACT OF JULY 8, 1986 (P.L.408,
NO.89), KNOWN AS THE HEALTH CARE COST CONTAINMENT ACT.
"DEPARTMENT." THE DEPARTMENT OF HEALTH OF THE COMMONWEALTH.
"FUND." THE PATIENT SAFETY TRUST FUND AS DEFINED IN SECTION
305.
"HEALTH CARE-ASSOCIATED INFECTION." A LOCALIZED OR SYSTEMIC
CONDITION THAT RESULTS FROM AN ADVERSE REACTION TO THE PRESENCE
OF AN INFECTIOUS AGENT OR ITS TOXINS THAT:
(1) OCCURS IN A PATIENT IN A HEALTH CARE SETTING;
(2) WAS NOT PRESENT OR INCUBATING AT THE TIME OF
ADMISSION, UNLESS THE INFECTION WAS RELATED TO A PREVIOUS
ADMISSION TO THE SAME SETTING; AND
(3) IF OCCURRING IN A HOSPITAL SETTING, MEETS THE
CRITERIA FOR A SPECIFIC INFECTION SITE AS DEFINED BY THE
CENTERS FOR DISEASE CONTROL AND PREVENTION AND ITS NATIONAL
HEALTH CARE SAFETY NETWORK.
"HEALTH CARE FACILITIES ACT." THE ACT OF JULY 19, 1979
(P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT.
"HEALTH CARE FACILITY." A HOSPITAL OR NURSING HOME LICENSED
OR OTHERWISE REGULATED TO PROVIDE HEALTH CARE SERVICES UNDER THE
LAWS OF THIS COMMONWEALTH.
"HEALTH PAYOR." AN INDIVIDUAL OR ENTITY PROVIDING A GROUP
HEALTH, SICKNESS OR ACCIDENT POLICY, SUBSCRIBER CONTRACT OR
PROGRAM ISSUED OR PROVIDED BY AN ENTITY, INCLUDING ANY ONE OF
THE FOLLOWING:
(1) THE ACT OF JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS
THE WORKERS' COMPENSATION ACT.

(2) THE ACT OF MAY 17, 1921 (P.L. 682, NO. 284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921.

(3) THE ACT OF DECEMBER 29, 1972 (P.L. 1701, NO. 364), KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

(4) THE ACT OF MAY 18, 1976 (P.L. 123, NO. 54), KNOWN AS THE INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS ACT.

(5) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN CORPORATIONS).

(6) 40 PA.C.S. CH. 63 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS).


"METHICILLIN RESISTANT STAPHYLOCOCCUS AUREUS" OR "MRSA." A STRAIN OF BACTERIA THAT IS RESISTANT TO CERTAIN ANTIBIOTICS AND IS DIFFICULT TO TREAT MEDICALLY.

"MULTIDRUG RESISTANT ORGANISM" OR "MDRO." MICROORGANISMS, PREDOMINANTLY BACTERIA, THAT ARE RESISTANT TO MORE THAN ONE CLASS OF ANTIMICROBIAL AGENTS.

"NATIONAL HEALTHCARE SAFETY NETWORK" OR "NHSN." A SECURE INTERNET-BASED DATA COLLECTION SYSTEM MANAGED BY THE DIVISION OF HEALTHCARE QUALITY PROMOTION AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"NATIONALLY RECOGNIZED STANDARDS." STANDARDS DEVELOPED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) AND ITS NATIONAL HEALTHCARE SAFETY NETWORK.

"NURSING HOME." AN ENTITY LICENSED AS A LONG-TERM CARE Facility.
"SURVEILLANCE SYSTEM." AN ONGOING AND COMPREHENSIVE METHOD OF MEASURING HEALTH STATUS, OUTCOMES AND RELATED PROCESSES OF CARE, ANALYZING DATA AND PROVIDING INFORMATION FROM DATA SOURCES WITHIN A HEALTH CARE FACILITY TO ASSIST IN REDUCING HEALTH CARE-ASSOCIATED INFECTIONS.

SECTION 403. INFECTION CONTROL PLAN.

(A) DEVELOPMENT AND COMPLIANCE.--WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS SECTION, A HEALTH CARE FACILITY AND AN AMBULATORY SURGICAL FACILITY SHALL DEVELOP AND IMPLEMENT AN INTERNAL INFECTION CONTROL PLAN THAT SHALL BE ESTABLISHED FOR THE PURPOSE OF IMPROVING THE HEALTH AND SAFETY OF PATIENTS AND HEALTH CARE WORKERS AND SHALL INCLUDE:

(1) A MULTIDISCIPLINARY COMMITTEE INCLUDING REPRESENTATIVES FROM EACH OF THE FOLLOWING, IF APPLICABLE TO THAT SPECIFIC HEALTH CARE FACILITY:

(I) MEDICAL STAFF THAT COULD INCLUDE THE CHIEF MEDICAL OFFICER OR THE NURSING HOME MEDICAL DIRECTOR.

