

BILL ANALYSIS

Senate Research Center

S.B. 288
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Health care associated infections account for an estimated two million infections and 90,000 deaths annually and cost approximately \$4.5 billion per year.

S.B. 288 requires public reporting of infections that occurred while the patient received treatment in a health care facility.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 98.101, 98.105, 98.106, and 98.108, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 1 (Section 98.101, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 2, Health and Safety Code, by adding Chapter 98, as follows:

CHAPTER 98. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 98.001. DEFINITIONS. Defines "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."

Sec. 98.002. APPLICABILITY OF OTHER LAW. Exempts the Advisory Panel on Health Care Associated Infections (panel) created under Subchapter B, from Chapter 2110 (State Agency Advisory Committees), Government Code.

[Reserves Sections 98.003-98.050 for expansion.]

SUBCHAPTER B. ADVISORY PANEL

Sec. 98.051. ESTABLISHMENT. Requires the commissioner of state health services (commissioner) to establish the Advisory Panel on Health Care-Associated Infections (panel) within the infectious disease surveillance and epidemiology branch of the Texas Department of State Health Services (DSHS) to guide the implementation, development, maintenance, and evaluation of the Texas Health Care Associated Infection Reporting System (reporting system).

Sec. 98.052. MEMBERSHIP; TERM. (a) Provides that the panel is composed of 16 members. Sets forth the composition of the panel's membership.

(b) Provides that panel members serve two-year terms.

Sec. 98.053. MEMBER ELIGIBILITY. (a) Prohibits anyone required to register as a lobbyist under Chapter 305 (Registration of Lobbyist), Government Code, from being a member of the panel.

(b) Prohibits a person serving as an officer, employee, or paid consultant of a Texas trade association in the field of health care from being a member of the panel.

Sec. 98.054. OFFICERS. Requires the panel to select a presiding officer and assistant presiding officer from its members. Provides that officers serve two-year terms.

Sec. 98.055. COMPENSATION; EXPENSES. Provides that panel members serve without compensation but are entitled to reimbursement for travel expenses related to conducting the business of the panel and that this reimbursement will come from the employee's agency.

Sec. 98.056. VACANCY. Requires any vacancy on the panel to be filled by the commissioner.

[Reserves Sections 98.057-98.100 for expansion.]

SUBCHAPTER C. DUTIES OF DEPARTMENT AND ADVISORY PANEL; REPORTING SYSTEM

Sec. 98.101. RULEMAKING. (a) Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules for DSHS to implement this chapter.

Sec. 98.102. DEPARTMENTAL RESPONSIBILITIES; REPORTING SYSTEM. (a) Requires DSHS to develop the reporting system. Sets forth the purposes for the system.

(b) Requires the reporting system to provide a mechanism for this state to collect data, at state expense, through a secure electronic interface with health care systems.

(c) Requires the data reported by health care facilities (data) to DSHS to contain sufficient patient identification information to avoid duplicate submission of records, to allow DSHS to verify the accuracy and completeness of the data reported, and to allow DSHS to risk adjust the facilities' infection rates.

(d) Requires DSHS to review the infection control and reporting activities of health care facilities to ensure the data is valid and does not have unusual data patterns or trends that suggest implausible infection rates.

Sec. 98.103. REPORTABLE INFECTIONS. (a) Requires a health care facility, other than a pediatric or adolescent hospital, to report to DSHS (report) the incidence of surgical site infections occurring in certain procedures (reportable infection) set forth in this section.

(b) Sets forth certain reportable infections for a pediatric or adolescent hospital.

(c) Sets forth certain reportable infections for a general hospital.

(d) Requires DSHS to ensure that the health care-associated infections that a health care facility is required to report under this section have the meanings assigned by the federal Centers for Disease Control and Prevention (CDC).

Sec. 98.104. ALTERNATIVE FOR REPORTABLE SURGICAL SITE INFECTIONS. Provides that a health care facility that does not perform at least an average of 50 procedures per month of the procedures listed in Section 98.103(a) and (b), as modified

under Section 98.105, is not required to comply with the reporting requirements of Section 98.103. Requires such a facility instead to report the surgical site infections relating to the three surgical procedures most frequently performed at the facility, based on the list of surgical procedures promulgated by CDC's National Healthcare Safety Network or its successor.

