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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 968**      Session of  
2007

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INTRODUCED BY ERICKSON, PILEGGI, SCARNATI, WONDERLING, MADIGAN,  
McILHINNEY, MELLOW, TARTAGLIONE, WASHINGTON, ORIE, M. WHITE,  
MUSTO, KITCHEN, GORDNER, FOLMER, O'PAKE, PIPPY, TOMLINSON,  
RAFFERTY, VANCE, BAKER, C. WILLIAMS, D. WHITE, FERLO,  
FONTANA, GREENLEAF, STACK, BROWNE AND COSTA, JUNE 11, 2007

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JULY 12, 2007

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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:

1 CHAPTER 4

2 HEALTH CARE-ASSOCIATED INFECTIONS

3 ~~Section 401.—Scope.~~ <—

4 ~~This chapter relates to the reduction and prevention of~~  
5 ~~health care associated infections.~~

6 ~~Section 402.—Definitions.~~

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

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

14 ~~"Authority."—The Patient Safety Authority ESTABLISHED UNDER~~ <—  
15 ~~THIS CHAPTER.~~

16 ~~"CENTERS FOR DISEASE CONTROL AND PREVENTION" OR "CDC."—THE~~  
17 ~~UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES CENTERS~~  
18 ~~FOR DISEASE CONTROL AND PREVENTION.~~

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

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

25 ~~"Department."—The Department of Health of the Commonwealth.~~

26 ~~"Fund."—The Patient Safety Trust Fund as defined in section~~  
27 ~~305.~~

28 ~~"Health care associated infection."—A localized or systemic~~  
29 ~~condition that results from an adverse reaction to the presence~~  
30 ~~of an infectious agent or its toxins that:~~

1 ~~(1) occurs in a patient in a health care setting;~~  
2 ~~(2) was not present or incubating at the time of~~  
3 ~~admission, unless the infection was related to a previous~~  
4 ~~admission to the same setting; and~~

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

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

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

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

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

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

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

25 ~~(5) 40 Pa.C.S. Ch. 61 (relating to hospital plan~~  
26 ~~corporations).~~

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

29 ~~"MEDICAL ASSISTANCE." THE COMMONWEALTH'S MEDICAL ASSISTANCE~~ <—  
30 ~~PROGRAM ESTABLISHED UNDER THE ACT OF JUNE 13, 1967 (P.L.31,~~

1 ~~NO.21), KNOWN AS THE PUBLIC WELFARE CODE.~~

2 ~~"Medicare." The program established under section 1886 of~~  
3 ~~the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395ww).~~

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

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

10 ~~"NATIONAL HEALTHCARE SAFETY NETWORK" OR "NHSN." A SECURE~~ <—  
11 ~~INTERNET BASED DATA COLLECTION SYSTEM MANAGED BY THE DIVISION OF~~  
12 ~~HEALTHCARE QUALITY PROMOTION AT THE CENTERS FOR DISEASE CONTROL~~  
13 ~~AND PREVENTION.~~

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

22 ~~"SURVEILLANCE SYSTEM." A COMPREHENSIVE METHOD OF MEASURING~~ <—  
23 ~~HEALTH STATUS, OUTCOMES AND RELATED PROCESSES OF CARE, ANALYZING~~  
24 ~~DATA AND PROVIDING INFORMATION FROM A DATA SOURCE TO ASSIST IN~~  
25 ~~REDUCING HEALTH CARE ASSOCIATED INFECTIONS.~~

26 ~~Section 403. Infection control plan.~~

27 ~~(a) Development and compliance. Within 120 days of the~~  
28 ~~effective date of this section, a health care facility AS~~ <—  
29 ~~DEFINED UNDER SUBSECTION (D), shall develop and implement an~~  
30 ~~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.~~ <—

7 ~~(ii) Administration.~~

8 ~~(iii) Laboratory.~~

9 ~~(iv) Nursing.~~

10 ~~(v) Pharmacy.~~

11 ~~(vi) The community.~~

12 ~~(I) MEDICAL STAFF, INCLUDING A CHIEF MEDICAL OFFICER~~ <—

13 ~~OR NURSING HOME ADMINISTRATOR.~~

14 ~~(II) ADMINISTRATION, INCLUDING THE CHIEF EXECUTIVE~~  
15 ~~OFFICER AND THE CHIEF FINANCIAL OFFICER. FOR A NURSING~~  
16 ~~HOME, IT SHALL INCLUDE THE NURSING HOME ADMINISTRATOR.~~