(II) ADMINISTRATION REPRESENTATIVES THAT COULD INCLUDE THE CHIEF EXECUTIVE OFFICER, THE CHIEF FINANCIAL OFFICER OR THE NURSING HOME ADMINISTRATOR.

(III) LABORATORY PERSONNEL.

(IV) NURSING STAFF THAT COULD INCLUDE A DIRECTOR OF NURSING OR A NURSING SUPERVISOR.

(V) PHARMACY STAFF THAT COULD INCLUDE THE CHIEF OF PHARMACY.

(VI) PHYSICAL PLANT PERSONNEL.

(VII) A PATIENT SAFETY OFFICER.

(VIII) MEMBERS FROM THE INFECTION CONTROL TEAM.
WHICH COULD INCLUDE AN EPIDEMIOLOGIST.

(IX) THE COMMUNITY, EXCEPT THAT THESE REPRESENTATIVES MAY NOT BE AN AGENT, EMPLOYEE OR CONTRACTOR OF THE HEALTH CARE FACILITY OR AMBULATORY SURGICAL FACILITY.

(2) EFFECTIVE MEASURES FOR THE DETECTION, CONTROL AND PREVENTION OF HEALTH CARE-ASSOCIATED INFECTIONS.

(3) CULTURE SURVEILLANCE PROCESSES AND POLICIES.

(4) A SYSTEM TO IDENTIFY AND DESIGNATE PATIENTS KNOWN TO BE COLONIZED OR INFECTED WITH MRSA OR OTHER MDRO THAT INCLUDES:

(I) THE PROCEDURES NECESSARY FOR REQUIRING CULTURES AND SCREENINGS FOR NURSING HOME RESIDENTS ADMITTED TO A HOSPITAL.

(II) THE PROCEDURES FOR IDENTIFYING OTHER HIGH-RISK PATIENTS ADMITTED TO THE HOSPITAL WHO NECESSITATE ROUTINE CULTURES AND SCREENING.

(5) THE PROCEDURES AND PROTOCOLS FOR STAFF WHO MAY HAVE HAD POTENTIAL EXPOSURE TO A PATIENT OR RESIDENT KNOWN TO BE COLONIZED OR INFECTED WITH MRSA OR MDRO, INCLUDING CULTURES AND SCREENINGS, PROPHYLAXIS AND FOLLOW-UP CARE.

(6) AN OUTREACH PROCESS FOR NOTIFYING A RECEIVING HEALTH CARE FACILITY OR AN AMBULATORY SURGICAL FACILITY OF ANY PATIENT KNOWN TO BE COLONIZED PRIOR TO TRANSFER WITHIN OR BETWEEN FACILITIES.

(7) A REQUIRED INFECTION-CONTROL INTERVENTION PROTOCOL WHICH INCLUDES:

(I) INFECTION CONTROL PRECAUTIONS, BASED ON NATIONALLY RECOGNIZED STANDARDS, FOR GENERAL SURVEILLANCE OF INFECTED OR COLONIZED PATIENTS.
(II) INTERVENTION PROTOCOLS BASED ON EVIDENCE-BASED
STANDARDS.

(III) ISOLATION PROCEDURES.

(IV) PHYSICAL PLANT OPERATIONS RELATED TO INFECTION
CONTROL.

(V) APPROPRIATE USE OF ANTIMICROBIAL AGENTS.

(VI) MANDATORY EDUCATIONAL PROGRAMS FOR PERSONNEL.

(VII) FISCAL AND HUMAN RESOURCE REQUIREMENTS.

(8) THE PROCEDURE FOR DISTRIBUTION OF ADVISORIES ISSUED
UNDER SECTION 405(B)(4) SO AS TO ENSURE EASY ACCESS IN EACH
HEALTH CARE FACILITY FOR ALL ADMINISTRATIVE STAFF, MEDICAL
PERSONNEL AND HEALTH CARE WORKERS.

