

AN ACT

relating to health care-associated infections and preventable adverse events in certain health care facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(a) A health care facility, other than a pediatric and adolescent hospital, shall report to the department the incidence of surgical site infections, including the causative pathogen if the infection is laboratory-confirmed, occurring in the following procedures:

- (1) colon surgeries;
- (2) hip arthroplasties;
- (3) knee arthroplasties;
- (4) abdominal hysterectomies;
- (5) vaginal hysterectomies;
- (6) coronary artery bypass grafts; and
- (7) vascular procedures.

(b) A pediatric and adolescent hospital shall report the incidence of surgical site infections, including the causative pathogen if the infection is laboratory-confirmed, occurring in the following procedures to the department:



1 Session, 2007, is amended to read as follows:

2           Sec. 98.051. ESTABLISHMENT.           The commissioner shall  
3 establish the Advisory Panel on Health Care-Associated Infections  
4 and Preventable Adverse Events within [~~the infectious disease~~  
5 ~~surveillance and epidemiology branch of~~] the department to guide  
6 the implementation, development, maintenance, and evaluation of  
7 the reporting system. The commissioner may establish one or more  
8 subcommittees to assist the advisory panel in addressing health  
9 care-associated infections and preventable adverse events relating  
10 to hospital care provided to children or other special patient  
11 populations.

12           (d) Subsection (a), Section 98.052, Health and Safety Code,  
13 as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,  
14 Regular Session, 2007, is amended to read as follows:

15           (a) The advisory panel is composed of 18 [~~16~~] members as  
16 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 have  
4 active medical staff privileges at a hospital in this state and at  
5 least one of whom is a pediatric infectious disease physician with  
6 expertise and experience in pediatric health care epidemiology;

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

9 (C) have demonstrated expertise in quality  
10 assessment and performance improvement or infection control in  
11 health care facilities;

12 (4) four additional [~~two~~] professionals in quality  
13 assessment and performance improvement [~~, one of whom is employed by~~  
14 ~~a general hospital and one of whom is employed by an ambulatory~~  
15 ~~surgical center~~];

16 (5) one officer of a general hospital;

17 (6) one officer of an ambulatory surgical center;

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

21 (8) two members who represent the public as consumers.

22 (e) Subsections (a) and (c), Section 98.102, Health and  
23 Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th  
24 Legislature, Regular Session, 2007, are amended to read as follows:

25 (a) The department shall establish the Texas Health  
26 Care-Associated Infection and Preventable Adverse Events Reporting  
27 System within the [~~infectious disease surveillance and~~

1 ~~epidemiology branch of the]~~ department. The purpose of the  
2 reporting system is to provide for:

3 (1) the reporting of health care-associated  
4 infections by health care facilities to the department;

5 (2) the reporting of health care-associated  
6 preventable adverse events by health care facilities to the  
7 department;

8 (3) the public reporting of information regarding the  
9 health care-associated infections by the department;

10 (4) the public reporting of information regarding  
11 health care-associated preventable adverse events by the  
12 department; and

13 (5) [~~3~~] the education and training of health care  
14 facility staff by the department regarding this chapter.

15 (c) The data reported by health care facilities to the  
16 department must contain sufficient patient identifying information  
17 to:

18 (1) avoid duplicate submission of records;

19 (2) allow the department to verify the accuracy and  
20 completeness of the data reported; and

21 (3) for data reported under Section 98.103 or 98.104,  
22 allow the department to risk adjust the facilities' infection  
23 rates.

24 (f) Subchapter C, Chapter 98, Health and Safety Code, as  
25 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,  
26 Regular Session, 2007, is amended by adding Section 98.1045 to read  
27 as follows:

1       Sec. 98.1045. REPORTING OF PREVENTABLE ADVERSE EVENTS.

2       (a) Each health care facility shall report to the department the  
3 occurrence of any of the following preventable adverse events  
4 involving the facility's patient:

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

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

12               (b) The executive commissioner may exclude an adverse event  
13 described by Subsection (a)(2) from the reporting requirement of  
14 Subsection (a) if the executive commissioner, in consultation with  
15 the advisory panel, determines that the adverse event is not an  
16 appropriate indicator of a preventable adverse event.

17       (g) Subsections (a), (b), and (g), Section 98.106, Health  
18 and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the  
19 80th Legislature, Regular Session, 2007, are amended to read as  
20 follows:

21       (a) The department shall compile and make available to the  
22 public a summary, by health care facility, of:

23               (1) the infections reported by facilities under  
24 Sections 98.103 and 98.104; and

25               (2) the preventable adverse events reported by  
26 facilities under Section 98.1045.

27       (b) Information included in the [~~The~~] departmental summary

1 with respect to infections reported by facilities under Sections  
2 98.103 and 98.104 must be risk adjusted and include a comparison of  
3 the risk-adjusted infection rates for each health care facility in  
4 this state that is required to submit a report under Sections 98.103  
5 and 98.104.