17 ~~(III) LABORATORY PERSONNEL.~~

18 ~~(IV) NURSING, INCLUDING THE DIRECTOR OF NURSING.~~

19 ~~(V) PHARMACY, INCLUDING THE CHIEF OF PHARMACY.~~

20 ~~(VI) PHYSICAL PLANT PERSONNEL.~~

21 ~~(VII) A PATIENT SAFETY OFFICER.~~

22 ~~(VIII) MEMBERS FROM THE INFECTION CONTROL TEAM,~~  
23 ~~WHICH COULD INCLUDE A HOSPITAL EPIDEMIOLOGIST.~~

24 ~~(IX) THE COMMUNITY, EXCEPT THAT THESE~~  
25 ~~REPRESENTATIVES MAY NOT BE AN AGENT, EMPLOYEE OR~~  
26 ~~CONTRACTOR OF THE HEALTH CARE FACILITY.~~

27 ~~(2) Effective measures for the detection, control and~~  
28 ~~prevention of health care associated infections.~~

29 ~~(3) An active culture surveillance process and policies.~~

30 ~~(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~~ <—

~~(II) 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.~~

~~(8) 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~~

1 ~~MEETING THE REQUIREMENTS UNDER SECTION 403(A). THE DEPARTMENT~~  
2 ~~SHALL REVIEW THE PLAN WITHIN 180 DAYS OF RECEIPT OF THE~~  
3 ~~INFECTION CONTROL PLAN. IF THE DEPARTMENT DOES NOT APPROVE OR~~  
4 ~~DISAPPROVE OF THE INFECTION CONTROL PLAN WITHIN 180 DAYS OF~~  
5 ~~RECEIPT, THE INFECTION CONTROL PLAN SHALL BE PRESUMED TO MEET~~  
6 ~~THE REQUIREMENTS OF THIS ACT AND ALL APPLICABLE LAWS. IF, AT ANY~~  
7 ~~TIME, THE DEPARTMENT FINDS THAT AN INFECTION CONTROL PLAN DOES~~  
8 ~~NOT MEET THE REQUIREMENTS OF THIS ACT OR ANY APPLICABLE LAWS,~~  
9 ~~THE HEALTH CARE FACILITY SHALL CORRECT THE VIOLATION.~~

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

30 ~~SECTION 404. HEALTH CARE FACILITY REPORTING.~~



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

8 ~~(B) QUALIFIED ELECTRONIC SURVEILLANCE SYSTEMS. BY JANUARY~~  
9 ~~1, 2008, THE DEPARTMENT SHALL, IN CONSULTATION WITH THE~~  
10 ~~AUTHORITY AND THE COUNCIL, IDENTIFY QUALIFIED ELECTRONIC~~  
11 ~~SURVEILLANCE SYSTEMS, WHICH MAY BE USED BY A HEALTH CARE~~  
12 ~~FACILITY TO REPORT HEALTH CARE ASSOCIATED INFECTIONS TO THE~~  
13 ~~COUNCIL AND FOR USE BY THE FACILITY IN ITS HEALTH CARE~~  
14 ~~ASSOCIATED INFECTION CONTROL EFFORTS. QUALIFIED SYSTEMS SHALL~~  
15 ~~INCLUDE THE FOLLOWING MINIMUM ELEMENTS:~~

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

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

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

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

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

30 ~~(C) SURVEILLANCE. BY DECEMBER 31, 2008, A HEALTH CARE~~

1 ~~FACILITY MUST IMPLEMENT A QUALIFIED ELECTRONIC SURVEILLANCE~~  
2 ~~SYSTEM OR UNTIL SUCH TIME AS A HEALTH CARE FACILITY IMPLEMENTS A~~  
3 ~~QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM, THE FACILITY SHALL USE~~  
4 ~~A SURVEILLANCE SYSTEM THAT INCLUDES:~~

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

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

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

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

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

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

23 ~~Section 404 405. Patient Safety Authority jurisdiction.~~ <—

24 ~~(a) Health care facility reports to authority. The~~  
25 ~~occurrence of a health care associated infection in a health~~  
26 ~~care facility shall be deemed a serious event or incident, as~~  
27 ~~applicable, as defined in section 302 and shall be reported to~~  
28 ~~the authority within 24 hours of the health care facility's~~  
29 ~~confirmation of its occurrence. The report to the authority~~  
30 ~~shall be in a form and manner prescribed by the authority and~~

1 ~~shall not include the name of any patient or any other~~  
2 ~~identifiable individual information. The report to the authority~~  
3 ~~shall also be subject to all of the confidentiality protections~~  
4 ~~set forth in section 311.~~

5 ~~(b) Report submission. Subject to the notice and reporting~~  
6 ~~requirements set forth in subsection (c)(4), a health care~~  
7 ~~facility shall begin reporting health care associated infections~~  
8 ~~in its facility as serious events or incidents, consistent with~~  
9 ~~the requirements of this section and the provisions of Chapter~~  
10 ~~3.~~

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

13 ~~(1) Establishing uniform definitions based on nationally~~ ←  
14 ~~recognized standards for the identification and reporting of~~  
15 ~~health care associated infections.~~

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

22 ~~(i) to the authority pursuant to subsection (b);~~

23 ~~(ii) to the Health Care Cost Containment Council~~  
24 ~~pursuant to section 6(c)(7) of the act of July 8, 1986~~  
25 ~~(P.L. 408, No. 89), known as the Health Care Cost~~  
26 ~~Containment Act; and~~

27 ~~(iii) to any other State agency, including~~  
28 ~~independent State agencies.~~

29 ~~(3) Developing a methodology using nationally recognized~~  
30 ~~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.~~

~~Section 405 406. Payment for performing routine cultures and~~

1 screenings.

