

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1591 Session of
2005

INTRODUCED BY TANGRETTI, BIRMELIN, BOYD, CALTAGIRONE, CAPPELLI,
CAWLEY, DALEY, GRUCELA, HALUSKA, HARHAI, HUTCHINSON, JAMES,
S. MILLER, MUSTIO, SHANER, STABACK, STEIL, TIGUE, TRUE,
TURZAI, WILT, ADOLPH, BALDWIN, BELARDI, BELFANTI, BIANCUCCI,
BLAUM, CIVERA, CLYMER, CORRIGAN, COSTA, DALLY, DeLUCA,
DENLINGER, ELLIS, FABRIZIO, FLEAGLE, GEORGE, GERGELY,
HICKERNELL, KILLION, KOTIK, LEH, MAHER, MAITLAND, MARKOSEK,
McCALL, McNAUGHTON, MELIO, METCALFE, MICOZZIE, O'BRIEN,
PAYNE, PETRARCA, PETRONE, PYLE, REED, ROHRER, SAINATO,
SCAVELLO, R. STEVENSON, SURRA, WALKO AND ZUG, MAY 27, 2005

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, MAY 27, 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," extending patient safety standards to
16 certain abortion facilities.

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

19 Section 1. The definition of "medical facility" in section
20 302 of the act of March 20, 2002 (P.L.154, No.13), known as the

1 Medical Care Availability and Reduction of Error (Mcare) Act, is
2 amended and the section is amended by adding a definition to
3 read:

4 Section 302. Definitions.

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

8 "Abortion facility." A facility or medical facility as
9 defined in 18 Pa.C.S. § 3203 (relating to definitions) which is
10 subject to this chapter pursuant to section 315(b) or (c) and
11 which is not subject to licensure under the act of July 19, 1979
12 (P.L.130, No.48), known as the Health Care Facilities Act.

13 * * *

14 "Medical facility." An ambulatory surgical facility, birth
15 center [or], hospital or an abortion facility.

16 * * *

17 Section 2. Sections 305(c), 306(b), 310(a)(2), 311(f)(1) and
18 313(f) of the act are amended to read:

19 Section 305. Patient Safety Trust Fund.

20 * * *

21 (c) Assessment.--Commencing July 1, 2002, each medical
22 facility shall pay the department [a surcharge on its licensing
23 fee] an assessment as necessary to provide sufficient revenues
24 to operate the authority. The total assessment for all medical
25 facilities shall not exceed \$5,000,000. The department shall
26 transfer the total assessment amount to the fund within 30 days
27 of receipt.

28 * * *

29 Section 306. Department responsibilities.

30 * * *

1 (b) Department consideration.--The recommendations made to
2 medical facilities pursuant to subsection (a)(4) may be
3 considered by the department for licensure purposes under the
4 act of July 19, 1979 (P.L.130, No.48), known as the Health Care
5 Facilities Act, and, in the case of abortion facilities, and for
6 approval or revocation purposes pursuant to 28 Pa. Code § 29.43
7 (relating to facility approval), but shall not be considered
8 mandatory unless adopted by the department as regulations
9 pursuant to the act of June 25, 1982 (P.L.633, No.181), known as
10 the Regulatory Review Act.

11 Section 310. Patient safety committee.

12 (a) Composition.--

13 * * *

14 (2) An ambulatory surgical facility's, abortion
15 facility's or birth center's patient safety committee shall
16 be composed of the medical facility's patient safety officer
17 and at least one health care worker of the medical facility
18 and one resident of the community served by the ambulatory
19 surgical facility, abortion facility or birth center who is
20 not an agent, employee or contractor of the ambulatory
21 surgical facility, abortion facility or birth center. No more
22 than one member of the patient safety committee shall be a
23 member of the medical facility's board of governance. The
24 committee shall include members of the medical facility's
25 medical and nursing staff. The committee shall meet at least
26 quarterly.

27 * * *

28 Section 311. Confidentiality and compliance.

29 * * *

30 (f) Access.--

(1) The department shall have access to the information under section 313(a) or (c) and may use such information for the sole purpose of any licensure, approval or corrective action against a medical facility. This exemption to use the information received pursuant to section 313(a) or (c) shall only apply to licensure or corrective actions and shall not be utilized to permit the disclosure of any information obtained under section 313(a) or (c) for any other purpose.

* * *

Section 313. Medical facility reports and notifications.

* * *

(f) Failure to report or notify.--Failure to report a serious event or an infrastructure failure as required by this section or to develop and comply with the patient safety plan in accordance with section 307 or to notify the patient in accordance with section 308(b) shall be a violation of the Health Care Facilities Act[.] and, in the case of an abortion facility, may be a basis for revocation of approval pursuant to 28 Pa. Code § 29.43 (relating to facility approval). In addition to any penalty which may be imposed under the Health Care Facilities Act, or under 18 Pa.C.S. Ch. 32 (relating to abortion), a medical facility which fails to report a serious event or an infrastructure failure or to notify a licensure board in accordance with this chapter may be subject to an administrative penalty of \$1,000 per day imposed by the department.

* * *

Section 3. The act is amended by adding a section to read:
Section 315. Abortion facilities.

(a) General.--This section shall apply to abortion

1 facilities.

2 (b) Application during current year.--An abortion facility
3 that performs 100 or more abortions after the effective date of
4 this act during the calendar year in which this section takes
5 effect shall be subject to provisions of this chapter at the
6 beginning of the immediately following calendar year and during
7 each subsequent calendar year unless the facility gives the
8 department written notice that it will not be performing 100 or
9 more abortions during such following calendar year and does not
10 perform 100 or more abortion during that calendar year.

11 (c) Application in subsequent calendar years.--In the
12 calendar years following the effective date of this act, this
13 chapter shall apply to an abortion facility not subject to
14 subsection (b) on the day following the performance of its 100th
15 abortion and for the remainder of that calendar year and during
16 each subsequent calendar year unless the facility gives the
17 department written notice that it will not be performing 100 or
18 more abortions during such following calendar year and does not
19 perform 100 or more abortions during that calendar year.

20 (d) Patient safety plan.--An abortion facility shall submit
21 its patient safety plan under section 307(c) within 60 days
22 following the application of this chapter to the facility.

23 (e) Reporting.--An abortion facility shall begin reporting
24 serious events, incidents and infrastructure failures consistent
25 with the requirements of section 313 upon the submission of its
26 patient safety plan to the department.

27 (f) Construction.--Nothing in this chapter shall be
28 construed to limit the provisions of 18 Pa.C.S. Ch. 32 (relating
29 to abortion) or any regulation adopted under 18 Pa.C.S. Ch. 32.

30 Section 4. This act shall take effect in 60 days.