

EXHIBIT D

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 845 of the Regular Session

As Engrossed: H3/20/07 H3/23/07

A Bill

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

HOUSE BILL 2735

4
5 By: Representatives J. Roebuck, Pennartz
6
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE HEALTH FACILITY INFECTION
10 DISCLOSURE ACT OF 2007; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 THE HEALTH FACILITY INFECTION DISCLOSURE
14 ACT OF 2007.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Title 20, Chapter 9 is amended to add an
20 additional subchapter to read as follows:

21 20-9-1201. Title.

22 This subchapter shall be known and may be cited as the "Health Facility
23 Infection Disclosure Act of 2007".
24

25 20-9-1202. Definitions.

26 As used in this subchapter:

27 (1)(A) "Health facility" means any of the following facilities:

28 (i) A hospital, outpatient surgery center, public
29 health center or recuperation center, as those facilities are defined in §
30 20-9-201; and

31 (ii) Any other facility determined to be a source of
32 healthcare associated infections and designated as such by the Division of
33 Health of the Department of Health and Human Services.

34 (B) "Health facility" does not include:

35 (i) A physician's office unless the office is



1 otherwise licensed as an outpatient surgery center; or

2 (ii) An establishment furnishing primarily
3 domiciliary care;

4 (2) "Healthcare associated infection" means a localized or
5 systemic condition in a person that:

6 (A) Results from adverse reaction to the presence of an
7 infectious agent or a toxin of an infectious agent;

8 (B) Was not present or incubating in the person at the
9 time of admission to the health facility; and

10 (3) "Division" means the Division of Health of the Department of
11 Health and Human Services."

12
13 20-9-1203. Health facility reports.

14 (a) A health facility shall collect data on healthcare associated
15 infection rates for the following:

16 (1) Coronary artery bypass surgical site infections;

17 (2) Total hip or knee arthroplasty surgical site infections;

18 (3) Knee arthroscopy surgical site infections;

19 (4) Hernia repair surgical site infections;

20 (5) Central line-associated bloodstream infection in an
21 intensive care unit; and

22 (6) Other categories as provided under § 20-9-1204(e).

23 (b)(1)(A) A health facility may voluntarily submit quarterly reports
24 to the division on the facility's healthcare associated infection rates.

25 (B)(i) If a health care facility elects to submit
26 quarterly reports, the reports shall be submitted to the division:

27 (a) In a format prescribed by the division;

28 and

29 (b) By April 30, July 31, October 31, and
30 January 31 of each year.

31 (ii) Each quarterly report shall cover the
32 immediately preceding calendar quarter.

33 (C) Data in the quarterly reports shall cover a period
34 ending not earlier than one (1) month before the submission of the report.

35 (2) If the health facility is a division or subsidiary of
36 another entity that owns or operates other health facilities, the quarterly

1 report shall be for the specific division or subsidiary and not for the other
2 entity.

3
4 20-9-1204. Advisory Committee on Healthcare Associated Infections.

5 (a) The Director of the Division of Health of the Department of Health
6 and Human Services shall appoint an Advisory Committee on Healthcare Acquired
7 Infections, including without limitation representatives of:

8 (1) Public and private hospitals, including representatives of
9 hospitals with fewer than fifty (50) beds and representatives of hospitals
10 with more than fifty (50) beds;

11 (2) Outpatient surgery centers;

12 (3) Direct-care nursing staff;

13 (4) Physicians;

14 (5) Infection control professionals with expertise in healthcare
15 associated infections;

16 (6) Academic researchers; and

17 (7) At least one (1) representative of a consumer organization.

18 (b) The advisory committee shall assist the Division of Health of the
19 Department of Health and Human Services in the development of all aspects of
20 the division's methodology for collecting, analyzing, and disclosing the data
21 collected under this subchapter, including without limitation:

22 (1) Collection methods;

23 (2) Formatting; and

24 (3) Methods and means for the release and dissemination of the
25 data.

26 (c)(1) In developing the methodology for collecting and analyzing the
27 infection-rate data, the division and the advisory committee shall consider
28 existing methodologies and systems for data collection.

29 (2) Any data collection and analytical methodologies used shall
30 be:

31 (A) Capable of being validated; and

32 (B) Based upon nationally recognized and recommended
33 standards, that may include those developed by the Centers for Disease
34 Control and Prevention, the Centers for Medicare and Medicaid Services, the
35 Agency for Healthcare Research and Quality or the National Quality Forum.

