CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR PUBLIC HEALTH

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Janie Miller
Secretary

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The Honorable Vernie McGaha
Room 203, Capitol Annex
Frankfort, Kentucky 40601

Dear Senator McGaha:

The Department for Public Health has reviewed SB 183 regarding health facility-acquired infections and, as a result, has identified the following concerns that prevent us from supporting the legislation at this time:

Programmatic - To be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and/or when licensed and accredited by the Office of Inspector General (OIG), hospitals and other healthcare facilities are already required to have functioning infection control committees and "infection prevention" plans which identify and respond to threats to the health of the patients, staff, and visitors.

Secondly, medically it is difficult to distinguish between a patient who is colonized with a multi-drug resistant bacteria and one who has an illness as a result of it. The proposed legislation would require that both be reported, even though the colonization does not require treatment. Furthermore the bill calls for reporting the rate of infection in the community. It is difficult to establish accurate data on community rates as doctors in the community often make a diagnosis based only on the signs and symptoms of the patient and do not submit a specimen to a laboratory for culture (which is necessary to confirm if the organism is multi-drug resistant).

Thirdly, the OIG currently regulates 37 licensure categories of health care facilities. This bill defines the term "health facility" to include any health facility licensed or regulated by the Cabinet for Health and Family Services; therefore, the provisions of this bill would presumably apply to all of these facilities. Inpatient and residential services would be the most appropriate levels of care to target, such as hospitals and long term care facilities (excluding family care homes).

Finally, health care facilities that violate the provisions of this bill would be subject to monetary penalties, thereby increasing revenue. However, the OIG notes that no time interval has been established in the bill between each violation before a facility would be subject to fines or licensure revocation. For example, a third citation that is found years after a second citation would automatically result in licensure revocation even if the facility has demonstrated compliance for a considerable length of time. The OIG opposes taking punitive action against facilities when a period of time has not been established between each citation.

Fiscal - Under the bill, the Cabinet would then be responsible for the dissemination of information on rates and reporting to the LRC annually. Setting up such an infrastructure of standardized reporting within the state would be costly, especially when the Centers for Disease Control and Prevention (CDC) already has a voluntary reporting mechanism that could do much the same tasks, called the National Healthcare Safety Network (NHSN). Start-up programs in other states have traditionally incurred both medical and analytical personnel plus Information technology costs to process the volumes of data. Support for implementation would require at least two additional physicians, three additional nurses, and two additional epidemiologists at the Department for Public Health. Salary costs, alone for such new personnel could be about $500,000.

Impact on Citizens we serve - The Cabinet is supportive of preventive measures that help protect the health and safety of patients/residents of health facilities. However, it should be noted that several state health facility licensure regulations (including renal dialysis facilities, outpatient health care centers, residential hospice facilities, long term care facilities, ambulatory care clinics, adult daycares, ICFs, and hospitals) already require that regulated facilities have an infection control policy in place that is consistent with current CDC recommendations. Since both state and federal regulations for infection control already exist, this legislation appears duplicative and may not be necessary.

It is for these reasons we must oppose this legislation. We would welcome the opportunity to meet to discuss the purpose of your legislation. Knowing your schedule is demanding, I can meet at your convenience and will bring the necessary program staff to discuss these issues. If you have any questions, please contact me at (502) 564-3970.

Sincerely,

William D. Hacker, MD, FAAP, CPE
Commissioner

Cc: Janie Miller, Secretary, Cabinet for Health and Family Services
Steve Nunn, Deputy Secretary, Cabinet for Health and Family Services
Office of Legislative Affairs