

A BILL TO BE ENTITLED

AN ACT

relating to health care associated infection rates at certain health care facilities and the creation of an advisory panel.

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 98 to read as follows:

CHAPTER 98. HEALTH CARE ASSOCIATED INFECTION RATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 98.001. DEFINITIONS. In this chapter:

(1) "Advisory panel" means the Advisory Panel on Health Care Associated Infections.

(2) "Ambulatory surgical center" means a facility licensed under Chapter 243.

(3) "Commissioner" means the commissioner of state health services.

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

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(6) "General hospital" means a public or private general hospital licensed under Chapter 241. The term includes a pediatric and adolescent hospital. The term does not include comprehensive medical rehabilitation facilities.

(7) "Health care associated infection" means a

1 localized or symptomatic condition resulting from an adverse  
2 reaction to an infectious agent or its toxins to which a patient is  
3 exposed in the course of health care delivery.

4 (8) "Health care facility" means:

5 (A) a general hospital;

6 (B) an ambulatory surgical center; or

7 (C) a state-owned or state-operated hospital  
8 that provides acute medical or surgical services subject to  
9 reporting requirements under this chapter.

10 (9) "Infection control professional" means a person:

11 (A) whose primary training is in nursing, medical  
12 technology/clinical laboratory science, microbiology, public  
13 health, or epidemiology; and

14 (B) who has acquired specialized training in  
15 infection control.

16 (10) "Infection rate" means the number of health care  
17 associated infections of a particular type at a health care  
18 facility divided by a numerical measure over time of the population  
19 at risk for contracting the infection, unless the term is modified  
20 by rule of the executive commissioner to accomplish the purposes of  
21 this chapter.

22 (11) "Pediatric and adolescent hospital" has the  
23 meaning assigned by Section 241.003.

24 (12) "Reporting system" means the Texas Health Care  
25 Associated Infection Reporting System established under Subchapter  
26 C.

27 (13) "Special care setting" means a unit or service of

1 a general hospital that provides treatment to inpatients who  
2 require extraordinary care on a concentrated and continuous basis.  
3 The term includes an adult intensive care unit, a burn intensive  
4 care unit, and a critical care unit.

5 Sec. 98.002. APPLICABILITY OF OTHER LAW. Chapter 2110,  
6 Government Code, does not apply to the advisory panel created under  
7 Subchapter B.

8 [Sections 98.003-98.050 reserved for expansion]

9 SUBCHAPTER B. ADVISORY PANEL

10 Sec. 98.051. ESTABLISHMENT. The commissioner shall  
11 establish the Advisory Panel on Health Care Associated Infections  
12 within the infectious disease surveillance and epidemiology branch  
13 of the department as a permanent advisory panel to guide the  
14 development, implementation, and evaluation of the reporting  
15 system.

16 Sec. 98.052. MEMBERSHIP; TERM. (a) The commissioner shall  
17 appoint the members of the advisory panel in accordance with  
18 Subsection (b).

19 (b) The advisory panel is composed of 14 members as follows:

20 (1) two infection control professionals who:

21 (A) are certified by the Certification Board of  
22 Infection Control and Epidemiology; and

23 (B) are practicing in hospitals in this state, at  
24 least one of which must be a rural hospital;

25 (2) two infection control professionals who:

26 (A) are certified by the Certification Board of  
27 Infection Control and Epidemiology; and

1                   (B) are nurses licensed to engage in professional  
2 nursing under Chapter 301, Occupations Code;

3                   (3) three board-certified or board-eligible  
4 physicians who:

5                   (A) are licensed to practice medicine in this  
6 state under Chapter 155, Occupations Code, at least two of whom must  
7 have active medical staff privileges at a hospital in this state;

8                   (B) are active members of the Society for  
9 Healthcare Epidemiology of America; and

10                   (C) have demonstrated expertise in infection  
11 control in health care facilities;

12                   (4) one chief executive officer of, or person with  
13 similar decision-making authority at, a general hospital;

14                   (5) one chief executive officer of, or person with  
15 similar decision-making authority at, an ambulatory surgical  
16 center;

17                   (6) three nonvoting members who are department  
18 employees representing the department in epidemiology and the  
19 licensing of hospitals or ambulatory surgical centers; and

20                   (7) two public members who represent health care  
21 consumers.

22                   (c) Members of the advisory panel serve two-year terms.

23                   Sec. 98.053. MEMBER ELIGIBILITY. A person may not be a  
24 member of the advisory panel if the person is required to register  
25 as a lobbyist under Chapter 305, Government Code, because of the  
26 person's activities for compensation on behalf of a profession  
27 related to health care.

1       Sec. 98.054. OFFICERS. The members of the advisory panel  
2 shall elect a presiding officer and an assistant presiding officer  
3 from among the members.

4       Sec. 98.055. COMPENSATION; EXPENSES. (a) Except as  
5 provided by Subsection (b), a member of the advisory panel is not  
6 entitled to compensation for service on the advisory panel and is  
7 not entitled to reimbursement for travel expenses.

