

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0128.01 Michael Dohr

HOUSE BILL 06-1045

HOUSE SPONSORSHIP

McCluskey, Butcher, Frangas, and Todd

SENATE SPONSORSHIP

Keller, Gordon, and Tochtrop

House Committees

Health and Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PUBLIC REPORTING OF HOSPITAL-ACQUIRED INFECTIONS,**
102 **AND MAKING AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Health Care Task Force. Requires a hospital to collect data on hospital-acquired infection rates for specified clinical procedures and to routinely submit its hospital-acquired infection data to the national healthcare safety network in accordance with national healthcare safety network requirements and procedures. Creates an advisory committee to assist the department of public health and environment ("department") in the development of all aspects of the department's methodology for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

collecting, analyzing, and disclosing information collected, including collection methods, formatting, and methods and means for release and dissemination. Compels the department to create an annual report summarizing the biennial reports, comparing infection rates for each individual hospital in the state, discussing findings, making conclusions, and spotting trends. Requires patient confidentiality to be maintained during the reporting. Designates all information and materials obtained and compiled by the department as confidential, not subject to disclosure. Makes failure to comply with the reporting requirement sanctionable. Provides the department with compliance oversight of the reporting.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 3 of title 25, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 6**

5 **HOSPITAL-ACQUIRED INFECTIONS DISCLOSURE**

6 **25-3-601. Definitions.** (1) "ADVISORY COMMITTEE" MEANS THE
7 ADVISORY COMMITTEE CREATED PURSUANT TO SECTION 25-3-602 (4).

8 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
9 AND ENVIRONMENT.

10 (3) "HEALTH FACILITY" MEANS A HOSPITAL, A HOSPITAL UNIT, AN
11 AMBULATORY SURGICAL CENTER, OR A DIALYSIS TREATMENT CLINIC
12 CURRENTLY LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO
13 THE DEPARTMENT'S AUTHORITY UNDER SECTION 25-1.5-103 (1) (a).

14 (4) "HOSPITAL-ACQUIRED INFECTION" MEANS A LOCALIZED OR
15 SYSTEMIC CONDITION THAT RESULTS FROM AN ADVERSE REACTION TO THE
16 PRESENCE OF AN INFECTIOUS AGENT OR ITS TOXINS THAT WAS NOT
17 PRESENT OR INCUBATING AT THE TIME OF ADMISSION TO THE HEALTH
18 FACILITY.

19 (5) "INFECTION" MEANS THE INVASION OF THE BODY BY
20 PATHOGENIC MICROORGANISMS THAT REPRODUCE AND MULTIPLY,

1 CAUSING DISEASE BY LOCAL CELLULAR INJURY, SECRETION OF A TOXIN, OR
2 ANTIGEN-ANTIBODY REACTION IN THE HOST.

3 **25-3-602. Health facility reports.** (1) (a) A HEALTH FACILITY
4 SHALL COLLECT DATA ON HOSPITAL-ACQUIRED INFECTION RATES FOR
5 SPECIFIC CLINICAL PROCEDURES, INCLUDING THE FOLLOWING CATEGORIES:

- 6 (I) CARDIAC SURGICAL SITE INFECTIONS;
- 7 (II) ORTHOPEDIC SURGICAL SITE INFECTIONS; AND
- 8 (III) CENTRAL LINE-RELATED BLOODSTREAM INFECTIONS.

9 (b) THE ADVISORY COMMITTEE MAY DEFINE CRITERIA TO
10 DETERMINE WHEN DATA ON A PROCEDURE LISTED IN PARAGRAPH (a) OF
11 THIS SUBSECTION (1) SHALL BE COLLECTED.

