State Public Reporting Laws of Healthcare-Associated Infections

American Society of Law, Medicine & Ethics
Public Health Law Association
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Healthcare-Associated Infections (HAIs)

Definition:

Healthcare-associated infections (HAIs) are infections acquired by patients while they are receiving medical treatment for other medical conditions or surgical procedures.
**Significant Public Health Problem**

- HAIs are significant contributors to morbidity and mortality.
- 1.7 million HAIs occur annually in the U.S. causing approximately 99,000 deaths.
- In the U.S., **one out of every twenty** hospitalized patients will contract an HAI.
Types of Healthcare-Associated Infections

- Central Line-associated Bloodstream Infection (CLABSI)
- *Clostridium Difficile* Infection (*C. diff, CDI, C. difficile, CDAD*)
- Surgical Site Infection (SSI)
- Catheter-associated Urinary Tract Infection (CAUTI)
- Ventilator-associated Pneumonia (VAP)
- Methicillin-Resistant *Staphylococcus aureus* (MRSA)
- Vancomycin-Resistant Enterococcus Infection (VRE)
Progression of State HAI Program and Law Activity

- All states now have HAI surveillance and prevention programs.
- An increasing number of states have enacted HAI statutes or promulgated applicable administrative regulations.
- State HAI laws are primarily for surveillance and public reporting.
The Federal Influence

- Funding – American Recovery and Reinvestment Act, Public Law 111-5 (ARRA)
- National Healthcare Safety Network (NHSN)
- The Healthcare Infection Control Practices Advisory Committee (HICPAC)
- Additional Federal Influences
States with HAI laws

- As of August 1, 2011, 34 states and territories (65%) have laws requiring HAI data submission and/or public reporting.

- States with HAI Surveillance/Public Reporting Laws: AL, AR, CA, CO, CT, DE, DC, FL, HI, IL, ME, MD, MA, MN, MO, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV
States Without HAI Laws

- As of August 1, 2011, there are 18 states that do not have HAI laws.
  - AK, AZ, GA, ID, IN, IA, KS, KY, LA, MI, MS, MT, NE, ND, PR, SD, WI, WY
- Although these states do not have HAI laws, they have implemented HAI surveillance and prevention programs.
Form of HAI Laws

- Variation in structure
- Three primary structural types of laws:
  - Stand alone HAI surveillance and public reporting law
  - Broader patient safety, quality or performance reporting law
  - Administrative rules promulgated under a state health code
Common HAI Law Provisions

- Implementing Agency Designation & Establishment of HAI Advisory Committee
- Data Submission Requirements
  - Mandatory vs. Voluntary
- Entities Required to Submit Data
  - Hospitals
  - Ambulatory Surgical Centers
  - Others
- Data Collection Systems
  - NHSN
  - State Surveillance System

- Reportable Measures
  - Outcome vs. Process Measures
  - CLABSI, SSI, VAP, CAUTI, CDI, MDRO Infections
- Confidentiality Protections
- Privilege Provisions
- Training and Education Requirements
- Enforcement & Compliance
- Funding
Resources

- HAI Focus, Links to State HAI Programs and Other State Resources. [http://haifocus.com/state-resources-2/](http://haifocus.com/state-resources-2/)
- Society for Healthcare Epidemiology of America. [http://www.shea-online.org/](http://www.shea-online.org/)
Recommended Reading


Contact Information

Please feel free to contact me.

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Act 634 of 2011 & Infection Reporting in Arkansas

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Agenda

- History of Infection Reporting in Arkansas
- Comparison of the “old” vs. “new” infection reporting laws
- Mandatory & Voluntary Reporting in Arkansas
- Questions
Health Facility Infection Disclosure Act of 2007

- Applied to Hospitals, Outpatient Surgery Centers, Health Centers & Recuperation Centers
- No physician offices or residential facilities
- Required infection data collection
- Permitted quarterly reporting of infection data
2007 Act: Old Rules for Infection Data Collection

- Under the old act, hospitals were required to collect data on rates of:
  - Coronary artery bypass SSIs
  - Total hip or knee arthroplasty SSIs
  - Knee arthroscopy SSIs
  - Hernia repair SSIs
  - Central line-associated bloodstream infections in an intensive care unit
  - Other infections added by ADH after 2 years
2007 Act: Advisory Committee

- ADH Advisory Committee was created with representatives from:
  - Large & small hospitals
  - Outpatient surgery centers
  - Nurses
  - Physicians
  - Infection control professionals
  - Academic researchers
  - Consumers
2007 Act: Voluntary Reporting

- ADH developed methodology for collecting and analyzing infection-rate data

- ADH Regulations were drafted and promulgated in final form in 2009
2007 Act: Voluntary Reporting (cont.)

