

**Department of State Health Services  
Council Agenda Memo for State Health Services Council  
February 24 – 25, 2016**

**Agenda Item Title:** New rule concerning the Healthcare Safety Advisory Committee

**Agenda Number:** 4.f.

**Recommended Council Action:**

For Discussion Only

For Discussion and Action by the Council

**Background:**

The Emerging and Acute Infectious Disease Branch (EAIDB) Healthcare Safety Program, located in the Disease Control and Prevention Services Division, oversees activities related to healthcare-associated infections (HAI) and preventable adverse events (PAE) public reporting and data validation. The Program provides reporting guidance and education related to the prevention of healthcare-associated events. These services are provided through program staff educational activities and contracted data validation services. Infection prevention and epidemiology expertise are provided for over 1,500 acute care facilities across Texas. The Program extends its expertise in infection prevention across agencies (as requested) in other healthcare environments.

The program budget includes funding from federal grants and state general revenue sources.

**Summary:**

The purpose of this new rule is to establish the Healthcare Safety Advisory Committee to provide ongoing stakeholder input and public comment on activities related to the EAIDB Healthcare Safety Program. The Advisory Panel on HAI and PAE was abolished by Senate Bill 277, 84<sup>th</sup> Legislature, Regular Session, 2015; however, as a part of a Health and Human Services system-wide analysis, the Executive Commissioner of the Health and Human Services Commission (HHSC) recommended continuation of this advisory committee in rule. The rule defines the purpose, tasks, and activities of the Healthcare Safety Advisory Committee to replace the HAI/PAE Advisory Panel. There is a proposed change in composition of the Healthcare Safety Committee from the HAI/PAE Advisory Panel in order to lift some restrictions on member qualifications, allowing for a more diverse representation of stakeholders, and reducing the committee size from 18 to 13.

**Key Health Measures:**

The proposed new rule is necessary to comply with Senate Bill 200 and Senate Bill 277, 84<sup>th</sup> Legislature, Regular Session, 2015, which directed the HHSC Executive Commissioner to establish and maintain advisory committees to address major health and human services issues and to adopt rules to govern the advisory committee's purpose, tasks, reporting requirements, and date of abolition.

An anticipated benefit of the rule is for the public to be knowledgeable and informed of the activities of the Healthcare Safety Program and to have an opportunity to provide stakeholder input. This knowledge and involvement will allow the public to be more informed on related program activities and allow the Program to consider a variety of stakeholder feedback.

The rules require the committee to file an annual written report with the HHSC Executive Commissioner outlining committee actions to accomplish its assigned tasks and an annual written report with the Texas Legislature regarding any policy recommendations made to the HHSC Executive Commissioner.

**Summary of Input from Stakeholder Groups:**

The Infectious Disease Control Unit has solicited verbal feedback from stakeholders in multiple HAI/PAE Advisory Panel meetings. The advisory panel includes hospital infection preventionists, health care quality improvement professionals, hospital and ambulatory surgical center administrators, physicians, and consumers. Attendees to this meeting include members of the Texas Medical Association, The Texas Ambulatory Surgery Center Society and the Association of Professionals in Infection Control.

Stakeholders provided input regarding the importance of the advisory panel and stated that newly implemented reporting initiatives for preventable adverse event still require further clarification and stakeholder input.

**Proposed Motion:**

Motion to recommend HHSC approval for publication of rules contained in agenda item #4.f.

**Approved by Assistant Commissioner/Director:** Janna Zumbrun **Date:** 2/09/2016

**Presenter:** Shawn Tupy **Program:** Healthcare Safety Group **Phone No.:** 512-776-6355  
Manager

**Approved by CPEA:** Carolyn Bivens **Date:** 2/05/2016

## Title 25. Health Services

### Part 1. Department of State Health Services

#### Chapter 200. Reporting of Health Care-associated Infections and Preventable Adverse Events

##### Subchapter B. Healthcare Safety Advisory Committee

###### New §200.40

Proposed Preamble The Executive Commissioner of the Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (department), proposes new §200.40, concerning the Healthcare Safety Advisory Committee.

### BACKGROUND AND PURPOSE

Senate Bill (SB) 200 and SB 277, 84th Legislature, Regular Session, 2015, directed the Executive Commissioner of the HHSC to establish and maintain advisory committees to address major health and human services issues and to adopt rules to govern the advisory committee's purpose, tasks, reporting requirements, and date of abolition. As part of health and human services (HHS) system-wide inventory and analysis, the Healthcare Safety Advisory Committee (formerly known as the Health Care-associated Infections and Preventable Adverse Events (HAI/PAE) Advisory Panel) has been identified for rulemaking.

SB 277 amended the Health and Safety Code, Chapter 98, Reporting of Health Care-associated Infections (HAI) and Preventable Adverse Events (PAE), by removing the HAI/PAE Advisory Panel from the statute. The advisory panel serves a critical role to obtain stakeholder feedback on programmatic activities and initiatives. Most recently, the panel has participated in guidance document creation contributing to the clarity of reporting for PAEs which kept the initiative on schedule for implementation. The new rule describes the operations of the Healthcare Safety Advisory Committee including the purpose, tasks, reporting requirements, membership composition, and meeting schedules. This panel has been in existence with regular meetings since 2005.