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

10 Section 406 407. Incentive payment. <—

11 (a) General rule. Commencing on January 1, 2009, a health  
12 care facility that achieves at least a 10% reduction for that  
13 facility in the total number of reported health care associated  
14 infections over the preceding year PURSUANT TO SECTION 408(7)(I) <—  
15 shall be eligible to receive an incentive payment. For calendar  
16 year 2010 and thereafter, the Department of Public Welfare shall  
17 consult with the authority DEPARTMENT to establish appropriate <—  
18 percentage benchmarks for the reduction of health care  
19 associated infections in EACH health care facilities in order to <—  
20 be eligible for an incentive payment pursuant to this section.

21 (B) ADDITIONAL INCENTIVE PAYMENTS. NOTHING IN THIS SECTION <—  
22 SHALL PREVENT THE DEPARTMENT OF PUBLIC WELFARE IN CONSULTATION  
23 WITH THE DEPARTMENT FROM PROVIDING ADDITIONAL INCENTIVE PAYMENTS  
24 TO A HEALTH CARE FACILITY THAT HAS IMPLEMENTED A QUALIFIED  
25 ELECTRONIC SURVEILLANCE SYSTEM AND ACHIEVES OR EXCEEDS THE  
26 REDUCTIONS IN THE TOTAL NUMBER OF REPORTED HEALTH CARE  
27 ASSOCIATED INFECTIONS ESTABLISHED IN SUBSECTION (A).

28 (C) ELIGIBILITY. IN ADDITION TO THE REQUIREMENTS CONTAINED  
29 IN THIS SECTION, TO BE ELIGIBLE FOR AN INCENTIVE PAYMENT UNDER  
30 THIS SECTION A HEALTH CARE FACILITY MUST BE IN COMPLIANCE WITH

1 ~~HEALTH CARE ASSOCIATED REPORTING REQUIREMENTS CONTAINED IN THIS~~  
2 ~~ACT AND THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN AS THE~~  
3 ~~HEALTH CARE COST CONTAINMENT ACT.~~

4 ~~(b) (D) Distribution of funds. Funds for the purpose of~~ <—  
5 ~~implementing this section shall be appropriated to the~~  
6 ~~Department of Public Welfare and distributed to eligible health~~  
7 ~~care facilities as set forth in this section. Incentive payments~~  
8 ~~to health care facilities shall be limited to funds available~~  
9 ~~for this purpose.~~

10 ~~Section 407-408. Duties of Department of Health.~~ <—

11 ~~The department is responsible for the following:~~

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

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

24 ~~(3) THE REVIEW OF EACH HEALTH CARE FACILITY'S INFECTION~~ <—  
25 ~~CONTROL PLAN DURING ITS REGULAR LICENSURE INSPECTION PROCESS~~  
26 ~~TO ENSURE COMPLIANCE WITH THIS CHAPTER. THIS REVIEW SHALL BE~~  
27 ~~PERFORMED PURSUANT TO THE DEPARTMENT'S AUTHORITY UNDER THE~~  
28 ~~HEALTH CARE FACILITIES ACT AND THE REGULATIONS PROMULGATED~~  
29 ~~THEREUNDER.~~

30 ~~(4) THE DEVELOPMENT OF RECOMMENDATIONS AND PRACTICES~~

1 ~~REGARDING BEST PRACTICES TO IMPLEMENT AND EFFECTUATE~~  
2 ~~SCREENING AND CULTURES CONSISTENT WITH THE PROVISIONS OF THIS~~  
3 ~~CHAPTER AND OTHER MEANS OF REDUCTION AND ELIMINATION OF~~  
4 ~~HEALTH CARE ASSOCIATED INFECTIONS AND HOW THESE~~  
5 ~~RECOMMENDATIONS AND PRACTICES MAY APPLY TO HEALTH CARE~~  
6 ~~FACILITIES.~~

7 ~~(5) THE DEVELOPMENT OF RECOMMENDATIONS REGARDING~~  
8 ~~EVIDENCE BASED SCREENING PROTOCOLS OF PATIENTS AND NURSING~~  
9 ~~HOME RESIDENTS FOR MRSA AND MDRO UPON ADMISSION AND DURING~~  
10 ~~THE INPATIENT PERIOD OR NURSING HOME STAY.~~

