

1 HB372  
2 157163-2  
3 By Representatives Weaver and McClendon  
4 RFD: Health  
5 First Read: 30-JAN-14

1 ENGROSSED

2  
3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 Relating to public health; to amend Sections  
9 22-11A-60, 22-11A-61, 22-11A-62, 22-11A-63, 22-11A-66,  
10 22-11A-67, and 22-11A-73, Code of Alabama 1975; to add to the  
11 definition of infected health care workers those health care  
12 workers infected with hepatitis C virus (HCV) for purposes of  
13 reporting to the State Health Officer; and to authorize the  
14 State Board of Health to designate by rule other diseases that  
15 infected health care workers must report to the State Health  
16 Officer.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 22-11A-60, 22-11A-61, 22-11A-62,  
19 22-11A-63, 22-11A-66, 22-11A-67, and 22-11A-73, Code of  
20 Alabama 1975, are amended to read as follows:

21 "§22-11A-60.

22 "As used in this article, the following words shall  
23 have the following meanings:

24 "(1) HEALTH CARE FACILITY. A hospital, nursing home,  
25 ambulatory surgical center, outpatient surgical facility,  
26 ambulance service, rescue squad, paid fire department,  
27 volunteer fire department, or any other clinic, office, or

1 facility in which medical, dental, nursing, or podiatric  
2 services are offered.

3 "(2) HEALTH CARE WORKER. Physicians, dentists,  
4 nurses, respiratory therapists, phlebotomists, surgical  
5 technicians, physician assistants, podiatrist, dialysis  
6 technicians, emergency medical technicians, paramedics,  
7 ambulance drivers, dental hygienists, dental assistants,  
8 students in the healing arts, or any other individual who  
9 provides or assists in the provision of medical, dental, or  
10 nursing services.

11 "(3) HEPATITIS B VIRUS (HBV) INFECTION. The presence  
12 of the HBV as determined by the presence of hepatitis B(e)  
13 antigen for six months or longer or by other means as  
14 determined by the State Board of Health.

15 "(4) HEPATITIS C VIRUS (HCV) INFECTION. The presence  
16 of the HCV as determined by the presence of antibodies to HCV  
17 or by other means as determined by rules of the State Board of  
18 Health.

19 "~~(4)~~ (5) HUMAN IMMUNODEFICIENCY VIRUS (HIV)  
20 INFECTION. The presence of antibodies to Human  
21 Immunodeficiency Virus as determined by enzyme immunoassay and  
22 Western Blot or the presence of the HIV infection as  
23 determined by viral culture, or by other means as determined  
24 by the State Board of Health.

25 "~~(5)~~ (6) INFECTED HEALTH CARE WORKER. A health care  
26 worker infected with HIV, ~~or~~ HBV, HCV, or other disease  
27 designated by the State Board of Health by a rule adopted

1 pursuant to the Alabama Administrative Procedure Act as  
2 defined herein.

3 ~~"(6)~~ (7) INVASIVE PROCEDURES.

4 "(a) Those medical or surgical procedures  
5 characterized by the digital palpation of a needle tip in a  
6 body cavity or by the simultaneous presence of the health care  
7 worker's fingers and a needle or other sharp instrument or  
8 object in a poorly visualized or highly confined anatomic  
9 site.

10 "(b) Invasive dental procedures shall include those  
11 that provide the opportunity for an intraoral percutaneous  
12 injury to the dental health care worker and could result in  
13 the blood of the health care worker coming in contact with the  
14 blood or mucous membrane of the patient as adopted by the  
15 Board of Dental Examiners in rules developed pursuant to  
16 Section 22-11A-70.

17 "(c) These procedures shall not include physical  
18 examinations; blood pressure checks; eye examinations;  
19 phlebotomy; administering intramuscular, intradermal, or  
20 subcutaneous injections; needle biopsies; needle aspirations;  
21 lumbar punctures; angiographic procedures; vaginal, oral, or  
22 rectal exams; endoscopic or bronchoscopic procedures; or  
23 placing and maintaining peripheral and central intravascular  
24 lines, nasogastric tubes, endotracheal tubes, rectal tubes,  
25 and urinary catheters.

26 "§22-11A-61.

1           "(a) Any health care worker infected with HIV, ~~or~~  
2 HBV, HCV, or other disease designated by the State Board of  
3 Health who performs an invasive procedure shall notify the  
4 State Health Officer, or his or her designee, of the infection  
5 in a time and manner prescribed by the State Board of Health.

