

BILL ANALYSIS

Senate Research Center

S.B. 203
By: Shapleigh, et al.
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Numerous studies indicate that conditions caused by anti-microbial resistant bacteria last longer, cost more to treat, and are more likely to result in death.

The Centers for Disease Control and Prevention recommends a multi-faceted approach to successfully combat hospital-acquired infections, including routine screening, isolation of colonized and infected patients, and strict compliance with hygiene guidelines. There is also evidence that control strategies, including active surveillance of patients in U.S. hospitals, can reduce rates of infection and colonization.

S.B. 203 amends current law relating to health care-associated infections and preventable adverse events in certain health care facilities.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 2 (Section 98.108, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Section 32.0312, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 98.103(a), (b), and (c), Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, as follows:

- (a) Requires a health care facility, other than a pediatric and adolescent hospital, to report to the Department of State Health Services (DSHS) the incidence of surgical site infections, including the causative pathogen if the infection is laboratory-confirmed, occurring in certain procedures.
- (b) Requires a pediatric and adolescent hospital to report the incidence of surgical site infections, including the causative pathogen if the infection is laboratory-confirmed, occurring in certain procedures to DSHS.
- (c) Requires a general hospital to report certain viruses and infections to DSHS, including the causative pathogen.

SECTION 2. (a) Amends the heading to Chapter 98, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to read as follows:

CHAPTER 98. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS AND PREVENTABLE ADVERSE EVENTS

- (b) Amends Subdivisions (1) and (11), Section 98.001, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to redefine "advisory panel" and "reporting system."

(c) Amends Section 98.051, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to require the commissioner of state health services (commissioner) to establish the Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events within DSHS, rather than within the infectious disease surveillance and epidemiology branch of DSHS, to guide the implementation, development, maintenance, and evaluation of the reporting system. Authorizes the commissioner to establish one or more subcommittees to assist the advisory panel in addressing health care-associated infections and preventable adverse events relating to hospital care provided to children or other special patient populations.

(d) Amends Section 98.052(a), Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to provide that the advisory panel is composed of 18, rather than 16 members, including, among other professionals, three board-certified or board-eligible physicians who have demonstrated expertise in quality assessment and performance improvement or infection control in health care facilities; and four additional professionals in quality assessment and performance improvement, rather than two additional professionals in quality assessment and performance improvement, one of whom is employed by a general hospital and one of whom is employed by an ambulatory surgical center.

(e) Amends Sections 98.102(a) and (c), Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(a) Requires DSHS to establish the Texas Health Care-Associated Infection and Preventable Adverse Events Reporting System within DSHS. Provides that the purpose of the reporting system is to provide for, among other things, the reporting of health care-associated preventable adverse events by health care facilities to DSHS and the public reporting of information regarding health care-associated preventable adverse events by DSHS. Makes a conforming change and nonsubstantive changes.

(c) Requires the data reported by health care facilities to DSHS to contain sufficient patient identifying information to, for data reported under Section 98.103 or 98.104, allow DSHS to risk adjust the facilities' infection rates.

(f) Amends Subchapter C, Chapter 98, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, by adding Section 98.1045, as follows:

Sec. 98.1045. REPORTING OF PREVENTABLE ADVERSE EVENTS.

(a) Requires each health care facility to report to DSHS the occurrence of any of the following preventable adverse events involving the facility's patient:

(1) a health care-associated adverse condition or event for which the Medicare program will not provide additional payment to the facility under a policy adopted by the federal Centers for Medicare and Medicaid Services; and

(2) subject to Subsection (b), an event included in the list of adverse events identified by the National Quality Forum that is not included under Subdivision (1).

(b) Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to exclude an adverse event described by Subsection (a)(2) from the reporting requirement of Subsection (a) if the executive commissioner, in consultation with the advisory panel, determines that the adverse event is not an appropriate indicator of a preventable adverse event.