11 ~~(6) THE REVIEW OF STRATEGIC ASSESSMENTS UNDER SECTION~~  
12 ~~403(A)(9) AND OFFER OF ASSISTANCE TO HEALTH CARE FACILITIES~~  
13 ~~TO IMPLEMENT A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM~~  
14 ~~PURSUANT TO THE REQUIREMENTS OF SECTION 404(A) AND (B).~~

15 ~~(7) THE DEVELOPMENT OF A METHODOLOGY, IN CONSULTATION~~  
16 ~~WITH THE AUTHORITY AND THE COUNCIL, FOR DETERMINING AND~~  
17 ~~ASSESSING THE RATE OF HEALTH CARE ASSOCIATED INFECTIONS THAT~~  
18 ~~OCCUR IN HEALTH CARE FACILITIES IN THIS COMMONWEALTH. THIS~~  
19 ~~METHODOLOGY SHALL BE USED:~~

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

23 ~~(II) TO COMPARE HEALTH CARE ASSOCIATED INFECTION~~  
24 ~~RATES BETWEEN HEALTH CARE FACILITIES WITHIN THIS~~  
25 ~~COMMONWEALTH; AND~~

26 ~~(III) TO COMPARE HEALTH CARE ASSOCIATED INFECTION~~  
27 ~~RATES AMONG HEALTH CARE FACILITIES NATIONWIDE.~~

28 ~~(8) THE DEVELOPMENT, IN CONSULTATION WITH THE AUTHORITY~~  
29 ~~AND THE COUNCIL, OF REASONABLE BENCHMARKS AGAINST WHICH TO~~  
30 ~~MEASURE THE PROGRESS OF HEALTH CARE FACILITIES TO REDUCE~~

1 ~~HEALTH CARE ASSOCIATED INFECTIONS. ALL HEALTH CARE FACILITIES~~  
2 ~~SHALL BE MEASURED AGAINST THE BENCHMARKS. THOSE HEALTH CARE~~  
3 ~~FACILITIES WITH RATES OF HEALTH CARE ASSOCIATED INFECTIONS~~  
4 ~~THAT ARE ABOVE THE BENCHMARK SHALL BE REQUIRED TO SUBMIT A~~  
5 ~~PLAN OF REMEDIATION TO THE DEPARTMENT WITHIN 60 DAYS AFTER~~  
6 ~~BEING NOTIFIED OF MISSING THE STANDARD. IF AFTER 180 DAYS,~~  
7 ~~THE FACILITY HAS NOT SHOWN PROGRESS IN REDUCING RATES OF~~  
8 ~~INFECTIONS, THE FACILITY IS REQUIRED TO CONSULT WITH THE~~  
9 ~~DEPARTMENT TO DEVELOP A NEW PLAN OF REMEDIATION TO BE~~  
10 ~~APPROVED BY THE DEPARTMENT THAT SHALL INCLUDE A LIST OF~~  
11 ~~RESOURCES AVAILABLE TO ASSIST THE HEALTH CARE FACILITY. IF~~  
12 ~~AFTER AN ADDITIONAL 180 DAYS THE FACILITY CONTINUES TO FAIL~~  
13 ~~TO SHOW PROGRESS IN LOWERING ITS RATES OF INFECTION, THE~~  
14 ~~DEPARTMENT MAY TAKE ACTION PURSUANT TO THE HEALTH CARE~~  
15 ~~FACILITIES ACT.~~

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

20 ~~(10) PUBLISH A NOTICE IN THE PENNSYLVANIA BULLETIN OF~~  
21 ~~THE UNIFORM REPORTING REQUIREMENTS ESTABLISHED UNDER SECTION~~  
22 ~~404(A), INCLUDING FORM, TIME FOR REPORTING AND FORMAT, FOR~~  
23 ~~HEALTH CARE ASSOCIATED INFECTIONS. THESE REQUIREMENTS SHALL~~  
24 ~~APPLY AND BE UTILIZED FOR ALL REPORTS, EXCEPT THOSE REQUIRED~~  
25 ~~UNDER SECTION 405, MADE TO THE DEPARTMENT, THE COUNCIL AND~~  
26 ~~THE AUTHORITY. THE REPORTING REQUIREMENTS CONTAINED IN~~  
27 ~~SECTION 6 OF THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN~~  
28 ~~AS THE HEALTH CARE COST CONTAINMENT ACT, SHALL CONTINUE TO~~  
29 ~~REMAIN IN EFFECT AS THEY RELATE TO HEALTH CARE ASSOCIATED~~  
30 ~~INFECTIONS UNTIL 120 DAYS AFTER PUBLICATION OF THE NOTICE.~~



