

BILL ANALYSIS

C.S.H.B. 1398
By: Delisi
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

As directed by SB 872 in the 79th session of the Texas Legislature, the Department of State Health Services established a 14-member advisory panel to study and make recommendations for the collecting and reporting of health care-associated infections (HAI). The advisory panel was appointed in 2005 by the commissioner of state health services and is comprised of consumers, infection control professionals and health care facility leaders. The HAI panel met nine times from November 2005 to October 2006. By consensus, the panel agreed on eight key findings. The recommendations and key findings of the advisory panel on healthcare-associated infections were submitted to the Governor by the commissioner of state health services in 2006. CSHB 1398 incorporates a number of the recommendations from the hospital acquired infections report.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 3 of this bill.

ANALYSIS

CSHB 1398 amends the Health and Safety Code by adding Chapter 98 on the Reporting of Health Care-Associated Infections. The bill requires the commissioner of the Department of State Health Services (commissioner) to establish the Advisory Panel on Health Care-Associated Infections (advisory panel) within the infectious disease surveillance and epidemiology branch of Department of State Health Services (DSHS) to guide the implementation, development, maintenance, and evaluation of the reporting system. The bill sets forth the membership, qualifications for serving, officers, terms, and compensation of the advisory panel. It also provides definitions for advisory panel, ambulatory surgical center, commissioner, department, executive commissioner, general hospital, health care-associated infection, health care facility, infection rate, pediatric and adolescent hospital, reporting system, and special care setting. The bill provides that Chapter 2110, Government Code, does not apply to the advisory panel. The bill requires a vacancy on the advisory panel to be filled by the commissioner.

The bill requires the DSHS, not later than June 1, 2008, to establish the Texas Health Care-Associated Infection Reporting System, within the infectious disease surveillance and epidemiology branch of DSHS. The purpose of the reporting system is to provide for the reporting of health care-associated infections by health care facilities to DSHS, for the public reporting regarding these infections, and for the education and training of health care facility staff by DSHS. The reporting system shall provide a mechanism to collect data, at state expense, through a secure electronic interface with health care facilities. The data reported by health care facilities to the department must contain sufficient patient identifying information to avoid duplicate submission of records, allow the department to verify the accuracy and completeness of the data reported, and allow the department to risk adjust the facilities' infection rates. DSHS is required to review the infection control and reporting activities of health care facilities to ensure the data provided by facilities is valid and does not have unusual data patterns or trends that suggest implausible infection rates.

The bill requires a health care facility and a pediatric and adolescent hospital to report the incidence of surgical site infections for certain procedures. A health care facility that does not perform at least an average of 50 procedures per month of the reportable procedures must report the infections for the three most frequently performed surgical procedures, based on a specified list. A general hospital is required to report the incidences of laboratory-confirmed central line-

associated primary bloodstream infections occurring in any special care setting in the hospital and respiratory syncytial virus occurring in any pediatric inpatient unit in the hospital. DSHS shall ensure that the health care-associated infections a health care facility is required to report under this section have the meanings assigned by the federal Centers for Disease Control and Prevention. Based on recommendations of the advisory panel, the executive commissioner of Health and Human Services Commission (executive commissioner), by rule, may modify the list of reportable procedures, and in consultation with the advisory panel, shall establish the frequency of reporting, providing it is not more frequently than quarterly. The modifications must be based on changes in reporting guidelines and in definitions established by the federal Centers for Disease Control and Prevention.

The bill requires DSHS to compile a summary, by health care facility, of the reported infections. The summary must be risk adjusted and include a comparison of the infections rates for each facility. The bill provides the frequency, format and method of publication for the summary. The website must contain information on public reporting of suspected health care-associated infections to DSHS. The bill requires the executive commissioner, by rule, to allow a health care facility to provide written comments regarding the information contained in the summary that relates to the facility. DSHS shall attach the facility's comments to the public report in a certain manner. The bill establishes that the disclosure of the comments to DSHS does not constitute a waiver of privilege or protection under Section 98.109. Additionally, the bill authorizes DSHS to disclose certain information reported by health care facilities to other programs within the department for public health research or analysis purposes only, provided the research or analysis relates to health care-associated infections. The bill provides that certain information publicly reported may not be used to establish a standard of care in a civil action.

Except for limited exceptions, all information and materials obtained or compiled or reported by DSHS, or compiled or reported by a health care facility, and all related information and materials, are confidential and not subject to disclosure under the Public Information Act, discovery, or subpoena, or other means of legal compulsion for release, and may not be admitted as evidence or otherwise disclosed in any civil, criminal, or administrative proceeding.

DSHS's summary or disclosure may not contain information identifying a facility patient, employee, contractor, volunteer, consultant, health care professional, student, or trainee in connection with a specific infection incident. The bill extends confidentiality protections to an entity that has an ownership or management interest in a health care facility. It provides that transfer of information or materials is not a waiver. The bill provides that the confidentiality provisions do not restrict certain access by patients or their legal representative to their records regarding medical diagnosis or treatment or to other primary health records.

DSHS is required to provide training and education for health care facility staff regarding the reporting system. The training is to focus primarily on the implementation and management of a facility reporting mechanism, the characteristics of the reporting system, confidentiality, and legal protections.

The bill authorizes the executive commissioner to adopt rules in order for DSHS to implement the chapter, and prohibits the executive commissioner from adopting any rules that conflict with or duplicate any federally mandated infection reporting program or requirement.

The bill provides that a general hospital that violates Chapter 98 or a rule adopted under the chapter is subject to the enforcement provisions of Subchapter C, Chapter 241 of the Health and Safety Code, and rules adopted and enforced under that subchapter as if the hospital violated Chapter 241 or a rule adopted under that chapter. The bill provides that this enforcement does not apply to certain comprehensive medical rehabilitation hospitals. An ambulatory surgical center that violates Chapter 98 or a rule adopted under the chapter is subject to the enforcement provisions of Chapter 243 and rules adopted and enforced under that chapter as if the center violated Chapter 243 or a rule adopted under that chapter.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

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COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute allows the Department of State Health Services to risk adjust the facilities' infection rates. Additionally, the substitute adds language requiring the department to review infection control and reporting activities of health care facilities to ensure that data provided is valid and does not have unusual patterns or trends that suggest implausible rates.

The substitute adds language requiring DSHS to ensure that health care-associated infections required to be reported by health care facilities have the meanings assigned by the federal Centers for Disease Control and Prevention. It also adds language that specifies that the executive commissioner by rule may modify the list of procedures that are reportable, and that any modifications must be based on changes in reporting guidelines and in definitions established by the federal Centers for Disease Control and Prevention. The new language deletes references to the Centers for Medicare and Medicaid Services and the Agency for Healthcare Research and Quality.

The substitute adds the words "or reported" twice to make it consistent with a later subsection.

The substitute deletes Section 98.109, subsection (d) from the original bill and renumbers accordingly. The substitute also deletes the language "health care facility report or" from Section 98.109, subsection (f) of the original bill.

The substitute adds a new subsection on enforcement which clarifies that the enforcement tools available under hospital and ambulatory surgical center licensing statutes are applicable for the infection reporting requirement. The substitute changes the date for establishing the system from March 1, 2008 to June 1, 2008.