Sec. 98.105. REPORTING SYSTEM MODIFICATIONS. Authorizes the executive commissioner by rule to modify the list of procedures that are reportable under Section 98.103 or 98.104 in accordance with this chapter and based on the recommendations of the panel. Requires the modifications to be based on changes in reporting guidelines and in definitions established by CDC.

Sec. 98.106. DEPARTMENTAL SUMMARY. (a) Requires DSHS to compile and make available to the public a summary, by health care facility, of infections reported by facilities under Sections 98.103 and 98.104 (summary).

(b) Requires the summary to be risk adjusted and to include a comparison of the risk-adjusted infection rates for each health care facility in this state that is required to submit a report under Sections 98.103 and 98.104.

(c) Requires DSHS to publish the summary in an format that is easy to read in consultation with the panel.

(d) Requires DSHS to publish the summary at least annually and authorizes DSHS to publish the summary more frequently as DSHS considers appropriate.

(e) Requires the executive commissioner by rule to allow a health care facility to submit concise, written comments regarding information contained in the summary that relates to the facility. Requires DSHS to attach such comments to the public report and requires those comments to be in the same format as the summary.

(f) Provides that the disclosure of written comments to DSHS by a health care facility does not constitute a waiver of privilege or protection under Section 98.109.

(g) Requires DSHS to make the summary available on an Internet website administered by DSHS and authorizes DSHS to make the summary available through other formats accessible to the public. Requires the website to contain a statement informing the public of the opinion to report suspected health care-associated infections to DSHS.

Sec. 98.107. EDUCATION AND TRAINING REGARDING REPORTING SYSTEM. Requires DSHS to provide education and training for health care facility staff regarding this chapter. Requires the training to be reasonable in scope and to focus on certain topics set forth in this section.

Sec. 98.108. FREQUENCY OF REPORTING. Requires the executive commissioner, by rule and in consultation with the panel, to establish the frequency of reporting by health care facilities required under Sections 98.103 and 98.104. Prohibits health care facilities from being required to report more frequently than quarterly.

Sec. 98.109. CONFIDENTIALITY; PRIVILEGE. (a) Provides that information obtained, compiled, or reported by DSHS or a health care facility under this chapter is confidential and exempt from Chapter 552 (Public Disclosure), Government Code, and from certain legal actions to compel the release of this information except as provided by Sections 98.106 and 98.110.

(b) Provides that the confidentiality protections under Subsection (a) apply without regard to whether the information or materials are obtained from or compiled or reported by certain entities.

(c) Provides that the transfer of information or materials under this chapter is not a waiver of privilege or protection granted under law.

(d) Provides that the confidentiality provisions under this chapter do not restrict access, to the extent authorized by law, by the person or the person's legally authorized representative to certain medical records of the patient.

(e) Prohibits a DSHS summary or disclosure from containing information identifying certain persons in connection with a specific infection incident.

Sec. 98.110. DISCLOSURE WITHIN DEPARTMENT. Authorizes DSHS to disclose information reported by facilities under Section 98.103 or 98.104 to other programs within DSHS only for the purposes of public health research or analysis that it is related to health care-associated infections, notwithstanding any other law. Applies the privilege and confidentiality provisions contained in this chapter to such disclosures.

Sec. 98.111. CIVIL ACTION. Prohibits published infection rates from being used in a civil action to establish a standard of care for a health care facility.

[Reserves Sections 98.112-98.150 for expansion.]

SUBCHAPTER D. ENFORCEMENT

Sec. 98.151. VIOLATIONS. (a) Provides that, except as provided by Subsection (b), a general hospital that violates this chapter or a rule adopted under this chapter is subject to the enforcement of provisions of Subchapter C (Enforcement), Chapter 241, and rules adopted and enforced under that subchapter, as if the hospital violated Chapter 241 or a rule adopted under that chapter.

(b) Provides that Subsection (a) does not apply to a comprehensive medical rehabilitation hospital as defined in Section 241.003 (Definitions).

(c) Provides that a ambulatory surgical center that violates this chapter or a rule adopted under this chapter is subject to the enforcement of provisions of Chapter 243 (Ambulatory Surgical Center), and rules adopted and enforced under that subchapter, as if the hospital violated Chapter 243 or a rule adopted under that chapter.

SECTION 2. Requires DSHS to establish the reporting system not later than June 1, 2008.

SECTION 3. (a) Requires the executive commissioner to adopt the rules and procedures to implement Chapter 98, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of the Act.

(b) Requires the commissioner to appoint members to the panel as soon as practicable after this effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2007.