1 ~~Section 408 409. Nursing home assessment to Patient Safety~~ <—

2 ~~Authority.~~

3 ~~(a) Assessment. Commencing January JULY 1, 2008, each~~ <—

4 ~~nursing home shall pay the department a surcharge on its~~  
5 ~~licensing fee as necessary to provide sufficient revenues to~~  
6 ~~operate the authority for its responsibilities under this~~  
7 ~~chapter. The total annual assessment for all nursing homes shall~~  
8 ~~not be more than an aggregate amount of \$1,000,000. The~~  
9 ~~department shall transfer the total assessment amount to the~~  
10 ~~fund within 30 days of receipt.~~

11 ~~(b) Base amount. For each succeeding calendar year, the~~  
12 ~~authority shall determine the appropriate assessment amount and~~  
13 ~~the department shall assess each nursing home its proportionate~~  
14 ~~share of the authority's budget for its responsibilities under~~  
15 ~~this chapter. The total assessment amount shall not be more than~~  
16 ~~\$1,000,000 in fiscal year 2007 2008 2008 2009 and shall be~~ <—  
17 ~~increased according to the Consumer Price Index in each~~  
18 ~~succeeding fiscal year.~~

19 ~~(c) Expenditures. Money appropriated to the fund under this~~  
20 ~~chapter shall be expended by the authority to implement this~~  
21 ~~chapter.~~

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

28 ~~(e) Failure to pay surcharge. If after 30 days' notice a~~  
29 ~~nursing home fails to pay a surcharge levied by the department~~  
30 ~~under this chapter, the department may assess an administrative~~

1 ~~penalty of \$1,000 per day until the surcharge is paid.~~

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

10 ~~Section 409 410. Scope of reporting.~~ <—

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

19 ~~Section 410 411. Penalties.~~ <—

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

28 ~~(b) Administrative penalty. In addition to any penalty that~~  
29 ~~may be imposed under the Health Care Facilities Act or under 18~~  
30 ~~Pa.C.S. Ch. 32 (relating to abortion), a health care facility~~

1 ~~which fails to report a health care associated infection as a~~  
2 ~~serious event or incident may be subject to an administrative~~  
3 ~~penalty of \$1,000 per day imposed by the department.~~

4 ~~Section 2. This act shall take effect in 30 days.~~ <—

5 ~~SECTION 2. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:~~ <—

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

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

9 ~~(3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.~~

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

12 SECTION 401. SCOPE. <—

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

15 SECTION 402. DEFINITIONS.

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

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

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

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

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

1 "COLONIZATION." THE FIRST STAGE OF MICROBIAL INFECTION OR  
2 THE PRESENCE OF NONREPLICATING MICROORGANISMS USUALLY PRESENT IN  
3 HOST TISSUES THAT ARE IN CONTACT WITH THE EXTERNAL ENVIRONMENT.

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

7 "DEPARTMENT." THE DEPARTMENT OF HEALTH OF THE COMMONWEALTH.

8 "FUND." THE PATIENT SAFETY TRUST FUND AS DEFINED IN SECTION  
9 305.

10 "HEALTH CARE-ASSOCIATED INFECTION." A LOCALIZED OR SYSTEMIC  
11 CONDITION THAT RESULTS FROM AN ADVERSE REACTION TO THE PRESENCE  
12 OF AN INFECTIOUS AGENT OR ITS TOXINS THAT:

13 (1) OCCURS IN A PATIENT IN A HEALTH CARE SETTING;

14 (2) WAS NOT PRESENT OR INCUBATING AT THE TIME OF  
15 ADMISSION, UNLESS THE INFECTION WAS RELATED TO A PREVIOUS  
16 ADMISSION TO THE SAME SETTING; AND

17 (3) IF OCCURRING IN A HOSPITAL SETTING, MEETS THE  
18 CRITERIA FOR A SPECIFIC INFECTION SITE AS DEFINED BY THE  
19 CENTERS FOR DISEASE CONTROL AND PREVENTION AND ITS NATIONAL  
20 HEALTH CARE SAFETY NETWORK.

21 "HEALTH CARE FACILITIES ACT." THE ACT OF JULY 19, 1979  
22 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT.

23 "HEALTH CARE FACILITY." A HOSPITAL OR NURSING HOME LICENSED  
24 OR OTHERWISE REGULATED TO PROVIDE HEALTH CARE SERVICES UNDER THE  
25 LAWS OF THIS COMMONWEALTH.

26 "HEALTH PAYOR." AN INDIVIDUAL OR ENTITY PROVIDING A GROUP  
27 HEALTH, SICKNESS OR ACCIDENT POLICY, SUBSCRIBER CONTRACT OR  
28 PROGRAM ISSUED OR PROVIDED BY AN ENTITY, INCLUDING ANY ONE OF  
29 THE FOLLOWING:

30 (1) THE ACT OF JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS

1 THE WORKERS' COMPENSATION ACT.

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

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

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

9 (5) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN  
10 CORPORATIONS).

11 (6) 40 PA.C.S. CH. 63 (RELATING TO PROFESSIONAL HEALTH  
12 SERVICES PLAN CORPORATIONS).