12 (c) AN INDIVIDUAL WHO COLLECTS DATA ON HOSPITAL-ACQUIRED
13 INFECTION RATES SHALL TAKE THE TEST FOR THE APPROPRIATE NATIONAL
14 CERTIFICATION FOR INFECTION CONTROL AND BECOME CERTIFIED WITHIN
15 SIX MONTHS AFTER THE INDIVIDUAL BECOMES ELIGIBLE TO TAKE THE
16 CERTIFICATION TEST. MANDATORY NATIONAL CERTIFICATION
17 REQUIREMENTS SHALL NOT APPLY TO INDIVIDUALS COLLECTING DATA ON
18 HOSPITAL-ACQUIRED INFECTIONS IN HOSPITALS LICENSED FOR FIFTY BEDS
19 OR LESS. QUALIFICATIONS FOR THESE INDIVIDUALS MAY BE MET THROUGH
20 ONGOING EDUCATION, TRAINING, EXPERIENCE, OR CERTIFICATION.

21 (2) EACH PHYSICIAN WHO PERFORMS A CLINICAL PROCEDURE
22 LISTED IN SUBSECTION (1) OF THIS SECTION SHALL REPORT TO THE HEALTH
23 FACILITY AT WHICH THE CLINICAL PROCEDURE WAS PERFORMED A
24 HOSPITAL-ACQUIRED INFECTION THAT THE PHYSICIAN DIAGNOSES AT A
25 FOLLOW-UP APPOINTMENT WITH THE PATIENT USING STANDARDIZED
26 CRITERIA AND METHODS CONSISTENT WITH GUIDELINES DETERMINED BY
27 THE ADVISORY COMMITTEE. THE REPORTS MADE TO THE HEALTH FACILITY

1 UNDER THIS SUBSECTION (2) SHALL BE INCLUDED IN THE REPORTING THE
2 HEALTH FACILITY MAKES UNDER SUBSECTION (3) OF THIS SECTION.

3 (3) (a) A HEALTH FACILITY SHALL ROUTINELY SUBMIT ITS
4 HOSPITAL-ACQUIRED INFECTION DATA TO THE NATIONAL HEALTHCARE
5 SAFETY NETWORK IN ACCORDANCE WITH NATIONAL HEALTHCARE SAFETY
6 NETWORK REQUIREMENTS AND PROCEDURES. THE DATA SUBMISSIONS
7 SHALL BEGIN ON OR BEFORE JULY 31, 2007, AND CONTINUE THEREAFTER.

8 (b) IF A HEALTH FACILITY IS A DIVISION OR SUBSIDIARY OF
9 ANOTHER ENTITY THAT OWNS OR OPERATES OTHER HEALTH FACILITIES OR
10 RELATED ORGANIZATIONS, THE DATA SUBMISSIONS REQUIRED UNDER THIS
11 PART 6 SHALL BE FOR THE SPECIFIC DIVISION OR SUBSIDIARY AND NOT FOR
12 THE OTHER ENTITY.

13 (c) HEALTH FACILITIES SHALL AUTHORIZE THE DEPARTMENT TO
14 HAVE ACCESS TO HEALTH-FACILITY-SPECIFIC DATA CONTAINED IN THE
15 NATIONAL HEALTHCARE SAFETY NETWORK DATABASE CONSISTENT WITH
16 THE REQUIREMENTS OF THIS PART 6.

17 (4) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL
18 APPOINT AN ADVISORY COMMITTEE. THE ADVISORY COMMITTEE SHALL
19 CONSIST OF:

20 (I) ONE REPRESENTATIVE FROM A PUBLIC HOSPITAL;

21 (II) ONE REPRESENTATIVE FROM A PRIVATE HOSPITAL;

22 (III) ONE BOARD-CERTIFIED OR BOARD-ELIGIBLE PHYSICIAN
23 LICENSED IN THE STATE OF COLORADO, WHO IS AFFILIATED WITH A
24 COLORADO HOSPITAL OR MEDICAL SCHOOL, WHO IS AN ACTIVE MEMBER
25 OF A NATIONAL ORGANIZATION SPECIALIZING IN HEALTH CARE
26 EPIDEMIOLOGY OR INFECTION CONTROL, AND WHO HAS DEMONSTRATED
27 AN INTEREST AND EXPERTISE IN HEALTH FACILITY INFECTION CONTROL;