- Quarterly Reports covering prior quarter
  - For 1\textsuperscript{st} Q, April 30\textsuperscript{th}
  - 2\textsuperscript{nd} Q, July 31\textsuperscript{st}
  - 3\textsuperscript{rd} Q, October 31\textsuperscript{st}
  - 4\textsuperscript{th} Q, January 31\textsuperscript{st}

- Data reported for specific facilities within systems
2007 Act: Voluntary Reporting (cont.)

- Quarterly facility reports
- Annual Report
  - ADH summary with policy recommendations
    - Aggregate statistical data
    - Risk adjusted
    - No patient, professional or facility identifiers
    - Safeguards
  - Sent to Senate & House
  - Published on ADH website
  - Feedback from ADH to facilities required
Confidentiality

- Patient identifiers cannot be released
- Data and materials collected by ADH are protected
  - Not subject to discovery
  - Not public records
  - Not admissible in any legal proceeding
  - Cannot be used to establish “standard of care” in litigation
Problems with Voluntary Reporting

- Facilities did not have the personnel or resources to report on a voluntary basis.
- There was no incentive to report data to the state.
- Regardless of protections facilities had concerns about the state making the data public.
- Many facilities were already reporting to hospital compare and did not want to report twice.
Act 634 of 2011

- Made limited changes to the 2007 Act
  - Added definition of NHSN
  - Changed list of infections in ACA § 20-9-1203(a)
  - Added mandatory reporting for certain facilities
  - Maintained voluntary reporting

- Effective July 27, 2011
2011 Act: What Stayed the Same?

- Still applies only to Hospitals, Outpatient Surgery Centers, Health Centers & Recuperation Centers

- “Healthcare associated infection” definition did not change.
  - It is not a HAI if it was present or incubating in the person at the time of admission to the health facility.
2011 Act: What Stayed the Same? (cont.)

- Voluntary, quarterly reporting still authorized.
- Advisory Committee remains in place.
- Confidentiality protections are included.
2011 Act: What’s New?

- Adds definition of “NHSN”
- Requires hospitals that submit infection data to NHSN under the CMS Hospital Inpatient Quality Reporting Program to authorize the ADH to have access to:
  - Hospital name
  - All information required to be reported to NHSN under the CMS program
NHSN data may be used by the ADH only for surveillance and prevention purposes (and not for hospital surveys).

The list of infections in ACA § 20-9-1203(a) now includes only:
- Central line-associated bloodstream infections (CLABSIs) in an ICU; and
- Others added by the ADH through the rulemaking process after the 2nd annual report has been published.
What Does This Mean for Hospitals?

- **PPS Hospitals**
  - To avoid 2% reduction in annual Medicare market basket update, must participate in the CMS Hospital Inpatient Quality Reporting Program and report through NHSN:
    - CLABSIs in ICUs beginning with 1/11/11 discharges; and
    - SSIs beginning with 1/2/12 discharges.

- Must authorize NHSN to share the hospital’s name and CMS-required infection data with the Arkansas ADH.
PPS Hospitals that Report More Data through NHSN

- Arkansas law requires PPS hospitals to share the CMS-required data with the ADH, but it does not require that other data be shared with the state.

- Other data may be shared by voluntarily reporting it to ADH as state regulations are promulgated.

- State regs must be issued specifying other infections under the 2011 Act in order to maintain confidentiality protections.
What About Non-PPS Hospitals?

- **Non-PPS Hospitals**
  - These hospitals are not required to participate in the CMS IQR Program.
  - No mandatory reporting to ADH, but voluntary reporting is still authorized under the Arkansas statute.
  - Voluntarily report only CLABSI information at this time. Wait for state regulations before reporting other data.
Why Report?

- For some data, because it’s mandatory!
- Good national data
  - Rates
  - Best practices
  - Trends
- Will lead to development of better state-level data by the ADH
- Data can be used for Quality Improvement
  - Improved surveillance and analysis
  - Prompt intervention
Question & Answer

Type your question in through the Q and A panel