13 "MEDICAL ASSISTANCE." THE COMMONWEALTH'S MEDICAL ASSISTANCE  
14 PROGRAM ESTABLISHED UNDER THE ACT OF JUNE 13, 1967 (P.L.31,  
15 NO.21), KNOWN AS THE PUBLIC WELFARE CODE.

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

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

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

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

30 "NURSING HOME." AN ENTITY LICENSED AS A LONG-TERM CARE

1 NURSING FACILITY UNDER THE ACT OF JULY 19, 1979 (P.L.130,  
2 NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT.

3 "SURVEILLANCE SYSTEM." AN ONGOING AND COMPREHENSIVE METHOD  
4 OF MEASURING HEALTH STATUS, OUTCOMES AND RELATED PROCESSES OF  
5 CARE, ANALYZING DATA AND PROVIDING INFORMATION FROM DATA SOURCES  
6 WITHIN A HEALTH CARE FACILITY TO ASSIST IN REDUCING HEALTH CARE-  
7 ASSOCIATED INFECTIONS.

8 SECTION 403. INFECTION CONTROL PLAN.

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

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

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

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

23 (III) LABORATORY PERSONNEL.

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

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

28 (VI) PHYSICAL PLANT PERSONNEL.

29 (VII) A PATIENT SAFETY OFFICER.

30 (VIII) MEMBERS FROM THE INFECTION CONTROL TEAM,

1           WHICH COULD INCLUDE AN EPIDEMIOLOGIST.

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

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

8           (3) CULTURE SURVEILLANCE PROCESSES AND POLICIES.

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

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

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

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

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

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

28           (I) INFECTION CONTROL PRECAUTIONS, BASED ON  
29           NATIONALLY RECOGNIZED STANDARDS, FOR GENERAL SURVEILLANCE  
30           OF INFECTED OR COLONIZED PATIENTS.

1           (II) INTERVENTION PROTOCOLS BASED ON EVIDENCE-BASED  
2           STANDARDS.

3           (III) ISOLATION PROCEDURES.

4           (IV) PHYSICAL PLANT OPERATIONS RELATED TO INFECTION  
5           CONTROL.

6           (V) APPROPRIATE USE OF ANTIMICROBIAL AGENTS.

7           (VI) MANDATORY EDUCATIONAL PROGRAMS FOR PERSONNEL.

8           (VII) FISCAL AND HUMAN RESOURCE REQUIREMENTS.

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

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

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

30          SECTION 404. HEALTH CARE FACILITY REPORTING.



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

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

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

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

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

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

29       (C) STRATEGIC ASSESSMENTS.--EACH HOSPITAL, OTHER THAN THOSE  
30 CURRENTLY USING A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM,

1 SHALL BY DECEMBER 31, 2007, CONDUCT A STRATEGIC ASSESSMENT OF  
2 THE UTILITY AND EFFICACY OF IMPLEMENTING A QUALIFIED ELECTRONIC  
3 SURVEILLANCE SYSTEM PURSUANT TO SUBSECTIONS (D) AND (E) FOR THE  
4 PURPOSE OF IMPROVING INFECTION CONTROL AND PREVENTION. THE  
5 ASSESSMENT SHALL ALSO INCLUDE AN EXAMINATION OF FINANCIAL AND  
6 TECHNOLOGICAL BARRIERS TO IMPLEMENTATION OF A QUALIFIED  
7 ELECTRONIC SURVEILLANCE SYSTEM PURSUANT TO SUBSECTIONS (D) AND  
8 (E). THE ASSESSMENT SHALL BE SUBMITTED TO THE DEPARTMENT WITHIN  
9 14 DAYS OF COMPLETION.

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

13 (1) EXTRACTIONS OF EXISTING ELECTRONIC CLINICAL DATA  
14 FROM HEALTH CARE FACILITY SYSTEMS ON AN ONGOING, CONSTANT AND  
15 CONSISTENT BASIS.

16 (2) TRANSLATION OF NONSTANDARDIZED LABORATORY, PHARMACY  
17 AND/OR RADIOLOGY DATA INTO UNIFORM INFORMATION THAT CAN BE  
18 ANALYZED ON A POPULATION-WIDE BASIS.

19 (3) CLINICAL SUPPORT, EDUCATIONAL TOOLS AND TRAINING TO  
20 ENSURE THAT INFORMATION PROVIDED UNDER THIS SUBSECTION WILL  
21 ASSIST THE HOSPITAL IN REDUCING THE INCIDENCE OF HEALTH CARE-  
22 ASSOCIATED INFECTIONS IN A MANNER THAT MEETS OR EXCEEDS  
23 BENCHMARKS.

24 (4) CLINICAL IMPROVEMENT MEASUREMENTS DESIGNED TO  
25 PROVIDE POSITIVE AND NEGATIVE FEEDBACK TO HEALTH CARE  
26 FACILITY INFECTION CONTROL STAFF.

