

111TH CONGRESS
1ST SESSION

S. 1305

To prevent health care facility-acquired infections.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2009

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prevent health care facility-acquired infections.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “MRSA Infection Pre-
5 vention and Patient Protection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ACUTE CARE HOSPITAL.—The term “acute
9 care hospital” means a hospital that maintains and
10 operates an emergency room (including a trauma or
11 burn center), surgical unit, birthing facility, and
12 such other unit that is highly susceptible to acquir-

1 ing or transmitting infections, as determined by the
2 Secretary through regulations.

3 (2) HOSPITAL.—The term “hospital” has the
4 meaning given such term in section 1861(e) of the
5 Social Security Act (42 U.S.C. 1395x(e)) and in-
6 cludes critical access hospitals (as defined in section
7 1861(mm) of such Act) and other entities deter-
8 mined to be hospitals by the Secretary.

9 (3) MRSA.—The term “MRSA” means
10 Methicillin-resistant *Staphylococcus aureus*.

11 (4) OTHER INFECTION.—The term “other in-
12 fection” means an infection that the Secretary, after
13 consultation with the Director of the Centers for
14 Disease Control and Prevention and other public
15 health officials, as appropriate, and after public
16 hearing, determines to be, or to have the potential
17 to become, a serious source of morbidity and mor-
18 tality in health care facilities.

19 (5) SECRETARY.—The term “Secretary” means
20 the Secretary of Health and Human Services.

21 **SEC. 3. HOSPITAL INFECTION PREVENTION PROGRAMS.**

22 (a) REGULATIONS.—

23 (1) IN GENERAL.—Not later than 150 days
24 after the date of enactment of this Act, the Sec-
25 retary, in consultation with the Director of the Cen-

1 ters for Disease Control and Prevention and such
2 independent experts as the Secretary determines ap-
3 propriate, shall promulgate regulations that—

4 (A) provide a list of best practices for pre-
5 venting MRSA infections and such other anti-
6 biotic resistant pathogens as the Secretary de-
7 termines appropriate;

8 (B) define the term “high risk hospital de-
9 partments” for purposes of applying the best
10 practices provided for under subparagraph (A),
11 which may include surgical, burn, neonatal, and
12 such other departments as the Secretary deter-
13 mines;

14 (C) define the term “serious source of
15 morbidity and mortality” in quantitative terms
16 for purposes of determining the applicability of
17 this Act to other infections, except that such
18 definition shall not require morbidity and mor-
19 tality rates of more than 1 percent of the esti-
20 mated patient population at risk for a par-
21 ticular infection in order for an infection to
22 qualify as a serious source of morbidity and
23 mortality; and

1 (D) provide screening, recordkeeping, and
2 other requirements as they relate to reductions
3 in MRSA infections.

4 (2) CONSISTENCY.—The regulations promul-
5 gated under this subsection shall be consistent with
6 the requirements of this Act.

7 (3) EFFECTIVE DATE.—The regulations pro-
8 mulgated under paragraph (1) shall take effect on
9 the date that is 30 days after the date on which
10 such regulations are published in the Federal Reg-
11 ister, but in no case later than 180 days after the
12 date of enactment of this Act.

13 (b) SCREENING REQUIREMENTS.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, each acute
16 care hospital shall screen each patient entering an
17 intensive care unit or other high risk hospital de-
18 partment (as defined in the regulations promulgated
19 under subsection (a)(1)(B)).

20 (2) EXTENSION OF REQUIREMENTS.—

21 (A) IN GENERAL.—The Secretary, in con-
22 sultation with the Director of the Centers for
23 Disease Control and Prevention, shall establish
24 a process and a timetable for extending the

1 screening requirements of paragraph (1) to all
 2 patients admitted to all hospitals.

3 (B) REQUIREMENTS FULLY APPLIED.—

4 The timetable established under subparagraph
 5 (A), shall require that all patients be covered by
 6 the screening requirements under paragraph (1)
 7 by not later than January 1, 2014.

8 (C) WAIVER.—The Secretary may waive
 9 the requirements of this paragraph if the Sec-
 10 retary determines, at the recommendation of
 11 the Director of the Centers for Disease Control
 12 and Prevention and after public hearing, that
 13 the rate of MRSA infections or other infections
 14 has declined to a level at which further screen-
 15 ing is no longer needed.

