

BILL ANALYSIS

C.S.H.B. 1614
By: Truitt
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1999 the Institute of Medicine released the ground breaking report entitled *To Err is Human: Building a Safer Healthcare System*. The report estimated that the annual death toll from medical errors was 44,000 Americans per year. To build trust with patients and the communities served, hospitals recognize the need to demonstrate public accountability. While much data is available on hospital performance through various state agencies as well as on the internet, reliable information about medical errors is lacking. This bill is one effort to enhance hospitals' accountability to the public, while providing valuable information to help hospitals identify and prevent errors. C.S.H.B. 1614 establishes a patient safety program at the Texas Department of Health (TDH) through which hospitals, ambulatory surgical centers and mental hospitals will report medical errors to TDH and develop internal plans of correction to prevent future occurrences of errors.

RULEMAKING AUTHORITY

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Department of Health in SECTION 2 (Section 241.206, Health and Safety Code), SECTION 4 (Section 243.056, Health and Safety Code), and SECTION 6 (Section 577.056, Health and Safety Code) of this bill.

ANALYSIS

The purpose of the bill is to establish a patient safety program at the Texas Department of Health to detect statewide trends in the occurrence of certain medical errors by requiring hospitals, ambulatory surgical centers, and mental hospitals to report these errors and develop reports and recommendations to share best practices and safety improvement measures for these facilities.

The bill requires TDH to establish a patient safety program for hospitals, ambulatory surgical centers, and mental hospitals which will serve as a clearinghouse for best practices and quality improvement strategies.

The bill requires hospitals, ambulatory surgical centers, and mental hospitals to submit an annual report to TDH on their respective annual licensure renewal date which includes the number of medical errors which meet the criteria outlined in the bill. The bill prohibits TDH from requiring that an annual report include any information other than a listing of the number of medical errors which meet the criteria outlined in the bill.

The bill defines "root cause analysis" and requires that within 45 days of a hospital, ambulatory surgical center, or mental hospital becoming aware of a reportable medical error as outlined in the bill, the hospital, ambulatory surgical center, or mental hospital must conduct a root cause analysis and develop an action plan that identifies strategies to reduce the risk of a similar event occurring in the future. The bill authorizes TDH to review a root cause analysis or action plan as part of a survey, inspection, or investigation of a hospital, ambulatory surgical center, or mental hospital. The bill prohibits TDH from requiring submission of a root cause analysis or action plan and prohibits any reproduction of either document by TDH or a TDH agent.

The bill requires all information and material obtained or compiled, except as provided in the bill, be confidential and not subject to disclosure, and may not be admitted as evidence or otherwise disclosed in any civil, criminal, or administrative proceedings. The bill extends confidentiality protections to the information or material compiled by a hospital, ambulatory surgical center, or mental hospital or an entity that has ownership or management interest in a hospital, ambulatory surgical center, or mental hospital.

The bill does not waive confidentiality protection as a result of the transfer of information or materials. The bill requires all information and material obtained, prepared, or compiled by a hospital, ambulatory surgical center, or mental hospital be confidential and not subject to disclosure, and may not be admitted as evidence or otherwise disclosed in any civil, criminal, or administrative proceedings. The bill does not prohibit access to the patient's medical records to the extent authorized by law by the patient or the patient's legally authorized representative.

The bill requires TDH to develop an annual public report which includes a summary of the events reported by hospitals, ambulatory surgical centers, and mental hospitals which meet the criteria outlined in the bill but does not directly or indirectly identify any hospital, ambulatory surgical center, or mental hospital or patient specific information related to the events.

The bill requires hospitals, ambulatory surgical centers, and mental hospitals to submit to TDH at least one report of the best practices and safety measures related to a reported event which meets the criteria outlined in the bill. The bill authorizes hospitals, ambulatory surgical centers, and mental hospitals to provide to TDH a report of best practices and safety measures that are effective in improving patient safety. The bill authorizes TDH to prescribe by rule the form and format of the report in accordance with the criteria outlined in the bill. The bill requires TDH to periodically develop a public summary of best practices reports that does not directly or indirectly identify any hospital, ambulatory surgical center, or mental hospital or patient specific information related to a reported event.

The bill prohibits a required report or department summary from distinguishing between an event that occurred at an outpatient facility owned or operated by a hospital, ambulatory surgical center, or mental hospitals or an event that occurred at a hospital, ambulatory surgical center, or mental hospital facility.

The bill requires the commissioner of public health, in consultation with hospitals, ambulatory surgical centers, and mental hospitals evaluate the program according to the criteria outlined in the bill and make recommendations to the legislature not later than December 1, 2006.

The bill authorizes TDH to accept and administer gifts, grants, or donations to carry out the purposes outlined in the bill.

The bill requires that no later than January 1, 2004, and using existing resources, TDH establish the patient safety program. Hospitals, ambulatory surgical centers, and mental hospitals must submit the required annual report upon the renewal of their respective licenses beginning July 1, 2004.

The bill provides that specific provisions of the bill will expire on September 1, 2007. The expiration of those provisions does not affect the confidentiality of and privilege applicable to information and materials or the authorized disclosure of summary reports of that information and materials under specific sections of this Act and specific laws are continued in effect for that purpose.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds new language to provide that the Act does not prohibit access to a patient's medical records by the patient or the patient's legally authorized representative to the extent authorized by law. The substitute adds new language that requires hospitals, ambulatory surgical centers, and mental hospitals submit to TDH at least one report of the best practices and safety measures related to a reported event which meets the criteria outlined in the substitute. The substitute adds new language that provides an example of a best practice that is effective in improving patient safety. The substitute adds clarifying language in regard to the confidentiality of the required and submitted reports. The substitute adds language to authorize TDH to accept and administer gifts, grants, or donations to carry out the purposes of the Act.