1 (IV) FOUR INFECTION CONTROL PRACTITIONERS, ONE FROM A
2 STAND-ALONE AMBULATORY SURGICAL CENTER AND THREE REGISTERED
3 NURSES WHO ARE CERTIFIED BY THE CERTIFICATION BOARD OF
4 INFECTION CONTROL AND EPIDEMIOLOGY;

5 (V) EITHER ONE MEDICAL STATISTICIAN WITH AN ADVANCED
6 DEGREE IN SUCH SPECIALTY OR ONE CLINICAL MICROBIOLOGIST WITH AN
7 ADVANCED DEGREE IN SUCH SPECIALTY;

8 (VI) ONE REPRESENTATIVE FROM A HEALTH CONSUMER
9 ORGANIZATION;

10 (VII) ONE REPRESENTATIVE FROM A HEALTH INSURER; AND

11 (VIII) ONE REPRESENTATIVE FROM A PURCHASER OF HEALTH
12 INSURANCE.

13 (b) THE ADVISORY COMMITTEE SHALL ASSIST THE DEPARTMENT IN
14 DEVELOPMENT OF THE DEPARTMENT'S OVERSIGHT OF THIS ARTICLE AND
15 THE DEPARTMENT'S METHODOLOGY FOR DISCLOSING THE INFORMATION
16 COLLECTED UNDER THIS PART 6, INCLUDING THE METHODS AND MEANS
17 FOR RELEASE AND DISSEMINATION.

18 (c) THE DEPARTMENT AND THE ADVISORY COMMITTEE SHALL
19 EVALUATE ON A REGULAR BASIS THE QUALITY AND ACCURACY OF
20 HEALTH-FACILITY INFORMATION REPORTED UNDER THIS PART 6 AND THE
21 DATA COLLECTION, ANALYSIS, AND DISSEMINATION METHODOLOGIES.

22 (d) THE ADVISORY COMMITTEE SHALL ELECT A CHAIR OF THE
23 ADVISORY COMMITTEE ANNUALLY. THE ADVISORY COMMITTEE SHALL
24 MEET NO LESS THAN FOUR TIMES PER YEAR IN ITS FIRST YEAR OF
25 EXISTENCE AND NO LESS THAN TWO TIMES IN EACH SUBSEQUENT YEAR.
26 THE CHAIR SHALL SET THE MEETING DATES AND TIMES. THE MEMBERS OF
27 THE ADVISORY COMMITTEE SHALL SERVE WITHOUT COMPENSATION.

1 (5) (a) THE ADVISORY COMMITTEE SHALL RECOMMEND
2 ADDITIONAL CLINICAL PROCEDURES BASED UPON THE CRITERIA SET FORTH
3 IN PARAGRAPH (c) OF THIS SUBSECTION (5) THAT MUST BE REPORTED
4 PURSUANT TO SUBSECTION (1) OF THIS SECTION IN THE MANNER SPECIFIED
5 IN PARAGRAPH (b) OF THIS SUBSECTION (5). THE RECOMMENDATIONS OF
6 THE ADVISORY COMMITTEE SHALL BE CONSISTENT WITH INFORMATION
7 THAT MAY BE COLLECTED BY THE NATIONAL HEALTHCARE SAFETY
8 NETWORK.

9 (b) (I) ON OR BEFORE NOVEMBER 1, 2008, THE ADVISORY
10 COMMITTEE SHALL EITHER RECOMMEND TO THE DEPARTMENT THE
11 ADDITION OF AT LEAST TWO CLINICAL PROCEDURES TO THE DATA
12 COLLECTED ON HOSPITAL-ACQUIRED INFECTION RATES AS REQUIRED IN
13 THIS SECTION OR COMPLY WITH THE PROVISIONS OF PARAGRAPH (d) OF
14 THIS SUBSECTION (5) AND SHALL RECOMMEND TO THE DEPARTMENT
15 WHETHER TO INCLUDE LONG-TERM ACUTE CARE CENTERS AS HEALTH
16 FACILITIES THAT ARE SUBJECT TO THE REPORTING REQUIREMENTS OF THIS
17 PART 6.

