

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 809

Short Title: Model Healthcare-Associated Infections Law. (Public)

Sponsors: Representative Burr (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Health and Human Services, if favorable, Finance.

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
3 DIVISION OF PUBLIC HEALTH, TO ESTABLISH A HEALTHCARE-ASSOCIATED  
4 INFECTION SURVEILLANCE, PREVENTION, AND CONTROL PROGRAM, TO  
5 ESTABLISH A REGULATORY FEE FOR THE PROGRAM, AND TO AUTHORIZE  
6 THE DEPARTMENT TO ASSESS AN ADMINISTRATIVE PENALTY AGAINST  
7 HEALTH CARE FACILITIES THAT FAIL TO COMPLY WITH PROGRAM  
8 REQUIREMENTS.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. Article 6 of Chapter 130A of the General Statutes is amended by  
11 adding a new Part to read:

12 "Part 1A.

13 "Healthcare-Associated Infection Surveillance, Prevention, and Control Program.

14 "**§ 130A-150. Legislative findings and purpose.**

15 (a) The legislature finds and declares all of the following:

- 16 (1) The protection of patients in health care facilities is of paramount  
17 importance to the citizens of this State.
- 18 (2) During the past two decades, healthcare-associated infections (HAIs),  
19 especially those that are resistant to commonly used antibiotics, have  
20 increased dramatically. The federal Centers for Disease Control and  
21 Prevention (CDC) estimates that there are over two million cases of HAIs  
22 per year in the United States, resulting in 100,000 preventable deaths.
- 23 (3) There is currently no system within the Department of Health and Human  
24 Services (Department) to determine the incidence or prevalence of HAIs or  
25 to determine if current infection prevention and control measures are  
26 effective in reducing HAIs.
- 27 (4) A significant percentage of HAIs can be prevented with intense programs for  
28 surveillance and the development, implementation, and constant evaluation  
29 and monitoring of prevention strategies.
- 30 (5) There is currently inadequate regulatory oversight by the State of HAI  
31 surveillance, prevention, and control programs in health care facilities.
- 32 (6) The Department will only be able to protect patients from HAIs through the  
33 development of a comprehensive, robust, and efficient system to monitor  
34 and report the incidence of antibiotic-resistant and other organisms causing  
35 infection that are acquired by patients in health care facilities.



1       (b) In recognition of the need to reduce the incidence of HAIs among health care  
2 facilities in this State, the General Assembly directs the Secretary of the Department of Health  
3 and Human Services to establish and maintain a comprehensive HAI surveillance, prevention  
4 and control program designed to ensure that health care facilities in this State comply with  
5 State laws and regulations designed to reduce the incidence and spread of HAIs.

6 **"§ 130A-150.1. Definitions.**

7       The following definitions apply in this Article:

- 8       (1) "Colonized" or "colonization" means a pathogen is present on a patient's  
9 body but is not causing any signs or symptoms of an infection.
- 10       (2) "Committee" means the Healthcare Associated Infection Advisory  
11 Committee established pursuant to G.S. 130A-150.2.
- 12       (3) "Department" means the North Carolina Department of Health and Human  
13 Services.
- 14       (4) "Health care facility" means a hospital licensed under G.S. 131E-77, a  
15 nursing home licensed under G.S. 131E-102, and an ambulatory surgical  
16 facility licensed under G.S. 131E-147.
- 17       (5) "Health payer" includes any self-insured plan, group health plan (as defined  
18 in section 607(1) of the Employee Retirement Income Security Act of 1974,  
19 [29 U.S.C. § 1167(1)], service benefit plan, managed care organization, or  
20 other party that is, by statute, contract, or agreement, legally responsible for  
21 payment of a claim for a health care item or service as a condition of doing  
22 business in the State; the State Medical Assistance Program established  
23 under G.S. 108A-54; and The Health Insurance Program for Children  
24 established under G.S. 108A-70.20.
- 25       (6) "Healthcare-associated infection" or "HAI" means a Clostridium difficile  
26 infection, methicillin-resistant Staphylococcus aureus (MRSA) infection,  
27 or any one of the following four most prevalent categories of infection that a  
28 patient acquires while receiving treatment for a medical or surgical  
29 condition, as determined by the United States Department of Health and  
30 Human Services Action Plan to Prevent Healthcare-Associated Infections:
- 31       a. Surgical site infection.
- 32       b. Catheter-associated urinary tract infection.
- 33       c. Central line-associated bloodstream infection.
- 34       d. Ventilator-associated pneumonia.
- 35       (7) "Infection prevention professional" means a registered nurse, medical  
36 technologist, or other salaried employee or consultant who, within two years  
37 of appointment as an infection prevention professional, meets the education  
38 and experience requirements for certification in infection prevention and  
39 control and applied epidemiology by the national Certification Board for  
40 Infection Control and Epidemiology (CBIC). The term does not include a  
41 physician who is appointed or receives a stipend as an infection prevention  
42 and control committee chairperson or hospital epidemiologist.
- 43       (8) "MRSA" means methicillin-resistant Staphylococcus aureus.
- 44       (9) "NHSN" means the Centers for Disease Control and Prevention's National  
45 Healthcare Safety Network.
- 46       (10) "Program" means the HAI Surveillance, Prevention, and Control Program  
47 established under this Part.