(B) DEPARTMENT REVIEW.--NO LATER THAN 14 DAYS AFTER
IMPLEMENTATION OF ITS INFECTION CONTROL PLAN, A HEALTH CARE
FACILITY AND AN AMBULATORY SURGICAL FACILITY SHALL SUBMIT THE
PLAN TO THE DEPARTMENT. THE DEPARTMENT SHALL REVIEW EACH HEALTH
CARE FACILITY'S AND AMBULATORY SURGICAL FACILITY'S INFECTION
CONTROL PLAN TO ENSURE COMPLIANCE UNDER THE HEALTH CARE
FACILITIES ACT AND SECTION 408(3). IF, AT ANY TIME, THE
DEPARTMENT FINDS THAT AN INFECTION CONTROL PLAN DOES NOT MEET
THE REQUIREMENTS OF THIS CHAPTER OR ANY APPLICABLE LAWS, THE
HEALTH CARE FACILITY OR AMBULATORY SURGICAL FACILITY SHALL
MODIFY ITS PLAN TO COME INTO COMPLIANCE.

(C) NOTIFICATION.--UPON SUBMISSION TO THE DEPARTMENT OF ITS
INFECTION CONTROL PLAN, A HEALTH CARE FACILITY AND AN AMBULATORY
SURGICAL FACILITY SHALL NOTIFY ALL HEALTH CARE WORKERS, PHYSICAL
PLANT PERSONNEL AND MEDICAL STAFF OF THE FACILITY OF THE
INFECTION CONTROL PLAN. COMPLIANCE WITH THE INFECTION CONTROL
PLAN SHALL BE ENFORCED BY THE FACILITY.

SECTION 404. HEALTH CARE FACILITY REPORTING.
(A) NURSING HOME REPORTING.--IN ADDITION TO REPORTING PURSUANT TO THE HEALTH CARE FACILITIES ACT, A NURSING HOME SHALL ALSO ELECTRONICALLY REPORT HEALTH CARE-ASSOCIATED INFECTION DATA TO THE DEPARTMENT AND THE AUTHORITY USING NATIONALLY RECOGNIZED STANDARDS BASED ON CDC DEFINITIONS, PROVIDED THAT THE DATA IS REPORTED ON A PATIENT-SPECIFIC BASIS IN THE FORM, WITH THE TIME FOR REPORTING AND FORMAT AS DETERMINED BY THE DEPARTMENT AND THE AUTHORITY.

(B) HOSPITAL REPORTING.--A HOSPITAL SHALL REPORT HEALTH CARE-ASSOCIATED INFECTION DATA TO THE CDC AND ITS NATIONAL HEALTHCARE SAFETY NETWORK NO LATER THAN 180 DAYS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION. A HOSPITAL SHALL:

(1) REPORT ALL COMPONENTS AS DEFINED IN THE NHSN MANUAL, PATIENT SAFETY COMPONENT PROTOCOL, AND ANY SUCCESSOR EDITION, FOR ALL PATIENTS THROUGHOUT THE FACILITY ON A CONTINUOUS BASIS.

(2) REPORT PATIENT-SPECIFIC DATA TO INCLUDE, AT A MINIMUM, PATIENT IDENTIFICATION NUMBER, GENDER AND DATE OF BIRTH. THE PATIENT IDENTIFICATION NUMBER MUST BE COMPATIBLE WITH THE PATIENT IDENTIFIER ON THE UNIFORM BILLING FORMS SUBMITTED TO THE COUNCIL.

(3) REPORT DATA ON A MONTHLY BASIS IN ACCORDANCE WITH PROTOCOLS DEFINED IN THE NHSN MANUAL AS UPDATED BY THE CDC.

(4) AUTHORIZE THE DEPARTMENT, THE AUTHORITY AND THE COUNCIL TO HAVE ACCESS TO THE NHSN FOR FACILITY-SPECIFIC REPORTS OF HEALTH CARE-ASSOCIATED INFECTION DATA CONTAINED IN THE NHSN DATABASE FOR PURPOSES OF VIEWING AND ANALYZING THAT DATA.

(C) STRATEGIC ASSESSMENTS.--EACH HOSPITAL, OTHER THAN THOSE CURRENTLY USING A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM,
SHALL BY DECEMBER 31, 2007, CONDUCT A STRATEGIC ASSESSMENT OF
THE UTILITY AND EFFICACY OF IMPLEMENTING A QUALIFIED ELECTRONIC
SURVEILLANCE SYSTEM PURSUANT TO SUBSECTIONS (D) AND (E) FOR THE
PURPOSE OF IMPROVING INFECTION CONTROL AND PREVENTION. THE
ASSESSMENT SHALL ALSO INCLUDE AN EXAMINATION OF FINANCIAL AND
TECHNOLOGICAL BARRIERS TO IMPLEMENTATION OF A QUALIFIED
ELECTRONIC SURVEILLANCE SYSTEM PURSUANT TO SUBSECTIONS (D) AND
(E). THE ASSESSMENT SHALL BE SUBMITTED TO THE DEPARTMENT WITHIN
14 DAYS OF COMPLETION.

