

By: Huffman

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) "Maternal morbidity" means a pregnancy-related

1 health condition occurring during pregnancy, labor, or delivery or
2 within one year of delivery or end of pregnancy.

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

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

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

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

15 (12) "Task force" means the Maternal Mortality and
16 Morbidity Task Force.

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

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

20 (b) The task force is a multidisciplinary advisory
21 committee within the department and is composed of the following 15
22 members:

23 (1) 13 members appointed by the commissioner as
24 follows:

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

27 (B) one certified nurse-midwife;

- 1 (C) one registered nurse;
2 (D) one physician specializing in family
3 practice;
4 (E) one physician specializing in psychiatry;
5 (F) one physician specializing in pathology;
6 (G) one epidemiologist, biostatistician, or
7 researcher of pregnancy-related deaths;
8 (H) one social worker or social service provider;
9 (I) one community advocate in a relevant field;
10 and
11 (J) one medical examiner or coroner responsible
12 for recording deaths;
13 (2) a representative of the department's family and
14 community health programs; and
15 (3) the state epidemiologist for the department or the
16 epidemiologist's designee.
17 (c) In appointing members to the task force, the
18 commissioner shall:
19 (1) include members:
20 (A) working in and representing communities that
21 are diverse with regard to race, ethnicity, immigration status, and
22 English proficiency; and
23 (B) from differing geographic regions in the
24 state, including both rural and urban areas;
25 (2) endeavor to include members who are working in and
26 representing communities that are affected by pregnancy-related
27 deaths and maternal morbidity and by a lack of access to relevant

1 perinatal and intrapartum care services; and

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

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

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

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

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

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

18 Sec. 34.004. MEETINGS. (a) The task force shall meet at
19 least quarterly. The task force may meet at other times at the call
20 of the commissioner.

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

23 Sec. 34.005. DUTIES OF TASK FORCE. (a) The task force
24 shall:

25 (1) study and review pregnancy-related deaths and
26 cases of maternal morbidity; and

27 (2) make recommendations for best practices and

1 protocols to help reduce the incidence of pregnancy-related deaths
2 and maternal morbidity in this state.

3 (b) The task force shall develop standard procedures and
4 criteria for the comprehensive, multidisciplinary review of
5 pregnancy-related deaths and cases of maternal morbidity.

6 Sec. 34.006. CONSULTATIONS AND AGREEMENTS WITH OUTSIDE
7 PARTIES. (a) The department and task force may consult with any
8 relevant experts and stakeholders, including:

9 (1) anesthesiologists;

10 (2) intensivists or critical care physicians;

11 (3) nutritionists;

12 (4) substance abuse treatment specialists;

13 (5) hospital staff or employees;

14 (6) representatives of the state Medicaid program;

15 (7) paramedics or other emergency medical response
16 personnel;

17 (8) hospital-based risk management specialists;

18 (9) representatives of local health departments and
19 public health districts in this state;

20 (10) public health experts;

21 (11) government representatives or officials; and

22 (12) law enforcement officials.

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

26 (1) District XI of the American Congress of
27 Obstetricians and Gynecologists;

1 (2) the Texas Association of Obstetricians and
2 Gynecologists;

3 (3) the Texas Nurses Association;

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

6 (5) the Texas Academy of Family Physicians;

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

8 (7) the Association of Texas Midwives;

9 (8) the Texas Hospital Association;

10 (9) the Texas Medical Association; and

11 (10) the Texas Public Health Association.

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

16 (d) The department on behalf of the task force may enter
17 into agreements with institutions of higher education or other
18 organizations consistent with the duties of the department or task
19 force under this chapter.

20 Sec. 34.007. SELECTION AND REVIEW OF CASES. The department
21 shall determine a statistically significant number of cases of
22 pregnancy-related deaths and maternal morbidity for review. The
23 department shall randomly select cases for the task force to review
24 to reflect a cross-section of pregnancy-related deaths and maternal
25 morbidity cases in this state.

26 Sec. 34.008. OBTAINING DE-IDENTIFIED INFORMATION FOR
27 REVIEW. (a) On selecting a case of pregnancy-related death or

1 maternal morbidity for review, the department shall, in accordance
2 with this section, obtain information relevant to the case to
3 enable the task force to review the case. The department shall
4 provide the information to the task force.

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

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

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

12 (c) On the request of the department, a health care provider
13 or other custodian of the requested information shall provide the
14 information to the department. The information shall be provided
15 without the authorization of the patient or, if the patient is
16 deceased, without the authorization of the patient's family.

17 (d) A health care provider or other person who provides
18 information to the department under this section is not subject to
19 an administrative, civil, or criminal action for damages or other
20 relief for providing the information.