48 **"§ 130A-150.2. Healthcare-Associated Infections Advisory Committee; purpose;**  
49 **composition.**

- 50       (a) The HAI Advisory Committee is established within the Department.

1       **(b)** The Committee shall have up to 13 members, including the Secretary of the  
2 Department or the Secretary's designee. The Speaker of the House of Representatives and the  
3 President Pro Tempore of the Senate shall each appoint six members, each of whom shall have  
4 expertise in the surveillance, prevention, and control of healthcare-associated infections. The  
5 membership shall be representative of the Department, local health departments, healthcare  
6 infection control professionals, hospital administrators, healthcare providers, healthcare  
7 consumers, physicians with expertise in infectious disease and hospital epidemiology,  
8 not-for-profit nursing homes, for-profit nursing homes, and integrated healthcare systems. The  
9 members of the Committee shall elect a chair and vice-chair from among the Committee  
10 membership. The Committee shall meet at the call of the chair at least once every quarter.

11       **(c)** Members shall serve without compensation but, within available funds, shall be  
12 allowed travel and subsistence expenses in accordance with G.S. 138-5 or G.S. 138-6, as  
13 appropriate.

14       **(d)** The Committee has the following duties and responsibilities:

- 15       **(1)** Make recommendations on the preferred method by which health care  
16 facilities will report HAIs to the Department pursuant to this Part.
- 17       **(2)** Make recommendations on the adoption of national guidelines for  
18 preventing the spread of HAIs.
- 19       **(3)** Make recommendations on the public reporting of process measures for  
20 preventing the spread of HAIs.
- 21       **(4)** Review and evaluate federal and State laws, regulations, and accreditation  
22 standards pertaining to infection control and prevention and communicate to  
23 the Department how existing infection control and prevention programs will  
24 be impacted by implementation of this Part.
- 25       **(5)** Recommend a method for determining the number of infection prevention  
26 professionals in each health care facility.
- 27       **(6)** Recommend training and education requirements for State employees  
28 charged with inspecting health care facilities for compliance with the  
29 Program established under this Part.
- 30       **(7)** Recommend a method for auditing the validity and reliability of data  
31 submitted by health care facilities to the NHSN and Department.
- 32       **(8)** Recommend a standardized method for identifying HAIs that occur after a  
33 patient is discharged from a health care facility.
- 34       **(9)** Recommend a method by which risk-adjusted HAI data will be reported to  
35 the Governor, the General Assembly, and the public.
- 36       **(10)** Recommend methods by which health care facilities may, whenever  
37 possible, use epidemiological data to comply with the HAI reporting  
38 requirements established under this Part.
- 39       **(11)** Recommend a standardized method for evaluating health care facilities'  
40 compliance with this Part and for evaluating health care workers' compliance  
41 with infection prevention procedures, including hand hygiene and  
42 environmental sanitation procedures.
- 43       **(12)** Recommend training requirements for hospital infection prevention  
44 professionals on how to use the NHSN HAI surveillance reporting system.
- 45       **(13)** Consider and determine the feasibility of establishing active surveillance  
46 programs involving other entities, including athletic teams, correctional  
47 facilities, and other persons in the community that are colonized and at risk  
48 of susceptibility to and transmission of MRSA.

