

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 443 Session of 2009

INTRODUCED BY D. WHITE, PILEGGI, ALLOWAY, ERICKSON, ORIE, STACK
AND PIPPY, FEBRUARY 24, 2009

REFERRED TO BANKING AND INSURANCE, FEBRUARY 24, 2009

AN ACT

1 Establishing a system for payment or reduction in payment for
2 preventable serious adverse events within this Commonwealth;
3 and providing for the powers and duties of the Department of
4 Health and the Department of State.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Preventable
9 Serious Adverse Events Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Health care facility." A health care facility as defined
15 under section 802.1 of the act of July 19, 1979 (P.L.130, No.
16 48), known as the Health Care Facilities Act, or an entity
17 licensed as a hospital under the act of June 13, 1967 (P.L.31,
18 No.21), known as the Public Welfare Code.

19 "Health care provider." A health care facility or a person,

1 including a corporation, university or other educational
2 institution, licensed or approved by the Commonwealth to provide
3 health care or professional medical services as a physician, a
4 certified nurse midwife, a podiatrist, a certified registered
5 nurse practitioner, a physician assistant, a chiropractor, a
6 hospital, an ambulatory surgery center, a nursing home or a
7 birth center.

8 "Health payor." An individual or entity paying for health
9 services on behalf of another.

10 "Medical assistance." The Commonwealth's medical assistance
11 program established under the act of June 13, 1967 (P.L.31, No.
12 21), known as the Public Welfare Code.

13 "National Quality Forum." A not-for-profit membership
14 organization created to develop and implement a national
15 strategy for health care quality measurement and reporting.

16 "Preventable serious adverse event." An event that is within
17 the health care facility's control to avoid, but that occurs
18 because of an error or system failure, and results in a
19 patient's death, loss of body part, disfigurement, disability or
20 loss of bodily function lasting more than seven days or is still
21 present at the time of discharge from a health care facility.

22 Such events shall be within the list of reportable serious
23 events adopted by the National Quality Forum.

24 Section 3. Payment policy for preventable serious adverse
25 events.

26 (a) General rule.--Health care providers may not knowingly
27 seek payment from health payors, patients or the responsible
28 party of the patient for a preventable serious adverse event or
29 services required to correct or treat the problem created by an
30 event when the event occurred under their care or control.

1 (b) Refunds.--A health care provider who discovers that
2 payment has been sought for a preventable serious adverse event
3 or services required to correct or treat the problem created by
4 such an event shall immediately notify the health payor, patient
5 or the responsible party of the patient and shall refund any
6 payment received within 30 days of discovery or receipt of
7 payment, whichever is later.

8 (c) Liability.--A health care provider, in compliance with
9 this subsection, shall not constitute an acknowledgment or
10 admission of liability.

11 Section 4. Duties of Department of Health.

12 In accordance with the act of July 19, 1979 (P.L.130, No.48),
13 known as the Health Care Facilities Act, the Department of
14 Health shall be responsible for investigating patient complaints
15 regarding a health care facility that is seeking payment from
16 the patient for a preventable serious adverse event.

17 Section 5. Duties of Department of State.

18 The Department of State shall be responsible for
19 investigating patient complaints regarding a health care
20 provider that is not a health care facility that is seeking or
21 causing to be sought payment from the patient or responsible
22 party of the patient for a preventable serious adverse event.

23 Section 6. Applicability.

24 (a) Hospital medical assistance payment policy.--Nothing in
25 this act shall require the Department of Public Welfare to
26 alter, amend or reissue any payment policy for inpatient
27 hospitals relating to preventable serious adverse events that
28 was promulgated prior to the enactment of this act. Any
29 modifications of the Department of Public Welfare payment policy
30 issued after enactment of this act shall require a 60-day public

1 comment period.

2 (b) Contracts.--Nothing in this act shall prohibit a health
3 care provider and payor from establishing by contract a payment
4 policy associated with serious preventable adverse events,
5 including policies related to payment reductions or medical
6 review of any events on the National Quality Forum serious
7 reportable event list.

8 (c) Reporting.--Health care providers shall include all
9 applicable medical codes in making reports in compliance with
10 the act of July 8, 1986 (P.L.408, No.89), known as the Health
11 Care Cost Containment Act.

12 Section 7. Effective date.

13 This act shall take effect in 180 days.