18 (II) IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPH (I) OF
19 THIS PARAGRAPH (b), ON OR BEFORE NOVEMBER 1, 2010, THE ADVISORY
20 COMMITTEE SHALL EITHER RECOMMEND TO THE DEPARTMENT THE
21 ADDITION OF AT LEAST TWO CLINICAL PROCEDURES TO THE DATA
22 COLLECTED ON HOSPITAL-ACQUIRED INFECTION RATES AS REQUIRED IN
23 THIS SECTION OR COMPLY WITH THE PROVISIONS OF PARAGRAPH (d) OF
24 THIS SUBSECTION (5).

25 (c) IN MAKING ITS RECOMMENDATIONS UNDER PARAGRAPH (a) OR
26 (b) OF THIS SUBSECTION (5), THE ADVISORY COMMITTEE SHALL
27 RECOMMEND CLINICAL PROCEDURES USING THE FOLLOWING

1 CONSIDERATIONS:

2 (I) WHETHER THE PROCEDURE CONTAINS A HIGH RISK FOR
3 INFECTION CONTRACTION;

4 (II) WHETHER THE TYPE OR TYPES OF INFECTION PRESENT A
5 SERIOUS RISK TO THE PATIENT'S HEALTH OR LIFE; AND

6 (III) ANY OTHER FACTORS DETERMINED BY THE ADVISORY
7 COMMITTEE.

8 (d) IF THE ADVISORY COMMITTEE DETERMINES THAT IT IS UNABLE
9 TO IDENTIFY AT LEAST TWO CLINICAL PROCEDURES FOR ADDITION TO THE
10 DATA COLLECTED BY THE DEADLINE, THE COMMITTEE SHALL REPORT TO
11 THE DEPARTMENT ITS REASONS FOR NOT IDENTIFYING AT LEAST TWO NEW
12 CLINICAL PROCEDURES.

13 (6) THE ADVISORY COMMITTEE MAY RECOMMEND THAT HEALTH
14 FACILITIES REPORT PROCESS MEASURES TO THE ADVISORY COMMITTEE, IN
15 ADDITION TO THOSE LISTED IN SUBSECTIONS (1) AND (5) OF THIS SECTION,
16 TO ACCOMMODATE BEST PRACTICES FOR EFFECTIVE PREVENTION OF
17 INFECTION.

18 **25-3-603. Department reports.** (1) ON OR BEFORE JANUARY 15,
19 2008, AND EACH JANUARY 15 THEREAFTER, THE DEPARTMENT SHALL
20 SUBMIT TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE
21 OF REPRESENTATIVES AND OF THE SENATE A REPORT SUMMARIZING THE
22 RISK-ADJUSTED HEALTH-FACILITY DATA. THE DEPARTMENT SHALL POST
23 THE REPORT ON ITS WEBSITE.

24 (2) THE DEPARTMENT SHALL ISSUE SEMI-ANNUAL INFORMATIONAL
25 BULLETINS SUMMARIZING ALL OR PART OF THE INFORMATION SUBMITTED
26 IN THE HEALTH-FACILITY REPORTS.

27 (3) (a) ALL DATA IN REPORTS ISSUED BY THE DEPARTMENT SHALL

1 BE RISK-ADJUSTED CONSISTENT WITH THE STANDARDS OF THE NATIONAL
2 HEALTHCARE SAFETY NETWORK.

3 (b) THE ANNUAL REPORT SHALL COMPARE THE RISK-ADJUSTED,
4 HOSPITAL-ACQUIRED INFECTION RATES, COLLECTED UNDER SECTION
5 25-3-602, FOR EACH INDIVIDUAL HEALTH FACILITY IN THE STATE. THE
6 DEPARTMENT, IN CONSULTATION WITH THE ADVISORY COMMITTEE, SHALL
7 MAKE THIS COMPARISON AS EASY TO COMPREHEND AS POSSIBLE. THE
8 REPORT SHALL INCLUDE AN EXECUTIVE SUMMARY, WRITTEN IN PLAIN
9 LANGUAGE, THAT INCLUDES, BUT IS NOT LIMITED TO, A DISCUSSION OF
10 FINDINGS, CONCLUSIONS, AND TRENDS CONCERNING THE OVERALL STATE
11 OF HOSPITAL-ACQUIRED INFECTIONS IN THE STATE, INCLUDING A
12 COMPARISON TO PRIOR YEARS WHEN AVAILABLE. THE REPORT MAY
13 INCLUDE POLICY RECOMMENDATIONS AS APPROPRIATE.

