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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 968 Session of 2007

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

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JULY 5, 2007

AN ACT

Amending the act of March 20, 2002 (P.L.154, No.13), entitled "An act reforming the law on medical professional liability; providing for patient safety and reporting; establishing the Patient Safety Authority and the Patient Safety Trust Fund; abrogating regulations; providing for medical professional liability informed consent, damages, expert qualifications, limitations of actions and medical records; establishing the Interbranch Commission on Venue; providing for medical professional liability insurance; establishing the Medical Care Availability and Reduction of Error Fund; providing for medical professional liability claims; establishing the Joint Underwriting Association; regulating medical professional liability insurance; providing for medical licensure regulation; providing for administration; imposing penalties; and making repeals," providing for reduction and prevention of health care-associated infection.

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

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

CHAPTER 4

HEALTH CARE-ASSOCIATED INFECTIONS

Section 401. Scope.

This chapter relates to the reduction and prevention of health care-associated infections.

Section 402. Definitions.

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

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

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

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

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

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

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

"Fund." The Patient Safety Trust Fund as defined in section 305.

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

(1) occurs in a patient in a health care setting;

(2) was not present or incubating at the time of admission, unless the infection was related to a previous admission to the same setting; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 403. Infection control plan.

(a) Development and compliance.--Within 120 days of the effective date of this section, a health care facility AS DEFINED UNDER SUBSECTION (D), shall develop and implement an internal infection control plan that shall be established for the purpose of improving the health and safety of patients and <—

health care workers and shall include:

(1) A multidisciplinary committee including representatives from each of the following if applicable to that specific health care facility:

~~(i) Medical staff.~~ <—

~~(ii) Administration.~~

~~(iii) Laboratory.~~

~~(iv) Nursing.~~

~~(v) Pharmacy.~~

~~(vi) The community.~~

(I) MEDICAL STAFF, INCLUDING A CHIEF MEDICAL OFFICER OR NURSING HOME ADMINISTRATOR. <—

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

(III) LABORATORY PERSONNEL.

(IV) NURSING, INCLUDING THE DIRECTOR OF NURSING.

(V) PHARMACY, INCLUDING THE CHIEF OF PHARMACY.

(VI) PHYSICAL PLANT PERSONNEL.

(VII) A PATIENT SAFETY OFFICER.

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

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

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

(3) An active culture surveillance process and policies.

(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 MEETING THE REQUIREMENTS UNDER SECTION 403(A). THE DEPARTMENT

SHALL REVIEW THE PLAN WITHIN 180 DAYS OF RECEIPT OF THE INFECTION CONTROL PLAN. IF THE DEPARTMENT DOES NOT APPROVE OR DISAPPROVE OF THE INFECTION CONTROL PLAN WITHIN 180 DAYS OF RECEIPT, THE INFECTION CONTROL PLAN SHALL BE PRESUMED TO MEET THE REQUIREMENTS OF THIS ACT AND ALL APPLICABLE LAWS. IF, AT ANY TIME, THE DEPARTMENT FINDS THAT AN INFECTION CONTROL PLAN DOES NOT MEET THE REQUIREMENTS OF THIS ACT OR ANY APPLICABLE LAWS, THE HEALTH CARE FACILITY SHALL CORRECT THE VIOLATION.

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

SECTION 404. HEALTH CARE FACILITY REPORTING.

(A) GENERALLY.--ALL HEALTH CARE-ASSOCIATED INFECTIONS SHALL

BE REPORTED BY THE HEALTH CARE FACILITY TO THE DEPARTMENT, THE AUTHORITY AND THE COUNCIL USING CDC DEFINITIONS IN CONJUNCTION WITH NATIONALLY RECOGNIZED STANDARDS PROVIDED THAT THE DATA IS REPORTED ON A PATIENT-SPECIFIC BASIS IN THE FORM, TIME FOR REPORTING AND FORMAT AS DETERMINED BY THE DEPARTMENT IN CONSULTATION WITH THE AUTHORITY AND THE COUNCIL.

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

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

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

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

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

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

(C) SURVEILLANCE.--BY DECEMBER 31, 2008, A HEALTH CARE FACILITY MUST IMPLEMENT A QUALIFIED ELECTRONIC SURVEILLANCE

SYSTEM OR UNTIL SUCH TIME AS A HEALTH CARE FACILITY IMPLEMENTS A QUALIFIED ELECTRONIC SURVEILLANCE SYSTEM, THE FACILITY SHALL USE A SURVEILLANCE SYSTEM THAT INCLUDES:

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

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

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

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

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

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

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

(a) Health care facility reports to authority.--The occurrence of a health care-associated infection in a health care facility shall be deemed a serious event or incident, as applicable, as defined in section 302 and shall be reported to the authority within 24 hours of the health care facility's confirmation of its occurrence. The report to the authority shall be in a form and manner prescribed by the authority and shall not include the name of any patient or any other

identifiable individual information. The report to the authority shall also be subject to all of the confidentiality protections set forth in section 311.

