

AMENDMENTS TO SENATE BILL NO. 968

Sponsor: REPRESENTATIVE DeLUCA

Printer's No. 1281

1 Amend Title, page 1, line 16, by removing the period after
2 "infection" and inserting
3 and for long-term care nursing facilities.

4 Amend Bill, page 2, lines 2 through 30; pages 3 through 18,
5 lines 1 through 30; page 19, lines 1 through 10, by striking out
6 all of said lines on said pages and inserting

7 Section 401. Scope.

8 This chapter relates to the reduction and prevention of
9 health care-associated infections.

10 Section 402. Definitions.

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

14 "Ambulatory surgical facility." An entity defined as an
15 ambulatory surgical facility under the act of July 19, 1979
16 (P.L.130, No.48), known as the Health Care Facilities Act.

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

21 "Authority." The Patient Safety Authority established under
22 this act.

23 "Centers for Disease Control and Prevention" or "CDC." The
24 United States Department of Health and Human Services Centers
25 for Disease Control and Prevention.

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

29 "Council." The Pennsylvania Health Care Cost Containment
30 Council established under the act of July 8, 1986 (P.L.408,
31 No.89), known as the Health Care Cost Containment Act.

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

33 "Fund." The Patient Safety Trust Fund as defined in section
34 305.

35 "Health care-associated infection." A localized or systemic
36 condition that results from an adverse reaction to the presence
37 of an infectious agent or its toxins that:

38 (1) occurs in a patient in a health care setting;

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

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

8 "Health Care Facilities Act." The act of July 19, 1979
9 (P.L.130, No.48), known as the Health Care Facilities Act.

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

13 "Health payor." An individual or entity providing a group
14 health, sickness or accident policy, subscriber contract or
15 program issued or provided by an entity, including any one of
16 the following:

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

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

21 (3) The act of December 29, 1972 (P.L.1701, No.364),
22 known as the Health Maintenance Organization Act.

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

26 (5) 40 Pa.C.S. Ch. 61 (relating to hospital plan
27 corporations).

28 (6) 40 Pa.C.S. Ch. 63 (relating to professional health
29 services plan corporations).

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

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

36 "Multidrug resistant organism" or "MDRO." Microorganisms,
37 predominantly bacteria, that are resistant to more than one
38 class of antimicrobial agents.

39 "National Healthcare Safety Network" or "NHSN." A secure
40 Internet-based data collection system managed by the Division of
41 Healthcare Quality Promotion at the Centers for Disease Control
42 and Prevention.

43 "Nationally recognized standards." Standards developed by
44 the Department of Health and Human Services Centers for Disease
45 Control and Prevention (CDC) and its National Healthcare Safety
46 Network.

47 "Nursing home." An entity licensed as a long-term care
48 nursing facility under the act of July 19, 1979 (P.L.130,
49 No.48), known as the Health Care Facilities Act.

50 "Surveillance system." An ongoing and comprehensive method
51 of measuring health status, outcomes and related processes of
52 care, analyzing data and providing information from data sources
53 within a health care facility to assist in reducing health care-
54 associated infections.

55 Section 403. Infection control plan.

56 (a) Development and compliance.--Within 120 days of the
57 effective date of this section, a health care facility and an
58 ambulatory surgical facility shall develop and implement an
59 internal infection control plan that shall be established for

1 the purpose of improving the health and safety of patients and
2 health care workers and shall include:

3 (1) A multidisciplinary committee including
4 representatives from each of the following, if applicable to
5 that specific health care facility:

6 (i) Medical staff that could include the chief
7 medical officer or the nursing home medical director.

8 (ii) Administration representatives that could
9 include the chief executive officer, the chief financial
10 officer or the nursing home administrator.

11 (iii) Laboratory personnel.

12 (iv) Nursing staff that could include a director of
13 nursing or a nursing supervisor.

14 (v) Pharmacy staff that could include the chief of
15 pharmacy.

16 (vi) Physical plant personnel.

17 (vii) A patient safety officer.

18 (viii) Members from the infection control team,
19 which could include an epidemiologist.