### SECTION-BY-SECTION SUMMARY

New §200.40 establishes the Healthcare Safety Advisory Committee. The new rule (1) identifies the statutory authority of the panel; (2) outlines the committee's purpose; (3) describes tasks; (4) outlines the reporting requirements; (5) gives date of abolition; (6) establishes membership composition and qualifications; and (7) establishes meeting schedules.

### FISCAL NOTE

Ms. Janna Zumbrun, Assistant Commissioner, Division for Disease Control and Prevention Services, has determined that for each year for the first five years that the section will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the section as proposed.

### SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Zumbrun has also determined that there will not be an adverse economic impact on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rule that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the section.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL GOVERNMENT

There are no anticipated costs to persons who are required to comply with the section as proposed. There is no fiscal impact to local employment.

#### PUBLIC BENEFIT

In addition, Ms. Zumbrun has also determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section is for ongoing stakeholder opinion and public comments on activities related to the Emerging and Acute Infectious Disease Branch Healthcare Safety Program activities.

#### REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed new rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

Comments or questions on the proposal may be submitted to Vickie Gillespie, Preventable Adverse Events Clinical Analyst, Healthcare Safety Program, Division of Disease Control and Prevention Services, Department of State Health Services, Mail Code 1960, P. O. Box 149347, Austin, Texas, 78714-9347, (512) 776-6878 or [Vickie.Gillespie@dshs.state.tx.us](mailto:Vickie.Gillespie@dshs.state.tx.us). Comments will be accepted for 30 days following publication of this proposal in the *Texas Register*.

#### LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rule has been reviewed by legal counsel and found to be within the states agencies' legal authority to adopt.

#### STATUTORY AUTHORITY

This new rule is authorized by the Government Code, §531.012, which requires the department to adopt rules necessary to establish the Advisory Committee, and by Chapter 2110 in general; and Government Code, §531.0055(e), and the Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The new rule affects Government Code, Chapter 531; and Health and Safety Code, Chapter 1001.

TITLE 25. HEALTH SERVICES  
PART 1. DEPARTMENT OF STATE HEALTH SERVICES  
CHAPTER 200. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS AND  
PREVENTABLE ADVERSE EVENTS  
SUBCHAPTER B. Healthcare Safety Advisory Committee

Legend: (Proposed New Rule)  
Regular Print = Proposed new language

§200.40. Healthcare Safety Advisory Committee.

(a) The committee. The Healthcare Safety Advisory Committee (committee) is appointed under and governed by this section.

(b) Applicable law. The committee is subject to Texas Government Code, Chapter 2110.

(c) Purpose. The purpose of the committee is to provide a forum to obtain stakeholder input on program initiatives and proposals for consideration by the Emerging and Acute Infectious Disease Branch (EAIDB) of the Texas Department of State Health Services.

(d) Tasks.

(1) The committee provides stakeholder feedback related to program initiatives.

(2) The committee participates in workgroups to develop guidance related to program activities as requested by EAIDB.

(e) Reports to the department.

(1) The committee files an annual written report to the Executive Commissioner.

(A) The report includes:

(i) the meeting dates of the committee;

(ii) the member attendance records;

(iii) a brief description of actions taken by the committee;

(iv) committee accomplishments;

(v) the status of any committee recommended rules for consideration by the department and the commission;

(vi) anticipated committee activities of the committee; and

(vii) any amendments to this section requested by the committee.

(viii) identifies the costs related to the committee, including the cost of agency staff time spent in support of the committee's activities and the source of funds used to support the committee's activities.

(B) The report covers the meetings and activities in the immediate preceding calendar year and is filed with the HHSC Executive Commissioner each February of the following calendar year.

(2) The committee files an annual written report with the Texas Legislature regarding any policy recommendations made to the HHSC Executive Commissioner.

(f) Date of abolition. The committee is abolished September 1, 2020.

(g) Composition.

(1) The committee is composed of 13 (voting and non-voting) members appointed by the Executive Commissioner.

(2) The composition of the committee includes:

(A) two infection prevention and control professionals who:

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

(ii) are practicing in a healthcare facility in this state;

(B) two healthcare safety professionals who:

(i) are practicing in a healthcare facility in this state; and

(ii) are employed as professionals in quality assessment and performance improvement;

(C) three board-certified physicians who:

(i) are licensed to practice medicine in this state under Texas Occupations Code, Chapter 155;

(ii) have active medical staff privileges at a healthcare facility in this state; and

(iii) have demonstrated expertise in the area(s) of quality assessment and performance improvement, healthcare safety, health care epidemiology, antimicrobial resistance activities, or infection control in health care facilities;

(D) two healthcare facility administrators;

(E) one licensed pharmacist in this state who:

(i) has experience in systems to reduce medication errors and in antibiotic stewardship activities and

(ii) is practicing in a healthcare facility in this state;

(F) one nonvoting member who is a department employee representing the licensing of hospitals or ambulatory surgical centers; and

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

(3) Geographic representation will be considered among equally qualified appointees for each committee position.