(D) QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM.--A QUALIFIED
ELECTRONIC SURVEILLANCE SYSTEM SHALL INCLUDE THE FOLLOWING
MINIMUM ELEMENTS:

(1) Extractions of existing electronic clinical data
from health care facility systems on an ongoing, constant and
consistent basis.

(2) Translation of nonstandardized laboratory, pharmacy
and/or radiology data into uniform information that can be
analyzed on a population-wide basis.

(3) Clinical support, educational tools and training to
ensure that information provided under this subsection will
assist the hospital in reducing the incidence of health care-
associated infections in a manner that meets or exceeds
benchmarks.

(4) Clinical improvement measurements designed to
provide positive and negative feedback to health care
facility infection control staff.

(5) Collection of data that is patient-specific for the
entire facility.

(E) ELECTRONIC SURVEILLANCE SYSTEM IMPLEMENTATION.--EXCEPT
AS OTHERWISE PROVIDED IN THIS SUBSECTION, A HOSPITAL SHALL HAVE
A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM IN PLACE BY DECEMBER 31, 2008. THE FOLLOWING APPLY:

(1) IF A DETERMINATION HAS BEEN MADE UNDER SUBSECTION (C) THAT A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM CAN BE IMPLEMENTED, THE HOSPITAL SHALL COMPLY WITH SUBSECTION (F) UNTIL IMPLEMENTATION.

(2) IF A DETERMINATION HAS BEEN MADE UNDER SUBSECTION (C) THAT A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM CANNOT BE IMPLEMENTED, BY DECEMBER 31, 2008, THE HOSPITAL SHALL COMPLY WITH SUBSECTION (F) UNTIL SUCH TIME AS A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM IS IMPLEMENTED.

(F) SURVEILLANCE SYSTEM.--UNTIL A HOSPITAL IMPLEMENTS A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM, THE FACILITY SHALL USE A SURVEILLANCE SYSTEM THAT INCLUDES:

(1) A WRITTEN PLAN OF THE ELEMENTS OF THE SURVEILLANCE PROCESS TO INCLUDE, BUT NOT BE LIMITED TO, DEFINITIONS, COLLECTION OF SURVEILLANCE DATA AND REPORTING OF INFORMATION.

(2) IDENTIFICATION OF PERSONNEL RESOURCES THAT WILL BE USED IN THE SURVEILLANCE PROCESS.

(3) IDENTIFICATION OF INFORMATION OR TECHNOLOGICAL SUPPORT NEEDED TO IMPLEMENT THE SURVEILLANCE SYSTEM.

(4) A PROCESS FOR PERIODIC EVALUATION AND VALIDATION TO ENSURE ACCURACY OF SURVEILLANCE.

(G) CONTINUED REPORTING.--UNTIL HOSPITALS BEGIN REPORTING TO NHSN AND HAVE AUTHORIZED ACCESS TO THE DEPARTMENT, THE AUTHORITY AND THE COUNCIL, HOSPITALS SHALL CONTINUE TO MEET REPORTING REQUIREMENTS PURSUANT TO CHAPTER 3 OF THIS ACT AND SECTION 6 OF THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN AS THE HEALTH CARE COST CONTAINMENT ACT.

SECTION 405. PATIENT SAFETY AUTHORITY JURISDICTION.
(A) HEALTH CARE FACILITY REPORTS TO AUTHORITY.--THE OCCURRENCE OF A HEALTH CARE-ASSOCIATED INFECTION IN A HEALTH CARE FACILITY SHALL BE DEEMED A SERIOUS EVENT, AS DEFINED IN SECTION 302. THE REPORT TO THE AUTHORITY SHALL ALSO BE SUBJECT TO ALL OF THE CONFIDENTIALITY PROTECTIONS SET FORTH IN SECTION 311. THE OCCURRENCE OF A HEALTH CARE-ASSOCIATED INFECTION SHALL ONLY CONSTITUTE A SERIOUS EVENT FOR HOSPITALS IF IT MEETS THE CRITERIA FOR REPORTING AS DEFINED BY THE CURRENT CDC AND NHSN MANUAL, PATIENT SAFETY COMPONENT PROTOCOL AND ANY SUCCESSOR EDITION.

(B) DUTIES.--IN ADDITION TO ITS EXISTING RESPONSIBILITIES, THE AUTHORITY IS RESPONSIBLE FOR ALL OF THE FOLLOWING:

(1) ESTABLISHING, BASED ON CDC DEFINITIONS, UNIFORM DEFINITIONS USING NATIONALLY RECOGNIZED STANDARDS FOR THE IDENTIFICATION AND REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS BY NURSING HOMES.