6           "(b) Any physician providing care to an infected  
7 health care worker shall notify the State Health Officer, or  
8 his or her designee, about the presence of the infection in  
9 the health care worker in a time and manner prescribed by the  
10 State Board of Health.

11           "§22-11A-62.

12           "No health care worker having knowledge that he or  
13 she is infected with ~~either~~ HIV, ~~or~~ HBV, HCV, or other disease  
14 designated by the State Board of Health shall perform or  
15 assist in the performance of an invasive procedure unless and  
16 until he or she has notified the State Health Officer, as  
17 provided in Section 22-11A-61, and agrees to cooperate with  
18 any investigation authorized in Section 22-11A-63 and any  
19 necessary practice modifications.

20           "§22-11A-63.

21           "(a) Upon notification of the existence of an  
22 infected health care worker, the State Health Officer shall  
23 undertake an investigation of the practice of the health care  
24 worker. In the investigation, the State Health Officer shall  
25 seek advice of individuals and organizations deemed necessary.  
26 The investigation shall determine if the infected health care  
27 worker performs invasive procedures. If the health care worker

1 is determined not to perform invasive procedures, no review  
2 panel shall be established, no restrictions shall be placed on  
3 his or her practice, and all information obtained in the  
4 investigation shall be confidential as provided for in Section  
5 22-11A-69. If the infected health care worker is determined to  
6 perform invasive procedures, the State Health Officer shall  
7 cause an expert review panel to be formed. To the extent  
8 possible, the review shall be conducted so that the identity  
9 of the health care worker shall not be disclosed to the expert  
10 review panel. However, disclosure of the health care worker's  
11 identity shall be made when any member of the review panel  
12 shall deem it necessary to make a recommendation to the State  
13 Health Officer or by the attendance of the infected health  
14 care worker at the expert review panel.

15 "(b) The expert review panel may include the  
16 physician of the infected health care worker, and shall  
17 include the following:

18 "(1) A health care worker with expertise in  
19 procedures performed by the infected health care worker chosen  
20 by the licensing board of the health care worker, if licensed.

21 "(2) A physician appointed by the State Health  
22 Officer with expertise in infectious diseases other than one  
23 providing care to the infected health care worker.

24 "(3) A public health physician appointed by the  
25 State Health Officer.

26 "(4) Two representatives of the licensing board of  
27 the infected health care worker, if licensed, and if the

1 health care worker's practice is institutionally based, a  
2 representative of the affected institution appointed by the  
3 institution.

4 "(5) Other individuals determined necessary by the  
5 State Health Officer.

6 "(c) The expert review panel formed pursuant to this  
7 section shall review the overall practice and procedures  
8 performed by the infected health care worker and shall  
9 consider:

10 "(1) The procedures performed by the infected health  
11 care worker.

12 "(2) The adherence to universal precautions by the  
13 infected health care worker.

14 "(3) The past history of the health care worker of  
15 occupational injury while performing the invasive procedures.

16 "(4) Any prior evidence of the health care worker  
17 related to patient transmission of HIV, or HBV, HCV, or other  
18 disease designated by the State Board of Health.

19 "(5) The presence of conditions such as dermatitis,  
20 dementia, neuropathy, or other conditions that may increase  
21 the risk of transmission.

22 "(6) Current Centers for Disease Control and  
23 Prevention guidelines on the management of infected health  
24 care workers.

25 "(d) The performance of invasive procedures alone  
26 shall not present sufficient cause to limit the practice of  
27 the infected health care worker. The health care worker is

1 entitled to be present at meetings of the expert review panel  
2 and to present any information pertinent to the panel  
3 deliberations. All meetings of the expert review panel shall  
4 be held in executive session and shall not be open to the  
5 public.

6 "(e) The expert review panel shall recommend to the  
7 State Health Officer limitations, if any, on the practice of  
8 the infected health care worker that are reasonable and  
9 necessary to protect the patients of the health care worker  
10 and the public. The expert review panel shall also provide  
11 recommendations to the State Health Officer about the need to  
12 notify patients who previously may have had an invasive  
13 procedure performed by an infected health care worker. The  
14 State Health Officer shall accept the recommendations of the  
15 expert review panel and issue a final order based on the  
16 recommendations.

