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FISCAL IMPACT REPORT

SPONSOR Jennings **DATE TYPED** 3-7-05 **HB**

SHORT TITLE Infection Rates Disclosure and Patient Privacy **SB** 775/aSPAC

ANALYST Collard

REVENUE

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			$0.1 See Narrative	Recurring	?

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 823
Relates to SJM 45

SOURCES OF INFORMATION
LFC Files

Responses Received From
Administrative Office of the Courts (AOC)
Aging and Long-Term Services Department (ALTSD)
Department of Health (DOH)
Human Services Department (HSD)
Health Policy Commission (HPC)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 775 changes the due date of the first quarterly report from July 31, 2006 to October 31, 2006. DOH notes the amendment allows hospitals an additional quarter to prepare to meet reporting requirements.

Synopsis of Original Bill

Senate Bill 775 amends the Public Health Act to require that a hospital shall collect and report on hospital-acquired infection rates for specific clinical procedures determined by rule of DOH. The bill requires DOH to appoint an advisory committee to establish standards and methodologies for data collection and evaluate the data and asks DOH to promulgate and enforce rules.

The bill provides for individual patient privacy, and would establish penalties for violation of patient privacy of suspension, denial or termination of the hospital license or a civil penalty of up to $1,000 per day per violation for each day the hospital is in violation of the Act.

Significant Issues

DOH research shows, as early as 1843, Oliver Wendell Holmes concluded that some form of fever was spread by the hands of health personnel. Normal human skin is colonized with bacteria. Hospital settings are ripe with infections, sick people, and health care workers/medical staff who can inadvertently transmit disease. In the context of a recent study, the authors report that surgical site infections prolong hospital stays, and are among the leading causes of morbidity related to hospital or facility stays, and a source of excess medical costs.

New Mexico currently has a process in place through the New Mexico Department of Health for surveillance of infectious diseases of public health significance. New Mexico's list of 'Notifiable Conditions in New Mexico' is maintained and updated in the context of the National Notifiable Disease Surveillance System and includes a formalized process for public input. Both the national system and the Notifiable Conditions in New Mexico do not require reporting of healthcare-acquired infections. There has been significant debate at the national and state levels about the best mechanism to monitor healthcare-acquired infections. New Mexico is an active participant in those discussions through its collaboration with the Centers for Disease Control and Prevention (CDC), Council of State and Territorial Epidemiologists (CSTE), and Association for Professionals in Infection Control and Epidemiology, Inc. (APIC).

FISCAL IMPLICATIONS

There is no appropriation with this bill; however, it allows for a $1 thousand per day fine for noncompliance. It is unknown how much this fine will generate and whether the collected funds will revert to the general fund or stay within DOH for internal use in this area.

DOH notes no funds are allocated to support the infrastructure required to develop the methodology to collect and analyze the data or to develop the rules relative to the intent of this bill. Resources would be required to evaluate the new initiative, modify methodology if indicated and implement and enforce changes in an ongoing fashion.

AOC indicates there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

ADMINISTRATIVE IMPLICATIONS

DOH's Division of Health Improvement (DHI) has resources to monitor the provisions of this act through its Health Facility Licensing and Certification Bureau, consistent with its current hospital oversight role mandated by the federal Center on Medicare and Medicaid Services (CMS); however, DHI has no resources or expertise to implement other aspects of the proposed legislation with regard to fiscal needs. Significant resources, including staff, would be required to facilitate the advisory committee, monitor and evaluate reports, disseminate findings, develop

quality assurance and improvement mechanisms for the project.

DUPLICATION, RELATIONSHIP

Senate Bill 775 duplicates House Bill 823 and relates to Senate Joint Memorial 45 which requests DOH to conduct a study of hospital-acquired infection rates in New Mexico and present a written report by December 31, 2005.

OTHER SUBSTANTIVE ISSUES

DOH indicates the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) is the body that both sets and monitors the standards for patient safety in hospitals. The role of state departments of health with respect to hospitalized patient safety issues such as healthcare-acquired infections has not been clearly established. This bill amends the Public Health Act to require hospitals to maintain healthcare-acquired infection rates for specified infections; however, it does not allocate any funding to support development of new infrastructure at DOH to conduct the activities required to develop methodology for the collection and analysis of the data and to develop rules and enforcement mechanisms.

