

HEALTH AND SAFETY CODE CHAPTER 98. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES

CHAPTER 98. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS

Chapter 98, consisting of Secs. 98.001 to 98.151, was added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1.

For another Chapter 98, consisting of Secs. 98.001 to 98.009, added by Acts 2007, 80th Leg., R.S., Ch. 671, Sec. 3, see Sec. 98.001 et seq., post.

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 98.001. DEFINITIONS. In this chapter:

(1) "Advisory panel" means the Advisory Panel on Health Care-Associated Infections.

(2) "Ambulatory surgical center" means a facility licensed under Chapter 243.

(3) "Commissioner" means the commissioner of state health services.

(4) "Department" means the Department of State Health Services.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(6) "General hospital" means a general hospital licensed under Chapter 241 or a hospital that provides surgical or obstetrical services and that is maintained or operated by this state. The term does not include a comprehensive medical rehabilitation hospital.

(7) "Health care-associated infection" means a localized or symptomatic condition resulting from an adverse reaction to an infectious agent or its toxins to which a patient is exposed in the course of the delivery of health care to the patient.

(8) "Health care facility" means a general hospital or an ambulatory surgical center.

(9) "Infection rate" means the number of health care-associated infections of a particular type at a health care

facility divided by a numerical measure over time of the population at risk for contracting the infection, unless the term is modified by rule of the executive commissioner to accomplish the purposes of this chapter.

(10) "Pediatric and adolescent hospital" has the meaning assigned by Section 241.003.

(11) "Reporting system" means the Texas Health Care-Associated Infection Reporting System.

(12) "Special care setting" means a unit or service of a general hospital that provides treatment to inpatients who require extraordinary care on a concentrated and continuous basis. The term includes an adult intensive care unit, a burn intensive care unit, and a critical care unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.002. APPLICABILITY OF OTHER LAW. Chapter 2110, Government Code, does not apply to the advisory panel created under Subchapter B.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER B. ADVISORY PANEL

Sec. 98.051. ESTABLISHMENT. The commissioner shall establish the Advisory Panel on Health Care-Associated Infections within the infectious disease surveillance and epidemiology branch of the department to guide the implementation, development, maintenance, and evaluation of the reporting system.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.052. MEMBERSHIP; TERM. (a) The advisory panel is composed of 16 members as follows:

(1) two infection control professionals who:

(A) are certified by the Certification Board of Infection Control and Epidemiology; and

(B) are practicing in hospitals in this state, at

least one of which must be a rural hospital;

(2) two infection control professionals who:

(A) are certified by the Certification Board of Infection Control and Epidemiology; and

(B) are nurses licensed to engage in professional nursing under Chapter 301, Occupations Code;

(3) three board-certified or board-eligible physicians who:

(A) are licensed to practice medicine in this state under Chapter 155, Occupations Code, at least two of whom have active medical staff privileges at a hospital in this state and at least one of whom is a pediatric infectious disease physician with expertise and experience in pediatric health care epidemiology;

(B) are active members of the Society for Healthcare Epidemiology of America; and

(C) have demonstrated expertise in infection control in health care facilities;

(4) two professionals in quality assessment and performance improvement, one of whom is employed by a general hospital and one of whom is employed by an ambulatory surgical center;

(5) one officer of a general hospital;

(6) one officer of an ambulatory surgical center;

(7) three nonvoting members who are department employees representing the department in epidemiology and the licensing of hospitals or ambulatory surgical centers; and

(8) two members who represent the public as consumers.

(b) Members of the advisory panel serve two-year terms.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.053. MEMBER ELIGIBILITY. (a) A person may not be a member of the advisory panel if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to health care.

(b) A person may not be a member of the advisory panel if the

person is an officer, employee, or paid consultant of a Texas trade association in the field of health care.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.054. OFFICERS. The members of the advisory panel shall elect a presiding officer and an assistant presiding officer from among the members. The officers serve two-year terms.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.055. COMPENSATION; EXPENSES. Members of the advisory panel serve without compensation but are entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory panel from department funds, in accordance with the General Appropriations Act.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.056. VACANCY. A vacancy on the advisory panel shall be filled by the commissioner.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER C. DUTIES OF DEPARTMENT AND ADVISORY PANEL; REPORTING SYSTEM

Sec. 98.101. RULEMAKING. (a) The executive commissioner may adopt rules for the department to implement this chapter.

(b) The executive commissioner may not adopt rules that conflict with or duplicate any federally mandated infection reporting program or requirement.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.102. DEPARTMENTAL RESPONSIBILITIES; REPORTING SYSTEM. (a) The department shall establish the Texas Health Care-Associated Infection Reporting System within the infectious

disease surveillance and epidemiology branch of the department. The purpose of the reporting system is to provide for:

(1) the reporting of health care-associated infections by health care facilities to the department;

(2) the public reporting of information regarding the health care-associated infections by the department; and

(3) the education and training of health care facility staff by the department regarding this chapter.

(b) The reporting system shall provide a mechanism for this state to collect data, at state expense, through a secure electronic interface with health care facilities.

(c) The data reported by health care facilities to the department must contain sufficient patient identifying information to:

(1) avoid duplicate submission of records;

(2) allow the department to verify the accuracy and completeness of the data reported; and

(3) allow the department to risk adjust the facilities' infection rates.

(d) The department shall review the infection control and reporting activities of health care facilities to ensure the data provided by the facilities is valid and does not have unusual data patterns or trends that suggest implausible infection rates.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.103. REPORTABLE INFECTIONS. (a) A health care facility, other than a pediatric and adolescent hospital, shall report to the department the incidence of surgical site infections occurring in the following procedures:

(1) colon surgeries;

(2) hip arthroplasties;

(3) knee arthroplasties;

(4) abdominal hysterectomies;

(5) vaginal hysterectomies;

(6) coronary artery bypass grafts; and

(7) vascular procedures.