(g) Amends Sections 98.106(a), (b), and (g), Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(a) Requires DSHS to compile and make available to the public a summary, by health care facility, of the infections reported by facilities under Sections 98.103 and 98.104, and the preventable adverse events reported by facilities under Section 98.1045.

(b) Requires that information included in the DSHS summary with respect to infections reported by facilities under Sections 98.103 and 98.104 be risk adjusted and 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.

(g) Requires that the website contain a statement informing the public of the option to report suspected health care-associated infections and preventable adverse events to DSHS.

(h) Amends Section 98.108, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to require the executive commissioner, in consultation with the advisory panel, by rule to establish the frequency of reporting by health care facilities required under Sections 98.103, 98.104, and 98.1045.

(i) Amends Section 98.109, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, by adding Subsection (b-1) and amending Subsection (e), as follows:

(b-1) Prohibits a state employee or officer from being examined in a civil, criminal, or special proceeding, or any other proceeding, regarding the existence or contents of information or materials obtained, compiled, or reported by DSHS under this chapter.

(e) Prohibits a DSHS summary or disclosure from containing information identifying a patient, employee, contractor, volunteer, consultant, health care professional, student, or trainee in connection with a specific incident, rather than a facility patient, employee, contractor, volunteer, consultant, health care professional, student, or trainee, in connection with a specific infection incident.

(j) Amends Sections 98.110 and 98.111, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, as follows:

Sec. 98.110. New heading: DISCLOSURE AMONG CERTAIN AGENCIES. Authorizes DSHS, notwithstanding any other law, to disclose information reported by health care facilities under Section 98.103, 98.104, or 98.1045 to other programs within DSHS, to the Health and Human Services Commission (HHSC), and to other health and human services agencies, as defined by Section 531.001 (Definitions), Government Code, for public health research or analysis purposes only, provided that the research or analysis relates to health care-associated infections or preventable adverse events.

Sec. 98.111. CIVIL ACTION. Prohibits published infection rates or preventable adverse events from being used in a civil action to establish a standard of care applicable to a health care facility.

(k) Requires the commissioner, as soon as possible after the effective date of this Act, to appoint two additional members to the advisory panel who meet the qualifications prescribed by Subdivision (4), Subsection (a), Section 98.052, Health and Safety Code, as amended by this section.

(l) Requires the executive commissioner, not later than February 1, 2010, to adopt rules and procedures necessary to implement the reporting of health care-associated preventable adverse events as required under Chapter 98, Health and Safety Code, as amended by this section.

SECTION 3. (a) Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0312, as follows:

Sec. 32.0312. REIMBURSEMENT FOR SERVICES ASSOCIATED WITH PREVENTABLE ADVERSE EVENTS. Requires the executive commissioner to adopt rules regarding the denial or reduction of reimbursement under the medical assistance program for preventable adverse events that occur in a hospital setting. Provides that the executive commissioner, in adopting these rules:

(1) is required to ensure that HHSC imposes the same reimbursement denials or reductions for preventable adverse events as the Medicare program imposes for the same types of health care-associated adverse conditions and the same types of health care providers and facilities under a policy adopted by the federal Centers for Medicare and Medicaid Services;

(2) is required to consult an advisory committee on health care quality, if established by the executive commissioner, to obtain the advice of that committee regarding denial or reduction of reimbursement claims for any other preventable adverse events that cause patient death or serious disability in health care settings, including events on the list of adverse events identified by the National Quality Forum; and

(3) is authorized to allow HHSC to impose reimbursement denials or reductions for preventable adverse events described by Subdivision (2).

(b) Requires the executive commissioner, not later than September 1, 2010, to adopt the rules required by Section 32.0312, Human Resources Code, as added by this section.

(c) Makes rules adopted by the executive commissioner under Section 32.0312, Human Resources Code, as added by this section, applicable only to a preventable adverse event occurring on or after the effective date of the rules.

SECTION 4. Effective date: September 1, 2009.