NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 06-1045

BY REPRESENTATIVE(S) McCluskey, Butcher, Frangas, Todd, Berens, Borodkin, Carroll M., Clapp, Coleman, Garcia, Green, Hall, Hoppe, Jahn, Kerr J., Madden, McFadyen, McGihon, Merrifield, Paccione, Pommer, Ragsdale, Romanoff, Solano, Stafford, Sullivan, Buescher, Crane, Hodge, Kerr A., Marshall, Riesberg, Soper, and Witwer;
also SENATOR(S) Keller, Gordon, Tochtrop, Bacon, Boyd, Fitz-Gerald, Groff, Shaffer, and Veiga.

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

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

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

PART 6
HOSPITAL-ACQUIRED INFECTIONS DISCLOSURE

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

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AND ENVIRONMENT.

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

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

(5) "INFECTION" MEANS THE INVASION OF THE BODY BY PATHOGENIC MICROORGANISMS THAT REPRODUCE AND MULTIPLY, CAUSING DISEASE BY LOCAL CELLULAR INJURY, SECRETION OF A TOXIN, OR ANTIGEN-ANTIBODY REACTION IN THE HOST.

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

(I) CARDIAC SURGICAL SITE INFECTIONS;

(II) ORTHOPEDIC SURGICAL SITE INFECTIONS; AND

(III) CENTRAL LINE-RELATED BLOODSTREAM INFECTIONS.

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

(c) AN INDIVIDUAL WHO COLLECTS DATA ON HOSPITAL-ACQUIRED INFECTION RATES SHALL TAKE THE TEST FOR THE APPROPRIATE NATIONAL CERTIFICATION FOR INFECTION CONTROL AND BECOME CERTIFIED WITHIN SIX MONTHS AFTER THE INDIVIDUAL BECOMES ELIGIBLE TO TAKE THE CERTIFICATION TEST. MANDATORY NATIONAL CERTIFICATION REQUIREMENTS SHALL NOT APPLY TO INDIVIDUALS COLLECTING DATA ON HOSPITAL-ACQUIRED INFECTIONS IN HOSPITALS LICENSED FOR FIFTY BEDS OR LESS. QUALIFICATIONS FOR THESE INDIVIDUALS MAY BE MET THROUGH

ONGOING EDUCATION, TRAINING, EXPERIENCE, OR CERTIFICATION.

(2) EACH PHYSICIAN WHO PERFORMS A CLINICAL PROCEDURE LISTED IN SUBSECTION (1) OF THIS SECTION SHALL REPORT TO THE HEALTH FACILITY AT WHICH THE CLINICAL PROCEDURE WAS PERFORMED A HOSPITAL-ACQUIRED INFECTION THAT THE PHYSICIAN DIAGNOSES AT A FOLLOW-UP APPOINTMENT WITH THE PATIENT USING STANDARDIZED CRITERIA AND METHODS CONSISTENT WITH GUIDELINES DETERMINED BY THE ADVISORY COMMITTEE. THE REPORTS MADE TO THE HEALTH FACILITY UNDER THIS SUBSECTION (2) SHALL BE INCLUDED IN THE REPORTING THE HEALTH FACILITY MAKES UNDER SUBSECTION (3) OF THIS SECTION.

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

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

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

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

(I) ONE REPRESENTATIVE FROM A PUBLIC HOSPITAL;

(II) ONE REPRESENTATIVE FROM A PRIVATE HOSPITAL;

(III) ONE BOARD-CERTIFIED OR BOARD-ELIGIBLE PHYSICIAN LICENSED IN THE STATE OF COLORADO, WHO IS AFFILIATED WITH A COLORADO HOSPITAL OR MEDICAL SCHOOL, WHO IS AN ACTIVE MEMBER OF

A NATIONAL ORGANIZATION SPECIALIZING IN HEALTH CARE EPIDEMIOLOGY OR INFECTION CONTROL, AND WHO HAS DEMONSTRATED AN INTEREST AND EXPERTISE IN HEALTH FACILITY INFECTION CONTROL;

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

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

(VI) ONE REPRESENTATIVE FROM A HEALTH CONSUMER ORGANIZATION;

(VII) ONE REPRESENTATIVE FROM A HEALTH INSURER; AND

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

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

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

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

(5) (a) THE ADVISORY COMMITTEE SHALL RECOMMEND ADDITIONAL

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

(b) (I) ON OR BEFORE NOVEMBER 1, 2008, THE ADVISORY COMMITTEE SHALL EITHER RECOMMEND TO THE DEPARTMENT THE ADDITION OF ABDOMINAL SURGICAL SITE INFECTIONS AND AT LEAST ONE OTHER CLINICAL PROCEDURE TO THE DATA COLLECTED ON HOSPITAL-ACQUIRED INFECTION RATES AS REQUIRED IN THIS SECTION OR COMPLY WITH THE PROVISIONS OF PARAGRAPH (d) OF THIS SUBSECTION (5) AND SHALL RECOMMEND TO THE DEPARTMENT WHETHER TO INCLUDE LONG-TERM ACUTE CARE CENTERS AS HEALTH FACILITIES THAT ARE SUBJECT TO THE REPORTING REQUIREMENTS OF THIS PART 6.

