

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1928 Session of 2011

INTRODUCED BY AUMENT, BAKER, BEAR, BLOOM, BOYD, R. BROWN, CLYMER, COX, CREIGHTON, CUTLER, DENLINGER, GILLEN, GINGRICH, GRELL, GROVE, HESS, KAUFFMAN, KILLION, KNOWLES, LAWRENCE, METCALFE, METZGAR, RAPP, ROAE, SACCONI, STERN, SWANGER, TURZAI AND VULAKOVICH, OCTOBER 24, 2011

REFERRED TO COMMITTEE ON INSURANCE, OCTOBER 24, 2011

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 medical facility
 16 reports and notifications, for definitions and for penalties;
 17 and providing for abortion facilities.

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

20 Section 1. Section 313(f) 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, amended May 1, 2006 (P.L.103,
 23 No.30), is amended to read:

24 Section 313. Medical facility reports and notifications.

1 * * *

2 (f) Failure to report or notify.--Failure to report a
3 serious event or an infrastructure failure as required by this
4 section or to develop and comply with the patient safety plan in
5 accordance with section 307 or to notify the patient in
6 accordance with section 308(b) shall be a violation of the
7 Health Care Facilities Act and, in the case of an abortion
8 facility, may be a basis for revocation of approval pursuant to
9 28 Pa. Code § 29.43 (relating to facility approval). In addition
10 to any penalty which may be imposed under the Health Care
11 Facilities Act or under 18 Pa.C.S. Ch. 32 (relating to
12 abortion), a medical facility which fails to report a serious
13 event or an infrastructure failure or to notify a licensure
14 board in accordance with this chapter may be subject to an
15 administrative penalty of [\$1,000] \$2,500 per day imposed by the
16 department.

17 * * *

18 Section 2. Section 402 of the act is amended by adding a
19 definition to read:

20 Section 402. Definitions.

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

24 "Abortion facility." A facility or medical facility as
25 defined in 18 Pa.C.S. § 3203 (relating to definitions) which is
26 subject to this chapter under section 412.

27 * * *

28 Section 3. Section 411 of the act, added July 20, 2007
29 (P.L.331, No.52), is amended to read:

30 Section 411. Penalties.

1 (a) Violation of Health Care Facilities Act.--The failure of
2 a health care facility to report health care-associated
3 infections as required by sections 404 and 405 or the failure of
4 a health care facility [or], ambulatory surgical facility or
5 abortion facility to develop, implement and comply with its
6 infection control plan in accordance with the requirements of
7 section 403 shall be a violation of the Health Care Facilities
8 Act.

9 (b) Administrative penalty.--In addition to any penalty that
10 may be imposed under the Health Care Facilities Act, a health
11 care facility which negligently fails to report a health care-
12 associated infection as required under this chapter may be
13 subject to an administrative penalty of [\$1,000] \$2,500 per day
14 imposed by the department.

15 Section 4. The act is amended by adding a section to read:
16 Section 412. Abortion facilities.

17 (a) General applicability.--This section shall apply to
18 abortion facilities.

19 (b) Application during current year.--An abortion facility
20 that performs 100 or more abortions after the effective date of
21 this act during the calendar year in which this section takes
22 effect shall be subject to the provisions of this chapter at the
23 beginning of the immediately following calendar year and during
24 each subsequent calendar year unless the facility gives the
25 department written notice that it will not be performing 100 or
26 more abortions during the following calendar year and does not
27 perform 100 or more abortions during that calendar year.

28 (c) Application in subsequent calendar years.--In the
29 calendar years following the effective date of this act, this
30 chapter shall apply to an abortion facility not subject to

1 subsection (b) on the day following the performance of its 100th
2 abortion and for the remainder of that calendar year and during
3 each subsequent calendar year unless the facility gives the
4 department written notice that it will not be performing 100 or
5 more abortions during the following calendar year and does not
6 perform 100 or more abortions during that calendar year.

7 (d) Infection control plan.--An abortion facility shall
8 submit its infection control plan under section 403(a) within 60
9 days following the application of this chapter to the facility.

10 (e) Reporting.--An abortion facility shall begin reporting
11 the occurrence of any health care-associated infection
12 consistent with the requirements of section 405 upon the
13 submission of its infection control plan to the department.

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

17 Section 5. This act shall take effect in 60 days.