21 Sec. 34.009. CONFIDENTIALITY; PRIVILEGE. (a) Any
22 information pertaining to a pregnancy-related death or maternal
23 morbidity is confidential for purposes of this chapter.

24 (b) Confidential information that is acquired by the
25 department and that contains identifying information of an
26 individual or health care provider is privileged and may not be
27 disclosed to any person. Information that may not be disclosed

1 under this subsection includes:

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

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

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

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

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

15 (c) Task force work product or information obtained by the
16 department under this chapter, including information contained in
17 an electronic database established and maintained under Section
18 34.012, or any other document or record, is confidential. This
19 subsection does not prevent the task force or department from
20 releasing information described by Subsection (d) or (e) or from
21 submitting the report required by Section 34.015.

22 (d) Information is not confidential under this section if
23 the information is general information that cannot be connected
24 with any specific individual, case, or health care provider, such
25 as:

26 (1) total expenditures made for specified purposes;

27 (2) the number of families served by particular health

1 care providers or agencies;

2 (3) aggregated data on social and economic conditions;

3 (4) medical data and information related to health
4 care services that do not include any identifying information
5 relating to a patient or the patient's family; and

6 (5) other statistical information.

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

10 (1) is published in aggregate;

11 (2) does not identify a patient or the patient's
12 family;

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

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

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

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

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

27 Sec. 34.010. SUBPOENA AND DISCOVERY. (a) Task force work

1 product or information that is confidential under Section 34.009 is
2 privileged, is not subject to subpoena or discovery, and may not be
3 introduced into evidence in any administrative, civil, or criminal
4 proceeding against a patient, a member of the family of a patient,
5 or a health care provider.

6 (b) A document or other information that is otherwise
7 available from another source is not protected from subpoena,
8 discovery, or introduction into evidence under Subsection (a)
9 solely because the document or other information was presented
10 during a meeting of the task force or because a record of the
11 document or other information is maintained by the task force.

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

17 (b) Subsection (a) does not apply if the person acts with
18 malice or without the reasonable belief that the action is
19 warranted by the facts known to the person.

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

26 Sec. 34.012. DATABASE OF DE-IDENTIFIED INFORMATION. (a)
27 The department may establish and maintain an electronic database to

1 track cases of pregnancy-related deaths and maternal morbidity to
2 assist the department and task force in performing functions under
3 this chapter.

4 (b) The information in the database may not include
5 identifying information, including:

6 (1) the name of a patient; or

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

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

11 Sec. 34.013. INAPPLICABILITY OF CHAPTER. This chapter does
12 not apply to disclosure of records pertaining to voluntary or
13 therapeutic termination of pregnancy, and those records may not be
14 collected, maintained, or disclosed under this chapter.

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

18 (b) The department may accept gifts and grants from any
19 source to fund the duties of the department and the task force under
20 this chapter.

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

26 (b) The report must include the task force's
27 recommendations for best practices under Section 34.005(a)(2) to

1 help reduce the incidence of pregnancy-related deaths and maternal
2 morbidity in this state.

3 (c) The department shall disseminate the report to the state
4 professional associations and organizations listed in Section
5 34.006(b) and make the report publicly available in paper or
6 electronic form.

7 Sec. 34.016. RULES. The executive commissioner may adopt
8 rules to implement this chapter.

9 Sec. 34.017. DEPARTMENT ACCESS TO INFORMATION. (a)
10 Notwithstanding Chapter 108 or any other law, the department may
11 have access to the following information that may include the
12 identity of a patient to fulfill its duties under this chapter:

- 13 (1) birth records;
14 (2) fetal death records;
15 (3) maternal death records; and
16 (4) hospital and birthing center discharge data.

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

19 Sec. 34.018. SUNSET PROVISION. The task force is subject to
20 Chapter 325, Government Code (Texas Sunset Act). Unless continued
21 in existence as provided by that chapter, the task force is
22 abolished and this chapter expires September 1, 2019.

23 SECTION 2. (a) Not later than September 1, 2014, the
24 Department of State Health Services shall submit a report to the
25 governor, lieutenant governor, speaker of the house of
26 representatives, and appropriate committees of the legislature
27 outlining:

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

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

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

12 (c) Not later than December 1, 2013, the commissioner of
13 state health services shall appoint the members of the Maternal
14 Mortality and Morbidity Task Force in accordance with Section
15 34.002(b)(1), Health and Safety Code, as added by this Act. In
16 making the initial appointments, the commissioner shall designate
17 five members to serve terms expiring February 1, 2015, four members
18 to serve terms expiring February 1, 2017, and four members to serve
19 terms expiring February 1, 2019.

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