

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 12

Session of
2007

INTRODUCED BY STACK, MELLOW, TARTAGLIONE, FONTANA, O'PAKE,
BOSCOLA, WASHINGTON, MUSTO, WOZNIAK, KASUNIC, LAVALLE,
C. WILLIAMS, HUGHES, DINNIMAN AND KITCHEN, MAY 2, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, MAY 2, 2007

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, providing for quality of care and healthy
3 lifestyles.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 40 of the Pennsylvania Consolidated
7 Statutes is amended by adding a part to read:

8 PART IV

9 HEALTH CARE REFORM

10 Chapter

11 71. (Reserved)

12 72. (Reserved)

13 73. (Reserved)

14 74. Quality of Care and Healthy Lifestyles

15 75. Miscellaneous Provisions

16 CHAPTER 71

17 (RESERVED)

18 CHAPTER 72

1 (RESERVED)

2 CHAPTER 73

3 (RESERVED)

4 CHAPTER 74

5 QUALITY OF CARE AND HEALTHY LIFESTYLES

6 Sec.

7 7401. Definitions.

8 7402. Patient safety.

9 7403. (Reserved).

10 § 7401. 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 "Authority." The Patient Safety Authority established under
15 Mcare.

16 "Consumer Price Index." The Consumer Price Index for All
17 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,
18 Delaware and Maryland area, for the most recent 12-month period
19 for which figures have been officially reported by the United
20 States Department of Labor, Bureau of Labor Statistics,
21 immediately prior to the subject date.

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

23 "Health-care-acquired-infection." An infection acquired in a
24 health care facility.

25 "Impaired professional program." The program established
26 under the act of December 20, 1985 (P.L.457, No.112), known as
27 the Medical Practice Act of 1985.

28 "MRSA." Methicillin-resistant staphylococcus aureus, a more
29 serious form of bacterial health-care-acquired infection that is
30 resistant to commonly used antibiotics.

1 "Patient safety report." The Patient Safety and Quality
2 Improvement Report required under section 7402(f) (relating to
3 patient safety).

4 "Safe practices." The set of standards endorsed by the
5 National Quality Forum that should be used by health care
6 providers to reduce the risk of harm to patients.

7 § 7402. Patient safety.

8 (a) Electronic surveillance of health-care-acquired
9 infections.--

10 (1) By September 1, 2008, all hospitals shall use a
11 uniform electronic surveillance system to report health-care-
12 acquired infections to the council in a form and manner
13 prescribed by the council. The system shall provide for all
14 of the following:

15 (i) Extraction of existing electronic clinical data
16 from hospital systems on an ongoing basis.

17 (ii) Translation of nonstandardized laboratory data
18 into uniform information that can be analyzed on a
19 population-wide basis.

20 (iii) Clinical support, educational tools and
21 training to ensure that information provided under this
22 paragraph will lead to change.

23 (iv) Clinical improvement measurement and the
24 structure to provide ongoing positive and negative
25 feedback to hospital staff who implement change.

26 (2) Within 30 days following the effective date of this
27 section, the council shall identify and certify a specific
28 system or systems that meet the criteria described in
29 paragraph (1) and shall forward the identity of the certified
30 system or systems to the Legislative Reference Bureau for

1 publication as a notice in the Pennsylvania Bulletin.

2 (b) Reporting emergency services.--The council, in
3 consultation with the department, shall determine the manner and
4 scope of reporting to the council that hospitals shall undertake
5 with respect to individuals presenting at hospitals for
6 emergency services. The council shall forward requirements
7 concerning the reporting, including the date the reporting is to
8 commence, to the Legislative Reference Bureau for publication as
9 a notice in the Pennsylvania Bulletin. After the date the
10 reporting is to commence, compliance with the requirements shall
11 be a condition of licensure for hospitals.

12 (c) Reporting by nursing homes.--Nursing homes shall report
13 to the council the same infections and in the same manner that
14 hospitals are required to report to the council under the Health
15 Care Cost Containment Act. Reporting shall begin within 30 days
16 following the effective date of this section. For purposes of
17 this section, nursing homes shall be additional data sources as
18 defined in the Health Care Cost Containment Act, and covered
19 services, as defined in that act, shall include those services
20 provided by nursing homes.

21 (d) Analysis of nursing home data by Patient Safety
22 Authority.--

23 (1) At the request of the department, but no less
24 frequently than once per year, the authority shall analyze
25 data without patient identifying information reported to the
26 department by nursing homes with respect to events
27 compromising patient safety as required by 28 Pa. Code § 51.3
28 (relating to notification).