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

29 (E) ELECTRONIC SURVEILLANCE SYSTEM IMPLEMENTATION.--EXCEPT  
30 AS OTHERWISE PROVIDED IN THIS SUBSECTION, A HOSPITAL SHALL HAVE

1 A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM IN PLACE BY DECEMBER  
2 31, 2008. THE FOLLOWING APPLY:

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

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

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

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

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

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

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

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

30 SECTION 405. PATIENT SAFETY AUTHORITY JURISDICTION.

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

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

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

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

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

30           (4) ISSUING ADVISORIES TO HEALTH CARE FACILITIES IN A

1 MANNER SIMILAR TO SECTION 304(A)(7).

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

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

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

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

24 SECTION 406. PAYMENT FOR PERFORMING ROUTINE CULTURES AND  
25 SCREENINGS.

26 THE COST OF ROUTINE CULTURES AND SCREENINGS PERFORMED ON  
27 PATIENTS IN COMPLIANCE WITH A HEALTH CARE FACILITY'S AND  
28 AMBULATORY SURGICAL FACILITY'S INFECTION CONTROL PLAN SHALL BE  
29 CONSIDERED A REIMBURSABLE COST TO BE PAID BY HEALTH PAYORS AND  
30 MEDICAL ASSISTANCE UPON FEDERAL APPROVAL. THESE COSTS SHALL BE

1 SUBJECT TO ANY COPAYMENT, COINSURANCE OR DEDUCTIBLE IN AMOUNTS  
2 IMPOSED IN ANY APPLICABLE POLICY ISSUED BY A HEALTH PAYOR AND TO  
3 ANY AGREEMENTS BETWEEN A HEALTH CARE FACILITY, AMBULATORY  
4 SURGICAL FACILITY AND PAYOR.

5 SECTION 407. QUALITY IMPROVEMENT PAYMENT.

6 (A) GENERAL RULE.--COMMENCING ON JANUARY 1, 2009, THE  
7 DEPARTMENT OF PUBLIC WELFARE IN CONSULTATION WITH THE DEPARTMENT  
8 SHALL MAKE A QUALITY IMPROVEMENT PAYMENT TO A HEALTH CARE  
9 FACILITY THAT ACHIEVES AT LEAST A 10% REDUCTION FOR THAT  
10 FACILITY IN THE TOTAL NUMBER OF REPORTED HEALTH CARE-ASSOCIATED  
11 INFECTIONS OVER THE PRECEDING YEAR PURSUANT TO SECTION  
12 408(7)(I). FOR CALENDAR YEAR 2010 AND THEREAFTER, THE DEPARTMENT  
13 OF PUBLIC WELFARE SHALL CONSULT WITH THE DEPARTMENT TO ESTABLISH  
14 APPROPRIATE PERCENTAGE BENCHMARKS FOR THE REDUCTION OF HEALTH  
15 CARE-ASSOCIATED INFECTIONS IN EACH HEALTH CARE FACILITY IN ORDER  
16 TO BE ELIGIBLE FOR A PAYMENT PURSUANT TO THIS SECTION.

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

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

30 (D) DISTRIBUTION OF FUNDS.--FUNDS FOR THE PURPOSE OF

1 IMPLEMENTING THIS SECTION SHALL BE APPROPRIATED TO THE  
2 DEPARTMENT OF PUBLIC WELFARE AND DISTRIBUTED TO ELIGIBLE HEALTH  
3 CARE FACILITIES AS SET FORTH IN THIS SECTION. QUALITY  
4 IMPROVEMENT PAYMENTS TO HEALTH CARE FACILITIES SHALL BE LIMITED  
5 TO FUNDS AVAILABLE FOR THIS PURPOSE.

6 SECTION 408. DUTIES OF DEPARTMENT OF HEALTH.

7 THE DEPARTMENT IS RESPONSIBLE FOR THE FOLLOWING:

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

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

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

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

30 (5) THE DEVELOPMENT OF RECOMMENDATIONS REGARDING

1 EVIDENCE-BASED SCREENING PROTOCOLS FOR AN INDIVIDUAL WITH  
2 MRSA AND MDRO PRIOR TO ADMISSION TO A HOSPITAL.

3 (6) THE REVIEW OF STRATEGIC ASSESSMENTS UNDER SECTION  
4 404(C) AND THE PROVISION OF ASSISTANCE TO HOSPITALS IN  
5 IMPLEMENTING A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM  
6 PURSUANT TO THE REQUIREMENTS OF SECTION 404(D) AND (E).

