

111TH CONGRESS  
1ST SESSION

# S. 1305

To prevent health care facility-acquired infections.

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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

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## 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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