

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 96

Session of  
2005

INTRODUCED BY GEORGE, SATHER, DeWEESE, VEON, BARRAR, BEBKO-JONES, CALTAGIRONE, CORRIGAN, CURRY, EACHUS, FABRIZIO, FREEMAN, GRUCELA, HALUSKA, W. KELLER, LaGROTTA, LEDERER, McGEEHAN, MELIO, RUFFING, SCAVELLO, SHANER, SOLOBAY, SURRA, TANGRETTI, TIGUE, WALKO, WANSACZ AND WASHINGTON,  
JANUARY 25, 2005

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 25, 2005

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," further providing for powers and duties  
16 of the Patient Safety Authority and for reporting and  
17 notification.

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

20 Section 1. Section 304(a) of the act of March 20, 2002  
21 (P.L.154, No.13), known as the Medical Care Availability and  
22 Reduction of Error (Mcare) Act, is amended by adding a paragraph  
23 to read:

1 Section 304. Powers and duties.

2 (a) General rule.--The authority shall do all of the  
3 following:

4 \* \* \*

5 (9) Insure that within 12 months of the effective date  
6 of this paragraph, every Commonwealth licensing agency that  
7 licenses, permits, certifies or registers health care  
8 practitioners within this Commonwealth notifies the health  
9 care practitioners of the Statewide confidential, toll-free  
10 telephone line and the whistleblower protection provided  
11 through this act through already scheduled newsletters,  
12 annual notices and other mailings.

13 \* \* \*

14 Section 2. Section 308 of the act is amended to read:

15 Section 308. Reporting and notification.

16 (a) Reporting.--

17 (1) A health care worker who reasonably believes that a  
18 serious event or incident has occurred shall report the  
19 serious event or incident according to the patient safety  
20 plan of the medical facility unless the health care worker  
21 knows that a report has already been made. The report shall  
22 be made immediately or as soon thereafter as reasonably  
23 practicable, but in no event later than 24 hours after the  
24 occurrence or discovery of a serious event or incident.

25 (2) A health care worker who reasonably and in good  
26 faith believes that there exists a potential threat to  
27 patient safety or the safety or quality of care within the  
28 medical facility or in the delivery of health care services  
29 may report the potential threat according to the patient  
30 safety plan of the medical facility to the worker's employer

1 and to the appropriate government agencies.

2 (3) The authority shall establish and maintain a  
3 confidential, toll-free hotline for reports of medical errors  
4 or problems with the quality of patient care provided by a  
5 health care facility.

6 (b) Duty to notify patient.--A medical facility through an  
7 appropriate designee shall provide written notification to a  
8 patient affected by a serious event or, with the consent of the  
9 patient, to an available family member or designee within seven  
10 days of the occurrence or discovery of a serious event. If the  
11 patient is unable to give consent, the notification shall be  
12 given to an adult member of the immediate family. If an adult  
13 member of the immediate family cannot be identified or located,  
14 notification shall be given to the closest adult family member.  
15 For unemancipated patients who are under 18 years of age, the  
16 parent or guardian shall be notified in accordance with this  
17 subsection. The notification requirements of this subsection  
18 shall not be subject to the provisions of section 311(a).  
19 Notification under this subsection shall not constitute an  
20 acknowledgment or admission of liability.

21 (c) Liability.--A health care worker who reasonably and in  
22 good faith reports the occurrence of a serious event or incident  
23 or potential threat to patient safety or the safety or quality  
24 of care within the medical facility or in the delivery of health  
25 care services in accordance with subsection (a) or (b) shall not  
26 be subject to any retaliatory action for reporting the serious  
27 event or incident or potential threat to patient safety or the  
28 safety or quality of care within the medical facility or in the  
29 delivery of health care services and shall have the protections  
30 and remedies set forth in the act of December 12, 1986

1 (P.L.1559, No.169), known as the Whistleblower Law.

2 (d) Limitation.--

3 (1) Nothing in this section shall limit a medical  
4 facility's ability to take appropriate disciplinary action  
5 against a health care worker for failure to meet defined  
6 performance expectations or to take corrective action against  
7 a licensee for unprofessional conduct, including making false  
8 reports or failure to report serious events under this  
9 chapter.

10 (2) Any provision of a contract entered into with a  
11 health care worker that limits the worker's ability to make  
12 reports in good faith as described in subsection (a) or (b)  
13 or threaten any type of penalty for reporting in good faith  
14 as described in subsection (a) or (b) is against public  
15 policy and shall be considered void.

16 Section 3. This act shall take effect in 60 days.