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

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

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

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

20 (8) THE DEVELOPMENT, IN CONSULTATION WITH THE AUTHORITY  
21 AND THE COUNCIL, OF REASONABLE BENCHMARKS TO MEASURE THE  
22 PROGRESS HEALTH CARE FACILITIES MAKE TOWARD REDUCING HEALTH  
23 CARE-ASSOCIATED INFECTIONS. BEGINNING IN 2010, ALL HEALTH  
24 CARE FACILITIES SHALL BE MEASURED AGAINST THESE BENCHMARKS. A  
25 HEALTH CARE FACILITY WITH A RATE OF HEALTH CARE-ASSOCIATED  
26 INFECTIONS THAT DOES NOT MEET THE BENCHMARK APPROPRIATE TO  
27 THAT TYPE OF FACILITY SHALL BE REQUIRED TO SUBMIT A PLAN OF  
28 CORRECTION TO THE DEPARTMENT WITHIN 60 DAYS OF RECEIVING  
29 NOTIFICATION THAT THE RATE DOES NOT MEET THE BENCHMARK. AFTER  
30 180 DAYS, A FACILITY THAT HAS NOT SHOWN PROGRESS IN REDUCING



1 ITS RATE OF INFECTION SHALL CONSULT WITH AND OBTAIN  
2 DEPARTMENT APPROVAL FOR A NEW PLAN OF CORRECTION THAT  
3 INCLUDES RESOURCES AVAILABLE TO ASSIST THE HEALTH CARE  
4 FACILITY. AFTER AN ADDITIONAL 180 DAYS, A FACILITY THAT FAILS  
5 TO SHOW PROGRESS IN REDUCING ITS RATE OF INFECTION MAY BE  
6 SUBJECT TO ACTION UNDER THE HEALTH CARE FACILITIES ACT.

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

14 SECTION 409. NURSING HOME ASSESSMENT TO PATIENT SAFETY  
15 AUTHORITY.

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

24 (B) BASE AMOUNT.--FOR EACH SUCCEEDING CALENDAR YEAR, THE  
25 AUTHORITY SHALL DETERMINE THE APPROPRIATE ASSESSMENT AMOUNT AND  
26 THE DEPARTMENT SHALL ASSESS EACH NURSING HOME ITS PROPORTIONATE  
27 SHARE OF THE AUTHORITY'S BUDGET FOR ITS RESPONSIBILITIES UNDER  
28 THIS CHAPTER. THE TOTAL ASSESSMENT AMOUNT SHALL NOT BE MORE THAN  
29 \$1,000,000 IN FISCAL YEAR 2008-2009 AND SHALL BE INCREASED  
30 ACCORDING TO THE CONSUMER PRICE INDEX IN EACH SUCCEEDING FISCAL

1 YEAR.

2 (C) EXPENDITURES.--MONEY APPROPRIATED TO THE FUND UNDER THIS  
3 CHAPTER SHALL BE EXPENDED BY THE AUTHORITY TO IMPLEMENT THIS  
4 CHAPTER.

5 (D) DISSOLUTION.--IN THE EVENT THAT THE FUND IS DISCONTINUED  
6 OR THE AUTHORITY IS DISSOLVED BY OPERATION OF LAW, ANY BALANCE  
7 PAID BY NURSING HOMES REMAINING IN THE FUND, AFTER DEDUCTING  
8 ADMINISTRATIVE COSTS OF LIQUIDATION, SHALL BE RETURNED TO THE  
9 NURSING HOMES IN PROPORTION TO THEIR FINANCIAL CONTRIBUTIONS TO  
10 THE FUND IN THE PRECEDING LICENSING PERIOD.

11 (E) FAILURE TO PAY SURCHARGE.--IF AFTER 30 DAYS' NOTICE A  
12 NURSING HOME FAILS TO PAY A SURCHARGE LEVIED BY THE DEPARTMENT  
13 UNDER THIS CHAPTER, THE DEPARTMENT MAY ASSESS AN ADMINISTRATIVE  
14 PENALTY OF \$1,000 PER DAY UNTIL THE SURCHARGE IS PAID.

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

23 SECTION 410. SCOPE OF REPORTING.

24 FOR PURPOSES OF REPORTING HEALTH CARE-ASSOCIATED INFECTIONS  
25 TO THE COMMONWEALTH, ITS AGENCIES AND INDEPENDENT AGENCIES, THIS  
26 CHAPTER SETS FORTH THE APPLICABLE CRITERIA TO BE UTILIZED BY  
27 HEALTH CARE FACILITIES IN MAKING SUCH REPORTS. NOTHING IN THIS  
28 ACT SHALL SUPERSEDE THE REQUIREMENTS SET FORTH IN THE ACT OF  
29 APRIL 23, 1956 (1955 P.L.1510, NO.500), KNOWN AS THE DISEASE  
30 PREVENTION AND CONTROL LAW OF 1955, AND THE REGULATIONS

1 PROMULGATED THEREUNDER.

2 SECTION 411. PENALTIES.

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

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

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

17 CHAPTER 6

18 LONG-TERM CARE NURSING FACILITIES

19 (RESERVED)

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