

Chapter 3

Statutes and Rules



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TEXAS STATUTES AND RULES

Reporting, Screening, and Vaccinating for Hepatitis B in Texas

The State of Texas provides legislative directives for hepatitis B screening and reporting to protect the residents of Texas from infectious diseases. This chapter addresses statutes and rules that require providers to screen pregnant women for hepatitis B, administer PEP to at-risk infants, and report infected mothers and infants to the DSHS Immunization Branch PHBPP. The test currently recommended by the CDC for evaluation of hepatitis B infection during pregnancy is the HBsAg. The DSHS Immunization Branch PHBPP website, www.texasperinatalhepb.org provides links to access statutes and rules pertaining to screening, reporting, and vaccinating newborns. Statutory requirements and rules must be shared with health care providers and labor and delivery facilities to reduce the incidence of transmission of perinatal hepatitis B.

Statutory Requirements - Texas Health and Safety Code

[Chapter 81 Section §81.041](#) – Reportable Diseases

The DSHS State Health Services Council identifies each communicable disease or health condition that shall be reported. Each reportable disease is classified according to its nature and severity.

[Chapter 81 Section §81.042](#) – Persons Required to Report

When a reportable disease is suspected, health professionals and laboratories should report all known information of the case to the local health authority or DSHS.

[Chapter 81 Section §81.044](#) – Reporting Procedures

The board shall prescribe the form and method of reporting which may be in writing, by telephone, by electronic data transmission, or by other means. The council may require reports to contain any information pertaining to a case that is necessary including, but not limited to, the information below. Please see Texas Administrative Code (TAC) Title 25, Chapter 97, Subchapter F Rule §97.3 (TAC Rule §97.3) referenced later in this chapter for additional reporting requirements.

- Patient's name, address, age, sex, race, and occupation;
- Date of onset of disease or condition;
- Probable source of infection; and
- Name of the attending physician.

[Chapter 81 Section §81.090](#) – Diagnostic Testing During Pregnancy and After Birth

Providers that are permitted by law to care for a pregnant woman during gestation are required to perform hepatitis B serologic testing during pregnancy at the first prenatal visit; this report shall be retained for at least nine months and be reported to any successor in the case.

Providers that are permitted by law to care for pregnant women at delivery of an infant are required to perform hepatitis B serologic testing of the mother upon admission. Before testing a pregnant woman for hepatitis B, providers shall distribute to the patient printed materials about hepatitis B and subsequently document that the distribution of printed materials was made. The materials should inform the patient about the incidence and mode of transmission of hepatitis B and how being infected could affect the health of their child. Information shall also be provided or made available to the pregnant woman relating to the treatment of hepatitis B, which must be in another language if needed, and must be presented in a manner and in terms understandable to a person who may be illiterate if resources permit. Physicians are in compliance when referring these individuals to an entity that provides treatment for individuals infected with hepatitis B.

Chapter 161 Section §161.004 – Statewide Immunization of Children

Every child in the state shall be immunized against vaccine preventable diseases caused by infectious agents in accordance with the immunization schedule adopted by the DSHS State Health Services Council.

Hospitals shall be responsible for:

- referring newborns for immunization at the time the newborn screening test is performed;
- reviewing the immunization history of every child admitted to the hospital or examined in the hospital's emergency room or outpatient clinic; and
- administering needed vaccination or referring the child for immunization.

Physicians shall be responsible for reviewing the immunization history of every child examined and administering any needed vaccinations or referring the child for immunization.

A child is exempt from and immunization required by this section if:

- a parent, managing conservator, or guardian states that the immunization is being declined for reasons of conscience, including a religious belief; or
- the immunization is medically contraindicated based on the opinion of a physician licensed by any state in the US who has examined the child.

A parent, managing conservator, or guardian may choose the health care provider who administers the vaccine or immunizing agent under this chapter.

Rules - Texas Administrative Code

The TAC is a compilation of all state agency rules in Texas with specific rulemaking authority from the Legislature.

Title 25, Chapter 97, Subchapter A, Rule §97.2 – Who Shall Report

A physician, advanced practice nurse, physician assistant, or person permitted by law to attend a pregnant woman during gestation or at the delivery of an infant shall report, as required, each patient who has or is suspected of having any notifiable condition.

