

BILL ANALYSIS

Senate Research Center

C.S.H.B. 723
By: Dukes (Wentworth)
Health & Human Services
5-17-97
Committee Report (Substituted)

DIGEST

Hysterectomies are a controversial medical procedure that may eventually affect one out of every three women in this country. There is support for a patient's consent and full understanding of the consequences of a hysterectomy. This bill would require the Medical Disclosure Panel to adopt a specific form with disclosures and warnings for hysterectomies.

PURPOSE

As proposed, C.S.H.B. 723 requires the Medical Disclosure Panel to adopt a specific form with disclosures and warnings for hysterectomies.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 4590i, V.T.C.S. (Medical Liability and Insurance Improvement Act of Texas), by adding Section 6.08, as follows:

Sec. 6.08. INFORMED CONSENT FOR HYSTERECTOMIES. (a) Requires the Medical Disclosure Panel (panel) to develop and prepare written materials to inform a patient or person authorized to consent for a patient of the risks and hazards of a hysterectomy.

(b) Requires the materials to be available in English, Spanish, and any other language the panel considers appropriate. Requires the information to be presented in a manner understandable to a layperson.

(c) Requires the materials to include a notice that a decision is made at any time to refuse to undergo a hysterectomy will not result in the withdrawal or withholding of any benefits provided by programs or projects receiving federal funds or otherwise affect the patient's right to future care or treatment; the name of the person providing and explaining the materials; a statement that the patient or person authorized to consent for the patient understands that the hysterectomy is permanent and nonreversible and that the patient will not be able to become pregnant or bear children if she undergoes a hysterectomy; a statement that the patient has the right to seek a consultation from a second physician; a statement that the patient or person authorized to consent for the patient has been informed that a hysterectomy is a removal of the uterus through an incision in the lower abdomen or vagina and that additional surgery may be necessary to remove or repair other organs; a description of the risks and hazards involved in the performance of the procedure; and a written statement to be signed by the patient or person authorized to consent for the patient indicating that the materials have been provided and explained to the patient or person authorized to consent for the patient and that the patient or person authorized to consent for the patient understands the nature and consequences of a hysterectomy.

(d) Requires the physician or health care provider to obtain informed consent under this section and Section 6.05 of this Act from the patient or person authorized to consent for

the patient before performing a hysterectomy unless the hysterectomy is performed in a life-threatening situation in which the physician determines obtaining informed consent is not reasonably possible. Requires the physician or health care provider, if obtaining informed consent is not reasonably possible, to include in the patient's medical records a written statement signed by the physician certifying the nature of the emergency.

(e) Prohibits the panel from prescribing materials under this section without first consulting the Texas State Board of Medical Examiners.

SECTION 2. (a) Effective date: September 1, 1997.

(b) Requires the panel to prescribe the form and content of the materials required to be distributed under Section 6.08, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, V.T.C.S.), as added by this Act, by January 1, 1998.

(c) Provides that this Act applies only to a hysterectomy that is performed at least 90 days after the date that notice of the adoption of the initial form and content of the materials required to be distributed under Section 6.08, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, V.T.C.S.), as added by this Act, is published in the Texas Register.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 6.08, Article 4590i, V.T.C.S., to revise proposed Subsection (a). Revises proposed Subdivision (c)(6) and omits proposed Subdivisions (c)(7) - (11). Subdivision (c)(12) is redesignated as (c)(7). Replaces reference to Section 6.04 of this Act with reference to Section 6.05 of this Act in Subsection (d). Revises proposed Subsection (e).