16 (3) MEDICARE.—

17 (A) REQUIREMENT.—

18 (i) IN GENERAL.—Section 1866(a)(1)
 19 of the Social Security Act (42 U.S.C.
 20 1395cc(a)(1)) is amended—

21 (I) by striking “and” at the end
 22 of subparagraph (U);

23 (II) by striking the period at the
 24 end of subparagraph (V) and insert-
 25 ing “, and”; and

1 (III) by inserting after subpara-
2 graph (V) the following:

3 “(W) in the case of an acute care hospital (as
4 defined in section 2(1) of the MRSA Infection Pre-
5 vention and Patient Protection Act), to comply with
6 the screening requirements described in section 3 of
7 such Act.”.

8 (ii) EFFECTIVE DATE.—The amend-
9 ments made by clause (i) shall apply to
10 agreements entered into or renewed on or
11 after the date that is 180 days after the
12 enactment of this Act.

13 (B) MEDICARE PAYMENT ADJUSTMENTS.—
14 Not later than January 1, 2011, the Secretary
15 shall submit to the appropriate committees of
16 Congress, a report on whether payment adjust-
17 ments should be made under title XVIII of the
18 Social Security Act (42 U.S.C. 1395 et seq.) to
19 assist certain hospitals in defraying the cost of
20 screening for, and the subsequent treatment of,
21 MRSA infections (or other infections). In pre-
22 paring such report, the Secretary shall give spe-
23 cial consideration to the needs of rural, critical
24 access, sole community, and Medicare depend-
25 ent hospitals, and disproportionate share hos-

1 pitals and other hospitals with a dispropor-
2 tionate share of immune compromised patients.

3 (c) BEST PRACTICES.—In addition to any other best
4 practices contained in the regulations promulgated under
5 subsection (a)(1)(A), each hospital shall comply with the
6 following:

7 (1) A hospital shall require contact (barrier)
8 precautions, as determined by the Secretary, be
9 taken when treating patients who test positive for
10 MRSA colonization (as defined by the Centers for
11 Disease Control and Prevention).

12 (2) Where possible, a hospital shall—

13 (A)(i) isolate, with the same staffing ratio
14 per bed as in the non-isolated beds of the hos-
15 pital, or cohort patients colonized or infected
16 with MRSA; or

17 (ii) notify any patients with whom the
18 infected patient may room that such pa-
19 tient has tested positive for MRSA;

20 (B) control and monitor the movements of
21 such patients within the hospital; and

22 (C) take whatever steps are needed to stop
23 the transmission of MRSA bacteria to patients
24 who did not come into the hospital infected or
25 colonized with such bacteria.

1 The Secretary may suspend the application of this
2 paragraph in the case of an emergency.

3 (3) All patients who test positive for MRSA
4 shall be informed of the results. All MRSA test re-
5 sults shall be noted in the patient's medical record.

6 (4) Each hospital shall, by January 1, 2010,
7 adopt a policy requiring any patient who has a
8 MRSA infection to receive oral and written instruc-
9 tions regarding aftercare and precautions to prevent
10 the spread of the infection to others.

11 (5) Patients being discharged from intensive
12 care units shall be tested again for MRSA, and
13 those patients testing positive shall be informed of
14 their status, and that status shall be noted in the
15 patient's medical records in case of readmittance to
16 a hospital.

17 (6) A hospital shall educate its staff concerning
18 modes of transmission of MRSA, use of protective
19 equipment, disinfection policies and procedures, and
20 other preventive measures.

21 (7) A hospital shall provide other interventions,
22 as the Secretary determines to be necessary, for con-
23 trol of MRSA infection.

24 (d) REPORTING.—

1 (1) IN GENERAL.—Not later than January 1,
2 2011, each hospital shall, using the National
3 Healthcare Safety Network of the Centers for Dis-
4 ease Control and Prevention, report hospital-ac-
5 quired MRSA and other infections that occur in the
6 hospital facility. The Secretary shall develop a proc-
7 ess for the risk adjustment of such reports by hos-
8 pitals.

9 (2) PUBLICATION.—The Secretary shall develop
10 a system for the publication of hospital-specific in-
11 fection rates, including the rate of MRSA infections.

