

**Consumers Union
Model Hospital Infections Disclosure Act
January 2010**

Section 1. Short title. This Act may be cited as the Hospital Infections Disclosure Act.

Section 2. Definitions. For purposes of this Act:

(a) "Department" means the Department of _____ [Note to advocates: your state may have several possible agencies to collect the data. These could be your state hospital licensing agency, your state health care data collection agency, or your state public health agency. If it exists in your state, we recommend using the agency that currently collects patient discharge data from hospitals. This will minimize the state's cost to implement the bill, as these agencies tend to be more experienced with gathering patient-level data from hospitals and in providing quality of care information to the public.]

(b) "Hospital" means an acute care health care facility licensed under the Hospital Licensing Act [Note to advocates: insert a cross-reference and/or citation to the definition of "acute care hospital" in your state hospital licensing law. You should also consider including other health facilities, such as hospital-affiliated and freestanding outpatient or "ambulatory" surgical centers, dialysis centers, and nursing homes.]

(c) "Hospital-acquired infection" means a localized or systemic condition (1) that results from adverse reaction to the presence of an infectious agent(s) or its toxin(s) and (2) that was not present or incubating at the time of admission to the hospital. [Note to advocates: depending on which facilities are included in the reporting system, you might want to use "healthcare-acquired infection" and many professionals will advocate for using "healthcare-associated infection," which is a much more vague term for providers, consumers and lawmakers to understand. As long as the definition is clear, the term used is not so important.]

Section 3. Hospital reports.

(a) Individual hospitals shall collect data on hospital-acquired infection rates for the specific clinical procedures determined by the Department by regulation, including the causative pathogen if the infection is laboratory-confirmed, for the following categories:

- (1) Surgical site infections;
- (2) Central line-associated bloodstream infections;
- (3) Ventilator-associated pneumonia;
- (4) Catheter-associated urinary tract infections; and
- (5) Other categories as provided under subdivision (d) of this section.

[Note to advocates: In order to be flexible enough to respond to changes in infection control, we recommend covering the four most common infections in your legislation and allowing for other categories that can be added later, if warranted. You don't want to have to continually return to the legislature to add to the reporting system. Advisory committees should help to guide the state as to when and how this data is to be collected. The pathogen causing the infection should also be reported; this will give your state and hospitals an idea about the extent of infections caused by antibiotic resistant bugs such as MRSA and VRE. Your state may already be collecting information about patient race, ethnicity and primary language in its patient discharge database; you might also consider including it here as it could be useful in assessing racial and language disparities.]

(b)(1) A hospital shall routinely submit its hospital-acquired infection data to the National Healthcare Safety Network (NHSN) in accordance with NHSN requirements and procedures. The data submissions shall begin on or before [select beginning date], and continue thereafter. [Note to advocates: Hospitals should submit data on a schedule that ensures timely public reports. The law should establish a specific due date for the submissions to begin. We recommend for the data to be submitted in a manner that allows the state to update its reports on a quarterly basis, specifically, providing a rolling annual infection rate that is updated quarterly. The majority of states are using the NHSN for their hospital infection public reports. It is essentially our national hospital infection system for collecting information about infections occurring in hospitals and other facilities.]

(2) Hospitals shall authorize the Department to have access to hospital-specific data contained in the National Healthcare Safety Network database consistent with the requirements of this section. [Note to advocates: NHSN is a voluntary confidential system, so the state law should require this reporting and should also require hospitals to provide the state with the NHSN data. If hospitals resist this language, you can make reporting to NHSN an option; however, because there is no cost to the state for using this system, almost every state is using it.]]

(3) Each physician who performs a clinical procedure to be reported in accordance with this Act shall report to the hospital at which the clinical procedure was performed a hospital-acquired infection that the physician diagnoses at a follow-up appointment with the patient; the advisory committee created in subsection (c) of this Section shall establish standardized criteria and methods for these reports. This information shall be included in the hospital reports to the Department. [Note to advocates: Often hospital infection symptoms do not surface until after discharged from the hospital. In these cases, physicians are the ones who identify and treat infections occurring during the hospitalization. This section attempts to capture those cases.]

(4) If the hospital is a division or subsidiary of another entity that owns or operates other hospitals or related organizations, the quarterly report shall be for the specific division or subsidiary and not for the other entity. [Note to advocates: When a hospital system or corporate parent of numerous hospitals uses a centralized data collection system to file hospital-acquired infection rates, the system should not be permitted to report its system-wide rates aggregately, but should report each facility's rates individually.]