(2) PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN STATING THE UNIFORM REPORTING REQUIREMENTS ESTABLISHED PURSUANT TO THIS SUBSECTION AND THE EFFECTIVE DATE FOR THE COMMENCEMENT OF REQUIRED REPORTING BY HOSPITALS CONSISTENT WITH THIS CHAPTER, WHICH, AT A MINIMUM, SHALL BEGIN 120 DAYS AFTER PUBLICATION OF THE NOTICE.

(3) PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN STATING THE UNIFORM REPORTING REQUIREMENTS ESTABLISHED PURSUANT TO THIS SUBSECTION AND SECTION 404(A) AND THE EFFECTIVE DATE FOR THE COMMENCEMENT OF REQUIRED REPORTING BY NURSING HOMES CONSISTENT WITH THIS CHAPTER, WHICH, AT A MINIMUM, SHALL BEGIN 120 DAYS AFTER PUBLICATION OF THE NOTICE.

(4) ISSUING ADVISORIES TO HEALTH CARE FACILITIES IN A
MANNER SIMILAR TO SECTION 304(A)(7).

(5) INCLUDING A SEPARATE CATEGORY FOR PROVIDING INFORMATION ABOUT HEALTH CARE-ASSOCIATED INFECTIONS IN THE ANNUAL REPORT UNDER SECTION 304(C).

(6) CREATING AND CONDUCTING TRAINING PROGRAMS FOR INFECTION CONTROL TEAMS, HEALTH CARE WORKERS AND PHYSICAL PLANT PERSONNEL ABOUT THE PREVENTION AND CONTROL OF HEALTH CARE-ASSOCIATED INFECTIONS. NOTHING IN THIS ACT SHALL PRECLUDE THE AUTHORITY FROM WORKING WITH THE DEPARTMENT OR ANY ORGANIZATION IN CONDUCTING THESE PROGRAMS.

(7) APPOINTING AN ADVISORY PANEL OF HEALTH CARE-ASSOCIATED INFECTION CONTROL EXPERTS, INCLUDING AT LEAST ONE REPRESENTATIVE OF A NOT-FOR-PROFIT NURSING HOME, AT LEAST ONE REPRESENTATIVE OF A FOR-PROFIT NURSING HOME, AT LEAST ONE REPRESENTATIVE OF A COUNTY NURSING HOME AND AT LEAST TWO REPRESENTATIVES OF A HOSPITAL, ONE OF WHICH MUST BE FROM A RURAL HOSPITAL, TO ASSIST IN CARRYING OUT THE REQUIREMENTS OF THIS CHAPTER.

(C) PUBLIC COMMENT.--PRIOR TO PUBLISHING A NOTICE UNDER SUBSECTION (B)(2) AND (3), THE AUTHORITY SHALL SOLICIT PUBLIC COMMENTS FOR AT LEAST 30 DAYS. THE AUTHORITY SHALL RESPOND TO THE COMMENTS IT RECEIVES DURING THE 30-DAY PUBLIC COMMENT PERIOD.

SECTION 406. PAYMENT FOR PERFORMING ROUTINE CULTURES AND SCREENINGS.

THE COST OF ROUTINE CULTURES AND SCREENINGS PERFORMED ON PATIENTS IN COMPLIANCE WITH A HEALTH CARE FACILITY'S AND AMBULATORY SURGICAL FACILITY'S INFECTION CONTROL PLAN SHALL BE CONSIDERED A REIMBURSABLE COST TO BE PAID BY HEALTH PAYORS AND MEDICAL ASSISTANCE UPON FEDERAL APPROVAL. THESE COSTS SHALL BE
SUBJECT TO ANY COPAYMENT, COINSURANCE OR DEDUCTIBLE IN AMOUNTS IMPOSED IN ANY APPLICABLE POLICY ISSUED BY A HEALTH PAYOR AND TO ANY AGREEMENTS BETWEEN A HEALTH CARE FACILITY, AMBULATORY SURGICAL FACILITY AND PAYOR.

SECTION 407. QUALITY IMPROVEMENT PAYMENT.

(A) GENERAL RULE.--COMMENCING ON JANUARY 1, 2009, THE DEPARTMENT OF PUBLIC WELFARE IN CONSULTATION WITH THE DEPARTMENT SHALL MAKE A QUALITY IMPROVEMENT PAYMENT TO A HEALTH CARE FACILITY THAT ACHIEVES AT LEAST A 10% REDUCTION FOR THAT FACILITY IN THE TOTAL NUMBER OF REPORTED HEALTH CARE-ASSOCIATED INFECTIONS OVER THE PRECEDING YEAR PURSUANT TO SECTION 408(7)(I). FOR CALENDAR YEAR 2010 AND THEREAFTER, THE DEPARTMENT OF PUBLIC WELFARE SHALL CONSULT WITH THE DEPARTMENT TO ESTABLISH APPROPRIATE PERCENTAGE BENCHMARKS FOR THE REDUCTION OF HEALTH CARE-ASSOCIATED INFECTIONS IN EACH HEALTH CARE FACILITY IN ORDER TO BE ELIGIBLE FOR A PAYMENT PURSUANT TO THIS SECTION.

