

By: Van de Putte

S.B. No. 357

A BILL TO BE ENTITLED

AN ACT

relating to infection rates at hospitals; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 96 to read as follows:

CHAPTER 96. HOSPITAL-ACQUIRED INFECTION RATES

Sec. 96.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services.

(2) "Hospital" means a public, for-profit, or nonprofit institution licensed or owned by this state that is a general or special hospital, private mental hospital, chronic disease hospital, or other type of hospital.

(3) "Hospital-acquired infection" means a localized or systemic condition that results from adverse reaction to the presence of an infectious agent or its toxin that was not present or incubating at the time of admission to the hospital.

Sec. 96.002. COLLECTION OF HOSPITAL-ACQUIRED INFECTION RATE DATA. Each hospital shall collect data on the hospital-acquired infection rate related to specific clinical procedures. The hospital shall report the hospital-acquired infection rate for the following categories:

(1) surgical site infections;

1 (2) ventilator-associated pneumonia;
2 (3) central line-related bloodstream infections;
3 (4) urinary tract infections; and
4 (5) any other category the department determines is
5 necessary after consulting with the advisory committee.

6 Sec. 96.003. QUARTERLY REPORTS. (a) Not later than the
7 last day of the month following each calendar quarter, each
8 hospital shall report to the department the hospital-acquired
9 infection rates for that particular hospital.

10 (b) If the hospital is a division or subsidiary of another
11 entity that owns or operates other hospitals or related
12 organizations, a quarterly report must be made for each specific
13 hospital.

14 (c) The department shall prescribe the form of the quarterly
15 report to be made under this section.

16 (d) Each hospital shall make its quarterly reports
17 available to the public.

18 Sec. 96.004. ANNUAL REPORT TO LEGISLATURE. (a) Not later
19 than January 31 of each year, the department shall submit to the
20 legislature a report summarizing the hospital quarterly reports.

21 (b) The annual report must compare the risk-adjusted
22 hospital-acquired infection rates for each individual hospital in
23 the state. The department, in consultation with the advisory
24 committee, shall make this comparison as easy to comprehend as
25 possible.

26 (c) The report must include an executive summary, written in
27 plain language, that includes a discussion of findings,

1 conclusions, and trends concerning the overall state of
2 hospital-acquired infections in the state, including a comparison
3 to prior years.

4 (d) The report may include policy recommendations, as
5 appropriate.

6 Sec. 96.005. PUBLICATION OF INFORMATION. (a) The
7 department shall publish each quarterly report and the annual
8 report on the department's Internet website.

9 (b) The department may issue quarterly information
10 bulletins at its discretion, summarizing all or part of the
11 information submitted in the hospital quarterly reports.

12 (c) The department shall publicize the availability of the
13 reports as widely as practicable to interested parties, including
14 hospitals, health care providers, media organizations, health
15 insurers, health maintenance organizations, purchasers of health
16 insurance, organized labor, consumer or patient advocacy groups,
17 and individual consumers.

18 (d) The department shall make the annual report available to
19 any person upon request.

20 Sec. 96.006. ADVISORY COMMITTEE. (a) The commissioner of
21 the department shall appoint an advisory committee to assist the
22 department in the development of all aspects of the department's
23 methodology for collecting, analyzing, and disclosing the
24 information collected under this chapter, including collection
25 methods, formatting, and methods and means for release and
26 dissemination of the information.

27 (b) The advisory committee must include representatives

1 from public and private hospitals, including a representative from
2 a hospital's infection control department, consumer organizations,
3 health insurers and health maintenance organizations, and
4 organized labor. The advisory committee must also include at least
5 one representative who is:

- 6 (1) a nurse providing direct nursing care;
7 (2) a physician;
8 (3) an epidemiologist with expertise in
9 hospital-acquired infections;
10 (4) an academic researcher; and
11 (5) a purchaser of group health coverage, such as an
12 employer.

13 (c) A majority of the members of the advisory committee must
14 represent interests other than hospitals.

15 (d) In developing the methodology for collecting and
16 analyzing the infection rate data, the department and advisory
17 committee shall consider existing methodologies and systems for
18 data collection, including the Centers for Disease Control's
19 National Nosocomial Infections Surveillance System, or its
20 successor. The data collection and analysis methodology shall be
21 disclosed to the public prior to any public disclosure of
22 hospital-acquired infection rates.

23 (e) The department and the advisory committee shall
24 evaluate on a regular basis the quality and accuracy of hospital
25 information reported under this chapter and the data collection,
26 analysis, and dissemination methodologies.

27 (f) Chapter 2110, Government Code, applies to the advisory

1 committee except that Sections 2110.002 and 2110.008, Government
2 Code, do not apply to the committee.

3 Sec. 96.007. PRIVACY. A hospital report or department
4 disclosure may not contain information identifying a patient,
5 employee, or licensed health care professional in connection with a
6 specific infection incident.

7 Sec. 96.008. CIVIL PENALTY. (a) A hospital that violates
8 this chapter or a rule adopted under this chapter is liable to the
9 state for a civil penalty in an amount not to exceed \$1,000 for each
10 violation.

11 (b) Each day a violation occurs constitutes a separate
12 violation.

13 (c) The attorney general shall bring an action in the name
14 of the state at the department's request to collect a civil penalty
15 under this section.

16 (d) The attorney general may recover reasonable expenses
17 incurred in obtaining a civil penalty under this section, including
18 court costs, reasonable attorney's fees, reasonable investigative
19 costs, witness fees, and deposition expenses.

20 SECTION 2. Section 241.053(a), Health and Safety Code, is
21 amended to read as follows:

22 (a) The department, after providing notice and an
23 opportunity for a hearing to the applicant or license holder, may
24 deny, suspend, or revoke a hospital's license if the department
25 finds that the hospital:

26 (1) failed to comply with:

27 (A) a provision of this chapter;

1 (B) a rule adopted under this chapter;

2 (C) a special license condition;

3 (D) an order or emergency order by the
4 commissioner of health; ~~or~~]

5 (E) another enforcement procedure permitted
6 under this chapter; or

7 (F) a provision of Chapter 96 or a rule adopted
8 under Chapter 96;

9 (2) has a history of noncompliance with the rules
10 adopted under this chapter relating to patient health, safety, and
11 rights which reflects more than nominal noncompliance; or

12 (3) has aided, abetted, or permitted the commission of
13 an illegal act.

14 SECTION 3. The executive commissioner of the Health and
15 Human Services Commission shall adopt any rules necessary to
16 implement Chapter 96, Health and Safety Code, as added by this Act,
17 not later than January 1, 2006, and shall require submission of the
18 initial reports required to be made under that chapter not later
19 than April 30, 2006.

20 SECTION 4. This Act takes effect September 1, 2005.