49 **"§ 130A-150.3. Healthcare-Associated Infections Surveillance, Prevention, and Control**  
50 **Program; Department duties.**

- 1       (a) By January 1, 2012, the Department shall establish a comprehensive HAI Program  
2 under which all of the following are accomplished:
- 3           (1) Federal funds allocated to the Program will be used to assess the  
4 Department's HAI resource needs, educate health care facility evaluator  
5 nurses in HAI, educate Department staff on methods for implementing  
6 recommendations for HAI prevention, and monitor emerging science and  
7 best practices in HAI prevention whenever possible.
- 8           (2) Each health care facility shall be required to meet current CDC guidelines  
9 and standards for HAI prevention.
- 10          (3) Each health care facility shall be required to develop a process for evaluating  
11 the judicious use of antibiotics, the results of which shall be monitored  
12 jointly by appropriate health care facility representatives and committees  
13 involved in quality improvement activities.
- 14          (4) The Department shall provide education and training to Department staff  
15 responsible for, and consultants hired to assist Department staff with,  
16 evaluating health care facilities for compliance with Program requirements.
- 17          (5) The Department shall provide current information to the public on HAI  
18 prevention and control, including information on causes and symptoms,  
19 diagnosis and treatment, prevention methods, and the proper use of  
20 antimicrobial agents and antibiotics, through the Department's Internet Web  
21 site.
- 22       (b) Beginning January 1, 2013, and annually thereafter, the Department shall provide to  
23 the Governor, the Senate Appropriations Committee on Health and Human Services, and the  
24 House of Representatives Appropriations Committee on Health and Human Services a report  
25 summarizing the HAI information reported by health care facilities to the NHSN and the  
26 Department pursuant to this Part. The Department shall make this annual report available to the  
27 public on its Internet Web site.
- 28       (c) Beginning January 1, 2013, the Division of Health Service Regulation shall post on  
29 its Internet Web site information regarding the incidence rate of HAIs in each health care  
30 facility subject to this Part, as reported to the NHSN and the Department using the data and  
31 components as defined in the NHSN Manual, Patient Safety Component Protocol, and any  
32 successor edition.
- 33       (d) Any information reported publicly as required under this section shall follow a risk  
34 adjustment process that is consistent with NHSN and use the NHSN's risk adjustment  
35 definitions, unless the Commission adopts rules under G.S. 130A-150.8 to establish a fair and  
36 equitable risk adjustment process that is consistent with the recommendations of the HAI  
37 Advisory Committee.
- 38       (e) The Secretary of the Department shall designate a HAI Coordinator to coordinate  
39 the HAI Program.
- 40 **§ 130A-150.4. Health care facility infection control requirements.**
- 41       (a) Each health care facility subject to this Part shall do all of the following:
- 42           (1) Implement an infection control policy consistent with the rules adopted by  
43 the Commission pursuant to G.S. 130A-150.8.
- 44           (2) Designate an infection control officer responsible for directing the facility's  
45 infection control activities and ensuring the facility's compliance with the  
46 testing and reporting requirements established under this Part. The name of  
47 the infection control officer shall be made publicly available, upon request.
- 48           (3) Conduct an infection control risk assessment at least once every 12 months,  
49 using industry best practices and guidelines. The results of the risk  
50 assessment shall be made publicly available, upon request.

