
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1411 Session of
2008

INTRODUCED BY D. WHITE, PILEGGI, ORIE, O'PAKE, PUNT, PIPPY,
WAUGH AND ARMSTRONG, MAY 23, 2008

REFERRED TO BANKING AND INSURANCE, MAY 23, 2008

AN ACT

1 Establishing a system for payment or reduction in payment for
2 preventable serious adverse events within this Commonwealth;
3 and providing for the powers and duties of the Department of
4 Health and the Department of State.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Preventable
9 Serious Adverse Events Act.

10 Section 2. Definitions.

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

14 "Health care facility." A health care facility as defined
15 under section 802.1 of the act of July 19, 1979 (P.L.130,
16 No.48), known as the Health Care Facilities Act, or an entity
17 licensed as a hospital under the act of June 13, 1967 (P.L.31,
18 No.21), known as the Public Welfare Code.

1 "Health care provider." A health care facility or a person,
2 including a corporation, university or other educational
3 institution, licensed or approved by the Commonwealth to provide
4 health care or professional medical services as a physician, a
5 certified nurse midwife, a podiatrist, a certified registered
6 nurse practitioner, a physician assistant, a chiropractor, a
7 hospital, an ambulatory surgery center, a nursing home or a
8 birth center.

9 "Health payor." An individual or entity paying for health
10 services on behalf of another.

11 "Medical assistance." The Commonwealth's medical assistance
12 program established under the act of June 13, 1967 (P.L.31,
13 No.21), known as the Public Welfare Code.

14 "National Quality Forum." A not-for-profit membership
15 organization created to develop and implement a national
16 strategy for health care quality measurement and reporting.

17 "Preventable serious adverse event." An event that is within
18 the health care facility's control to avoid, but that occurs
19 because of an error or other system failure and results in a
20 patient's death, loss of body part, disfigurement, disability or
21 loss of bodily function lasting more than seven days or still
22 present at the time of discharge from a health care facility.
23 Such events shall be within the list of reportable serious
24 events adopted by the National Quality Forum.

25 Section 3. Payment policy for preventable serious adverse
26 events.

27 (a) General rule.--Health care providers may not knowingly
28 seek payment from health payors, patients or the responsible
29 party of the patient for a preventable serious adverse event or
30 services required to correct or treat the problem created by

1 such an event when such an event occurred under their care or
2 control.

3 (b) Refunds.--A health care provider who discovers that
4 payment has unknowingly been sought for a preventable serious
5 adverse event or services required to correct or treat the
6 problem created by such an event shall immediately notify the
7 health payor, patient or the responsible party of the patient
8 and shall refund any payment received within 30 days of
9 discovery or receipt of payment, whichever is later.

10 (c) Liability.--A health care provider, in compliance with
11 this subsection, shall not constitute an acknowledgment or
12 admission of liability.

13 Section 4. Duties of Department of Health.

14 In accordance with the act of July 19, 1979 (P.L.130, No.48),
15 known as the Health Care Facilities Act, the Department of
16 Health shall be responsible for investigating patient complaints
17 regarding a health care facility that is seeking payment
18 directly from the patient for a preventable serious adverse
19 event.

20 Section 5. Duties of Department of State.

21 The Department of State shall be responsible for
22 investigating patient complaints regarding a health care
23 provider that is not a health care facility that is seeking or
24 causing to be sought payment directly from the patient or
25 responsible party of the patient for a preventable serious
26 adverse event.

27 Section 6. Applicability.

28 (a) Hospital medical assistance payment policy.--Nothing in
29 this act shall require the Department of Public Welfare to
30 alter, amend or reissue any payment policy for inpatient

1 hospitals relating to preventable serious adverse events that
2 was promulgated prior to the enactment of this act. Any
3 modifications of the Department of Public Welfare payment policy
4 issued after enactment of this act shall require a 60-day public
5 comment period.

6 (b) Contracts.--Nothing in this act shall prohibit a health
7 care provider and payor from establishing by contract any
8 payment policy associated with serious preventable adverse
9 events, including policies related to any payment reductions or
10 medical review of any events on the National Quality Forum
11 serious reportable event list.

12 (c) Reporting.--Health care providers shall include all
13 applicable medical codes in making reports in compliance with
14 the act of July 8, 1986 (P.L.408, No.89), known as the Health
15 Care Cost Containment Act.

16 Section 7. Effective date.

17 This act shall take effect in 180 days.