20 (ix) The community, except that these
21 representatives may not be an agent, employee or
22 contractor of the health care facility or ambulatory
23 surgical facility.

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

26 (3) Culture surveillance processes and policies.

27 (4) A system to identify and designate patients known to
28 be colonized or infected with MRSA or other MDRO that
29 includes:

30 (i) The procedures necessary for requiring cultures
31 and screenings for nursing home residents admitted to a
32 hospital.

33 (ii) The procedures for identifying other high-risk
34 patients admitted to the hospital who necessitate routine
35 cultures and screening.

36 (5) The procedures and protocols for staff who may have
37 had potential exposure to a patient or resident known to be
38 colonized or infected with MRSA or MDRO, including cultures
39 and screenings, prophylaxis and follow-up care.

40 (6) An outreach process for notifying a receiving health
41 care facility or an ambulatory surgical facility of any
42 patient known to be colonized prior to transfer within or
43 between facilities.

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

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

49 (ii) Intervention protocols based on evidence-based
50 standards.

51 (iii) Isolation procedures.

52 (iv) Physical plant operations related to infection
53 control.

54 (v) Appropriate use of antimicrobial agents.

55 (vi) Mandatory educational programs for personnel.

56 (vii) Fiscal and human resource requirements.

57 (8) The procedure for distribution of advisories issued
58 under section 405(b)(4) so as to ensure easy access in each
59 health care facility for all administrative staff, medical

1 personnel and health care workers.

2 (b) Department review.--No later than 14 days after
3 implementation of its infection control plan, a health care
4 facility and an ambulatory surgical facility shall submit the
5 plan to the department. The department shall review each health
6 care facility's and ambulatory surgical facility's infection
7 control plan to ensure compliance under the Health Care
8 Facilities Act and section 408(3). If, at any time, the
9 department finds that an infection control plan does not meet
10 the requirements of this chapter or any applicable laws, the
11 health care facility or ambulatory surgical facility shall
12 modify its plan to come into compliance.

13 (c) Notification.--Upon submission to the department of its
14 infection control plan, a health care facility and an ambulatory
15 surgical facility shall notify all health care workers, physical
16 plant personnel and medical staff of the facility of the
17 infection control plan. Compliance with the infection control
18 plan shall be enforced by the facility.
19 Section 404. Health care facility reporting.

20 (a) Nursing home reporting.--In addition to reporting
21 pursuant to the Health Care Facilities Act, a nursing home shall
22 also electronically report health care-associated infection data
23 to the department and the authority using nationally recognized
24 standards based on CDC definitions, provided that the data is
25 reported on a patient-specific basis in the form, with the time
26 for reporting and format as determined by the department and the
27 authority.

28 (b) Hospital reporting.--A hospital shall report health
29 care-associated infection data to the CDC and its National
30 Healthcare Safety Network no later than 180 days following the
31 effective date of this section. A hospital shall:

32 (1) Report all components as defined in the NHSN Manual,
33 Patient Safety Component Protocol, and any successor edition,
34 for all patients throughout the facility on a continuous
35 basis.

36 (2) Report patient-specific data to include, at a
37 minimum, patient identification number, gender and date of
38 birth. The patient identification number must be compatible
39 with the patient identifier on the uniform billing forms
40 submitted to the council.

41 (3) Report data on a monthly basis in accordance with
42 protocols defined in the NHSN Manual as updated by the CDC.

43 (4) Authorize the department, the authority and the
44 council to have access to the NHSN for facility-specific
45 reports of health care-associated infection data contained in
46 the NHSN database for purposes of viewing and analyzing that
47 data.

48 (c) Strategic assessments.--Each hospital, other than those
49 currently using a qualified electronic surveillance system,
50 shall by December 31, 2007, conduct a strategic assessment of
51 the utility and efficacy of implementing a qualified electronic
52 surveillance system pursuant to subsections (d) and (e) for the
53 purpose of improving infection control and prevention. The
54 assessment shall also include an examination of financial and
55 technological barriers to implementation of a qualified
56 electronic surveillance system pursuant to subsections (d) and
57 (e). The assessment shall be submitted to the department within
58 14 days of completion.