8       (b) A member who is a representative of a state agency shall  
9 be reimbursed for travel expenses incurred while conducting the  
10 business of the advisory panel from the funds of the agency the  
11 person represents in accordance with the General Appropriations  
12 Act.

13       Sec. 98.056. VACANCY. A vacancy on the advisory panel shall  
14 be filled by the commissioner.

15       Sec. 98.057. MEETINGS; DEPARTMENT ASSISTANCE. (a) The  
16 advisory panel shall meet at the call of the presiding officer or  
17 the commissioner.

18       (b) The department shall provide the advisory panel the  
19 assistance it needs to perform its duties.

20       Sec. 98.058. DUTIES. (a) The advisory panel shall advise  
21 the department regarding the development, implementation, and  
22 evaluation of the reporting system.

23       (b) The advisory panel, using existing resources, may  
24 consult with other persons who have technical or clinical expertise  
25 in infectious diseases or infection control.

26       Sec. 98.059. REPORT TO LEGISLATURE. Not later than  
27 November 1 of each even-numbered year, the commissioner shall file

1 a report with the presiding officer of each house of the legislature  
2 on the advisory panel's recommendations for legislation regarding  
3 the collection and reporting of infection rates.

4 [Sections 98.060-98.100 reserved for expansion]

5 SUBCHAPTER C. REPORTING INFECTION RATE

6 Sec. 98.101. COLLECTION OF HEALTH CARE ASSOCIATED INFECTION  
7 DATA. (a) A health care facility at least quarterly shall submit  
8 to the infectious disease surveillance and epidemiology branch of  
9 the department a report of the health care associated infections at  
10 the facility for the period covered by the report. The information  
11 for the report must be identified by an infection control  
12 professional using accepted methods of clinical surveillance in  
13 accordance with rules of the executive commissioner.

14 (b) The report required by Subsection (a) must include  
15 patient-identified information sufficient for the department to  
16 calculate risk-adjusted infection rates for the following:

17 (1) central line-associated, laboratory-confirmed  
18 primary bloodstream infections in special care settings;

19 (2) surgical site infections identified, including  
20 infections identified through post-discharged surveillance, for  
21 the following surgical procedures performed in general hospitals  
22 and ambulatory surgical centers:

23 (A) colon surgery;

24 (B) hip and knee arthroplasty;

25 (C) abdominal and vaginal hysterectomy;

26 (D) coronary artery bypass graft; and

27 (E) other vascular procedures specified by

1 department rule;

2 (3) health care associated respiratory syncytial  
3 viruses in pediatric inpatient units of general hospitals;

4 (4) surgical site infections identified, including  
5 those identified through post-discharged surveillance, for the  
6 following surgical procedures performed in pediatric and  
7 adolescent hospitals:

8 (A) cardiac procedures, excluding thoracic;

9 (B) ventriculoperitoneal shunt procedures; and

10 (C) spinal surgery with instrumentation; and

11 (5) any other surgical site infections, including  
12 those identified through post-discharged surveillance, that the  
13 department by rule requires a health care facility to report.

14 (c) An ambulatory surgical center or a general hospital,  
15 including a pediatric and adolescent hospital, that performs fewer  
16 than 50 of the surgical procedures listed in Subsections (b)(2) and  
17 (4) shall report surgical site infection data, including  
18 post-discharge surveillance data, for the three procedures most  
19 frequently performed at the center or hospital that are on the  
20 federal Centers for Disease Control and Prevention's National  
21 Health Safety Network list of surgical procedures.

22 (d) The executive commissioner and department by rule shall  
23 phase in for inclusion in the report required under Subsection (a)  
24 additional surgical site infections listed on the federal Centers  
25 for Disease Control and Prevention's National Health Safety Network  
26 list of surgical procedures. The executive commissioner and  
27 department may exclude a procedure or include an unlisted procedure

1 as the department determines appropriate to protect the public  
2 health and safety or to follow federal reporting requirements.

3 (e) In adopting rules under this section, the executive  
4 commissioner shall ensure that the health care associated  
5 infections that a health care facility is required to report under  
6 this section have the meanings assigned by the federal Centers for  
7 Disease Control and Prevention.

8 (f) A health care facility may not use hospital discharge  
9 diagnosis codes to determine the information that must be reported  
10 under this section.

11 Sec. 98.102. REPORTING SYSTEM. The department, using  
12 existing resources, shall:

13 (1) develop the Texas Health Care Associated Infection  
14 Reporting System, a flexible and expandable system to collect data  
15 through electronic communications with health care facilities; and

16 (2) review infection control and reporting activities  
17 of health care facilities to ensure the data provided is valid and  
18 does not have unusual data patterns or trends that suggest  
19 implausible rates.

