

1 HB389
2 166387-1
3 By Representative Weaver
4 RFD: Health
5 First Read: 02-APR-15

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8 SYNOPSIS: Under existing law, infected health care
9 workers are defined as health care workers who are
10 infected with Human Immunodeficiency Virus (HIV) or
11 hepatitis B virus (HBV).

12 This bill would add to the definition of
13 infected health care workers those health care
14 workers infected with hepatitis C virus (HCV) for
15 purposes of reporting to the State Health Officer.

16 This bill would also authorize the State
17 Board of Health to designate by rule other diseases
18 that infected health care workers must report to
19 the State Health Officer.

20
21 A BILL

22 TO BE ENTITLED

23 AN ACT

24
25 Relating to public health; to amend Sections
26 22-11A-60, 22-11A-61, 22-11A-62, 22-11A-63, 22-11A-66,
27 22-11A-67, and 22-11A-73, Code of Alabama 1975; to add to the

1 definition of infected health care workers those health care
2 workers infected with hepatitis C virus (HCV) for purposes of
3 reporting to the State Health Officer; and to authorize the
4 State Board of Health to designate by rule other diseases that
5 infected health care workers must report to the State Health
6 Officer.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 22-11A-60, 22-11A-61, 22-11A-62,
9 22-11A-63, 22-11A-66, 22-11A-67, and 22-11A-73, Code of
10 Alabama 1975, are amended to read as follows:

11 "§22-11A-60.

12 "As used in this article, the following words shall
13 have the following meanings:

14 "(1) HEALTH CARE FACILITY. A hospital, nursing home,
15 ambulatory surgical center, outpatient surgical facility,
16 ambulance service, rescue squad, paid fire department,
17 volunteer fire department, or any other clinic, office, or
18 facility in which medical, dental, nursing, or podiatric
19 services are offered.

20 "(2) HEALTH CARE WORKER. Physicians, dentists,
21 nurses, respiratory therapists, phlebotomists, surgical
22 technicians, physician assistants, podiatrist, dialysis
23 technicians, emergency medical technicians, paramedics,
24 ambulance drivers, dental hygienists, dental assistants,
25 students in the healing arts, or any other individual who
26 provides or assists in the provision of medical, dental, or
27 nursing services.

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

5 "(4) HEPATITIS C VIRUS (HCV) INFECTION. The presence
6 of the HCV as determined by the presence of antibodies to HCV
7 or by other means as determined by rules of the State Board of
8 Health.

9 "~~(4)~~ (5) HUMAN IMMUNODEFICIENCY VIRUS (HIV)
10 INFECTION. The presence of antibodies to Human
11 Immunodeficiency Virus as determined by enzyme immunoassay and
12 Western Blot or the presence of the HIV infection as
13 determined by viral culture, or by other means as determined
14 by the State Board of Health.

15 "~~(5)~~ (6) INFECTED HEALTH CARE WORKER. A health care
16 worker infected with HIV, or HBV, HCV, or other disease
17 designated by the State Board of Health by a rule adopted
18 pursuant to the Alabama Administrative Procedure Act as
19 defined herein.

20 "~~(6)~~ (7) INVASIVE PROCEDURES.

21 "(a) Those medical or surgical procedures
22 characterized by the digital palpation of a needle tip in a
23 body cavity or by the simultaneous presence of the health care
24 worker's fingers and a needle or other sharp instrument or
25 object in a poorly visualized or highly confined anatomic
26 site.

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

8 "(c) These procedures shall not include physical
9 examinations; blood pressure checks; eye examinations;
10 phlebotomy; administering intramuscular, intradermal, or
11 subcutaneous injections; needle biopsies; needle aspirations;
12 lumbar punctures; angiographic procedures; vaginal, oral, or
13 rectal exams; endoscopic or bronchoscopic procedures; or
14 placing and maintaining peripheral and central intravascular
15 lines, nasogastric tubes, endotracheal tubes, rectal tubes,
16 and urinary catheters.

17 "§22-11A-61.

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

23 "(b) Any physician providing care to an infected
24 health care worker shall notify the State Health Officer, or
25 his or her designee, about the presence of the infection in
26 the health care worker in a time and manner prescribed by the
27 State Board of Health.

1 "§22-11A-62.

2 "No health care worker having knowledge that he or
3 she is infected with ~~either~~ HIV, ~~or~~ HBV, HCV, or other disease
4 designated by the State Board of Health shall perform or
5 assist in the performance of an invasive procedure unless and
6 until he or she has notified the State Health Officer, as
7 provided in Section 22-11A-61, and agrees to cooperate with
8 any investigation authorized in Section 22-11A-63 and any
9 necessary practice modifications.

10 "§22-11A-63.

11 "(a) Upon notification of the existence of an
12 infected health care worker, the State Health Officer shall
13 undertake an investigation of the practice of the health care
14 worker. In the investigation, the State Health Officer shall
15 seek advice of individuals and organizations deemed necessary.
16 The investigation shall determine if the infected health care
17 worker performs invasive procedures. If the health care worker
18 is determined not to perform invasive procedures, no review
19 panel shall be established, no restrictions shall be placed on
20 his or her practice, and all information obtained in the
21 investigation shall be confidential as provided for in Section
22 22-11A-69. If the infected health care worker is determined to
23 perform invasive procedures, the State Health Officer shall
24 cause an expert review panel to be formed. To the extent
25 possible, the review shall be conducted so that the identity
26 of the health care worker shall not be disclosed to the expert
27 review panel. However, disclosure of the health care worker's

1 identity shall be made when any member of the review panel
2 shall deem it necessary to make a recommendation to the State
3 Health Officer or by the attendance of the infected health
4 care worker at the expert review panel.