36 (3) The proposed data collection and analysis methodology shall

1 be disclosed for public comment before any public disclosure of healthcare
2 associated infection rates in an annual report under § 20-9-1205.

3 (4)(A) The data collection and analysis methodology shall be
4 presented to all health facilities in this state on or before September 1,
5 2008.

6 (B) The methodology may be amended based upon input from
7 the health facilities.

8 (5)(A) The first voluntary quarterly report under § 20-9-1203(b)
9 shall be presented to the division on or before January 31, 2009.

10 (B) Health facilities may begin voluntarily reporting data
11 on January 31, 2009 or at any time thereafter.

12 (d) The division and the advisory committee shall evaluate on a
13 regular basis the quality and accuracy of health facility data reported under
14 this subchapter and the data collection, analysis, and dissemination
15 methodologies used under this subchapter.

16 (e) After release of the second annual report published under § 20-9-
17 1205, and upon consultation with the advisory committee and with other
18 technical advisors who are recognized experts in the prevention,
19 identification, and control of healthcare associated infections and the
20 reporting of performance data, the division may add categories of infections
21 to those set forth in § 20-9-1203(a).

22
23 20-9-1205. Reports regarding healthcare associated infections.

24 (a)(1)(A) In consultation with the Advisory Committee on Healthcare
25 Associated Infections, the Division of Health of the Department of Health and
26 Human Services shall submit annually a report summarizing the health facility
27 quarterly reports required under this subchapter to the Chair of the House
28 Interim Committee on Public Health, Welfare, and Labor and the Chair of the
29 Senate Interim Committee on Public Health, Welfare, and Labor.

30 (B) No health facility-identifiable data shall be included
31 in the annual report, but aggregate statistical data may be included.

32 (2) The division shall publish the annual report on the
33 division's website.

34 (3) The first annual report shall be submitted and published on
35 or before January 1, 2010.

36 (b) The annual report prepared by the division under this subchapter

1 regarding healthcare associated infections shall be appropriately risk-
2 adjusted.

3 (c)(1) The annual report shall include an executive summary written in
4 plain language that shall include without limitation:

5 (2) A discussion of findings, conclusions, and trends
6 concerning the overall status of healthcare associated infections in the
7 state, including a comparison to previous years; and

8 (3) Policy recommendations of the division and the
9 advisory committee.

10 (d) The annual report shall be made available to any person upon
11 request.

12 (e) No health facility report or division disclosure shall contain
13 information identifying a patient, employee, or healthcare professional in
14 connection with a specific infection incident.

15 (f) No annual report or other division disclosure shall contain
16 information that identifies or could be used to identify a specific health
17 facility.

18 (g)(1) As part of the process of preparing the annual report,
19 effective safeguards to protect against the dissemination of inconsistent,
20 incomplete, invalid, inaccurate, or subjective health facility data shall be
21 developed and implemented.

22 (2) These safeguards may include the exclusion of certain data
23 or data from facilities with a low volume of patients or procedures if the
24 use of the data would skew the results reported.

25 (h) The division shall develop, with the assistance of the advisory
26 committee, a process of regular and confidential feedback for health
27 facilities regarding the data collected so that each health facility's data
28 will be available to that facility for its quality improvement efforts.

29
30 20-9-1206. Privacy and confidentiality.

31 (a) It is the intent of the General Assembly that a patient's right of
32 confidentiality shall not be violated in any manner under this subchapter.

33 (b) Social security numbers and any other information that could be
34 used to identify an individual patient shall not be released under this
35 subchapter.

36 (c) Except for the annual report that shall be a public document

1 available to any person upon request, any data and materials collected or
 2 compiled by a health facility or obtained by the division under this
 3 subchapter shall be exempt from discovery and disclosure to the same extent
 4 that records of and testimony before committees evaluating quality of medical
 5 or hospital care are exempt under § 16-46-105(a)(1) and shall not be
 6 admissible in any legal proceeding.

7 (d) Data collected and reported under this subchapter shall not be
 8 deemed to have established a standard of care for any purposes in a private
 9 civil litigation.

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11 20-9-1207. Rules.

12 The State Board of Health shall promulgate rules to implement this
 13 subchapter.

14

15 20-9-1208 Funding.

16 This subchapter is contingent upon the appropriation and availability
 17 of funding necessary for the Division of Health of the Department of Health
 18 and Human Services to implement its provisions, and any requirements that
 19 actions be accomplished by a specific date shall be extended until the
 20 necessary funding is available.

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22 /s/ J. Roebuck, et al

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24 APPROVED: 4/3/2007

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