Any person who is in charge of a clinic laboratory in which a laboratory examination of any human specimen yields serologic evidence of a notifiable condition shall report as required. Failure to report a notifiable condition is a Class B misdemeanor under the Texas Health and Safety Code §81.049.

The Health Insurance Portability and Accountability Act (HIPAA) allows reporting without authorization for public health purposes and where required by law. See Title 45 Code of Federal Regulations §164.512 at the end of this chapter.

Title 25, Chapter 97, Subchapter F Rule §97.3 – What Conditions to Report or Submit

Hepatitis B (acute and chronic) identified prenatally or at delivery and perinatal hepatitis B infections are listed as notifiable conditions and must be reported.

The following information is listed as ‘minimal reportable information requirements’ that shall be reported for hepatitis B (chronic and acute) identified prenatally or at delivery:

- Mother’s name, address, telephone number, age, date of birth, sex, race and ethnicity, preferred language, and hepatitis B laboratory results;
- Estimated delivery date, or date and time of birth;
- Name and phone number of delivery hospital or planned delivery hospital;
- Name of infant;
- Name, phone number, and address of medical provider for infant; and
- Date, time, formulation, dose, manufacturer, and lot number of hepatitis B vaccine and hepatitis B immune globulin (HBIG) administered to infant.

The following information is listed as ‘minimal reportable information requirements’ that shall be reported for perinatal hepatitis B:

- Name of infant, date of birth, sex, race, and ethnicity;
- Name, phone number, and address of medical provider for infant; and
- Date, time, formulation, dose, manufacturer, and lot number of hepatitis B vaccine and HBIG administered to infant, and any hepatitis B laboratory results.

Title 25, Chapter 97, Subchapter A, Rule §97.4 – When to Report a Condition

Perinatal hepatitis B shall be reported within one working day of identification as a suspected case.

Hepatitis B (acute and chronic) identified prenatally or at delivery shall be made no later than one week after a case or suspected case is identified.

Title 25, Chapter 97, Subchapter A, Rule §97.5 – Where to Report / Submit a Condition

Physicians, hospitals, labs, and / or person permitted by law to attend a pregnant woman during gestation or delivery shall report to the LHD where the office, clinic, or hospital is located. If there is no LHD appointed for their jurisdiction, the report shall be made to the DSHS HSR.

Title 25, Chapter 97, Subchapter A, Rule §97.8 – General Control Measures for Notifiable Conditions

Control techniques including immunization, chemoprophylaxis, and other accepted measures shall be instituted as necessary to reduce morbidity and mortality by the Commissioner of Health (commissioner), a health authority, or a duly authorized representative of the commissioner or a health authority. Information concerning [perinatal hepatitis B] and its prevention shall be given to the patient to prevent further spread of the disease.

Title 25, Chapter 97, Subchapter A, Rule §97.10 – Confidential Nature of Case Reporting and Records

All individual morbidity case reports received by the health authority or DSHS are considered confidential records.

To implement disease control measures authorized in the TAC, it may be necessary for the health authority or the department to investigate public or private health records including patient medical records pertinent to the notifiable condition. On request, a person shall provide the department with records, data, and other information according to the written instruction of the department. The health authority and the department shall keep this information confidential.

Title 25, Chapter 97, Subchapter D, Rule §97.101 – Statewide Immunization of Children by Hospitals, Physicians, and Other Health Care Providers

All private and public hospitals in Texas that provide health care to children shall administer age-appropriate vaccines or refer newborns for immunization to other health care providers at the time of the newborn screening tests.

Hospitals, physicians, and other health providers, who provide health care to children in Texas, must document in a newborn's or other child's hospital or medical record that the newborn has been age-appropriately immunized or that the newborn has been referred to another health care provider for immunizations. Please refer to Chapter 4 for Immunization Guidelines.

Federal Regulations - The Code of Federal Regulations (CFR)

Title 45, §164.512(b) – Uses and Disclosures for Public Health Activities

A covered entity may disclose protected health information to a public health authority authorized by law for activities to prevent or control disease such as surveillance, investigations, and interventions.

Sources

The Texas Health and Safety Code is available at:

<http://www.statutes.legis.state.tx.us/?link=HS>

The Texas Administrative Code is available at:

<http://www.sos.state.tx.us/tac/index.shtml>

The Code of Federal Regulations is available at:

<http://www.gpoaccess.gov/cfr/>