59 (d) Qualified electronic surveillance system.--A qualified

1 electronic surveillance system shall include the following
2 minimum elements:

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

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

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

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

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

19 (e) Electronic surveillance system implementation.--Except
20 as otherwise provided in this subsection, a hospital shall have
21 a qualified electronic surveillance system in place by December
22 31, 2008. The following apply:

23 (1) If a determination has been made under subsection
24 (c) that a qualified electronic surveillance system can be
25 implemented, the hospital shall comply with subsection (f)
26 until implementation.

27 (2) If a determination has been made under subsection
28 (c) that a qualified electronic surveillance system cannot be
29 implemented, by December 31, 2008, the hospital shall comply
30 with subsection (f) until such time as a qualified electronic
31 surveillance system is implemented.

32 (f) Surveillance system.--Until a hospital implements a
33 qualified electronic surveillance system, the facility shall use
34 a surveillance system that includes:

35 (1) A written plan of the elements of the surveillance
36 process to include, but not be limited to, definitions,
37 collection of surveillance data and reporting of information.

38 (2) Identification of personnel resources that will be
39 used in the surveillance process.

40 (3) Identification of information or technological
41 support needed to implement the surveillance system.

42 (4) A process for periodic evaluation and validation to
43 ensure accuracy of surveillance.

44 (g) Continued reporting.--Until hospitals begin reporting to
45 NHSN and have authorized access to the department, the authority
46 and the council, hospitals shall continue to meet reporting
47 requirements pursuant to Chapter 3 of this act and section 6 of
48 the act of July 8, 1986 (P.L.408, No.89), known as the Health
49 Care Cost Containment Act.
50 Section 405. Patient Safety Authority jurisdiction.

51 (a) Health care facility reports to authority.--The
52 occurrence of a health care-associated infection in a health
53 care facility shall be deemed a serious event, as defined in
54 section 302. The report to the authority shall also be subject
55 to all of the confidentiality protections set forth in section
56 311. The occurrence of a health care-associated infection shall
57 only constitute a serious event for hospitals if it meets the
58 criteria for reporting as defined by the current CDC and NHSN
59 Manual, Patient Safety Component Protocol and any successor

1 edition.

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

4 (1) Establishing, based on CDC definitions, uniform
5 definitions using nationally recognized standards for the
6 identification and reporting of health care-associated
7 infections by nursing homes.

8 (2) Publishing a notice in the Pennsylvania Bulletin
9 stating the uniform reporting requirements established
10 pursuant to this subsection and the effective date for the
11 commencement of required reporting by hospitals consistent
12 with this chapter, which, at a minimum, shall begin 120 days
13 after publication of the notice.

14 (3) Publishing a notice in the Pennsylvania Bulletin
15 stating the uniform reporting requirements established
16 pursuant to this subsection and section 404(a) and the
17 effective date for the commencement of required reporting by
18 nursing homes consistent with this chapter, which, at a
19 minimum, shall begin 120 days after publication of the
20 notice.

21 (4) Issuing advisories to health care facilities in a
22 manner similar to section 304(a)(7).

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

26 (6) Creating and conducting training programs for
27 infection control teams, health care workers and physical
28 plant personnel about the prevention and control of health
29 care-associated infections. Nothing in this act shall
30 preclude the authority from working with the department or
31 any organization in conducting these programs.

32 (7) Appointing an advisory panel of health care-
33 associated infection control experts, including at least one
34 representative of a not-for-profit nursing home, at least one
35 representative of a for-profit nursing home, at least one
36 representative of a county nursing home and at least two
37 representatives of a hospital, one of which must be from a
38 rural hospital, to assist in carrying out the requirements of
39 this chapter.

40 (c) Public comment.--Prior to publishing a notice under
41 subsection (b)(2) and (3), the authority shall solicit public
42 comments for at least 30 days. The authority shall respond to
43 the comments it receives during the 30-day public comment
44 period.