29 (2) The authority shall conduct analyses as it
30 determines are appropriate to provide information to nursing

1 homes which can be used to improve patient safety and quality
2 of care.

3 (3) The authority shall provide nursing homes with
4 patient safety advisories issued by the authority and permit
5 any nursing home administrator to attend any patient safety
6 training program it offers.

7 (4) Nursing homes shall pay the department a surcharge
8 on their licensing fees to provide sufficient revenues to the
9 authority for its responsibilities under this section. The
10 department shall determine the proportionate share to be paid
11 by each nursing home on a per-bed basis within 60 days
12 following the effective date of this section.

13 (i) The total surcharge for all nursing homes shall
14 not exceed \$1,000,000 in fiscal year 2007-2008 and shall
15 be increased by the Consumer Price Index in each
16 succeeding fiscal year. All surcharges shall be paid by
17 the end of each fiscal year.

18 (ii) The department shall transfer the total
19 surcharges collected to the Patient Safety Trust Fund
20 within 30 days of receipt.

21 (iii) In the event that the Patient Safety Trust
22 Fund is discontinued or the authority is dissolved, any
23 balance of the surcharges paid by nursing homes remaining
24 in the Patient Safety Trust Fund, after deducting
25 administrative costs of liquidation, shall be returned to
26 the nursing homes in proportion to their financial
27 contributions to the Patient Safety Trust Fund in the
28 preceding licensing period.

29 (iv) If, after 30 days' notice, a nursing home fails
30 to pay a surcharge levied by the department under this

subsection, the department may assess an administrative penalty of \$1,000 per day until the surcharge is paid. The penalty shall be imposed from the date of the notice and deposited into the CAP Fund.

(e) (Reserved).

(f) Health care facilities annual report.--

(1) A hospital shall, on or before April 1 of each calendar year, submit to the department a Patient Safety and Quality Improvement Report for each facility that it operates. The patient safety report shall cover the prior calendar year and shall contain at least the following information:

(i) Three-year trends in the rates of health-care-acquired infections, medication errors, readmissions and procedure complications, failures to rescue and falls.

(ii) The recommendations of the authority and approved by the department under section 301 of Mcare that have been implemented at the hospital.

(iii) The specific safe practices that each hospital facility will adopt and implement during the next calendar year to reduce health-care-acquired infections, medication errors, readmissions and procedure complications, failures to rescue and falls.

(iv) Beginning with the second report submitted under this subsection and with each report submitted thereafter, the progress of implementation of safe practices adopted during the previous calendar year, whether the hospital will continue any of the practices and the reason the hospital will discontinue any safe practice previously adopted.

1 (v) The hospital's plan to implement facility-wide
2 and data-driven error-reduction or quality improvement
3 programs that the hospital intends to adopt and implement
4 at each hospital facility, including a computer physician
5 order entry system, medication bar coding and programs to
6 identify and correct systemic causes of error and achieve
7 reliable quality outcomes.

8 (2) Submission of the report shall be a condition of
9 hospital licensure.

10 (3) The department may use information reported to it
11 under paragraph (1) for the purposes of providing information
12 to consumers and developing performance and quality standards
13 and best practices and shall cooperate with the council in
14 making the information available on a single consumer
15 accessible Internet website that may be used by consumers for
16 comparative purposes to determine where they wish to receive
17 health care.

18 (g) Standards to reduce health-care-acquired infections and
19 medical errors.--

20 (1) All hospitals and nursing homes shall adopt
21 evidence-based universal screening of patients and residents
22 for MRSA upon admission and randomized screening of
23 inpatients, residents and staff. If a screening results in a
24 positive culture, the patient or resident shall be isolated
25 and the hospital or nursing home shall take all actions
26 necessary to prevent the spread of MRSA to other inpatients,
27 residents or staff. The department shall develop acceptable
28 protocols for such screening and necessary isolation and
29 treatment and forward them to the Legislative Reference
30 Bureau for publication as a notice in the Pennsylvania

1 Bulletin within 180 days following the effective date of this
2 section.

3 (2) The department shall establish all of the following:

4 (i) Standardized best practices for health care
5 facilities to adopt to eliminate health-care-acquired
6 infections and medical errors and to maintain patient
7 safety.

8 (ii) A date by which health care facilities shall
9 adopt the standards as a condition of licensure.

10 (3) The department shall not issue or renew a license to
11 a health care facility that fails to meet the requirements of
12 this subsection and demonstrates that it has made substantial
13 progress toward the elimination of health-care-acquired
14 infections and medical errors.