(h) Terms of office. Except as may be necessary to stagger terms, the term of office of each member is two years.

(1) Members are appointed so that the terms of members expire on December 31st of each even-numbered year.

(2) If a vacancy occurs, a person is appointed to serve the unexpired portion of that term.

(i) Officers. The committee selects a presiding officer and an assistant presiding officer from its members.

(1) The presiding officer and assistant presiding officer serve until December 31st of each even-numbered year. Both the presiding officer and the assistant presiding officer may retain office until his or her replacement is appointed.

(2) The presiding officer:

(A) presides at all committee meetings in which he or she is in attendance;

(B) calls meetings in accordance with this section;

(C) appoints subcommittees of the committee as necessary;

(D) causes proper reports to be made to the Executive Commissioner; and

(E) may serve as an ex-officio member of any subcommittee of the committee.

(3) The assistant presiding officer performs the duties of the presiding officer in case of the absence or disability of the presiding officer. If the office of presiding officer becomes vacant, the assistant presiding officer serves as presiding officer until the committee selects a new presiding officer.

(4) A member shall serve no more than two consecutive terms as presiding officer or assistant presiding officer.

(5) The committee may reference its officers by other terms, such as chairperson and vice-chairperson.

(j) Meetings. The committee meets as necessary as determined by the department, up to four times per year, to conduct business.

(1) The committee meets at the call of the presiding officer.

(2) Meeting arrangements are made by department staff.

(3) The committee is not a “governmental body” as defined in the Open Meetings Act, Texas Government Code, Chapter 551. Meetings may be conducted in person, through teleconference call, or by means of other technology.

(4) The committee provides stakeholder feedback only. The committee has no authority to conduct “official business” on the part of the department.

(5) The agenda for each committee meeting includes an opportunity for new business or for any member to address the committee on matters relating to committee business.

(6) The agenda for each committee meeting also includes an item entitled public comment under which any person is allowed to address the committee on matters relating to business. The presiding officer may establish procedures for public comment, including a time limit on each comment.

(k) Attendance. Members attend committee meetings as scheduled.

(1) A member notifies the presiding officer or appropriate department staff if he or she is unable to attend a scheduled meeting.

(2) It is grounds for removal from the committee if a member:

(A) cannot discharge the member’s duties for a substantial part of the term for which the member is appointed because of illness or disability;

(B) is absent from more than half of the committee meetings during a calendar year; or

(C) is absent from at least three consecutive committee meetings.

(3) The validity of an action of the committee is not affected by the fact that it is taken when grounds for removal of a member exists per paragraph (2) of this subsection.

(l) Staff. Staff support for the committee is provided by the department.

(m) Procedures. Roberts Rules of Order are the basis of parliamentary decisions, except where otherwise provided by law or rule.

(1) Any action taken by the committee must be approved by a majority vote of the members present, once quorum is established.

(2) Each member has one vote.

(3) A member may not authorize another individual to represent the member by proxy.

(4) The committee makes decisions in the discharge of its duties without discrimination based on any person’s race, creed, gender, religion, national origin, age, physical condition, or economic status.

(5) Minutes of each committee meeting are taken by department staff and approved by the committee at the next scheduled meeting.

(n) Statement by members.

(1) The commission, the department, and the committee are not bound in any way by any statement, recommendation, or action on the part of any committee member, except when a statement or action is in pursuit of specific instructions from the commission, the department, or the committee.

(2) The committee and its members may not participate in legislative activity in the name of the commission, the department, or the committee except with approval through the commission's legislative process. Committee members are not prohibited from representing themselves or other entities in the legislative process.

(3) A committee member may not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member's official duties.

(4) A committee member may not disclose confidential information acquired through his or her committee membership.

(5) A committee member may not knowingly solicit, accept, or agree to accept any benefit for having exercised the member's official powers or duties in favor of another person.

(6) A committee member who has a personal or private interest in a matter pending before the committee must publicly disclose the fact in a committee meeting and may not vote or otherwise participate in the matter. The phrase "personal or private interest" means the committee member has a direct pecuniary interest in the matter, but does not include the committee member's engagement in a profession, trade, or occupation when the member's interest is the same as all others similarly engaged in the profession, trade, or occupation.

(o) Reimbursement for expenses. In accordance with the requirements set forth in Texas Government Code, Chapter 2110, a committee member may receive reimbursement for the member's expenses incurred for each day the member engages in official committee business if authorized by the General Appropriations Act or budget execution process.

(1) Only travel expenses for the two consumer representatives are reimbursed for each meeting attended.

(2) A committee member who is an employee of a state agency, other than the department, may not receive reimbursement for expenses from the department.

(3) Each member who is to be reimbursed for expenses submits to department staff the member's receipts for expenses and any required official forms not later than 14 days after each committee meeting.

(4) Requests for reimbursement of expenses are made on official state vouchers prepared by department staff.