(b) A pediatric and adolescent hospital shall report the incidence of surgical site infections occurring in the following procedures to the department:

(1) cardiac procedures, excluding thoracic cardiac procedures;

(2) ventriculoperitoneal shunt procedures; and

(3) spinal surgery with instrumentation.

(c) A general hospital shall report the following to the department:

(1) the incidence of laboratory-confirmed central line-associated primary bloodstream infections occurring in any special care setting in the hospital; and

(2) the incidence of respiratory syncytial virus occurring in any pediatric inpatient unit in the hospital.

(d) The department shall ensure that the health care-associated infections a health care facility is required to report under this section have the meanings assigned by the federal Centers for Disease Control and Prevention.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.104. ALTERNATIVE FOR REPORTABLE SURGICAL SITE INFECTIONS. A health care facility that does not perform at least an average of 50 procedures per month of the procedures listed in Section 98.103(a) or (b), as modified under Section 98.105, is not required to comply with the reporting requirements of Section 98.103 but instead shall report to the department the surgical site infections relating to the three surgical procedures most frequently performed at the facility, based on the list of surgical procedures promulgated by the federal Centers for Disease Control and Prevention's National Healthcare Safety Network or its successor.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.105. REPORTING SYSTEM MODIFICATIONS. Based on the recommendations of the advisory panel, the executive commissioner

by rule may modify in accordance with this chapter the list of procedures that are reportable under Section 98.103 or 98.104. The modifications must be based on changes in reporting guidelines and in definitions established by the federal Centers for Disease Control and Prevention.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.106. DEPARTMENTAL SUMMARY. (a) The department shall compile and make available to the public a summary, by health care facility, of the infections reported by facilities under Sections 98.103 and 98.104.

(b) The departmental summary must be risk adjusted and include a comparison of the risk-adjusted infection rates for each health care facility in this state that is required to submit a report under Sections 98.103 and 98.104.

(c) In consultation with the advisory panel, the department shall publish the departmental summary in a format that is easy to read.

(d) The department shall publish the departmental summary at least annually and may publish the summary more frequently as the department considers appropriate.

(e) The executive commissioner by rule shall allow a health care facility to submit concise written comments regarding information contained in the departmental summary that relates to the facility. The department shall attach the facility's comments to the public report and the comments must be in the same format as the summary.

(f) The disclosure of written comments to the department by a health care facility as provided by Subsection (e) does not constitute a waiver of a privilege or protection under Section 98.109.

(g) The department shall make the departmental summary available on an Internet website administered by the department and may make the summary available through other formats accessible to the public. The website must contain a statement informing the public of the option to report suspected health care-associated

infections to the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.107. EDUCATION AND TRAINING REGARDING REPORTING SYSTEM. The department shall provide education and training for health care facility staff regarding this chapter. The training must be reasonable in scope and focus primarily on:

(1) the implementation and management of a facility reporting mechanism;

(2) characteristics of the reporting system, including public reporting by the department and facility reporting to the department;

(3) confidentiality; and

(4) legal protections.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.108. FREQUENCY OF REPORTING. In consultation with the advisory panel, the executive commissioner by rule shall establish the frequency of reporting by health care facilities required under Sections 98.103 and 98.104. Facilities may not be required to report more frequently than quarterly.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.109. CONFIDENTIALITY; PRIVILEGE. (a) Except as provided by Sections 98.106 and 98.110, all information and materials obtained or compiled or reported by the department under this chapter or compiled or reported by a health care facility under this chapter, and all related information and materials, are confidential and:

(1) are not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other means of legal compulsion for release to any person; and

(2) may not be admitted as evidence or otherwise disclosed in any civil, criminal, or administrative proceeding.



(b) The confidentiality protections under Subsection (a) apply without regard to whether the information or materials are obtained from or compiled or reported by a health care facility or an entity that has an ownership or management interest in a facility.

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

(d) The provisions of this section regarding the confidentiality of information or materials compiled or reported by a health care facility in compliance with or as authorized under this chapter do not restrict access, to the extent authorized by law, by the patient or the patient's legally authorized representative to records of the patient's medical diagnosis or treatment or to other primary health records.

(e) A department summary or disclosure may not contain information identifying a facility patient, employee, contractor, volunteer, consultant, health care professional, student, or trainee in connection with a specific infection incident.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.110. DISCLOSURE WITHIN DEPARTMENT. Notwithstanding any other law, the department may disclose information reported by health care facilities under Section 98.103 or 98.104 to other programs within the department for public health research or analysis purposes only, provided that the research or analysis relates to health care-associated infections. The privilege and confidentiality provisions contained in this chapter apply to such disclosures.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.

Sec. 98.111. CIVIL ACTION. Published infection rates may not be used in a civil action to establish a standard of care applicable to a health care facility.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15,

2007.

SUBCHAPTER D. ENFORCEMENT

Sec. 98.151. VIOLATIONS. (a) Except as provided by Subsection (b), a general hospital that violates this chapter or a rule adopted under this chapter is subject to the enforcement provisions of Subchapter C, Chapter 241, and rules adopted and enforced under that subchapter as if the hospital violated Chapter 241 or a rule adopted under that chapter.

(b) Subsection (a) does not apply to a comprehensive medical rehabilitation hospital as defined in Section 241.003.

(c) An ambulatory surgical center that violates this chapter or a rule adopted under this chapter is subject to the enforcement provisions of Chapter 243 and rules adopted and enforced under that chapter as if the center violated Chapter 243 or a rule adopted under that chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 359, Sec. 1, eff. June 15, 2007.