6 (g) The department shall make the departmental summary  
7 available on an Internet website administered by the department and  
8 may make the summary available through other formats accessible to  
9 the public. The website must contain a statement informing the  
10 public of the option to report suspected health care-associated  
11 infections and preventable adverse events to the department.

12 (h) Section 98.108, Health and Safety Code, as added by  
13 Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular  
14 Session, 2007, is amended to read as follows:

15 Sec. 98.108. FREQUENCY OF REPORTING. In consultation with  
16 the advisory panel, the executive commissioner by rule shall  
17 establish the frequency of reporting by health care facilities  
18 required under Sections 98.103, ~~and~~ 98.104, and 98.1045.  
19 Facilities may not be required to report more frequently than  
20 quarterly.

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

25 (b-1) A state employee or officer may not be examined in a  
26 civil, criminal, or special proceeding, or any other proceeding,  
27 regarding the existence or contents of information or materials

1 obtained, compiled, or reported by the department under this  
2 chapter.

3 (e) A department summary or disclosure may not contain  
4 information identifying a [~~facility~~] patient, employee,  
5 contractor, volunteer, consultant, health care professional,  
6 student, or trainee in connection with a specific [~~infection~~]  
7 incident.

8 (j) Sections 98.110 and 98.111, Health and Safety Code, as  
9 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,  
10 Regular Session, 2007, are amended to read as follows:

11 Sec. 98.110. DISCLOSURE AMONG CERTAIN AGENCIES [~~WITHIN~~  
12 ~~DEPARTMENT~~]. Notwithstanding any other law, the department may  
13 disclose information reported by health care facilities under  
14 Section 98.103, [~~or~~] 98.104, or 98.1045 to other programs within  
15 the department, to the Health and Human Services Commission, and to  
16 other health and human services agencies, as defined by Section  
17 531.001, Government Code, for public health research or analysis  
18 purposes only, provided that the research or analysis relates to  
19 health care-associated infections or preventable adverse events.  
20 The privilege and confidentiality provisions contained in this  
21 chapter apply to such disclosures.

22 Sec. 98.111. CIVIL ACTION. Published infection rates or  
23 preventable adverse events may not be used in a civil action to  
24 establish a standard of care applicable to a health care facility.

25 (k) As soon as possible after the effective date of this  
26 Act, the commissioner of state health services shall appoint two  
27 additional members to the advisory panel who meet the



1 qualifications prescribed by Subdivision (4), Subsection (a),  
2 Section 98.052, Health and Safety Code, as amended by this section.

3 (1) Not later than February 1, 2010, the executive  
4 commissioner of the Health and Human Services Commission shall  
5 adopt rules and procedures necessary to implement the reporting of  
6 health care-associated preventable adverse events as required  
7 under Chapter 98, Health and Safety Code, as amended by this  
8 section.

9 SECTION 3. (a) Subchapter B, Chapter 32, Human Resources  
10 Code, is amended by adding Section 32.0312 to read as follows:

11 Sec. 32.0312. REIMBURSEMENT FOR SERVICES ASSOCIATED WITH  
12 PREVENTABLE ADVERSE EVENTS. The executive commissioner of the  
13 Health and Human Services Commission shall adopt rules regarding  
14 the denial or reduction of reimbursement under the medical  
15 assistance program for preventable adverse events that occur in a  
16 hospital setting. In adopting the rules, the executive  
17 commissioner:

18 (1) shall ensure that the commission imposes the same  
19 reimbursement denials or reductions for preventable adverse events  
20 as the Medicare program imposes for the same types of health  
21 care-associated adverse conditions and the same types of health  
22 care providers and facilities under a policy adopted by the federal  
23 Centers for Medicare and Medicaid Services;

24 (2) shall consult an advisory committee on health care  
25 quality, if established by the executive commissioner, to obtain  
26 the advice of that committee regarding denial or reduction of  
27 reimbursement claims for any other preventable adverse events that

1 cause patient death or serious disability in health care settings,  
2 including events on the list of adverse events identified by the  
3 National Quality Forum; and

4 (3) may allow the commission to impose reimbursement  
5 denials or reductions for preventable adverse events described by  
6 Subdivision (2).

7 (b) Not later than September 1, 2010, the executive  
8 commissioner of the Health and Human Services Commission shall  
9 adopt the rules required by Section 32.0312, Human Resources Code,  
10 as added by this section.

11 (c) Rules adopted by the executive commissioner of the  
12 Health and Human Services Commission under Section 32.0312, Human  
13 Resources Code, as added by this section, may apply only to a  
14 preventable adverse event occurring on or after the effective date  
15 of the rules.

16 SECTION 4. This Act takes effect September 1, 2009.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 203 passed the Senate on April 16, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 29, 2009, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 203 passed the House, with amendment, on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor