

By: Nelson

S.B. No. 288

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 does not include comprehensive medical rehabilitation facilities.

(7) "Health care-associated infection" means a localized or symptomatic condition resulting from an adverse

1 reaction to an infectious agent or its toxins to which a patient is
2 exposed in the course of health care delivery.

3 (8) "Health care facility" means:

4 (A) a general hospital;

5 (B) an ambulatory surgical center; or

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

9 (9) "Infection control professional" means a person
10 who has the training required by this chapter and department rule
11 and who is responsible for identifying information a health care
12 facility is required to report to the department under this
13 chapter.

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

20 (11) "Outcome measure" means a measure of the outcome
21 of medical care in terms of mortality, selected complications,
22 medical errors, or the effectiveness of evidence-based infection
23 prevention processes.

24 (12) "Pediatric and adolescent hospital" has the
25 meaning assigned by Section 241.003.

26 (13) "Process measure" means a measure of a health
27 care facility's compliance with recommended infection control

1 practices.

2 Sec. 98.002. APPLICABILITY OF OTHER LAW. Chapter 2110,
3 Government Code, does not apply to the advisory panel created under
4 Subchapter B.

5 [Sections 98.003-98.050 reserved for expansion]

6 SUBCHAPTER B. ADVISORY PANEL

7 Sec. 98.051. ESTABLISHMENT. The commissioner shall
8 establish the Advisory Panel on Health Care-Associated Infections
9 within the regulatory licensing unit of the health care quality
10 section of the department as a permanent advisory panel to guide the
11 implementation, development, and evaluation of a health
12 care-associated infection rate reporting system in this state.

13 Sec. 98.052. MEMBERSHIP; TERM. (a) The commissioner
14 shall appoint the members of the advisory panel in accordance with
15 Subsection (b).

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

17 (1) two infection control professionals who:

18 (A) are certified by the Certification Board of
19 Infection Control and Epidemiology; and

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

22 (2) two infection control professionals who:

23 (A) are certified by the Certification Board of
24 Infection Control and Epidemiology; and

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

27 (3) three board-certified or board-eligible

1 physicians who:

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

5 (B) are active members of the Society for
6 Healthcare Epidemiology of America; and

7 (C) have demonstrated expertise in infection
8 control in health care facilities;

9 (4) one chief executive officer of a general hospital;

10 (5) one chief executive officer of an ambulatory
11 surgical center;

12 (6) three nonvoting members who are department
13 employees representing the department in epidemiology and the
14 licensing of hospitals or ambulatory surgical centers; and

15 (7) two public members who represent health care
16 consumers.

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

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

23 Sec. 98.054. OFFICERS. The members of the advisory panel
24 shall elect a presiding officer and an assistant presiding officer
25 from among the members.

26 Sec. 98.055. COMPENSATION; EXPENSES. (a) Except as
27 provided by Subsection (b), a member of the advisory panel is not

1 entitled to compensation for service on the advisory panel and is
2 not entitled to reimbursement for travel expenses.

3 (b) A member who is a representative of a state agency shall
4 be reimbursed for travel expenses incurred while conducting the
5 business of the advisory panel from the funds of the agency the
6 person represents in accordance with the General Appropriations
7 Act.

8 Sec. 98.056. VACANCY. A vacancy on the advisory panel
9 shall be filled by the commissioner.

10 Sec. 98.057. MEETINGS; DEPARTMENT ASSISTANCE. (a) The
11 advisory panel shall meet at the call of the presiding officer or
12 the commissioner.

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

15 [Sections 98.058-98.100 reserved for expansion]

16 SUBCHAPTER C. DUTIES OF ADVISORY PANEL

17 Sec. 98.101. GENERAL DUTIES. (a) The advisory panel
18 shall guide the implementation, development, and evaluation of a
19 health care-associated infection rate reporting system in this
20 state. The advisory panel shall determine the methods for
21 collecting and reporting evidence-based data on:

- 22 (1) infection rates;
23 (2) process measures; and
24 (3) outcome measures.

25 (b) In developing the methods under Subsection (a), the
26 advisory panel shall consider:

- 27 (1) adjusting the reported infection rates to account

1 for the differences in patient populations and for factors outside
2 the control of the health care facility;

3 (2) standardizing data collection methodology and
4 reporting;

5 (3) reviewing data collection and reporting systems of
6 other entities related to infection rates, such as the National
7 Nosocomial Infections Surveillance System of the federal Centers
8 for Disease Control and Prevention;

9 (4) reviewing data collection and reporting systems of
10 other entities related to process measures, such as the Joint
11 Commission on Accreditation of Healthcare Organizations or the
12 Centers for Medicare and Medicaid Services;

13 (5) maximizing the efficient use of the resources
14 required for health care facilities to conduct required
15 surveillance and reporting;

16 (6) recognizing the potential unintended consequences
17 of releasing to the public data that was collected using a poorly
18 designed or executed reporting system that may diminish the overall
19 quality of this state's health care or mislead or fail to protect
20 health care consumers who use the data; and

21 (7) providing additional benefits to health care
22 consumers.

