

By: Walle

H.B. No. 1133

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a review board to study maternal mortality and severe maternal morbidity.

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

SECTION 1. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 34 to read as follows:

CHAPTER 34. MATERNAL MORTALITY AND MORBIDITY REVIEW BOARD

Sec. 34.001. DEFINITIONS. In this chapter:

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

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

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

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Intrapartum care" has the meaning assigned by Section 32.002.

(6) "Maternal morbidity" means a pregnancy-related health condition occurring during pregnancy, labor, or delivery or within one year of delivery or end of pregnancy.

(7) "Patient" means the woman who while pregnant or within one year of delivery or end of pregnancy suffers death or maternal morbidity.

1           (8) "Perinatal care" has the meaning assigned by  
2 Section 32.002.

3           (9) "Pregnancy-related death" means the death of a  
4 woman while pregnant or within one year of delivery or end of  
5 pregnancy, regardless of the duration and site of the pregnancy,  
6 from any cause related to or aggravated by the pregnancy or its  
7 management, but not from accidental or incidental causes.

8           (10) "Review board" means the Maternal Mortality and  
9 Morbidity Review Board.

10           (11) "Severe maternal morbidity" means maternal  
11 morbidity that constituted a life-threatening condition.

12           Sec. 34.002. MATERNAL MORTALITY AND MORBIDITY REVIEW BOARD.

13           (a) The review board is a multidisciplinary advisory committee  
14 composed of the following 15 members:

15           (1) 13 members appointed by the commissioner as  
16 follows:

17                   (A) four obstetricians, at least one of whom is a  
18 maternal fetal medicine specialist;

19                   (B) one midwife;

20                   (C) one registered nurse;

21                   (D) one physician specializing in family  
22 practice;

23                   (E) one mental health professional;

24                   (F) one pathologist;

25                   (G) one epidemiologist, biostatistician, or  
26 researcher of pregnancy-related deaths;

27                   (H) one social worker or social service provider;

1                   (I) one community advocate in a relevant field;

2 and

3                   (J) one medical examiner or coroner responsible

4 for recording deaths;

5                   (2) a representative of the department's family and

6 community health programs; and

7                   (3) the state epidemiologist for the department or the

8 epidemiologist's designee.

9                   (b) In appointing members to the review board, the

10 commissioner shall:

11                   (1) include members:

12                   (A) working in and representing communities

13 that:

14                   (i) are diverse with regard to race,

15 ethnicity, immigration status, and English proficiency; and

16                   (ii) are severely affected by

17 pregnancy-related deaths and severe maternal morbidity and by a

18 lack of access to relevant perinatal and intrapartum care services;

19 and

20                   (B) from differing geographic regions in the

21 state, including both rural and urban areas; and

22                   (2) ensure that the composition of the board reflects

23 the racial, ethnic, and linguistic diversity of this state.

24                   (c) The commissioner shall appoint from among the review

25 board members a presiding officer.

26                   (d) A member of the review board is not entitled to

27 compensation but is entitled to reimbursement for travel or other

1 expenses incurred by the member while conducting the business of  
2 the review board, as provided by the General Appropriations Act.  
3 Reimbursement for a review board member's travel or other expenses  
4 shall be paid from funds appropriated to the department.

5 Sec. 34.003. TERMS; VACANCY. (a) Review board members  
6 appointed by the commissioner serve staggered six-year terms, with  
7 the terms of four or five members, as appropriate, expiring  
8 February 1 of each odd-numbered year.

9 (b) A review board member may serve more than one term.

10 (c) A vacancy on the review board shall be filled for the  
11 unexpired term in the same manner as the original appointment.

12 Sec. 34.004. MEETINGS. (a) The review board shall meet at  
13 least quarterly. The review board may meet at other times at the  
14 call of the commissioner.

15 (b) Meetings of the review board are closed to the public  
16 and are not subject to Chapter 551, Government Code.

17 Sec. 34.005. DUTIES OF REVIEW BOARD. (a) The review board  
18 shall:

19 (1) study and review pregnancy-related deaths and  
20 cases of severe maternal morbidity; and

21 (2) create recommendations for the prevention of  
22 pregnancy-related deaths and severe maternal morbidity.

23 (b) The review board shall develop standard procedures and  
24 criteria for the comprehensive, multidisciplinary review of  
25 pregnancy-related deaths and cases of severe maternal morbidity.

26 Sec. 34.006. CONSULTATIONS AND AGREEMENTS WITH OUTSIDE  
27 PARTIES. (a) The department and review board may consult with:

- 1           (1) anesthesiologists;
- 2           (2) intensivists or critical care physicians;
- 3           (3) nutritionists;
- 4           (4) substance abuse treatment specialists;
- 5           (5) hospital administrators;
- 6           (6) representatives of the state Medicaid program;
- 7           (7) paramedics or other emergency medical response
- 8 personnel;
- 9           (8) lawyers;
- 10          (9) risk management specialists;
- 11          (10) representatives of local health departments and
- 12 public health districts in this state;
- 13          (11) policy makers;
- 14          (12) public health experts; and
- 15          (13) government representatives or officials.
- 16          (b) In gathering information, the department and the review
- 17 board may consult with representatives of relevant state
- 18 professional associations, including:
- 19           (1) District XI of the American Congress of
- 20 Obstetricians and Gynecologists;
- 21           (2) the Texas Nurses Association;
- 22           (3) the Texas Section of the Association of Women's
- 23 Health, Obstetric and Neonatal Nurses;
- 24           (4) the Texas Academy of Family Physicians;
- 25           (5) the Consortium of Texas Certified Nurse-Midwives;
- 26           (6) the Association of Texas Midwives;
- 27           (7) the Texas Hospital Association;

1           (8) the Texas Medical Association; and

2           (9) the Texas Public Health Association.

3           (c) The department on behalf of the review board may enter  
4 into agreements with institutions of higher education consistent  
5 with the duties of the department or review board under this  
6 chapter.

7           Sec. 34.007. IDENTIFICATION AND REVIEW OF CASES. The  
8 department shall identify cases of pregnancy-related deaths and  
9 severe maternal morbidity for review. The department shall  
10 determine the appropriate number of cases for the review board to  
11 review to reflect a cross-section of pregnancy-related deaths and  
12 severe maternal morbidity cases in this state.

13           Sec. 34.008. OBTAINING DE-IDENTIFIED INFORMATION FOR  
14 REVIEW. (a) On selecting a case of pregnancy-related death or  
15 severe maternal morbidity for review, the department shall, in  
16 accordance with this section, obtain information relevant to the  
17 case to enable the review board to review the case. The department  
18 shall provide the information to the review board.

19           (b) The information provided to the review board may not  
20 include identifying information, including:

21           (1) the name, address, or date of birth of the patient  
22 or a member of the patient's family;

23           (2) the name of a health care provider; or

24           (3) the name or specific location of a facility that  
25 treated the patient.

26           (c) On the request of the department, a health care provider  
27 or other custodian of the requested information shall provide the

1 information to the department. The information shall be provided  
2 without the authorization of the patient or the patient's family if  
3 the patient is deceased.

4 (d) A health care provider or other person who provides  
5 information to the department under this section is not subject to a  
6 civil action for damages or other relief for providing the  
7 information. This subsection does not apply if the information  
8 provided was false and the health care provider or other person knew  
9 or had reason to know that the information was false.

10 Sec. 34.009. CONFIDENTIALITY; PRIVILEGE. (a) Information  
11 is confidential for purposes of this chapter if the disclosure of  
12 the information would compromise the privacy of the individual who  
13 is the subject of the information or the individual's family.  
14 Confidential information includes any information pertaining to  
15 the pregnancy-related death or severe maternal morbidity.

16 (b) Confidential information that is acquired by the  
17 department and that permits the identification of an individual or  
18 health care provider is privileged and may not be disclosed to any  
19 person except to the extent necessary to carry out the purposes of  
20 this chapter. Information that may not be disclosed under this  
21 subsection includes:

22 (1) the name and address of a patient or a member of  
23 the patient's family;

24 (2) any service received by the patient or a member of  
25 the patient's family;

26 (3) the social and economic condition of the patient  
27 or a member of the patient's family;

1           (4) medical, dental, and mental health care  
2 information related to the patient or a member of the patient's  
3 family, including diagnoses, conditions, diseases, or disability;  
4 and

5           (5) the identity of a health care provider that  
6 provided any services to the patient or a member of the patient's  
7 family.

8           (c) Review board work product or information obtained by the  
9 department under this chapter, including information contained in  
10 an electronic database established and maintained under Section  
11 34.012, or any other document or record, is confidential. This  
12 subsection does not prevent the review board or department from  
13 releasing information described by Subsection (d) or (e) or from  
14 submitting the report required by Section 34.015.

15           (d) Information is not confidential under this section if  
16 the information is general information that cannot be connected  
17 with any specific individual, case, or health care provider, such  
18 as:

19           (1) total expenditures made for specified purposes;  
20           (2) the number of families served by particular health  
21 care providers or agencies;

22           (3) aggregated data on social and economic conditions;  
23           (4) medical data and information related to health  
24 care services that do not include any identifying information  
25 relating to a patient or the patient's family; and

26           (5) other statistical information.

27           (e) The review board may publish statistical studies and



1 research reports based on information that is confidential under  
2 this section, provided that the information:

3 (1) is published in aggregate;

4 (2) does not identify a patient or the patient's  
5 family; and

6 (3) does not include any information that could be  
7 used to identify a patient or the patient's family.

8 (f) The department shall adopt and implement practices and  
9 procedures to ensure that information that is confidential under  
10 this section is not disclosed in violation of this section.

11 (g) Information that is confidential under this section is  
12 excepted from disclosure under Chapter 552, Government Code, as  
13 provided by Section 552.101 of that chapter.

14 (h) The review board and the department shall comply with  
15 all state and federal laws and rules relating to the transmission of  
16 health information, including the Health Insurance Portability and  
17 Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted  
18 under that Act.

19 Sec. 34.010. SUBPOENA AND DISCOVERY. (a) Review board work  
20 product or information that is confidential under Section 34.009 is  
21 privileged, is not subject to subpoena or discovery, and may not be  
22 introduced into evidence in any civil or criminal proceeding  
23 against a patient, a member of the family of a patient, or a health  
24 care provider.

25 (b) A document or other information that is otherwise  
26 available from another source is not protected from subpoena,  
27 discovery, or introduction into evidence under Subsection (a)

1 solely because the document or other information was presented  
2 during a meeting of the review board or because a record of the  
3 document or other information is maintained by the review board.

4 Sec. 34.012. DATABASE OF DE-IDENTIFIED INFORMATION. (a)  
5 The department may establish and maintain an electronic database to  
6 track cases of pregnancy-related deaths and severe maternal  
7 morbidity to assist the department and review board in performing  
8 functions under this chapter.

9 (b) The information in the database may not include  
10 identifying information, including:

- 11 (1) the name of a patient;  
12 (2) the name of a health care provider; or  
13 (3) the name or specific location of a facility that  
14 treated a patient.

15 (c) The database may be accessed only by the department and  
16 the review board for the purposes described in this chapter.

17 Sec. 34.013. INAPPLICABILITY OF CHAPTER. This chapter does  
18 not apply to disclosure of records pertaining to voluntary or  
19 therapeutic termination of pregnancy, and those records may not be  
20 collected, maintained, or disclosed under this chapter.

21 Sec. 34.014. FUNDING. (a) The department shall apply for  
22 and use any available federal money to fund the duties of the  
23 department and the review board under this chapter.

24 (b) The department may accept gifts and grants from any  
25 source to fund the duties of the department and the review board  
26 under this chapter.

27 Sec. 34.015. REPORTS. (a) Not later than September 1 of

1 each even-numbered year, the review board and the department shall  
2 submit a joint report on the findings of the review board under this  
3 chapter to the governor, lieutenant governor, speaker of the house  
4 of representatives, and appropriate committees of the legislature.

5 (b) The report must include the review board's  
6 recommendations to help reduce the incidence of pregnancy-related  
7 deaths and severe maternal morbidity in this state, including:

8 (1) potential legislation or rules; and

9 (2) best practices for health care providers and  
10 facilities that provide perinatal or intrapartum care.

11 (c) The department may disseminate the report to the  
12 relevant state professional associations listed in Section  
13 34.006(b) in paper or electronic form.

14 Sec. 34.016. RULES. The executive commissioner may adopt  
15 rules to implement this chapter.

16 Sec. 34.017. DEPARTMENT ACCESS TO INFORMATION.  
17 Notwithstanding Chapter 108 or any other law, the department may  
18 have access to the following information that may reveal the  
19 identity of a patient to fulfill its duties under this chapter:

20 (1) birth records; and

21 (2) hospital discharge data.

22 SECTION 2. (a) Not later than September 1, 2012, the  
23 Department of State Health Services shall submit a report to the  
24 governor, lieutenant governor, speaker of the house of  
25 representatives, and appropriate committees of the legislature  
26 outlining:

27 (1) the department's progress in establishing the

1 Maternal Mortality and Morbidity Review Board required by Chapter  
2 34, Health and Safety Code, as added by this Act; and

3 (2) any recommendations for legislation to assist the  
4 department in studying pregnancy-related deaths and severe  
5 maternal morbidity.

6 (b) The Department of State Health Services and the Maternal  
7 Mortality and Morbidity Review Board created by Chapter 34, Health  
8 and Safety Code, as added by this Act, are not required to submit  
9 the first report required by Section 34.015, Health and Safety  
10 Code, as added by this Act, before September 1, 2014.

11 (c) Not later than December 1, 2011, the commissioner of  
12 state health services shall appoint the members of the Maternal  
13 Mortality and Morbidity Review Board in accordance with Section  
14 34.002(a)(1), Health and Safety Code, as added by this Act. In  
15 making the initial appointments, the commissioner shall designate  
16 five members to serve terms expiring February 1, 2013, four members  
17 to serve terms expiring February 1, 2015, and four members to serve  
18 terms expiring February 1, 2017.

19 SECTION 3. This Act takes effect September 1, 2011.