45 Section 406. Payment for performing routine cultures and
46 screenings.

47 The cost of routine cultures and screenings performed on
48 patients in compliance with a health care facility's and
49 ambulatory surgical facility's infection control plan shall be
50 considered a reimbursable cost to be paid by health payors and
51 medical assistance upon Federal approval. These costs shall be
52 subject to any copayment, coinsurance or deductible in amounts
53 imposed in any applicable policy issued by a health payor and to
54 any agreements between a health care facility, ambulatory
55 surgical facility and payor.

56 Section 407. Quality improvement payment.

57 (a) General rule.--Commencing on January 1, 2009, the
58 Department of Public Welfare in consultation with the department
59 shall make a quality improvement payment to a health care

1 facility that achieves at least a 10% reduction for that
2 facility in the total number of reported health care-associated
3 infections over the preceding year pursuant to section
4 408(7)(i). For calendar year 2010 and thereafter, the Department
5 of Public Welfare shall consult with the department to establish
6 appropriate percentage benchmarks for the reduction of health
7 care-associated infections in each health care facility in order
8 to be eligible for a payment pursuant to this section.

9 (b) Additional quality improvement payments.--Nothing in
10 this section shall prevent the Department of Public Welfare in
11 consultation with the department from providing additional
12 quality improvement payments to a health care facility that has
13 implemented a qualified electronic surveillance system and has
14 achieved or exceeded reductions in the total number of reported
15 health care-associated infections for that facility over the
16 preceding year as provided in subsection (a).

17 (c) Eligibility.--In addition to meeting the requirements
18 contained in this section, to be eligible for a quality
19 improvement payment, a health care facility must be in
20 compliance with health care-associated reporting requirements
21 contained in this act and the Health Care Facilities Act.

22 (d) Distribution of funds.--Funds for the purpose of
23 implementing this section shall be appropriated to the
24 Department of Public Welfare and distributed to eligible health
25 care facilities as set forth in this section. Quality
26 improvement payments to health care facilities shall be limited
27 to funds available for this purpose.

28 Section 408. Duties of Department of Health.

29 The department is responsible for the following:

30 (1) The development of a public health awareness
31 campaign on health care-associated infections to be known as
32 the Community Awareness Program. The program shall provide
33 information to the public on causes and symptoms of health
34 care-associated infections, diagnosis and treatment
35 prevention methods and the proper use of antimicrobial
36 agents.

37 (2) The consideration and determination of the
38 feasibility of establishing an active surveillance program
39 involving other entities, such as athletic teams or
40 correctional facilities for the purpose of identifying those
41 persons in the community that are colonized and at risk of
42 susceptibility to and transmission of MRSA bacteria.

43 (3) The review of each health care facility's and
44 ambulatory surgical facility's infection control plan. This
45 review shall be performed pursuant to the department's
46 authority under the Health Care Facilities Act and the
47 regulations promulgated thereunder.

48 (4) The development of recommendations and best
49 practices that implement and effectuate improved screenings
50 and cultures and other means for the reduction and
51 elimination of health care-associated infections.

52 (5) The development of recommendations regarding
53 evidence-based screening protocols for an individual with
54 MRSA and MDRO prior to admission to a hospital.

55 (6) The review of strategic assessments under section
56 404(c) and the provision of assistance to hospitals in
57 implementing a qualified electronic surveillance system
58 pursuant to the requirements of section 404(d) and (e).

59 (7) The development of a methodology, in consultation

1 with the authority and the council, for determining and
2 assessing the rate of health care-associated infections that
3 occur in health care facilities in this Commonwealth. This
4 methodology shall be used:

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

8 (ii) to compare health care-associated infection
9 rates among similar health care facilities within this
10 Commonwealth; and

11 (iii) to compare health care-associated infection
12 rates among similar health care facilities nationwide.