23 Sec. 98.102. REPORT TO LEGISLATURE. Not later than
24 November 1 of each even-numbered year, the commissioner shall file
25 a report with the presiding officer of each house of the legislature
26 on the advisory panel's recommendations for legislation regarding
27 the collection and reporting of infection rates, process measures,

1 or outcome measures.

2 [Sections 98.103-98.150 reserved for expansion]

3 SUBCHAPTER D. REPORTING INFECTION RATE

4 Sec. 98.151. COLLECTION OF HEALTH CARE-ASSOCIATED
5 INFECTION DATA. (a) A health care facility shall submit each
6 quarter to the department a health care-associated infection rate
7 report for the previous quarter. The information for the report
8 must be identified by an infection control professional using
9 accepted methods of clinical surveillance in accordance with
10 department rules.

11 (b) The report required by Subsection (a) must include the
12 infection rates for:

13 (1) central line-associated, laboratory-confirmed
14 primary bloodstream infections in special care settings, such as
15 intensive care units, of general hospitals;

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

20 (A) colon surgery;

21 (B) hip and knee arthroplasty;

22 (C) abdominal and vaginal hysterectomy;

23 (D) coronary artery bypass graft; and

24 (E) other vascular procedures specified by
25 department rule;

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

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

5 (A) cardiac procedures, excluding thoracic;

6 (B) ventriculoperitoneal shunt procedures; and

7 (C) spinal surgery with instrumentation; and

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

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

19 (d) The executive commissioner and department by rule shall
20 phase in for inclusion in the report required under Subsection (a)
21 additional surgical site infections listed on the federal Centers
22 for Disease Control and Prevention's National Nosocomial
23 Infections Surveillance System list of surgical procedures. The
24 executive commissioner and department may exclude a procedure or
25 include an unlisted procedure as the department determines
26 appropriate to protect the public health and safety or to follow
27 federal reporting requirements.

1 (e) A health care facility may not use hospital discharge
2 diagnosis codes to determine the information that must be reported
3 under this section.

4 Sec. 98.152. REPORTING SYSTEM. The department, using
5 existing resources, shall:

6 (1) develop a health-care-associated infection rate
7 reporting system in this state that is flexible and expandable to
8 collect data through electronic communications with health care
9 facilities; and

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

14 Sec. 98.153. INFORMATION AVAILABLE TO PUBLIC. The
15 department, on its Internet website and in a written report, shall
16 disclose to the public the infection rate for central
17 line-associated, laboratory-confirmed primary bloodstream
18 infections in special care settings, such as intensive care units,
19 of general hospitals. The report must identify each health care
20 facility included in the report.

21 Sec. 98.154. TRAINING FOR INFECTION CONTROL
22 PROFESSIONALS. The executive commissioner by rule shall establish
23 the training requirements and qualifications for infection control
24 professionals based on recommendations of the Healthcare Infection
25 Control Practices Advisory Committee of the federal Centers for
26 Disease Control and Prevention.

27 Sec. 98.155. PROTECTION FOR REPORTING. (a) A health care

1 facility may not retaliate against an infection control
2 professional employed by or under contract with a health care
3 facility for identifying information that must be submitted to the
4 department under this chapter.

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

7 Sec. 98.156. CONFIDENTIALITY. (a) Reports, records, and
8 information obtained under this chapter, including information
9 identifying an individual patient, are confidential and are not
10 subject to disclosure under Chapter 552, Government Code, are not
11 subject to subpoena, and may not otherwise be released or made
12 public except as provided by this chapter. Except as provided by
13 this chapter, the reports, records, and information obtained under
14 this chapter are for the confidential use of the department and the
15 persons or entities that the department determines are necessary to
16 carry out the intent of this chapter.

17 (b) Medical or epidemiological information may be released:

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

20 (2) with the consent of each person identified in the
21 information.

22 Sec. 98.157. CIVIL ACTION. Published infection rates may
23 not be used in a civil action to establish a standard of care
24 applicable to a health care facility.

25 SECTION 2. (a) As soon as practicable after the effective
26 date of this Act, the executive commissioner of the Health and Human
27 Services Commission shall adopt the rules and procedures necessary

1 to implement Chapter 98, Health and Safety Code, as added by this
2 Act.

3 (b) The Department of State Health Services shall require
4 submission of the initial reports required under Chapter 98, Health
5 and Safety Code, as added by this Act, not later than January 1,
6 2008, based on data from the previous quarter.

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

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