There has been substantial national attention paid to the issue of how best to improve patient safety at hospitals and the debate about requiring public disclosure of healthcare-acquired infection rates is far from resolved. Some of the ongoing national reporting systems and projects that address patient safety in hospitals include:

a) A hospital quality improvement project called "The Hospital Quality Initiative" that posts information on hospital performance nationwide (www.cms.hhs.gov/providers/hipps): healthcare-acquired infection rates are currently not among the posted measures;
b) JCAHO oversees standards that address a given organization's level of performance in key functional areas including infection control;
c) National Nosocomial Infections Surveillance System which is housed at CDC and which was established in 1970 for reporting of healthcare-acquired infections by participating hospitals using standardized protocols; and
d) Regulatory bodies such as the Occupational Safety and Health Administration and the Institute for Healthcare Improvement's Pursuing Perfection.

HPC research shows CDC estimates that about two million patients at U.S. hospitals develop infections each year, possibly leading to 90,000 deaths annually. A study by the *American Journal of Infection Control* in 2002 found that hospital-acquired infections add about $5 billion a year to health care costs. Advocates of collecting infection-rate data say the information can help reduce the incidence of infections.

However, health care providers say there is no universal method for obtaining infection-rate statistics, in part because it is difficult to determine whether a patient developed an infection while in the hospital. Providers add that some hospitals are more likely to have higher infection rates because of patient mix, and a universal standard would need to account for these discrepancies. Hospitals will say laws requiring data reporting could affect malpractice litigation, reward facilities that are less persistent in finding infections and force others to hire additional record keeping staff.

Some infection control specialists say CDC data show that only about one third of hospital-acquired infections are preventable and, even with infection-disclosure mandates, health experts do not know just how far it is possible to reduce them.

A large part of the difficulty in measuring hospital-acquired (or a better word would be hospital induced) infections will be definitional. Will the definition include outpatients treated within the hospitals? Will it include a home health agency operated by a hospital? Will it include ambulance service operated by a hospital, but the patient transported may never be in that hospital?

Discovery of infection may on the surface seem to be easy, however, it is not an easy task. Patients can develop post-operative or post-hospitalization nosocomial infections days post discharge with the infection not apparent at discharge. Who is responsible, if anyone, to report that type of infection back to the hospital?

Also, some patients are predisposed to develop infections or are already infected, but not clinically confirmed as such. Because of immuno-surpressed physical conditions upon admission to a hospital the infection develops. Also, at times admissions to hospitals are made to run a series of diagnostic tests to see if the individual is infected. The infection may in place at admission, but not surface for some time. Is this type of infection a nosocomial infection or not?

ALTSD indicates the verbiage in this bill is taken directly from "model" language written by the Consumers Union that also publishes the well-known Consumer Report. The website address is: http://www.consumersunion.org/pub/campaignstophospitalinfections/000875.html.

ALTSD also notes there is no infrastructure currently in place to provide this type of reporting by hospitals. HIPAA and hospital confidentiality issues will add to the difficulty of creating and acquiring such reports.

In the past two to three years, Florida, Illinois, Missouri and Pennsylvania have passed legislation that requires public disclosure of hospital-acquired infections. The California legislature passed a hospital infection reporting bill but the governor did not sign it. A few other states, including Colorado, are currently attempting to pass similar legislation.

This bill does not include required facility-related infection reporting by long-term care facilities. National Institutes of Health reports that the infection rate for nursing home residents is 5 to 10 infections per 100 residents. Nursing home-related infections are even more prevalent than hospital-related ones, but mandatory reporting by them is not included in this bill.

Hospitals and professional health licensees (including physicians), liability insurers, and medical review panels are apt to be resistant to releasing infection reports for fear the reports will be misunderstood and will cause undue alarm within the general public.

POSSIBLE QUESTIONS

Will the collected civil monetary penalties revert to the general fund at the end of every fiscal year?

KBC/yr:lg