

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE B. TEXAS DEPARTMENT OF HEALTH PROGRAMS

CHAPTER 47. HEARING LOSS IN NEWBORNS

Sec. 47.001. DEFINITIONS. In this chapter:

(1) "Birth admission" means the time after birth that a newborn remains in the birthing facility before the newborn is discharged.

(2) "Birthing facility" means:

(A) a hospital licensed under Chapter 241 that offers obstetrical services and is located in a county with a population of more than 50,000; or

(B) a birthing center licensed under Chapter 244 that is located in a county with a population of more than 50,000 and that has 100 or more births per year.

(3) "Health care provider" means a registered nurse recognized as an advanced practice nurse by the Texas Board of Nursing or a physician assistant licensed by the Texas Physician Assistant Board.

(4) "Hearing loss" means a hearing loss of 30 dB HL or greater in the frequency region important for speech recognition and comprehension in one or both ears, approximately 500 through 4,000 Hz. As technological advances permit the detection of less severe hearing loss, the department may modify this definition by rule.

(5) "Infant" means a child who is at least 30 days but who is younger than 24 months old.

(6) "Intervention or follow-up care" means the early intervention services described in Part C, Individuals with Disabilities Education Act (20 U.S.C. Sections 1431-1445), as amended by Pub. L. No. 105-17.

(7) "Newborn" means a child younger than 30 days old.

(8) "Parent" means a natural parent, stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

(9) "Physician" means a person licensed to practice medicine by the Texas State Board of Medical Examiners.

(10) "Program" means a newborn hearing screening, tracking, and intervention program certified by the department under this chapter.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 889, Sec. 60, eff. September 1, 2007.

Sec. 47.002. APPLICABILITY OF CHAPTER. This chapter does not apply to a facility operated by a midwife as defined by Section 203.002, Occupations Code.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.770, eff. Sept. 1, 2001.

Sec. 47.003. NEWBORN HEARING SCREENING, TRACKING, AND INTERVENTION PROGRAM. (a) A birthing facility, through a program certified by the department under Section 47.004, shall offer the parents of a newborn a hearing screening for the newborn for the identification of hearing loss. The screening shall be offered during the birth admission, and the parents shall be informed that information may be provided to the department upon their written consent.

(b) The department or the department's designee shall approve program protocols.

(c) The department may maintain data and information on each newborn who receives services under a program.

(d) The department shall ensure that intervention is available to families for a newborn identified as having hearing loss and that the intervention is managed by state programs operating under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(e) The department shall ensure that the intervention described by Subsection (d) is available for a newborn identified as having hearing loss through the time the child is an infant.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Sec. 47.004. CERTIFICATION OF SCREENING PROGRAMS.

(a) The department or the department's designee shall establish certification criteria for implementing a program.

(b) In order to be certified, the program must:

(1) provide hearing screening using equipment recommended by the department;

(2) use appropriate staff to provide the screening;

(3) maintain and report data electronically as required by the department;

(4) distribute family, health care provider, and physician educational materials standardized by the department; and

(5) provide information, as recommended by the department, to the parents on follow-up services for newborns and infants with abnormal screening results.

(c) The department may certify a program that meets and maintains the certification criteria.

(d) The department may renew the certification of a program on a periodic basis as established by board rule in order to ensure quality services to newborns and families.

(e) A fee may not be charged to certify or recertify a program.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Sec. 47.005. INFORMATION CONCERNING SCREENING RESULTS AND FOLLOW-UP CARE. (a) A birthing facility that operates a program shall distribute to the parents of each newborn who is screened educational materials that are standardized by the department regarding screening results and follow-up care.

(b) A birthing facility that operates a program shall report screening results to the parents, the newborn's attending physician or health care provider, and the department.

(c) Appropriate and necessary care for the infant who needs follow-up care should be directed and coordinated by the infant's physician or health care provider, with support from appropriate

ancillary services.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Sec. 47.006. TECHNICAL ASSISTANCE BY DEPARTMENT. The department may consult with a birthing facility and provide to the facility technical assistance associated with the implementation of a certified program.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Sec. 47.007. INFORMATION MANAGEMENT, REPORTING, AND TRACKING SYSTEM. (a) The department shall provide each birthing facility that provides newborn hearing screening under the state's medical assistance program provided under Chapter 32, Human Resources Code, with the appropriate information management, reporting, and tracking software for the program. The information management, reporting, and tracking system must be capable of providing the department with information and data necessary to plan, monitor, and evaluate the program, including the program's screening, follow-up, diagnostic, and intervention components.

(b) A qualified hearing screening provider, hospital, audiologist, or intervention specialist may access the information management, reporting, and tracking system to provide information, where available, to the department, including information relating to:

- (1) infants who receive follow-up care;
- (2) infants identified with hearing loss;
- (3) infants who are referred for intervention services; and
- (4) case level information necessary to report required statistics to the Maternal and Child Health Bureau on an annual basis.

(c) The department shall ensure that the written consent of a parent is obtained before any information individually identifying the newborn or infant is released through the information management, reporting, and tracking system.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Sec. 47.008. CONFIDENTIALITY AND GENERAL ACCESS TO DATA.

(a) The information management, reporting, and tracking system provided in accordance with this chapter must meet confidentiality requirements in accordance with required state and federal privacy guidelines.

(b) Data obtained through the information management, reporting, and tracking system under this chapter are for the confidential use of the department, the department's designee, and the persons or public or private entities that the department determines are necessary to carry out the functions of the tracking system.

(c) The department by rule shall develop guidelines to protect the confidentiality of patients in accordance with Chapter 159, Occupations Code, and require the written consent of a parent or guardian of a patient before any individually identifying information is provided to the department as set out in this chapter. The department shall permit a parent or guardian at any time to withdraw information provided to the department under this chapter.

(d) Statistical or aggregated information that is about activities conducted under this chapter and that could not be used to individually identify a newborn, infant, or patient or a parent or guardian of a newborn, infant, or patient is not confidential.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.771, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 880, Sec. 1, eff. June 20, 2003.

Sec. 47.009. IMMUNITY FROM LIABILITY. A birthing facility, a clinical laboratory, an audiologist, a health care provider, a physician, a registered nurse, or any other officer or employee of a birthing facility, a laboratory, a physician, or an audiologist is not criminally or civilly liable for furnishing information in good faith to the department or its designee as required by this chapter. This section does not apply to information gathered and furnished after a parent of a newborn or infant declined screening offered through a program.

Added by Acts 1999, 76th Leg., ch. 1347, Sec. 1, eff. Sept. 1, 1999.