- 1           (4) Train its environmental services staff in health care facility sanitation  
2 measures at the start of employment, and annually thereafter, or whenever  
3 the hospital adopts new prevention measures and monitor staff compliance  
4 with sanitation measures by randomly sampling cultures of the environment.
- 5           (5) Require each physician designated as a health care facility's epidemiologist  
6 or infection control officer to complete a continuing medical education  
7 (CME) training program in infection surveillance, prevention, and control  
8 offered by the CDC and the Society for Healthcare Epidemiology of  
9 America, or other recognized professional organization. The health care  
10 facility shall retain documentation of the physician's successful completion  
11 of the CME training program in the physician's credentialing file.
- 12           (6) Require all health care facility staff and contract physicians and all other  
13 licensed independent contractors, including nurse practitioners and physician  
14 assistants, to be trained in methods to prevent transmission of HAI,  
15 including MRSA and Clostridium difficile infection.
- 16           (7) Require all permanent and temporary health care facility employees and  
17 contractual staff, including students, to participate in training in health care  
18 facility-specific infection prevention and control policies, including hand  
19 hygiene, isolation procedures, patient hygiene, and environmental sanitation  
20 procedures. The health care facility shall make this training available to  
21 employees and contractual staff annually and when new policies have been  
22 adopted by the hospital's infection surveillance, prevention, and control  
23 committee.

24 **§ 130A-150.5. Health care facility active surveillance requirements.**

25           (a) Each health care facility shall test patients for MRSA up to 10 days prior to an  
26 elective admission or within 24 hours of admission in the following cases:

- 27           (1) The patient is scheduled for inpatient surgery and has a documented medical  
28 condition that makes the patient susceptible to infection, based either upon  
29 CDC findings or the Committee's recommendations.
- 30           (2) The patient has been previously discharged from a general acute care  
31 hospital within 30 days prior to the current hospital admission.
- 32           (3) The patient has previously had MRSA or has previously cared for a patient  
33 with MRSA.
- 34           (4) The patient will be admitted to an intensive care unit or burn unit of the  
35 hospital.
- 36           (5) The patient receives inpatient dialysis treatment.
- 37           (6) The patient is being transferred from a skilled nursing facility.
- 38           (7) The patient has any open wound or lesion that appears to be infectious.
- 39           (8) The patient has been transferred from a prison or jail.
- 40           (9) The patient suffers from a condition that compromises the immune system,  
41 including HIV/AIDS or cancer.
- 42           (10) The patient is homeless.
- 43           (11) The patient has taken drugs intravenously.
- 44           (12) The patient has had antibiotic therapy repeatedly or within the recent past.

45           (b) If a patient tests positive for MRSA, the attending physician shall inform the patient  
46 or the patient's representative immediately or as soon as practically possible.

47           (c) A health care facility shall retest a patient for MRSA at least once per week upon  
48 transfer to a different critical care setting and immediately prior to discharge from the facility if  
49 the patient shows evidence of increased risk of invasive MRSA after being tested in accordance  
50 with subsection (a) of this section. This section does not apply to a patient who has tested  
51 positive for MRSA or colonization upon entering the facility.

1        (d) A health care facility shall provide each patient who tests positive for MRSA oral  
2 and written instruction regarding available decolonization protocols, aftercare, and precautions  
3 to prevent the spread of infection to others. The health care facility shall provide this  
4 information to the patient at the time the positive results are communicated to the patient.

5 **"§ 130A-150.6. Health care facility reporting requirements.**

6        (a) Beginning January 1, 2013, and quarterly thereafter, each health care facility shall  
7 report to the Department and NHSN all healthcare-associated infection data and components as  
8 defined in the NHSN Manual, the United States Department of Health and Human Services  
9 Action Plan to Prevent Healthcare-Associated Infections, Patient Safety Component Protocol,  
10 or any successor edition, for all patients throughout the health care facility.

11        (b) Each health care facility shall report patient-specific data including, at a minimum,  
12 patient identification number, gender, and date of birth. In reporting the patient identification  
13 number, the health care facility shall ensure compatibility with the patient identifier on the  
14 uniform billing forms submitted to the Department.

15        (c) Each health care facility shall report data on a monthly basis in accordance with  
16 protocols defined by the NHSN Manual, as updated by the CDC.

17        (d) Each health care facility shall give the Department and the Committee access to its  
18 reports of healthcare-associated infection data contained in the NHSN database for the purposes  
19 of allowing the Department and the Committee to view and analyze the data.