14 (c) THE DEPARTMENT SHALL PUBLICIZE THE REPORT AND ITS
15 AVAILABILITY AS WIDELY AS PRACTICAL TO INTERESTED PARTIES,
16 INCLUDING BUT NOT LIMITED TO HEALTH FACILITIES, PROVIDERS, MEDIA
17 ORGANIZATIONS, HEALTH INSURERS, HEALTH MAINTENANCE
18 ORGANIZATIONS, PURCHASERS OF HEALTH INSURANCE, ORGANIZED LABOR,
19 CONSUMER OR PATIENT ADVOCACY GROUPS, AND INDIVIDUAL CONSUMERS.
20 THE ANNUAL REPORT SHALL BE MADE AVAILABLE TO ANY PERSON UPON
21 REQUEST.

22 (d) A HEALTH-FACILITY REPORT OR DEPARTMENT DISCLOSURE
23 MAY NOT CONTAIN INFORMATION IDENTIFYING A PATIENT, EMPLOYEE, OR
24 LICENSED HEALTH CARE PROFESSIONAL IN CONNECTION WITH A SPECIFIC
25 INFECTION INCIDENT.

26 **25-3-604. Privacy.** COMPLIANCE WITH THIS PART 6 SHALL NOT
27 VIOLATE A PATIENT'S RIGHT TO CONFIDENTIALITY. A PATIENT'S SOCIAL

1 SECURITY NUMBER AND ANY OTHER INFORMATION THAT COULD BE USED
2 TO IDENTIFY A PATIENT SHALL NOT BE RELEASED, NOTWITHSTANDING ANY
3 OTHER PROVISION OF LAW.

4 **25-3-605. Confidentiality.** (1) EXCEPT AS PROVIDED BY
5 SUBSECTION (5) OF THIS SECTION, ALL INFORMATION AND MATERIALS
6 OBTAINED AND COMPILED BY THE DEPARTMENT UNDER THIS PART 6 OR
7 COMPILED BY A HEALTH FACILITY UNDER THIS PART 6, INCLUDING ALL
8 RELATED INFORMATION AND MATERIALS, ARE CONFIDENTIAL; ARE NOT
9 SUBJECT TO DISCLOSURE, DISCOVERY, SUBPOENA, OR OTHER MEANS OF
10 LEGAL COMPULSION FOR RELEASE TO ANY PERSON, SUBJECT TO
11 SUBSECTION (2) OF THIS SECTION; AND MAY NOT BE ADMITTED AS
12 EVIDENCE OR OTHERWISE DISCLOSED IN A CIVIL, CRIMINAL, OR
13 ADMINISTRATIVE PROCEEDING.

14 (2) THE CONFIDENTIAL PROTECTIONS UNDER SUBSECTION (1) OF
15 THIS SECTION SHALL APPLY WITHOUT REGARD TO WHETHER THE
16 INFORMATION OR MATERIALS ARE OBTAINED FROM OR COMPILED BY A
17 HEALTH FACILITY OR AN ENTITY THAT HAS OWNERSHIP OR MANAGEMENT
18 INTERESTS IN A HEALTH FACILITY.

19 (3) THE TRANSFER OF INFORMATION OR MATERIALS UNDER THIS
20 PART 6 IS NOT A WAIVER OF A PRIVILEGE OR PROTECTION GRANTED UNDER
21 LAW.

