F I S C A L I M P A C T R E P O R T

SPONSOR Heaton **ORIGINAL DATE** 02/25/09 **LAST UPDATED** 03/02/09 **HB** 777/aHHGAC

SHORT TITLE Hospital-Acquired Conditions and Reporting **SB**

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		$0.1 Unknown	$0.1 Unknown		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Information Technology (DoIT)
Health Policy Commission (HPC)
Department of Health (DOH)

SUMMARY

Synopsis of HHGAC Amendment

The House Health and Government Affairs Committee Amendment provides that no hospital shall receive reimbursement for a hospital-acquired condition for which Medicare has denied payment. The Amendment also adds a new section to include a patient confidentiality provision; prevents any findings of hospital-acquired conditions to be used in a disciplinary proceeding against a provider or hospital; and, such information not to be subject to disclosure pursuant to the Inspection of Public Records Act, except by the DOH secretary in his or her public report.

SIGNFICANT ISSUES

The Amendment reflects CMS's "Final Rule" regarding hospital-acquired conditions. As of October 1, 2008, any HAC adopted by CMS will not be paid at the higher DRG rate as a secondary diagnosis unless it is present on admission. Hospitals will need to review admission processes to ensure that conditions present on admission are accurately documented to avoid potential reimbursement implications.

TECHNICAL ISSUES

The Amendment prevents any information on a hospital-acquired condition to be used in a disciplinary proceeding against a provider or hospital; however, other people are involved in the care of a patient. It is unknown if this provision extends to them.

Synopsis of Original Bill

House Bill 777 enacts the "Hospital-Acquired Conditions Act" and requires DOH to establish an advisory committee to conduct a new statewide surveillance program for hospital-acquired conditions for public reporting and quality improvement purposes.

By July 1, 2011, DOH shall establish a reporting system capable of receiving electronically transmitted reports from hospitals. The electronic database shall be organized so consumers, hospitals, healthcare professionals, purchasers and payers can compare hospitals; and regional, statewide and national averages. Hospitals reporting an occurrence shall be required to conduct a root cause analysis and implement corrective action plans. Quality improvement activities shall include methods to provide public accountability for hospitals reporting hospital-acquired conditions and other serious reportable events.

HB 777 proposes a system be created to ensure "reasonable cost or the customary cost of such (hospital) services, whichever is less". In determining reasonable costs, MAD is directed to adopt regulations "…establishing a formula consistent with the federal act." HB 777 further amends Section 27-2-9 of the Public Assistance Act, NMSA 1978, prohibiting reimbursement for treatment of hospital-acquired conditions.

FISCAL IMPLICATIONS

DOH reports that there will be a fiscal impact to the department in terms of staff needed to manage the program, train hospitals in the development of surveillance and reporting and ensure quality through on-site audits and other mechanisms to make sure the program is working.

DOH further reports that the reporting of a variety of indicators (from infectious diseases to trauma) would potentially be required to be submitted electronically. However, New Mexico does not have any such electronic systems in place either at the department and/or within hospitals. In addition, there is not a system at the national level that could accommodate such a comprehensive and potentially disparate set of data. The bill also does not provide an appropriation to fund, design and maintain an electronic data system.

Any fiscal impact will need to be balanced with the State's need to protect public health. The economic costs for hospital-acquired infections are considerable. The increased length of stay for infected patients is the greatest contributor to cost. According to the Center for Disease Control and Prevention (CDC), hospital-acquired infections affect approximately 2 million individuals annually. In the United States, hospital-acquired infections account for an estimated 1.7 million infections and 99,000 associated deaths each year.

SIGNIFICANT ISSUES

DOH reports that on February 8, 2006, the U.S. President signed the Deficit Reduction Act (DRG) of 2005. Section 5001(c) of DRA requires the identification of conditions that are: (a) high cost or high volume or both, (b) result in the assignment of a case to a diagnostic related group (DRG) that has a higher payment when present as a secondary diagnosis, and (c) could reasonably have been prevented through the application of evidence-based guidelines. On July 31, 2008, in the Inpatient Prospective Payment System FY09 Final Rule, Centers for Medicare and Medicaid included 10 categories of conditions that were selected for the hospital-acquired conditions payment provision.

The 10 categories of hospital-acquired conditions include:

1. Foreign Object Retained After Surgery;
2. Air Embolism;
3. Blood Incompatibility;
4. Stage III and IV Pressure Ulcers;
5. Falls and Trauma;
6. Manifestations of Poor Glycemic Control;
7. Catheter-Associated Urinary Tract Infection;
8. Vascular Catheter-Associated Infection;
9. Surgical Site Infections; and
10. Deep Vein Thrombosis/Pulmonary Embolism.

PERFORMANCE IMPLICATIONS

Each hospital in the state would be required to identify, track and report hospital-acquired conditions identified by DOH. Hospitals would also be required to conduct a root cause analysis and implement a corrective action plan.