12 (e) NON-HOSPITAL MEDICARE PROVIDERS.—

13 (1) MRSA INFECTION REPORTING.—The Sec-
14 retary, using the MRSA infection and other infection
15 information identified under subsection (b) and such
16 other billing and coding information as necessary,
17 shall promulgate regulations to—

18 (A) define the term “infected transferred
19 patient”, to describe a patient who, after dis-
20 charge from, or treatment at, a non-hospital
21 Medicare provider, is admitted to the hospital
22 with MRSA infection (or other infection);

23 (B) establish a system for identifying in-
24 fected transferred patients;

1 (C) establish a system to promptly inform
2 any facility that has transferred an infected pa-
3 tient; and

4 (D) establish requirements that any non-
5 hospital Medicare provider that treats an in-
6 fected transferred patient described under sub-
7 paragraph (A) and that cannot provide a rea-
8 sonable explanation that the infection was not
9 acquired in the facility, submit to the Secretary
10 an action plan describing how such provider
11 plans to reduce the incidence of such infections.

12 (2) ASSISTANCE.—The Secretary shall promul-
13 gate regulations to develop a program to provide
14 technical assistance and educational materials to
15 non-hospital Medicare providers described in para-
16 graph (1)(A) in order to assist in preventing subse-
17 quent MRSA infections.

18 (3) PUBLICATION OF CERTAIN INFORMATION.—
19 If a non-hospital Medicare provider identified using
20 the system established under paragraph (1) fails to
21 take steps, as required by the regulations promul-
22 gated under subparagraph (1)(D), to combat MRSA
23 infections, the Secretary shall publish the name of
24 the provider and the number of MRSA infections
25 from such provider in the previous year.

1 (f) ASSISTANCE.—

2 (1) IN GENERAL.—To provide for the rapid im-
3 plementation of MRSA screening programs and ini-
4 tiatives through the installation of certified MRSA
5 screening equipment and the provision of necessary
6 support services, a hospital may submit an applica-
7 tion to the Secretary for a 1-year increase in the
8 amount of the capital-related costs payment made to
9 the hospital under the prospective payment system
10 under section 1886(g) of the Social Security Act (42
11 U.S.C. 1395ww(g)). The Secretary shall approve all
12 requests that the Secretary determines are reason-
13 able and necessary.

14 (2) REPAYMENT.—A hospital that receives an
15 increase under paragraph (1) shall, not later than 4
16 years after the date of receipt of such increase, reim-
17 burse the Secretary for the costs of such increase.
18 Such costs shall include the accrual of interest at
19 the rate payable for Federal Treasury notes. Such
20 reimbursement may be in the form of reduced cap-
21 ital-related costs payments to the hospital under the
22 system described in paragraph (1) for the years fol-
23 lowing the year in which the increase was received.

24 (3) CERTIFICATION SYSTEM.—Not later than
25 180 days after the date of enactment of this Act, the

1 Secretary shall promulgate regulations for the devel-
2 opment of a system to certify appropriate MRSA
3 screening and support services for purposes of this
4 subsection.

5 **SEC. 4. MRSA TESTING PILOT PROGRAM.**

6 (a) IN GENERAL.—The Director of the Centers for
7 Disease Control and Prevention (referred to in this section
8 as the “Director”) shall award a grant to 1 collaborative
9 project involving an eligible hospital and qualified testing
10 corporation on a competitive basis to carry out a pilot pro-
11 gram designed to develop a rapid, cost-effective method
12 for testing for MRSA using the polymerase chain reaction
13 (referred to in this section as “PCR”) or other molecular
14 testing methods.

15 (b) PURPOSE.—The pilot program described in sub-
16 section (a) shall be designed to—

17 (1) develop a low-cost, nationally adoptable
18 PCR-based analytical system for timely MRSA test-
19 ing and results;

20 (2) develop the system described in paragraph
21 (1) so that it is affordable to hospitals, thereby ena-
22 bling compliance with mandated MRSA testing re-
23 quirements;

24 (3) develop a system for centralized reporting of
25 results receiving through such testing to appropriate

1 governmental agencies for the purpose of disease re-
2 porting and surveillance; and

3 (4) develop a technology platform that may be
4 extended to other infections that the Director identi-
5 fies as priorities for detection, treatment, and sur-
6 veillance.

7 (c) ELIGIBILITY.—The Secretary shall establish re-
8 quirements regarding eligibility to receive a grant under
9 this section, which shall include the following require-
10 ments:

11 (1) The collaborate project shall be between a
12 nonprofit hospital organized for charitable purposes
13 under section 501(c)(3) of the Internal Revenue
14 Code of 1986 and a qualified testing corporation.

15 (2) The hospital shall serve as the beta test site
16 for any MRSA screening methods developed through
17 the pilot program.

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