17 "(f) The State Health Officer shall provide a  
18 written final order to the infected health care worker  
19 specifying those restrictions, limitations, conditions, or  
20 prohibitions with which the infected health care worker shall  
21 comply in order to continue to engage in medical, dental,  
22 podiatric, or nursing practice, or to continue to be employed  
23 at a health care facility. If restrictions or conditions limit  
24 the practice of the health care worker, the administrator of  
25 the institution in which the health care worker practices, the  
26 employer of the infected health care worker, and the  
27 appropriate licensing board of the infected health care worker



1 shall be provided a copy of the final order of the State  
2 Health Officer. For health care workers no longer performing  
3 invasive procedures, the final order shall include those  
4 notifications as may have been deemed necessary in Section  
5 22-11A-69.

6 "(g) The final order of the State Health Officer may  
7 be appealed to the State Committee of Public Health by  
8 delivery of written notice of appeal to the State Health  
9 Officer not more than 30 days after the date of the State  
10 Health Officer's final order. The appeal may be heard by the  
11 State Committee of Public Health in its entirety or may be  
12 assigned to an administrative law judge or hearing officer for  
13 trial and recommended decision. All hearings, administrative  
14 proceedings, and deliberations of the committee in connection  
15 with the appeal shall be held in executive session and shall  
16 not be open to the public. The committee shall accept, modify,  
17 or reject the final order of the State Health Officer.

18 "§22-11A-66.

19 "In addition to any other law or regulation, it  
20 shall be grounds for the revocation, suspension, or  
21 restriction of the professional license of any health care  
22 worker who is infected with HIV, or HBV, HCV, or other disease  
23 designated by the State Board of Health if the infected health  
24 care worker is found to be practicing in violation of this  
25 article.

26 "§22-11A-67.

1           "(a) Any health care worker found to have HBV, ~~or~~  
2           HIV, ~~or~~ HCV infection or other disease designated by the State  
3           Board of Health and any health care facility at which an  
4           infected health care worker is employed or practices shall  
5           make available to the State Board of Health, and to the expert  
6           review panel, any and all patient medical records and other  
7           records requested by those groups, except that records or  
8           documents greater than three years old shall not be provided.

9           "(b) The following persons and facilities shall  
10          provide to the State Board of Health and the expert review  
11          panel all requested documents or records three years old or  
12          less:

13                 "(1) Any person having knowledge of a health care  
14          worker diagnosed as infected with HIV, ~~or~~ HBV, HCV, ~~or~~ other  
15          disease designated by the State Board of Health ~~infection~~.

16                 "(2) The administrator of any health facility having  
17          knowledge of a health care worker diagnosed as infected with  
18          HIV, ~~or~~ HBV, HCV, ~~or~~ other disease designated by the State  
19          Board of Health ~~infection~~.

20                 "(3) Any person serving as the guardian of or the  
21          conservator of any health care worker diagnosed with HIV, ~~or~~  
22          HBV, ~~or~~ HCV infection, ~~or~~ or other disease designated by the  
23          State Board of Health, or any person who is the administrator  
24          or executor of the estate of any health care worker diagnosed  
25          with HIV, ~~or~~ HBV, ~~or~~ HCV infection or other disease designated  
26          by the State Board of Health.

1           "(4) Any person serving as the custodian of patient  
2 records of any HBV, or HIV, or HCV, or other disease  
3 designated by the State Board of Health, infected health care  
4 worker.

5           "(5) Any facility employing a worker diagnosed with  
6 HIV, or HBV, or HCV infection or other disease designated by  
7 the State Board of Health.

8           "(c) The hospital or other individual or  
9 organization providing records may collect the usual fee for  
10 copies of records or documents.

11           "§22-11A-73.

12           "Nothing in this article is intended to impose any  
13 reporting requirements on life, health, or disability income  
14 insurers who learn that an applicant or insured is infected  
15 with HIV, or HBV, HCV, or other disease designated by the  
16 State Board of Health solely through the application,  
17 underwriting, or claims processes, which insurer may have no  
18 means of knowing or verifying that a particular applicant or  
19 insured is a health care worker within the meaning of this  
20 article."

21           Section 2. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Health ..... 30-JAN-14

Read for the second time and placed  
on the calendar 1 amendment ..... 12-FEB-14

Read for the third time and passed  
as amended..... 11-MAR-14

Yeas 98, Nays 0, Abstains 0

Jeff Woodard  
Clerk