20 **"§ 130A-150.7. Financial incentives for health care facility compliance.**

21        (a) Health payers shall provide coverage for routine cultures and screenings performed  
22 on patients in compliance with a health care facility's infection control plan. The Department  
23 shall seek federal approval, as necessary, to provide coverage for these services under the State  
24 Medical Assistance Program and The Health Insurance Program for Children. These costs shall  
25 be subject to any co-payment or deductible in effect at the time service is rendered.

26        (b) Beginning January 1, 2013, the Department shall, within available appropriations,  
27 make a quality improvement payment to each health care facility that achieves the metrics  
28 identified in the United States Department of Health and Human Services Action Plan to  
29 Prevent Healthcare-Associated Infections for that health care facility in the total number of  
30 reported HAIs over the preceding year. For calendar year 2013, and annually thereafter, the  
31 Department shall consult with the HAI Advisory Committee to establish appropriate percentage  
32 benchmarks for the reduction of healthcare-associated infections in each health care facility in  
33 order to be eligible for a payment pursuant to this subsection.

34        (c) A health care facility that is not in compliance with the HAI infection reporting  
35 requirements of G.S. 130A-150.6 is not eligible for a quality improvement payment under this  
36 section.

37        (d) A health care facility shall not charge or otherwise seek to obtain payment from a  
38 patient for costs associated with a hospital acquired condition subject to the hospital acquired  
39 condition payment provisions of the Medicare program, as established by regulation of the  
40 federal Centers for Medicare and Medicaid Services. Each health care facility shall notify its  
41 patients, in writing, of the provisions of this subsection on a form or in a manner prescribed by  
42 the Department.

43        (e) The attending physician responsible for causing a condition for which a health care  
44 facility is prohibited from charging or seeking payment from a patient pursuant to subsection  
45 (d) of this section shall not charge or otherwise seek to obtain payment from a patient for costs  
46 associated with the condition. Each health care facility shall notify its patients, in writing, of the  
47 provisions of this subsection on a form or in a manner prescribed by the Department.

48 **"§ 130A-150.8. Rules.**

49        The Commission shall adopt rules, as necessary, to implement the provisions of this Part.  
50 The rules shall incorporate current CDC guidelines and standards for HAI prevention. The rules

1 shall also require each health care facility subject to this Part to adopt a written infection  
2 control policy that includes at least all of the following:

- 3 (1) Procedures to reduce HAIs.
- 4 (2) Procedures for regular disinfection of all restrooms, countertops, furniture,  
5 televisions, telephones, bedding, office equipment, and surfaces in patient  
6 rooms, nursing stations, and storage units.
- 7 (3) Procedures for regular removal of accumulations of bodily fluids and  
8 intravenous substances, and cleaning and disinfection of all movable medical  
9 equipment, including point-of-care testing devices such as glucometers and  
10 transportable medical devices.
- 11 (4) Procedures for regular cleaning and disinfection of all surfaces in common  
12 areas in the facility such as elevators, meeting rooms, and lounges.
- 13 (5) A facility-wide hand hygiene program.

14 **"§ 130A-150.9. Fees.**

15 (a) Each health care facility shall pay the Department a surcharge on its licensing fee in  
16 an amount determined by the Department to be necessary to provide sufficient revenues for the  
17 Department and the HAI Advisory Committee to perform their responsibilities under this Part.  
18 The total aggregate annual assessment for all health care facilities shall not exceed five  
19 thousand dollars (\$5,000).

20 **"§ 130A-150.10. Administrative penalty.**

21 (a) The Department may impose an administrative penalty in the amount of one  
22 thousand dollars (\$1,000) per incident on any health care facility that negligently fails to report  
23 a HAI as required under this Part. Each day of a continuing violation shall constitute a separate  
24 violation. In determining the amount of the penalty, the Department shall consider the degree  
25 and extent of the harm caused by the violation. Any facility assessed a penalty shall be notified  
26 of the assessment by registered or certified mail, and the notice shall specify the reasons for the  
27 assessment.

28 (b) Any facility wishing to contest a penalty or order issued under this section shall be  
29 entitled to an administrative hearing and judicial review in accordance with the procedures  
30 outlined in Articles 3, 3A, and 4 of Chapter 150B of the General Statutes.

31 **SECTION 2.** This act becomes effective January 1, 2012.