15 (h) Patient safety training.--

16 (1) As a condition of receiving a license from the
17 department under the Health Care Facilities Act and as a
18 condition of continued licensure under that act, the
19 following shall apply:

20 (i) Each hospital shall ensure that every licensee
21 providing clinical services in the hospital, every chief
22 executive officer, chief financial officer and chief
23 medical officer, and every officer and director of the
24 hospital board of directors receives at least six hours
25 of in-person and monitored training in patient safety and
26 continuous quality improvement every two years.

27 (ii) Each nursing home shall ensure that its nursing
28 home administrator and director of nursing receives at
29 least six hours of in-person and monitored training in
30 patient safety and continuous quality improvement every

1 two years.

2 (2) Hospitals and nursing homes currently licensed will
3 have 12 months following the effective date of this section
4 to comply with this subsection. Hospitals and nursing homes
5 applying for a license for the first time following the
6 effective date of this section shall certify to the
7 department that the persons described under paragraph (1)
8 have completed the requisite training within the preceding
9 12-month period as a condition of being licensed.

10 (3) The department shall issue guidelines with respect
11 to the particular types of patient safety education classes
12 that will be acceptable. The training shall emphasize the
13 integrated nature of patient safety and continuous quality
14 improvement.

15 (4) Documentation of training shall be maintained as
16 part of the records of the hospital or nursing home.

17 (5) The training requirements of this subsection are not
18 to be construed to add to any continuing education
19 requirements imposed by a State licensing board.

20 (6) For the fiscal year 2008-2009 and thereafter, the
21 State Board of Medicine shall not approve for accreditation
22 any graduate medical education program in this Commonwealth
23 that does not require a minimum of six hours of patient
24 safety training focused on eliminating health-care-acquired
25 infections, preventing medical errors and integrating safe
26 practices into the clinical environment.

27 (i) Clinical skills assessments.--The State Board of
28 Medicine may utilize a program similar to the impaired
29 professional program through which a licensee may be referred
30 for a clinical skills assessment and undertake a subsequent plan

1 to improve clinical skills or otherwise address any clinical
2 skills deficiencies, if the State Board of Medicine has
3 evaluated the program and approved its use by licensees of the
4 board. Once approved, the board shall have the authority to
5 defer disciplinary or corrective action, provided that the
6 licensee enters into an agreement with the board to undergo the
7 assessment and continues to completion with a plan acceptable to
8 the board to address any deficiency.

9 (j) Enforcement.--In addition to any other remedy available,
10 the council may impose a civil penalty of up to \$500 per day for
11 each failure of a facility to provide the council the
12 information required under this section. All fines collected
13 under this subsection shall be deposited in the CAP Fund.

14 § 7403. (Reserved).

15 CHAPTER 75

16 MISCELLANEOUS PROVISIONS

17 Sec.

18 7501. (Reserved).

19 7502. Enforcement.

20 7503. Severability.

21 § 7501. (Reserved).

22 § 7502. Enforcement.

23 (a) Determination of violation.--Upon a determination that a
24 person licensed by the Insurance Department has violated any
25 provision of this part, the department may in consultation with
26 the Department of Health, subject to 2 Pa.C.S. Chs. 5 Subch. A
27 (relating to practice and procedure of Commonwealth agencies)
28 and 7 Subch. A (relating to judicial review of Commonwealth
29 agency action) do any of the following:

30 (1) Issue an order requiring the person to cease and

1 desist from engaging in the violation.

2 (2) Suspend or revoke or refuse to issue or renew the
3 certificate or license of the offending party or parties.

4 (3) Impose an administrative penalty of up to \$5,000 for
5 each violation.

6 (4) Seek restitution.

7 (5) Impose any other penalty or pursue any other remedy
8 deemed appropriate by the commissioner.

9 (b) Other remedies.--The enforcement remedies imposed under
10 this section are in addition to any other remedies or penalties
11 which be imposed by any other applicable statute, including the
12 act of July 22, 1974 (P.L.589, No.205), known as the Unfair
13 Insurance Practices Act. A violation by any person of this part
14 is deemed an unfair method of competition and an unfair or
15 deceptive act of practice under the Unfair Insurance Practices
16 Act.

17 (c) No private cause of action.--Nothing in this part shall
18 be construed as to create or imply a private cause of action for
19 violation of this part.

20 § 7503. Severability.

21 (a) General rule.--The provisions of this part are
22 severable. If any provision of this part or its application to
23 any person or circumstance is held invalid, the invalidity shall
24 not affect other provisions or applications of this part which
25 can be given effect without the invalid provision or
26 application.

27 (b) (Reserved).

28 (c) (Reserved).

29 Section 2. This act shall take effect in 60 days.