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

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

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

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

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

(d) IF THE ADVISORY COMMITTEE DETERMINES THAT IT IS UNABLE TO IDENTIFY AT LEAST TWO CLINICAL PROCEDURES FOR ADDITION TO THE DATA COLLECTED BY THE DEADLINE, THE COMMITTEE SHALL REPORT TO THE

DEPARTMENT ITS REASONS FOR NOT IDENTIFYING AT LEAST TWO NEW CLINICAL PROCEDURES.

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

(7) (a) SUBSECTIONS (4), (5), AND (6) OF THIS SECTION AND THIS SUBSECTION (7) ARE REPEALED, EFFECTIVE JULY 1, 2016.

(b) PRIOR TO SUCH REPEAL, THE ADVISORY COMMITTEE AND ITS FUNCTIONS SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

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

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

(3) (a) ALL DATA IN REPORTS ISSUED BY THE DEPARTMENT SHALL BE RISK-ADJUSTED CONSISTENT WITH THE STANDARDS OF THE NATIONAL HEALTHCARE SAFETY NETWORK.

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

RECOMMENDATIONS AS APPROPRIATE.

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

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

25-3-604. Privacy. COMPLIANCE WITH THIS PART 6 SHALL NOT VIOLATE A PATIENT'S RIGHT TO CONFIDENTIALITY. A PATIENT'S SOCIAL SECURITY NUMBER AND ANY OTHER INFORMATION THAT COULD BE USED TO IDENTIFY A PATIENT SHALL NOT BE RELEASED, NOTWITHSTANDING ANY OTHER PROVISION OF LAW.

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

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

(3) THE TRANSFER OF INFORMATION OR MATERIALS UNDER THIS PART

6 IS NOT A WAIVER OF A PRIVILEGE OR PROTECTION GRANTED UNDER LAW.

(4) INFORMATION REPORTED BY A HEALTH FACILITY UNDER THIS PART 6 AND ANALYSES, PLANS, RECORDS, AND REPORTS OBTAINED, PREPARED, OR COMPILED BY A HEALTH FACILITY UNDER THIS PART 6 AND ALL RELATED INFORMATION AND MATERIALS ARE SUBJECT TO AN ABSOLUTE PRIVILEGE AND SHALL NOT BE USED IN ANY FORM AGAINST THE HEALTH FACILITY, ITS AGENTS, EMPLOYEES, PARTNERS, ASSIGNEES, OR INDEPENDENT CONTRACTORS IN ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE PROCEEDING, REGARDLESS OF THE MEANS BY WHICH A PERSON CAME INTO POSSESSION OF THE INFORMATION, ANALYSIS, PLAN, RECORD, REPORT, OR RELATED INFORMATION OR MATERIALS.

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

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

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

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

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

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

25-3-103. License denial or revocation - provisional license. (1) (a) Application for a new or renewal license under this part 1 may be denied to an applicant not meeting the requirements of this part 1 OR PART 6 OF THIS ARTICLE and the rules of the department of public health and environment. A license may be revoked for like reasons. The department of public health and environment may, upon such denial or revocation, grant a provisional license, valid for ninety days, upon payment of a fee of one hundred fifty dollars, to allow such applicant to comply with the requirements for a regular license. A second provisional license may be issued, for a like term and fee, if necessary in the opinion of the department of public health and environment, to effect compliance. No further provisional licenses may be issued for the then current year after the second issuance.

SECTION 3. 2-3-1203 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(cc) JULY 1, 2016: THE ADVISORY COMMITTEE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-3-602 (4), C.R.S., AND THE ADVISORY COMMITTEE'S FUNCTIONS, AS SPECIFIED IN SECTION 25-3-602 (5) AND (6), C.R.S.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of public health and environment, for allocation to the health facilities and emergency medical services division, for the fiscal year beginning July 1, 2006, the sum of fifty-two thousand six hundred twenty-six dollars ($52,626) and 0.6 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff SPEAKER OF THE HOUSE OF REPRESENTATIVES	Joan Fitz-Gerald PRESIDENT OF THE SENATE
Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Karen Goldman SECRETARY OF THE SENATE

APPROVED_____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO