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S.B. No. 495

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a task force 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 TASK FORCE

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) "Health care provider" means an individual or facility licensed, certified, or otherwise authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice, including a physician or a hospital or birthing center.

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

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

(7) "Life-threatening condition" means a condition

1 from which the likelihood of death is probable unless the course of
2 the condition is interrupted.

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

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

9 (10) "Perinatal care" has the meaning assigned by
10 Section 32.002.

11 (11) "Physician" means a person licensed to practice
12 medicine in this state under Subtitle B, Title 3, Occupations Code.

13 (12) "Pregnancy-related death" means the death of a
14 woman while pregnant or within one year of delivery or end of
15 pregnancy, regardless of the duration and site of the pregnancy,
16 from any cause related to or aggravated by the pregnancy or its
17 management, but not from accidental or incidental causes.

18 (13) "Severe maternal morbidity" means maternal
19 morbidity that constitutes a life-threatening condition.

20 (14) "Task force" means the Maternal Mortality and
21 Morbidity Task Force.

22 Sec. 34.002. MATERNAL MORTALITY AND MORBIDITY TASK FORCE.

23 (a) The Maternal Mortality and Morbidity Task Force is
24 administered by the department.

25 (b) The task force is a multidisciplinary advisory
26 committee within the department and is composed of the following 15
27 members:

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

3 (A) four physicians specializing in obstetrics,
4 at least one of whom is a maternal fetal medicine specialist;

5 (B) one certified nurse-midwife;

6 (C) one registered nurse;

7 (D) one physician specializing in family
8 practice;

9 (E) one physician specializing in psychiatry;

10 (F) one physician specializing in pathology;

11 (G) one epidemiologist, biostatistician, or
12 researcher of pregnancy-related deaths;

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

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

15 and

16 (J) one medical examiner or coroner responsible
17 for recording deaths;

18 (2) a representative of the department's family and
19 community health programs; and

20 (3) the state epidemiologist for the department or the
21 epidemiologist's designee.

22 (c) In appointing members to the task force, the
23 commissioner shall:

24 (1) include members:

25 (A) working in and representing communities that
26 are diverse with regard to race, ethnicity, immigration status, and
27 English proficiency; and

1 (B) from differing geographic regions in the
2 state, including both rural and urban areas;

3 (2) endeavor to include members who are working in and
4 representing communities that are affected by pregnancy-related
5 deaths and severe maternal morbidity and by a lack of access to
6 relevant perinatal and intrapartum care services; and

7 (3) ensure that the composition of the task force
8 reflects the racial, ethnic, and linguistic diversity of this
9 state.

10 (d) The commissioner shall appoint from among the task force
11 members a presiding officer.

12 (e) A member of the task force appointed under Subsection
13 (b)(1) is not entitled to compensation for service on the task force
14 or reimbursement for travel or other expenses incurred by the
15 member while conducting the business of the task force.

16 (f) In carrying out its duties, the task force may use
17 technology, including teleconferencing or videoconferencing, to
18 eliminate travel expenses.

19 Sec. 34.003. TERMS; VACANCY. (a) Task force members
20 appointed by the commissioner serve staggered six-year terms, with
21 the terms of four or five members, as appropriate, expiring
22 February 1 of each odd-numbered year.

23 (b) A task force member may serve more than one term.

24 (c) A vacancy on the task force shall be filled for the
25 unexpired term in the same manner as the original appointment.

26 Sec. 34.004. MEETINGS. (a) The task force shall meet at
27 least quarterly. The task force may meet at other times at the call

1 of the commissioner.

2 (b) Meetings of the task force are closed to the public and
3 are not subject to Chapter 551, Government Code.

4 Sec. 34.005. DUTIES OF TASK FORCE. The task force shall:

5 (1) study and review:

6 (A) cases of pregnancy-related deaths; and

7 (B) trends in severe maternal morbidity;

8 (2) determine the feasibility of the task force
9 studying cases of severe maternal morbidity; and

10 (3) make recommendations to help reduce the incidence
11 of pregnancy-related deaths and severe maternal morbidity in this
12 state.

13 Sec. 34.006. CONSULTATIONS AND AGREEMENTS WITH OUTSIDE

14 PARTIES. (a) The department and task force may consult with any
15 relevant experts and stakeholders, including:

16 (1) anesthesiologists;

17 (2) intensivists or critical care physicians;

18 (3) nutritionists;

19 (4) substance abuse treatment specialists;

20 (5) hospital staff or employees;

21 (6) representatives of the state Medicaid program;

22 (7) paramedics or other emergency medical response
23 personnel;

24 (8) hospital-based risk management specialists;

25 (9) representatives of local health departments and
26 public health districts in this state;

27 (10) public health experts;

1 (11) government representatives or officials; and

2 (12) law enforcement officials.

3 (b) In gathering information, the department and task force
4 may consult with representatives of any relevant state professional
5 associations and organizations, including:

6 (1) District XI of the American Congress of
7 Obstetricians and Gynecologists;

8 (2) the Texas Association of Obstetricians and
9 Gynecologists;

10 (3) the Texas Nurses Association;

11 (4) the Texas Section of the Association of Women's
12 Health, Obstetric and Neonatal Nurses;

13 (5) the Texas Academy of Family Physicians;

14 (6) the Texas Pediatric Society;

15 (7) the Consortium of Texas Certified Nurse-Midwives;

16 (8) the Association of Texas Midwives;

17 (9) the Texas Hospital Association;

18 (10) the Texas Medical Association; and

19 (11) the Texas Public Health Association.

20 (c) In consulting with individuals or organizations under
21 Subsection (a) or (b), a member of the task force or employee of the
22 department may not disclose any identifying information of a
23 patient or health care provider.

24 (d) The department on behalf of the task force may enter
25 into agreements with institutions of higher education or other
26 organizations consistent with the duties of the department or task
27 force under this chapter.

1 Sec. 34.007. SELECTION AND REVIEW OF CASES. (a) The
2 department shall determine a statistically significant number of
3 cases of pregnancy-related deaths for review. The department shall
4 randomly select cases for the task force to review under this
5 subsection to reflect a cross-section of pregnancy-related deaths
6 in this state.

7 (b) The department shall analyze aggregate data of severe
8 maternal morbidity in this state to identify any trends.

9 (c) If feasible, the department may select cases of severe
10 maternal morbidity for review. In selecting cases under this
11 subsection, the department shall randomly select cases for the task
12 force to review to reflect trends identified under Subsection (b).

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 task force to review the case. The department
18 shall provide the information to the task force.

19 (b) The information provided to the task force may not
20 include identifying information of a patient or health care
21 provider, including:

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

24 (2) the name or specific location of a health care
25 provider that treated the patient.

26 (c) On the request of the department, a hospital, birthing
27 center, or other custodian of the requested information shall

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

5 (d) A person who provides information to the department
6 under this section is not subject to an administrative, civil, or
7 criminal action for damages or other relief for providing the
8 information.

9 Sec. 34.009. CONFIDENTIALITY; PRIVILEGE. (a) Any
10 information pertaining to a pregnancy-related death or severe
11 maternal morbidity is confidential for purposes of this chapter.

12 (b) Confidential information that is acquired by the
13 department and that includes identifying information of an
14 individual or health care provider is privileged and may not be
15 disclosed to any person. Information that may not be disclosed
16 under this subsection includes:

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

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

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

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

27 (5) the identity of a health care provider that

1 provided any services to the patient or a member of the patient's
2 family.

3 (c) Task force work product or information obtained by the
4 department under this chapter, including information contained in
5 an electronic database established and maintained under Section
6 34.012, or any other document or record, is confidential. This
7 subsection does not prevent the task force or department from
8 releasing information described by Subsection (d) or (e) or from
9 submitting the report required by Section 34.015.

10 (d) Information is not confidential under this section if
11 the information is general information that cannot be connected
12 with any specific individual, case, or health care provider, such
13 as:

- 14 (1) total expenditures made for specified purposes;
15 (2) the number of families served by particular health
16 care providers or agencies;
17 (3) aggregated data on social and economic conditions;
18 (4) medical data and information related to health
19 care services that do not include any identifying information
20 relating to a patient or the patient's family; and
21 (5) other statistical information.

22 (e) The task force may publish statistical studies and
23 research reports based on information that is confidential under
24 this section, provided that the information:

- 25 (1) is published in the aggregate;
26 (2) does not identify a patient or the patient's
27 family;

1 (3) does not include any information that could be
2 used to identify a patient or the patient's family; and

3 (4) does not identify a health care provider.

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

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

10 (h) The task force and the department shall comply with all
11 state and federal laws and rules relating to the transmission of
12 health information, including the Health Insurance Portability and
13 Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted
14 under that Act.

15 Sec. 34.010. SUBPOENA AND DISCOVERY. Task force work
16 product or information that is confidential under Section 34.009 is
17 privileged, is not subject to subpoena or discovery, and may not be
18 introduced into evidence in any administrative, civil, or criminal
19 proceeding against a patient, a member of the family of a patient,
20 or a health care provider.

21 Sec. 34.011. IMMUNITY. (a) A member of the task force or a
22 person employed by or acting in an advisory capacity to the task
23 force and who provides information, counsel, or services to the
24 task force is not liable for damages for an action taken within the
25 scope of the functions of the task force.

26 (b) Subsection (a) does not apply if the person acts with
27 malice or without the reasonable belief that the action is

1 warranted by the facts known to the person.

2 (c) This section does not provide immunity to a person
3 described by Subsection (a) for a violation of a state or federal
4 law or rule relating to the privacy of health information or the
5 transmission of health information, including the Health Insurance
6 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
7 and rules adopted under that Act.

8 Sec. 34.012. DATABASE OF DE-IDENTIFIED INFORMATION.

9 (a) The department may establish and maintain an electronic
10 database to track cases of pregnancy-related deaths and severe
11 maternal morbidity to assist the department and task force in
12 performing functions under this chapter.

13 (b) The information in the database may not include
14 identifying information, including:

15 (1) the name of a patient; or

16 (2) the name or specific location of a health care
17 provider that treated a patient.

18 (c) The database may be accessed only by the department and
19 the task force for the purposes described in this chapter.

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

24 Sec. 34.014. FUNDING. (a) The department shall apply for
25 and use any available federal money to fund the duties of the
26 department and the task force under this chapter.

27 (b) The department may accept gifts and grants from any

1 source to fund the duties of the department and the task force under
2 this chapter.

3 Sec. 34.015. REPORTS. (a) Not later than September 1 of
4 each even-numbered year, the task force and the department shall
5 submit a joint report on the findings of the task force under this
6 chapter to the governor, lieutenant governor, speaker of the house
7 of representatives, and appropriate committees of the legislature.

8 (b) The report must include the task force's
9 recommendations under Section 34.005(a)(3).

10 (c) The department shall disseminate the report to the state
11 professional associations and organizations listed in Section
12 34.006(b) and make the report publicly available in paper or
13 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 (a) Notwithstanding Chapter 108 or any other law, the department
18 may have access to the following information that may include the
19 identity of a patient to fulfill its duties under this chapter:

20 (1) birth records;

21 (2) fetal death records;

22 (3) maternal death records; and

23 (4) hospital and birthing center discharge data.

24 (b) The department may not disclose the information
25 described by Subsection (a) to the task force or any other person.

26 Sec. 34.018. SUNSET PROVISION. The task force is subject to
27 Chapter 325, Government Code (Texas Sunset Act). Unless continued

1 in existence as provided by that chapter, the task force is
2 abolished and this chapter expires September 1, 2019.

3 SECTION 2. (a) Not later than September 1, 2014, the
4 Department of State Health Services shall submit a report to the
5 governor, lieutenant governor, speaker of the house of
6 representatives, and appropriate committees of the legislature
7 outlining:

8 (1) the department's progress in establishing the
9 Maternal Mortality and Morbidity Task Force required by Chapter 34,
10 Health and Safety Code, as added by this Act; and

11 (2) any recommendations for legislation to assist the
12 department in studying pregnancy-related deaths and severe
13 maternal morbidity.

14 (b) The Department of State Health Services and the Maternal
15 Mortality and Morbidity Task Force created by Chapter 34, Health
16 and Safety Code, as added by this Act, are not required to submit
17 the first report required by Section 34.015, Health and Safety
18 Code, as added by this Act, before September 1, 2016.

19 (c) Not later than December 1, 2013, the commissioner of
20 state health services shall appoint the members of the Maternal
21 Mortality and Morbidity Task Force in accordance with Subdivision
22 (1), Subsection (b), Section 34.002, Health and Safety Code, as
23 added by this Act. In making the initial appointments, the
24 commissioner shall designate five members to serve terms expiring
25 February 1, 2015, four members to serve terms expiring February 1,
26 2017, and four members to serve terms expiring February 1, 2019.

27 SECTION 3. This Act takes effect September 1, 2013.