5 "(b) The expert review panel may include the
6 physician of the infected health care worker, and shall
7 include the following:

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

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

14 "(3) A public health physician appointed by the
15 State Health Officer.

16 "(4) Two representatives of the licensing board of
17 the infected health care worker, if licensed, and if the
18 health care worker's practice is institutionally based, a
19 representative of the affected institution appointed by the
20 institution.

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

23 "(c) The expert review panel formed pursuant to this
24 section shall review the overall practice and procedures
25 performed by the infected health care worker and shall
26 consider:

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

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

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

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

10 "(5) The presence of conditions such as dermatitis,
11 dementia, neuropathy, or other conditions that may increase
12 the risk of transmission.

13 "(6) Current Centers for Disease Control and
14 Prevention guidelines on the management of infected health
15 care workers.

16 "(d) The performance of invasive procedures alone
17 shall not present sufficient cause to limit the practice of
18 the infected health care worker. The health care worker is
19 entitled to be present at meetings of the expert review panel
20 and to present any information pertinent to the panel
21 deliberations. All meetings of the expert review panel shall
22 be held in executive session and shall not be open to the
23 public.

24 "(e) The expert review panel shall recommend to the
25 State Health Officer limitations, if any, on the practice of
26 the infected health care worker that are reasonable and
27 necessary to protect the patients of the health care worker

1 and the public. The expert review panel shall also provide
2 recommendations to the State Health Officer about the need to
3 notify patients who previously may have had an invasive
4 procedure performed by an infected health care worker. The
5 State Health Officer shall accept the recommendations of the
6 expert review panel and issue a final order based on the
7 recommendations.

8 "(f) The State Health Officer shall provide a
9 written final order to the infected health care worker
10 specifying those restrictions, limitations, conditions, or
11 prohibitions with which the infected health care worker shall
12 comply in order to continue to engage in medical, dental,
13 podiatric, or nursing practice, or to continue to be employed
14 at a health care facility. If restrictions or conditions limit
15 the practice of the health care worker, the administrator of
16 the institution in which the health care worker practices, the
17 employer of the infected health care worker, and the
18 appropriate licensing board of the infected health care worker
19 shall be provided a copy of the final order of the State
20 Health Officer. For health care workers no longer performing
21 invasive procedures, the final order shall include those
22 notifications as may have been deemed necessary in Section
23 22-11A-69.

24 "(g) The final order of the State Health Officer may
25 be appealed to the State Committee of Public Health by
26 delivery of written notice of appeal to the State Health
27 Officer not more than 30 days after the date of the State

1 Health Officer's final order. The appeal may be heard by the
2 State Committee of Public Health in its entirety or may be
3 assigned to an administrative law judge or hearing officer for
4 trial and recommended decision. All hearings, administrative
5 proceedings, and deliberations of the committee in connection
6 with the appeal shall be held in executive session and shall
7 not be open to the public. The committee shall accept, modify,
8 or reject the final order of the State Health Officer.

9 "§22-11A-66.

10 "In addition to any other law or regulation, it
11 shall be grounds for the revocation, suspension, or
12 restriction of the professional license of any health care
13 worker who is infected with HIV, ~~or~~ HBV, HCV, or other disease
14 designated by the State Board of Health if the infected health
15 care worker is found to be practicing in violation of this
16 article.

17 "§22-11A-67.

18 "(a) Any health care worker found to have HBV, ~~or~~
19 HIV, ~~or~~ HCV infection or other disease designated by the State
20 Board of Health and any health care facility at which an
21 infected health care worker is employed or practices shall
22 make available to the State Board of Health, and to the expert
23 review panel, any and all patient medical records and other
24 records requested by those groups, except that records or
25 documents greater than three years old shall not be provided.

26 "(b) The following persons and facilities shall
27 provide to the State Board of Health and the expert review

1 panel all requested documents or records three years old or
2 less:

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

6 "(2) The administrator of any health facility having
7 knowledge of a health care worker diagnosed as infected with
8 HIV, or HBV, HCV, or other disease designated by the State
9 Board of Health infection.

10 "(3) Any person serving as the guardian of or the
11 conservator of any health care worker diagnosed with HIV, or
12 HBV, or HCV infection, or other disease designated by the
13 State Board of Health, or any person who is the administrator
14 or executor of the estate of any health care worker diagnosed
15 with HIV, or HBV, or HCV infection or other disease designated
16 by the State Board of Health.

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

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

24 "(c) The hospital or other individual or
25 organization providing records may collect the usual fee for
26 copies of records or documents.

27 "§22-11A-73.

1 "Nothing in this article is intended to impose any
2 reporting requirements on life, health, or disability income
3 insurers who learn that an applicant or insured is infected
4 with HIV, ~~or~~ HBV, HCV, or other disease designated by the
5 State Board of Health solely through the application,
6 underwriting, or claims processes, which insurer may have no
7 means of knowing or verifying that a particular applicant or
8 insured is a health care worker within the meaning of this
9 article."

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