22 (4) INFORMATION REPORTED BY A HEALTH FACILITY UNDER THIS
23 PART 6 AND ANALYSES, PLANS, RECORDS, AND REPORTS OBTAINED,
24 PREPARED, OR COMPILED BY A HEALTH FACILITY UNDER THIS PART 6 AND
25 ALL RELATED INFORMATION AND MATERIALS ARE SUBJECT TO AN
26 ABSOLUTE PRIVILEGE AND SHALL NOT BE USED IN ANY FORM AGAINST THE
27 HEALTH FACILITY, ITS AGENTS, EMPLOYEES, PARTNERS, ASSIGNEES, OR

1 INDEPENDENT CONTRACTORS IN ANY CIVIL, CRIMINAL, OR
2 ADMINISTRATIVE PROCEEDING, REGARDLESS OF THE MEANS BY WHICH A
3 PERSON CAME INTO POSSESSION OF THE INFORMATION, ANALYSIS, PLAN,
4 RECORD, REPORT, OR RELATED INFORMATION OR MATERIALS.

5 (5) THE PROVISIONS OF THIS SECTION REGARDING THE
6 CONFIDENTIALITY OF INFORMATION OR MATERIALS COMPILED OR
7 REPORTED BY A HEALTH FACILITY IN COMPLIANCE WITH OR AS
8 AUTHORIZED UNDER THIS PART 6 SHALL NOT RESTRICT ACCESS, TO THE
9 EXTENT AUTHORIZED BY LAW, BY THE PATIENT OR THE PATIENTS' LEGALLY
10 AUTHORIZED REPRESENTATIVE TO RECORDS OF THE PATIENT'S MEDICAL
11 DIAGNOSIS OR TREATMENT OR TO OTHER PRIMARY HEALTH RECORDS.

12 **25-3-606. Penalties.** (1) A DETERMINATION THAT A HEALTH
13 FACILITY HAS VIOLATED THE PROVISIONS OF THIS PART 6 MAY RESULT IN
14 THE FOLLOWING:

15 (a) TERMINATION OF LICENSURE OR OTHER SANCTIONS RELATED
16 TO LICENSURE UNDER PART 1 OF THIS ARTICLE; OR

17 (b) A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS PER
18 VIOLATION FOR EACH DAY THE HEALTH FACILITY IS IN VIOLATION OF THIS
19 PART 6.

20 **25-3-607. Regulatory oversight.** THE DEPARTMENT SHALL BE
21 RESPONSIBLE FOR ENSURING COMPLIANCE WITH THIS PART 6 AS A
22 CONDITION OF LICENSURE UNDER PART 1 OF THIS ARTICLE AND SHALL
23 ENFORCE COMPLIANCE ACCORDING TO THE PROVISIONS IN PART 1 OF THIS
24 ARTICLE.

25 **SECTION 2.** 25-3-103 (1) (a), Colorado Revised Statutes, is
26 amended to read:

27 **25-3-103. License denial or revocation - provisional license.**

1 (1) (a) Application for a new or renewal license under this part 1 may be
2 denied to an applicant not meeting the requirements of this part 1 OR PART
3 6 OF THIS ARTICLE and the rules of the department of public health and
4 environment. A license may be revoked for like reasons. The department
5 of public health and environment may, upon such denial or revocation,
6 grant a provisional license, valid for ninety days, upon payment of a fee
7 of one hundred fifty dollars, to allow such applicant to comply with the
8 requirements for a regular license. A second provisional license may be
9 issued, for a like term and fee, if necessary in the opinion of the
10 department of public health and environment, to effect compliance. No
11 further provisional licenses may be issued for the then current year after
12 the second issuance.

13 **SECTION 3. Appropriation.** In addition to any other
14 appropriation, there is hereby appropriated, out of any moneys in the
15 general fund, not otherwise appropriated, to the department of public
16 health and environment, for allocation to the health facilities and
17 emergency medical services division, for the fiscal year beginning July 1,
18 2006, the sum of fifty-two thousand six hundred twenty-six dollars
19 (\$52,626) and 0.6 FTE, or so much thereof as may be necessary, for the
20 implementation of this act.

21 **SECTION 4. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.