

BILL ANALYSIS

Senate Research Center
80R10836 YDB-D

C.S.S.B. 288
By: Nelson
Health & Human Services
3/21/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Health care associated infections account for an estimated two million infections and 90,000 deaths annually and cost approximately \$4.5 billion per year.

C.S.S.B. 288 requires public reporting of infections that occurred while the patient received treatment in a health care facility.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 98.101, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the Department of State Health Services in SECTION 1 (Section 98.101, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 2, Health and Safety Code, by adding Chapter 98, as follows:

CHAPTER 98. HEALTH CARE ASSOCIATED INFECTION RATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 98.001. DEFINITIONS. Defines "advisory panel," "ambulatory surgical center," "commissioner," "department," "executive commissioner," "general hospital," "health care associated infection," "health care facility," "infection control professional," "infection rate," "pediatric and adolescent hospital," "reporting system," and "special care setting."

Sec. 98.002. APPLICABILITY OF OTHER LAW. Exempts the Advisory Panel on Health Care Associated Infections (panel) created under Subchapter B, from Chapter 2110 (State Agency Advisory Committees), Government Code.

[Reserves Sections 98.003-98.050 for expansion.]

SUBCHAPTER B. ADVISORY PANEL

Sec. 98.051. ESTABLISHMENT. Requires the commissioner of state health services (commissioner) to establish the panel within the infectious disease surveillance and epidemiology branch of the Texas Department of State Health Services (DSHS) as a permanent advisory panel to guide the development, implementation, and evaluation of the Texas Health Care Associated Infection Reporting System (reporting system).

Sec. 98.052. MEMBERSHIP; TERM. Requires the commissioner to appoint members of the panel. Sets forth the composition and terms of the panel's membership.

Sec. 98.053. MEMBER ELIGIBILITY. Prohibits anyone required to register as a lobbyist under Chapter 305 (Registration of Lobbyist), Government Code, from being a member of the panel.

Sec. 98.054. OFFICERS. Requires the panel to select a presiding officer and assistant presiding officer from its members.

Sec. 98.055. COMPENSATION; EXPENSES. Provides that panel members will not receive compensation or reimbursement for travel expenses. Provides that state agency representatives that are members of the panel will receive refunds for travel expenses related to conducting the business of the panel and that this reimbursement will come from the employee's agency.

Sec. 98.056. VACANCY. Requires any vacancy on the panel to be filled by the commissioner.

Sec. 98.057. MEETINGS; DEPARTMENT ASSISTANCE. Requires the panel to meet at the request of the presiding officer or the commissioner. Requires DSHS to provide the panel with assistance in meeting its responsibilities.

Sec. 98.058. DUTIES. (a) Requires the panel to advise DSHS in relation to the oversight of the reporting system by the panel.

(b) Authorizes the panel, using existing resources, to consult with persons who have expertise in infectious diseases or infection control.

Sec. 98.059. REPORT TO LEGISLATURE. Requires the commissioner to report to the presiding officer of each legislative house with the panel's suggestions for legislation surrounding the collection and reporting of infection rates and measures not later than November 1 of each even-numbered year.

[Reserves Sections 98.060-98.100 for expansion.]

SUBCHAPTER C. REPORTING INFECTION RATE

Sec. 98.101. COLLECTION OF HEALTH CARE ASSOCIATED INFECTION DATA. (a) Requires a health care facility (facility), at least quarterly, to provide the infectious disease surveillance and epidemiology branch of DSHS with a report of the health care associated infections at the facility (report) for the period covered by the report. Requires an infection control professional using methods of clinical surveillance complying with rules of the executive commissioner of the Health and Human Services Commission (executive commissioner) to identify the information included in this report.

(b) Sets forth certain information sufficient for DSHS to calculate risk-adjusted infection rates that are required to be included in the report.

(c) Requires certain medical facilities performing less than 50 procedures listed in Subsections (b)(2) and (4) to report surgical site infection data. Sets forth specific required information to be included in this data.

(d) Requires the executive commissioner and DSHS by rule to phase into the report certain information listed on the federal Centers for Disease Control and Prevention's (CDC) National Health Safety Network list of surgical procedures. Authorizes the executive commissioner and DSHS to exclude a procedure or include an unlisted procedure if it is appropriate to protect public health and safety or follow federal reporting requirements.

(e) Requires the executive commissioner to ensure that the infections that a health care facility is required to report have the meanings assigned by the federal CDC in adopting rules under this section.

(f) Prohibits a health care facility from using hospital discharge diagnosis codes to establish information that must be reported under this section.

Sec. 98.102. REPORTING SYSTEM. Requires DSHS to use its resources to develop the reporting system that is flexible and can gather data through electronic communications and review infection control and reporting activities of health care facilities to ensure that valid data is being supplied and to identify unusual trends.

Sec. 98.103. INFORMATION AVAILABLE TO PUBLIC. Requires DSHS to release the infection rate for certain infections in facilities required to submit a report under Section 98.101 on its Internet website and in a written report at least annually.

Sec. 98.104. TRAINING FOR INFECTION CONTROL PROFESSIONALS. Requires DSHS to provide training for infection control professionals regarding the reporting system.

Sec. 98.105. PROTECTION FOR REPORTING. Prohibits a health care facility from retaliating against an employee for reporting required information to DSHS. Provides that an employee can be fired for reasons other than retaliation.

Sec. 98.106. CONFIDENTIALITY; PRIVILEGE. (a) Provides that information obtained or compiled by DSHS under this chapter is confidential and exempt from Chapter 552 (Public Disclosure), Government Code, and from certain legal actions to compel the release of this information. Prohibits the use of this information from being disclosed in certain proceedings and prohibits this information from becoming publicly available unless authorized by this chapter.

(b) Provides that the confidentiality protections under Subsection (a) apply regardless of the entity that compiled or obtained the information.

(c) Provides that the transfer of information or materials under this chapter is not a waiver of privilege or protection granted under law.

(d) Provides that certain information and materials are subject to an absolute privilege and are prohibited from being used in any form against the facility or related persons in any legal proceeding, regardless of the means by which a person came into possession of said information and materials. Requires a court to enforce this privilege for all matters covered by this subsection.

(e) Provides that the confidentiality provisions under this chapter do not restrict access, to the extent authorized by law, by the person or the person's legally authorized representative to certain medical records of the patient.

(f) Prohibits a report, or a DSHS summary or disclosure, from containing information identifying certain persons in connection with a specific infection incident.

(g) Provides that the reports, records, and information obtained under this chapter are for the confidential use of DSHS and the persons or entities determined necessary by DSHS to carry out the intent of this chapter. Authorizes the release of medical or epidemiological information under certain conditions.

Sec. 98.107. DISCLOSURE WITHIN DEPARTMENT. Authorizes DSHS to disclose information reported by facilities under this chapter to other programs within DSHS only for the purposes of public health research or analysis that is related to health care associated infections, notwithstanding any other law. Applies the privilege and confidentiality provisions contained in this chapter to such disclosures.

Sec. 98.108. CIVIL ACTION. Prohibits published infection rates from being used in a civil action to establish a standard of care for a health care facility.

SECTION 2. Requires the executive commissioner to adopt the rules and procedures to implement Chapter 98, Health and Safety Code, as added by this Act, as soon as practicable. Requires DSHS to obtain initial reports based on data from the previous quarter and required by Chapter 98, Health and Safety Code, as added by this Act, by January 1, 2008, and to disclose the information required by Section 98.103, Health and Safety Code, as added by this Act, to the public not later than June 1, 2008.

SECTION 3. Requires the commissioner to appoint members to the panel as soon as possible after this effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2007.