20 Sec. 98.103. INFORMATION AVAILABLE TO PUBLIC. The  
21 department, on its Internet website and in a written report, shall  
22 at least annually disclose to the public for each health care  
23 facility required to submit a report under Section 98.101 the  
24 risk-adjusted infection rate for:

25 (1) central line-associated, laboratory-confirmed  
26 primary bloodstream infections in special care settings;

27 (2) surgical site infections; and

1           (3) health care associated respiratory syncytial  
2 virus in pediatric inpatient units of general hospitals.

3           Sec. 98.104. TRAINING FOR INFECTION CONTROL PROFESSIONALS.  
4 The department shall provide training for infection control  
5 professionals regarding the reporting system.

6           Sec. 98.105. PROTECTION FOR REPORTING. (a) A health care  
7 facility may not retaliate against an infection control  
8 professional employed by or under contract with a health care  
9 facility for identifying information that must be submitted to the  
10 department under this chapter.

11           (b) This section does not prohibit a health care facility  
12 from terminating an employee for a reason other than retaliation.

13           Sec. 98.106. CONFIDENTIALITY; PRIVILEGE. (a) Except as  
14 otherwise provided by this chapter, all information and materials  
15 obtained or compiled by the department under this chapter or  
16 compiled by a health care facility under this chapter, and all  
17 related information and materials, are confidential and:

18           (1) are not subject to disclosure under Chapter 552,  
19 Government Code, or discovery, subpoena, or other means of legal  
20 compulsion for release to any person;

21           (2) may not be admitted as evidence or otherwise  
22 disclosed in any civil, criminal, or administrative proceeding; and

23           (3) may not otherwise be released or made public  
24 except as provided by this chapter.

25           (b) The confidentiality protections under Subsection (a)  
26 apply without regard to whether the information or materials are  
27 obtained from or compiled by a health care facility or an entity

1 that has an ownership or management interest in a facility.

2 (c) The transfer of information or materials under this  
3 chapter is not a waiver of a privilege or protection granted under  
4 law.

5 (d) Information reported by a health care facility under  
6 this chapter and analyses, plans, records, and reports obtained,  
7 prepared, or compiled by the facility under this chapter and all  
8 related information and materials are subject to an absolute  
9 privilege and may not be used in any form against the facility or  
10 the facility's agents, employees, partners, assignees, or  
11 independent contractors in any civil, criminal, or administrative  
12 proceeding, regardless of the means by which a person came into  
13 possession of the information, analysis, plan, record, report, or  
14 related information or material. A court shall enforce this  
15 privilege for all matters covered by this subsection.

16 (e) The provisions of this section regarding the  
17 confidentiality of information or materials compiled or reported by  
18 a health care facility in compliance with or as authorized under  
19 this chapter do not restrict access, to the extent authorized by  
20 law, by the patient or the patient's legally authorized  
21 representative to records of the patient's medical diagnosis or  
22 treatment or to other primary health records.

23 (f) A health care facility report or department summary or  
24 disclosure may not contain information identifying a facility  
25 patient, employee, contractor, volunteer, consultant, health care  
26 professional, student, or trainee in connection with a specific  
27 infection incident.

1       (g) Except as provided by this chapter, the reports,  
2 records, and information obtained under this chapter are for the  
3 confidential use of the department and the persons or entities that  
4 the department determines are necessary to carry out the intent of  
5 this chapter. Medical or epidemiological information may be  
6 released:

7           (1) for statistical purposes in a manner that prevents  
8 identification of individuals or health care practitioners; or

9           (2) with the consent of each person identified in the  
10 information.

11       Sec. 98.107. DISCLOSURE                    WITHIN                    DEPARTMENT.

12 Notwithstanding any other law, the department may disclose  
13 information reported by health care facilities under this chapter  
14 to other programs within the department for public health research  
15 or analysis purposes only, provided that the research or analysis  
16 relates to health care associated infections. The privilege and  
17 confidentiality provisions contained in this chapter apply to such  
18 disclosures.

19       Sec. 98.108. CIVIL ACTION. Published infection rates may  
20 not be used in a civil action to establish a standard of care  
21 applicable to a health care facility.

22       SECTION 2. (a) As soon as practicable after the effective  
23 date of this Act, the executive commissioner of the Health and Human  
24 Services Commission shall adopt the rules and procedures necessary  
25 to implement Chapter 98, Health and Safety Code, as added by this  
26 Act.

27       (b) The Department of State Health Services shall:

1           (1) require submission of the initial reports required  
2 under Chapter 98, Health and Safety Code, as added by this Act, not  
3 later than January 1, 2008, based on data from the previous quarter;  
4 and

5           (2) disclose to the public the information required by  
6 Section 98.103, Health and Safety Code, as added by this Act, not  
7 later than June 1, 2008.

8           SECTION 3. As soon as practicable after the effective date  
9 of this Act, the commissioner of state health services shall  
10 appoint members to the Advisory Panel on Health Care Associated  
11 Infections as required by Chapter 98, Health and Safety Code, as  
12 added by this Act.

13           SECTION 4. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2007.