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

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

~~(1) Establishing uniform definitions based on nationally recognized standards for the identification and reporting of health care-associated infections.~~ <—

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

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

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

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

~~(3) Developing a methodology using nationally recognized 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 screenings.

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

Section ~~406~~ 407. Incentive payment.

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

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

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

ACT AND THE ACT OF JULY 8, 1986 (P.L.408, NO.89), KNOWN AS THE HEALTH CARE COST CONTAINMENT ACT.

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

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

The department is responsible for the following:

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

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

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

(4) THE DEVELOPMENT OF RECOMMENDATIONS AND PRACTICES REGARDING BEST PRACTICES TO IMPLEMENT AND EFFECTUATE

SCREENING AND CULTURES CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER AND OTHER MEANS OF REDUCTION AND ELIMINATION OF HEALTH CARE-ASSOCIATED INFECTIONS AND HOW THESE RECOMMENDATIONS AND PRACTICES MAY APPLY TO HEALTH CARE FACILITIES.

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

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

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

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

(II) TO COMPARE HEALTH CARE-ASSOCIATED INFECTION RATES BETWEEN HEALTH CARE FACILITIES WITHIN THIS COMMONWEALTH; AND

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

(8) THE DEVELOPMENT, IN CONSULTATION WITH THE AUTHORITY AND THE COUNCIL, OF REASONABLE BENCHMARKS AGAINST WHICH TO MEASURE THE PROGRESS OF HEALTH CARE FACILITIES TO REDUCE HEALTH CARE-ASSOCIATED INFECTIONS. ALL HEALTH CARE FACILITIES

SHALL BE MEASURED AGAINST THE BENCHMARKS. THOSE HEALTH CARE FACILITIES WITH RATES OF HEALTH CARE-ASSOCIATED INFECTIONS THAT ARE ABOVE THE BENCHMARK SHALL BE REQUIRED TO SUBMIT A PLAN OF REMEDIATION TO THE DEPARTMENT WITHIN 60 DAYS AFTER BEING NOTIFIED OF MISSING THE STANDARD. IF AFTER 180 DAYS, THE FACILITY HAS NOT SHOWN PROGRESS IN REDUCING RATES OF INFECTIONS, THE FACILITY IS REQUIRED TO CONSULT WITH THE DEPARTMENT TO DEVELOP A NEW PLAN OF REMEDIATION TO BE APPROVED BY THE DEPARTMENT THAT SHALL INCLUDE A LIST OF RESOURCES AVAILABLE TO ASSIST THE HEALTH CARE FACILITY. IF AFTER AN ADDITIONAL 180 DAYS THE FACILITY CONTINUES TO FAIL TO SHOW PROGRESS IN LOWERING ITS RATES OF INFECTION, THE DEPARTMENT MAY TAKE ACTION PURSUANT TO THE HEALTH CARE FACILITIES ACT.

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

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

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

Authority.

(a) Assessment.--Commencing ~~January~~ JULY 1, 2008, each nursing home shall pay the department a surcharge on its licensing fee as necessary to provide sufficient revenues to operate the authority for its responsibilities under this chapter. The total annual assessment for all nursing homes shall not be more than an aggregate amount of $1,000,000. The department shall transfer the total assessment amount to the fund within 30 days of receipt.

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

(c) Expenditures.--Money appropriated to the fund under this chapter shall be expended by the authority to implement this chapter.

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

(e) Failure to pay surcharge.--If after 30 days' notice a nursing home fails to pay a surcharge levied by the department under this chapter, the department may assess an administrative penalty of $1,000 per day until the surcharge is paid.

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

Section ~~409~~ 410. Scope of reporting.

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

Section ~~410~~ 411. Penalties.

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

(b) Administrative penalty.--In addition to any penalty that may be imposed under the Health Care Facilities Act or under 18 Pa.C.S. Ch. 32 (relating to abortion), a health care facility which fails to report a health care-associated infection as a

serious event or incident may be subject to an administrative penalty of $1,000 per day imposed by the department.

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

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

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

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

(3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

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