

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/07

SPONSOR Anderson LAST UPDATED \_\_\_\_\_ HB 165

SHORT TITLE Patient Privacy & Infection Rate Disclosure SB \_\_\_\_\_

ANALYST Geisler

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$65.0	\$65.0	\$130.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Health Policy Commission (HPC)

### SUMMARY

#### Synopsis of Bill

House Bill 165 would amend the Public Health Act to require that a hospital collect and report on hospital-acquired infection rates for specific clinical procedures determined by rule of the Department of Health (DOH). DOH would appoint an advisory committee to establish standards and methodologies for data collection and to evaluate the data. DOH would promulgate and enforce rules. HB165 would provide for individual patient privacy, and would establish penalties for violation of patient privacy.

### FISCAL IMPLICATIONS

The program envisioned by House Bill 165 is not part of the Department of Health FY08 operating budget request. DOH notes that funds will be needed 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 HB 165. They have provided an initial operating budget impact of \$65 thousand a year for 1 FTE.

## SIGNIFICANT ISSUES

Infections acquired at hospitals are a serious issue. HPC notes that the 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. It is a commonly held belief that collecting and publicizing infection-rate data may help improve hospital performance in reducing infections. According to HPC, a total of 16 states have passed some form of infection reporting legislation.

However, DOH notes that the Centers for Disease Control and Prevention's (CDC) Healthcare Infection Control and Prevention Advisory Committee (HIPAC) concluded in 2005 that there is not enough evidence to determine whether mandatory public reporting of hospital acquired infections will reduce infection rates or provide useful information to consumers. Implementation of an infection reporting system is a complicated endeavor. Please see additional discussion under other substantive issues.

## ADMINISTRATIVE IMPLICATIONS

DOH notes that its 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, significant resources would be required to facilitate the advisory committee, monitor and evaluate reports, disseminate findings, develop quality assurance and improvement mechanisms for the project.

## OTHER SUBSTANTIVE ISSUES

- Reporting on hospital quality data appears to improve hospital performance. HPC cites a number of studies that show public reporting improves health provider performance. A Health Affairs (Hibbard, et.al. April 2003) study evaluated the impact on quality improvement of reporting hospital performance publicly versus privately back to the hospital. Making performance information public appears to stimulate quality improvement activities in areas where performance is reported to be low. The findings from this Wisconsin-based study indicate that there is added value to making this information public. A new study (National Committee for Quality Assurance-NCQA) finds that the quality of care delivered by health plans that publicly report on their performance improved markedly in 2003 (Source: NCQA).
- Requirements to establish an infection data reporting system. DOH states the following are needed if hospital infection data is to be publicly reported:
  - 1) Standardized infection surveillance measures that address both healthcare-associated infections (outcomes) and healthcare practices that have been shown to reduce the risk of infection (processes) [i.e., all hospitals must measure the same infections or infection prevention practices];
  - 2) Standardized methods for collecting, risk-adjusting, analyzing, comparing, and reporting data;
  - 3) Computer systems that support a standardized data collection and reporting process and improve the efficiency, accuracy, and effectiveness of infection surveillance programs;

- 4) The involvement of individuals who have expertise in infection surveillance and prevention programs when designing, implementing, and evaluating a system for publicly reporting infection data;
  - 5) A mechanism to ensure that data reported will be useful and not misleading for consumers and will provide hospitals with the information they need to guide their infection prevention programs;
  - 6) Education for the consumer on infection prevention strategies and the meaning of the data released in public reports;
  - 7) Adequate support for infection surveillance, prevention, and control programs to prevent infection control personnel and other healthcare resources from being diverted away from infection prevention activities and towards data collection.
  - 8) Research to determine the impact that public reporting of infection data has on patients, consumers, and hospitals; and
  - 9) Adequate funding and infrastructure to support a public reporting system for healthcare-associated infections.
- Collection and use of hospital infection data is a complicated endeavor. HPC notes that 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 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? In addition, discovery of infections, and determining the true time when the infection was acquired, is a difficult task.
  - Current infection surveillance efforts. DOH notes that 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' ([7.4.3.13 NMAC 6/30/2006] 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 has participated in discussions through its collaboration with the Centers for Disease Control and Prevention (CDC), Council of State and Territorial Epidemiologists (CSTE), Association for Professionals in Infection Control and Epidemiology, Inc. (APIC), and the New Mexico Hospital Association. 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

HPC notes that some hospitals have begun publicly and voluntarily reporting their outcomes as a demonstration of accountability to the public they serve. The New Mexico Hospital and Health Systems Association has developed a voluntary reporting process (see <http://www.nmcheckpoint.org> ) for surgical infection prevention. Twenty two hospitals out of thirty five hospitals participate in the program. Information on hospitals in NM is available at the Medicare website <http://www.hospitalcompare.hhs.gov/hospital/home2.asp>.

## **ALTERNATIVES**

HPC suggests that another option is to allow a voluntary task force of providers to develop their own public reporting, assuming their data could be audited from an independent third party that reports to the providers, DOH, and the Legislative Health and Human Services Committee.

## **AMENDMENTS**

HPC suggested amendments:

- 1) Page 4, line 10 defines hospital as a “general or special hospital.” The bill should include “limited service hospitals” which was a classification added by the legislature in 2003. (See 7.7.2 NMAC).
- 2) An unknown , but large number of surgeries are performed every year in licensed ambulatory surgery centers in New Mexico. Should these centers also be included in the bill?
- 3) The definition of what constitutes infection, and in particular nosocomial or hospital-acquired infection, will be controversial. Suggest the bill not be specific on this as is the case on page 4, lines 13-18 and have the advisory committee as composed on page 2 ,line 18 define infections. The CDC defines infection as “a condition that was not present or incubating in a person at the time of admission to the hospital.

GG/nt