(B) ADDITIONAL QUALITY IMPROVEMENT PAYMENTS.--NOTHING IN THIS SECTION SHALL PREVENT THE DEPARTMENT OF PUBLIC WELFARE IN CONSULTATION WITH THE DEPARTMENT FROM PROVIDING ADDITIONAL QUALITY IMPROVEMENT PAYMENTS TO A HEALTH CARE FACILITY THAT HAS IMPLEMENTED A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM AND HAS ACHIEVED OR EXCEEDED REDUCTIONS IN THE TOTAL NUMBER OF REPORTED HEALTH CARE-ASSOCIATED INFECTIONS FOR THAT FACILITY OVER THE PRECEDING YEAR AS PROVIDED IN SUBSECTION (A).

(C) ELIGIBILITY.--IN ADDITION TO MEETING THE REQUIREMENTS CONTAINED IN THIS SECTION, TO BE ELIGIBLE FOR A QUALITY IMPROVEMENT PAYMENT, A HEALTH CARE FACILITY MUST BE IN COMPLIANCE WITH HEALTH CARE-ASSOCIATED REPORTING REQUIREMENTS CONTAINED IN THIS ACT AND THE HEALTH CARE FACILITIES ACT.

(D) DISTRIBUTION OF FUNDS.--FUNDS FOR THE PURPOSE OF
IMPLEMENTING THIS SECTION SHALL BE APPROPRIATED TO THE DEPARTMENT OF PUBLIC WELFARE AND DISTRIBUTED TO ELIGIBLE HEALTH CARE FACILITIES AS SET FORTH IN THIS SECTION. QUALITY IMPROVEMENT PAYMENTS TO HEALTH CARE FACILITIES SHALL BE LIMITED TO FUNDS AVAILABLE FOR THIS PURPOSE.

SECTION 408. DUTIES OF DEPARTMENT OF HEALTH.

THE DEPARTMENT IS RESPONSIBLE FOR THE FOLLOWING:

(1) THE DEVELOPMENT OF A PUBLIC HEALTH AWARENESS CAMPAIGN ON HEALTH CARE-ASSOCIATED INFECTIONS TO BE KNOWN AS THE COMMUNITY AWARENESS PROGRAM. THE PROGRAM SHALL PROVIDE INFORMATION TO THE PUBLIC ON CAUSES AND SYMPTOMS OF HEALTH CARE-ASSOCIATED INFECTIONS, DIAGNOSIS AND TREATMENT PREVENTION METHODS AND THE PROPER USE OF ANTIMICROBIAL AGENTS.

(2) THE CONSIDERATION AND DETERMINATION OF THE FEASIBILITY OF ESTABLISHING AN ACTIVE SURVEILLANCE PROGRAM INVOLVING OTHER ENTITIES, SUCH AS ATHLETIC TEAMS OR CORRECTIONAL FACILITIES FOR THE PURPOSE OF IDENTIFYING THOSE PERSONS IN THE COMMUNITY THAT ARE COLONIZED AND AT RISK OF SUSCEPTIBILITY TO AND TRANSMISSION OF MRSA BACTERIA.

(3) THE REVIEW OF EACH HEALTH CARE FACILITY'S AND AMBULATORY SURGICAL FACILITY'S INFECTION CONTROL PLAN. THIS REVIEW SHALL BE PERFORMED PURSUANT TO THE DEPARTMENT'S AUTHORITY UNDER THE HEALTH CARE FACILITIES ACT AND THE REGULATIONS PROMULGATED THEREUNDER.

(4) THE DEVELOPMENT OF RECOMMENDATIONS AND BEST PRACTICES THAT IMPLEMENT AND EFFECTUATE IMPROVED SCREENINGS AND CULTURES AND OTHER MEANS FOR THE REDUCTION AND ELIMINATION OF HEALTH CARE-ASSOCIATED INFECTIONS.

(5) THE DEVELOPMENT OF RECOMMENDATIONS REGARDING
EVIDENCE-BASED SCREENING PROTOCOLS FOR AN INDIVIDUAL WITH
MRSA AND MDRO PRIOR TO ADMISSION TO A HOSPITAL.

(6) THE REVIEW OF STRATEGIC ASSESSMENTS UNDER SECTION
404(C) AND THE PROVISION OF ASSISTANCE TO HOSPITALS IN
IMPLEMENTING A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM
PURSUANT TO THE REQUIREMENTS OF SECTION 404(D) AND (E).