13 (8) The development, in consultation with the authority
14 and the council, of reasonable benchmarks to measure the
15 progress health care facilities make toward reducing health
16 care-associated infections. Beginning in 2010, all health
17 care facilities shall be measured against these benchmarks. A
18 health care facility with a rate of health care-associated
19 infections that does not meet the benchmark appropriate to
20 that type of facility shall be required to submit a plan of
21 correction to the department within 60 days of receiving
22 notification that the rate does not meet the benchmark. After
23 180 days, a facility that has not shown progress in reducing
24 its rate of infection shall consult with and obtain
25 department approval for a new plan of correction that
26 includes resources available to assist the health care
27 facility. After an additional 180 days, a facility that fails
28 to show progress in reducing its rate of infection may be
29 subject to action under the Health Care Facilities Act.

30 (9) Publishing a notice in the Pennsylvania Bulletin of
31 the specific benchmarks the department shall use to measure
32 the progress of health care facilities in reducing health
33 care-associated infections. Prior to publishing the notice,
34 the department shall seek public comments for at least 30
35 days. The department shall respond to the comments it
36 receives during the 30-day public comment period.

37 Section 409. Nursing home assessment to Patient Safety
38 Authority.

39 (a) Assessment.--Commencing July 1, 2008, each nursing home
40 shall pay the department a surcharge on its licensing fee as
41 necessary to provide sufficient revenues for the authority to
42 perform its responsibilities under this chapter. The total
43 annual assessment for all nursing homes shall not be more than
44 an aggregate amount of \$1,000,000. The department shall transfer
45 the total assessment amount to the fund within 30 days of
46 receipt.

47 (b) Base amount.--For each succeeding calendar year, the
48 authority shall determine the appropriate assessment amount and
49 the department shall assess each nursing home its proportionate
50 share of the authority's budget for its responsibilities under
51 this chapter. The total assessment amount shall not be more than
52 \$1,000,000 in fiscal year 2008-2009 and shall be increased
53 according to the Consumer Price Index in each succeeding fiscal
54 year.

55 (c) Expenditures.--Money appropriated to the fund under this
56 chapter shall be expended by the authority to implement this
57 chapter.

58 (d) Dissolution.--In the event that the fund is discontinued
59 or the authority is dissolved by operation of law, any balance

1 paid by nursing homes remaining in the fund, after deducting
2 administrative costs of liquidation, shall be returned to the
3 nursing homes in proportion to their financial contributions to
4 the fund in the preceding licensing period.

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

9 (f) Reimbursable cost.--Subject to Federal approval, the
10 annual assessment amount paid by a nursing home shall be a
11 reimbursable cost under the medical assistance program. The
12 Department of Public Welfare shall pay each nursing home, as a
13 separate, pass-through payment, an amount equal to the
14 assessment paid by a nursing home multiplied by the facility's
15 medical assistance occupancy rate as reported in its annual cost
16 report.

17 Section 410. Scope of reporting.

18 For purposes of reporting health care-associated infections
19 to the Commonwealth, its agencies and independent agencies, this
20 chapter sets forth the applicable criteria to be utilized by
21 health care facilities in making such reports. Nothing in this
22 act shall supersede the requirements set forth in the act of
23 April 23, 1956 (1955 P.L.1510, No.500), known as the Disease
24 Prevention and Control Law of 1955, and the regulations
25 promulgated thereunder.

26 Section 411. Penalties.

27 (a) Violation of Health Care Facilities Act.--The failure of
28 a health care facility to report health care-associated
29 infections as required by sections 404 and 405 or the failure of
30 a health care facility or ambulatory surgical facility to
31 develop, implement and comply with its infection control plan in
32 accordance with the requirements of section 403 shall be a
33 violation of the Health Care Facilities Act.

34 (b) Administrative penalty.--In addition to any penalty that
35 may be imposed under the Health Care Facilities Act, a health
36 care facility which negligently fails to report a health care-
37 associated infection as required under this chapter may be
38 subject to an administrative penalty of \$1,000 per day imposed
39 by the department.

40 Section 2. The act is amended by adding a chapter to read:

41 CHAPTER 6

42 LONG-TERM CARE NURSING FACILITIES

43 (Reserved)

44 Section 3. This act shall take effect in 30 days.