(c) (1) The Director of the Department shall appoint an advisory committee, including representatives from public and private hospitals, infection control professionals, direct care nursing staff, physicians, epidemiologists with expertise in hospital-acquired infections, academic researchers, consumer organizations, health insurers, health maintenance organizations, organized labor, and purchasers of health insurance, such as employers. The advisory committee shall have a majority of members representing interests other than hospitals.

(2) The advisory committee shall assist the Department in the development of all aspects of the Department's methodology for collecting, analyzing, and disclosing the information collected under this Act, including collection methods, formatting, and methods and means for release and dissemination.

(3) In developing the methodology for collecting and analyzing the infection rate data, the Department and advisory committee shall use the existing methodologies and system for data collection at the Centers for Disease Control's National Healthcare Safety Network, or its successor. The data collection and analysis methodology shall be disclosed to the public. [Note to advocates: The NHSN is being used by the majority of states for collection of data from hospitals and is essentially our national hospital infection system for collection information about infections occurring in hospitals and other facilities. It is a confidential system, so the state must also require hospitals to report to it and require them to provide the state with the NHSN data.]

(4) The Department and the advisory committee shall evaluate on a regular basis the quality and accuracy of hospital information reported under this Act and the data collection, analysis, and dissemination methodologies.

(d) The Department may, after consultation with the advisory committee, require hospitals to collect data on hospital-acquired infection rates in categories additional to those set forth in subdivision (a).

Section 4. Department Reports.

(a) The Department shall annually submit to the Legislature a report summarizing the hospital quarterly reports and shall publish the annual report on its website. The first annual report shall be submitted and published no later than [set a specific date]. Following the initial report, the Department shall update the public information on a quarterly basis. [Note to advocates: We propose making the first report due in the year after the bill becomes effective. For example, if the bill becomes effective Jan. 1, 2008, the hospital's first quarterly report to the department would be due on April 30, 2009; the first annual report from the Dept. would be due no later than 2010. After the first annual report, the information should be updated quarterly so that there is a rolling 12 months of information, giving the public a more timely assessment of the hospitals' efforts to control infections.]

(b) All reports issued by the department shall be risk adjusted, or use some other method to account for the differences in patient populations among hospitals. [Note to advocates: The Pennsylvania report on hospital-acquired infections did not use "risk adjustment," rather, it grouped similar hospitals together (according to the complexity of services offered, the number of patients treated, and the percent of surgical procedures performed) as a method to disclose rates in a comparable manner.]

(c) The annual report shall compare hospital-acquired infection rates, collected under Section 3 of this Act, for each individual hospital in the state. The Department, in consultation with the advisory committee, shall make this comparison as easy to comprehend as possible. The report shall also include an executive summary, written in plain language that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall state of hospital-acquired infections in the state, including a comparison to prior years. The report may include policy recommendations, as appropriate.

(d) The Department shall publicize the report and its availability as widely as practical to interested parties, including, but not limited to, hospitals, providers, media organizations, health insurers, health maintenance organizations, purchasers of health insurance, organized labor, consumer or patient advocacy groups, and individual consumers. The annual report shall be made available to any person upon request.

(e) No hospital report or Department disclosure may contain information identifying a patient, employee, or licensed health care professional in connection with a specific infection incident.

Section 5. Privacy.

It is the expressed intent of the Legislature that a patient's right of confidentiality shall not be violated in any manner. Patient social security numbers and any other information that could be used to identify an individual patient shall not be released notwithstanding any other provision of law.

Section 6. Penalties

A determination that a hospital has violated the provisions of this Act may result in any of the following:

(a) termination of licensure or other sanctions relating to licensure under the Hospital Licensing Act [Note to advocates: insert the name and citation of your state hospital licensing act here. Generally, the penalties should be similar to existing penalties for violations of state law.].

(b) a civil penalty of up to \$1,000 per day per violation for each day the hospital is in violation of the Act.

Section 7. Regulatory oversight.

The Department shall be responsible for ensuring compliance with this Act as a condition of licensure under the Hospital Licensing Act and shall enforce such compliance according to the provisions of the Hospital Licensing Act. [Note to advocates: insert the name and citation of your state hospital licensing act here].

Section 8.

The Hospital Licensing Act is amended as follows: [Note to advocates: Amend your state hospital licensing act to add that violations of the Infections Disclosure Act is a grounds for license termination or sanctions available under your state hospital licensing act.]

For additional information:

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