(7) THE DEVELOPMENT OF A METHODOLOGY, IN CONSULTATION
WITH THE AUTHORITY AND THE COUNCIL, FOR DETERMINING AND
ASSESSING THE RATE OF HEALTH CARE-ASSOCIATED INFECTIONS THAT
OCUR IN HEALTH CARE FACILITIES IN THIS COMMONWEALTH. THIS
METHODOLOGY SHALL BE USED:

(I) TO DETERMINE THE RATE OF REDUCTION IN HEALTH
CARE-ASSOCIATED INFECTION RATES WITHIN A HEALTH CARE
FACILITY DURING A REPORTING PERIOD;

(II) TO COMPARE HEALTH CARE-ASSOCIATED INFECTION
RATES AMONG SIMILAR HEALTH CARE FACILITIES WITHIN THIS
COMMONWEALTH; AND

(III) TO COMPARE HEALTH CARE-ASSOCIATED INFECTION
RATES AMONG SIMILAR HEALTH CARE FACILITIES NATIONWIDE.

(8) THE DEVELOPMENT, IN CONSULTATION WITH THE AUTHORITY
AND THE COUNCIL, OF REASONABLE BENCHMARKS TO MEASURE THE
PROGRESS HEALTH CARE FACILITIES MAKE TOWARD REDUCING HEALTH
CARE-ASSOCIATED INFECTIONS. BEGINNING IN 2010, ALL HEALTH
CARE FACILITIES SHALL BE MEASURED AGAINST THESE BENCHMARKS. A
HEALTH CARE FACILITY WITH A RATE OF HEALTH CARE-ASSOCIATED
INFECTIONS THAT DOES NOT MEET THE BENCHMARK APPROPRIATE TO
THAT TYPE OF FACILITY SHALL BE REQUIRED TO SUBMIT A PLAN OF
CORRECTION TO THE DEPARTMENT WITHIN 60 DAYS OF RECEIVING
NOTIFICATION THAT THE RATE DOES NOT MEET THE BENCHMARK. AFTER
180 DAYS, A FACILITY THAT HAS NOT SHOWN PROGRESS IN REDUCING
ITS RATE OF INFECTION SHALL CONSULT WITH AND OBTAIN DEPARTMENT APPROVAL FOR A NEW PLAN OF CORRECTION THAT INCLUDES RESOURCES AVAILABLE TO ASSIST THE HEALTH CARE FACILITY. AFTER AN ADDITIONAL 180 DAYS, A FACILITY THAT FAILS TO SHOW PROGRESS IN REDUCING ITS RATE OF INFECTION MAY BE SUBJECT TO ACTION UNDER THE HEALTH CARE FACILITIES ACT.

(9) PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN OF THE SPECIFIC BENCHMARKS THE DEPARTMENT SHALL USE TO MEASURE THE PROGRESS OF HEALTH CARE FACILITIES IN REDUCING HEALTH CARE-ASSOCIATED INFECTIONS. PRIOR TO PUBLISHING THE NOTICE, THE DEPARTMENT SHALL SEEK PUBLIC COMMENTS FOR AT LEAST 30 DAYS. THE DEPARTMENT SHALL RESPOND TO THE COMMENTS IT RECEIVES DURING THE 30-DAY PUBLIC COMMENT PERIOD.

SECTION 409. NURSING HOME ASSESSMENT TO PATIENT SAFETY AUTHORITY.

(A) ASSESSMENT.--COMMENCING JULY 1, 2008, EACH NURSING HOME SHALL PAY THE DEPARTMENT A SURCHARGE ON ITS LICENSING FEE AS NECESSARY TO PROVIDE SUFFICIENT REVENUES FOR THE AUTHORITY TO PERFORM ITS RESPONSIBILITIES UNDER THIS CHAPTER. THE TOTAL ANNUAL ASSESSMENT FOR ALL NURSING HOMES SHALL NOT BE MORE THAN AN AGGREGATE AMOUNT OF $1,000,000. THE DEPARTMENT SHALL TRANSFER THE TOTAL ASSESSMENT AMOUNT TO THE FUND WITHIN 30 DAYS OF RECEIPT.