ADMINISTRATIVE IMPLICATIONS

DOH will provide staff and resources to the Hospital-Acquired Condition Advisory Committee, and assist the Committee in conducting the surveillance of hospital-acquired conditions. DOH will also be responsible for developing and implementing an audit process to ensure the accuracy of self-reported hospital-acquired conditions and serious reportable event data.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 777 conflicts with SB 408, which creates the Hospital-Acquired Infection Act. The enactment of the Hospital-Acquired Infection Act would establish the Hospital-Acquired Infection Advisory Committee.

SB 408 allows hospitals to voluntarily participate in the hospital-acquired infection surveillance program and the findings from the surveillance program are published in a report and disseminated to the public by DOH.

HB 777 relates to 24-14A-1 through 24-14A-10 of the Health Information Systems Act. The purpose of that Act is to assist HPC, the N.M. Legislature, other agencies and organizations, and the public in the state's effort to collect, analyze and disseminate health information. This Act

assists in the performance of health planning and policy-making functions, including identifying personnel, facility, education and other resource needs, and allocating financial, personnel and other resources where appropriate. It also helps consumers to make informed decisions regarding health care.

TECHNICAL ISSUES

House Bill 777 does not impose any penalties for hospitals that do not comply with the provisions of the act.

OTHER SUBSTANTIVE ISSUES

HPC reports that according to a report published by the World Health Organization (WHO), a nosocomial infection, also called hospital-acquired infection can be defined as an infection acquired in hospital by a patient who was admitted for a reason other than that infection.

HPC further reports that many factors promote infection among hospitalized patients: decreased immunity among patients; the increasing variety of medical procedures and invasive techniques creating potential routes of infection; and the transmission of drug-resistant bacteria among crowded hospital populations, where poor infection control practices may facilitate transmission. Studies by WHO and others have also shown that the highest prevalence of nosocomial infections occurs in intensive care units and in acute surgical and orthopedic wards.

ALTERNATIVES

DOH notes that it facilitates a volunteer Healthcare-Associated Infections Advisory Committee (HAI AC) with representation similar to that proposed by HB 777. Several hospitals currently are volunteering to participate in a pilot project tracking and reporting healthcare-associated infections. That work could potentially be expanded to include additional hospitals and formalized public reporting, by hospital, to the public.

HPC notes that the HAI AC recommended the use of the National Healthcare Safety Network (NHSN) as the surveillance system. The NHSN is an electronic system developed and supported by CDC. HPC further details benefits to using the NHSN as the surveillance system. First, the system is currently being used by many states, thus making it possible to both obtain standardized data for New Mexico hospitals and benchmark New Mexico data with other states participating in NHSN. Second, this recommendation eliminates the need to fund and design a data system unique to New Mexico. Additionally, NHSN has confidentiality protections through the Public Health Service Act. Lastly, since CDC is the host for the NHSN system, it is responsible for the updates and upgrades to the data system.

Six hospitals agreed to join the pilot project year (July 1, 2008 – June 31, 2009):

1. Gerald Champion Regional Medical Center;
2. Heart Hospital of New Mexico;
3. Memorial Medical Center;
4. Presbyterian Healthcare Services, Albuquerque;
5. San Juan Regional Medical Center; and
6. University of New Mexico Hospital.

The pilot year includes the surveillance of two hospital-acquired infection (HAI) indicators:

1. central line associated bloodstream infections (CLABSI) in adult ICU units; and
2. Influenza vaccination rates of healthcare workers (HCWs).

Based on experience to date, the HAI AC offers several general recommendations regarding HAI surveillance and public reporting in New Mexico:

- Expand reporting of CLABSI's and HCW's influenza vaccination rates:
- Recommend mandated reporting to start July 1, 2010 with adequate resources for implementation for:
  - CLABSIs in hospitals with ICUs; and
  - Influenza vaccination rates of HCWs;
- If HAI reporting is mandated, program development would include:
  - Hospital training;
  - Data collection/management/analysis/dissemination; and
  - Public reporting.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

DOH will not be required to develop and implement a new statewide surveillance program for hospital-acquired conditions.

POSSIBLE QUESTIONS

DOH suggests the following amendment:

On page 7, line 18 insert:

Section 7. CONFIDENTIALITY AND PRIVILEGE PROTECTIONS. –

A. A patient's right of confidentiality shall not be violated in any manner under this Act. Any patient file, record, or other protected health information data received by the department that contains identifying information about the individual patient shall be confidential in its entirety and not subject to public disclosure.

B. Except for the public report required to be issued by the secretary of health pursuant to subsection C of section 4, which shall be a public document available to any person upon request, any data and materials collected or compiled by a participating hospital or obtained by the department pursuant to this Act shall not be:

(1) subject to admission as evidence or other disclosure in any federal, state or local civil, criminal or administrative proceeding, or

(2) subject to use in a disciplinary proceeding against a hospital or provider, or

(3) subject to disclosure under the New Mexico Inspection of Public Records Act, sections 14-2-1 to 14-2-12, NMSA 1978.

C. Data collected and reported under this Act shall not be deemed to have established a standard of care for any purpose in private civil litigation.

AHO/svb