(B) BASE AMOUNT.--FOR EACH SUCCEEDING CALENDAR YEAR, THE AUTHORITY SHALL DETERMINE THE APPROPRIATE ASSESSMENT AMOUNT AND THE DEPARTMENT SHALL ASSESS EACH NURSING HOME ITS PROPORTIONATE SHARE OF THE AUTHORITY'S BUDGET FOR ITS RESPONSIBILITIES UNDER THIS CHAPTER. THE TOTAL ASSESSMENT AMOUNT SHALL NOT BE MORE THAN $1,000,000 IN FISCAL YEAR 2008-2009 AND SHALL BE INCREASED ACCORDING TO THE CONSUMER PRICE INDEX IN EACH SUCCEEDING FISCAL
1  YEAR.
2
3  (C) EXPENDITURES.--MONEY APPROPRIATED TO THE FUND UNDER THIS
4  CHAPTER SHALL BE EXPENDED BY THE AUTHORITY TO IMPLEMENT THIS
5  CHAPTER.
6
7  (D) DISSOLUTION.--IN THE EVENT THAT THE FUND IS DISCONTINUED
8  OR THE AUTHORITY IS DISSOLVED BY OPERATION OF LAW, ANY BALANCE
9  PAID BY NURSING HOMES REMAINING IN THE FUND, AFTER DEDUCTING
10  ADMINISTRATIVE COSTS OF LIQUIDATION, SHALL BE RETURNED TO THE
11  NURSING HOMES IN PROPORTION TO THEIR FINANCIAL CONTRIBUTIONS TO
12  THE FUND IN THE PRECEDING LICENSING PERIOD.
13
14  (E) FAILURE TO PAY SURCHARGE.--IF AFTER 30 DAYS' NOTICE A
15  NURSING HOME FAILS TO PAY A SURCHARGE LEVIED BY THE DEPARTMENT
16  UNDER THIS CHAPTER, THE DEPARTMENT MAY ASSESS AN ADMINISTRATIVE
17  PENALTY OF $1,000 PER DAY UNTIL THE SURCHARGE IS PAID.
18
19  (F) REIMBURSABLE COST.--SUBJECT TO FEDERAL APPROVAL, THE
20  ANNUAL ASSESSMENT AMOUNT PAID BY A NURSING HOME SHALL BE A
21  REIMBURSABLE COST UNDER THE MEDICAL ASSISTANCE PROGRAM. THE
22  DEPARTMENT OF PUBLIC WELFARE SHALL PAY EACH NURSING HOME, AS A
23  SEPARATE, PASS-THROUGH PAYMENT, AN AMOUNT EQUAL TO THE
24  ASSESSMENT PAID BY A NURSING HOME MULTIPLIED BY THE FACILITY'S
25  MEDICAL ASSISTANCE OCCUPANCY RATE AS REPORTED IN ITS ANNUAL COST
26  REPORT.
27
28  SECTION 410. SCOPE OF REPORTING.
29
30  FOR PURPOSES OF REPORTING HEALTH CARE-ASSOCIATED INFECTIONS
31  TO THE COMMONWEALTH, ITS AGENCIES AND INDEPENDENT AGENCIES, THIS
32  CHAPTER SETS FORTH THE APPLICABLE CRITERIA TO BE UTILIZED BY
33  HEALTH CARE FACILITIES IN MAKING SUCH REPORTS. NOTHING IN THIS
34  ACT SHALL SUPERSEDE THE REQUIREMENTS SET FORTH IN THE ACT OF
35  APRIL 23, 1956 (1955 P.L.1510, NO.500), KNOWN AS THE DISEASE
36  PREVENTION AND CONTROL LAW OF 1955, AND THE REGULATIONS
SECTION 411. PENALTIES.

(A) VIOLATION OF HEALTH CARE FACILITIES ACT.--THE FAILURE OF A HEALTH CARE FACILITY TO REPORT HEALTH CARE-ASSOCIATED INFECTIONS AS REQUIRED BY SECTIONS 404 AND 405 OR THE FAILURE OF A HEALTH CARE FACILITY OR AMBULATORY SURGICAL FACILITY TO DEVELOP, IMPLEMENT AND COMPLY WITH ITS INFECTION CONTROL PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 403 SHALL BE A VIOLATION OF THE HEALTH CARE FACILITIES ACT.

(B) ADMINISTRATIVE PENALTY.--IN ADDITION TO ANY PENALTY THAT MAY BE IMPOSED UNDER THE HEALTH CARE FACILITIES ACT, A HEALTH CARE FACILITY WHICH NEGLIGENTLY FAILS TO REPORT A HEALTH CARE-ASSOCIATED INFECTION AS REQUIRED UNDER THIS CHAPTER MAY BE SUBJECT TO AN ADMINISTRATIVE PENALTY OF $1,000 PER DAY IMPOSED BY THE DEPARTMENT.

SECTION 2. THE ACT IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 6

LONG-TERM CARE NURSING FACILITIES

(RESERVED)

SECTION 3. THIS ACT SHALL TAKE EFFECT IN 30 DAYS.