PRELIMINARY DRAFT

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CHAPTER 32. MATERNAL AND INFANT HEALTH IMPROVEMENT

SUBCHAPTER G. INFORMATION FOR PARENTS AND CAREGIVERS OF NEWBORN INFANTS

Revised Law

Sec. 32.201. DEFINITIONS. In this subchapter:

(1) "Resource guide" means the guide provided to Medicaid recipients under Section 32.203(a)(1).

(2) "Resource pamphlet" means the pamphlet provided to parents and caregivers of an infant under Section 32.202(a). (New.)

Revisor's Note

The definitions of "resource guide" and "resource pamphlet" are added to the revised law for drafting

convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 32.202. PARENT AND CAREGIVER RESOURCE PAMPHLET. (a) A hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant shall provide the woman and the father of the infant, if possible, or another adult caregiver for the infant, with a resource pamphlet that includes:

(1) a list of the names, addresses, and phone numbers of professional organizations that provide postpartum counseling and assistance to parents relating to postpartum depression and other emotional trauma associated with pregnancy and parenting;

(2) information regarding the prevention of shaken baby syndrome including:

(A) techniques for coping with anger caused by a crying baby;

(B) different methods for preventing an individual from shaking a newborn, infant, or other young child;

(C) the dangerous effects of shaking a newborn, infant, or other young child; and

(D) the symptoms of shaken baby syndrome and whom to contact, as recommended by the American Academy of Pediatrics, to receive prompt medical treatment if a parent suspects or knows that a baby has been shaken;

(3) a list of diseases for which a child is required by state law to be immunized and the appropriate schedule for the administration of those immunizations;

(4) the appropriate schedule for follow-up procedures for newborn screening;

(5) information regarding sudden infant death syndrome, including current recommendations for infant sleeping conditions to lower the risk of sudden infant death syndrome;

(6) educational information in both English and

Spanish on:

(A) pertussis disease and the availability of a vaccine to protect against pertussis, including information on the Centers for Disease Control and Prevention recommendation that parents receive Tdap during the postpartum period to protect newborns from the transmission of pertussis; and

(B) the incidence of cytomegalovirus, birth defects caused by congenital cytomegalovirus, and available resources for the family of an infant born with congenital cytomegalovirus;

(7) the danger of heatstroke for a child left unattended in a motor vehicle; and

(8) information about Medicaid benefits for children, including eligibility requirements and the process for applying for those benefits.

(b) A hospital, birthing center, physician, nurse midwife, or midwife may use the resource pamphlet provided on the department's Internet website or an alternative pamphlet that provides the information required by Subsection (a). (H&S Code, Secs. 161.501(a)(1), (b)(1).)

Source Law

> Sec. 161.501. RESOURCE PAMPHLET AND RESOURCE GUIDE PROVIDED TO PARENTS OF NEWBORN CHILDREN. (a) A hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant shall:
>
> (1) provide the woman and the father of the infant, if possible, or another adult caregiver for the infant, with a resource pamphlet that includes:
>
> (A) a list of the names, addresses, and phone numbers of professional organizations that provide postpartum counseling and assistance to parents relating to postpartum depression and other emotional trauma associated with pregnancy and parenting;
>
> (B) information regarding the prevention of shaken baby syndrome including:
>
> (i) techniques for coping with anger caused by a crying baby;
>
> (ii) different methods for preventing a person from shaking a newborn, infant, or other young child;
>
> (iii) the dangerous effects of shaking a newborn, infant, or other young child; and
>
> (iv) the symptoms of shaken

baby syndrome and who to contact, as recommended by the American Academy of Pediatrics, if a parent suspects or knows that a baby has been shaken in order to receive prompt medical treatment;

(C) a list of diseases for which a child is required by state law to be immunized and the appropriate schedule for the administration of those immunizations;

(D) the appropriate schedule for follow-up procedures for newborn screening;

(E) information regarding sudden infant death syndrome, including current recommendations for infant sleeping conditions to lower the risk of sudden infant death syndrome;

(F) educational information in both English and Spanish on:

(i) pertussis disease and the availability of a vaccine to protect against pertussis, including information on the Centers for Disease Control and Prevention recommendation that parents receive Tdap during the postpartum period to protect newborns from the transmission of pertussis; and

(ii) the incidence of cytomegalovirus, birth defects caused by congenital cytomegalovirus, and available resources for the family of an infant born with congenital cytomegalovirus;

(G) the danger of heatstroke for a child left unattended in a motor vehicle; and

(H) information about Medicaid benefits for children, including eligibility requirements and the process for applying for those benefits;

. . . .

(b) A hospital, birthing center, physician, nurse midwife, or midwife:

(1) may use the pamphlet provided on the department's website or an alternative pamphlet that provides the information required by Subsection (a)(1); and

. . . .

Revisor's Note

(1) Section 161.501(a)(1)(B)(ii), Health and Safety Code, refers to different methods for preventing a "person" from shaking a newborn, infant, or other young child. Throughout this chapter, the revised law substitutes "individual" for "person" for clarity and consistency where the context clearly references a natural person and not an entity described by the definition of "person" provided by Section 311.005(2), Government Code (Code Construction Act).

(2) Section 161.501(b)(1), Health and Safety Code, states the hospital, birthing center, physician,

nurse midwife, or midwife may use the "pamphlet provided on the department's website." Section 161.502, Health and Safety Code, provides that the Department of State Health Services shall make available on the department's website "a printable version of the pamphlet required by Section 161.501(a)(1)." Section 32.201 of the revised subchapter defines "resource pamphlet" as the pamphlet provided under Section 161.501(a)(1), Health and Safety Code, revised as Section 32.202(a), Health and Safety Code. The pamphlet on the department's website is clearly the resource pamphlet, and the revised law substitutes "resource pamphlet" for "pamphlet" for clarity and consistency in use of the term.

Revised Law

Sec. 32.203. RESOURCE GUIDE AND NOTICE FOR MEDICAID RECIPIENTS. (a) A hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or health care at delivery of an infant shall, if the woman is a recipient of medical assistance under Chapter 32, Human Resources Code, provide the woman and the father of the infant, if possible, or another adult caregiver with:

(1) a resource guide that includes information in both English and Spanish relating to the development, health, and safety of a child from birth until age five, including information relating to:

(A) selection of and interaction with a primary health care practitioner and establishment of a "medical home" for the child;

(B) dental care;

(C) effective parenting;

(D) child safety;

(E) the importance of reading to a child;

(F) expected developmental milestones;

(G) health care resources available in this state;

(H) selection of appropriate child care;

(I) other resources available in this state; and

(J) methods for contacting the commission to report the child's birth for the purpose of enrolling the newborn child in Medicaid; and

(2) a written notice developed by the commission informing the woman, father, or other caregiver that:

(A) the newborn child is automatically eligible for Medicaid; and

(B) the woman's Medicaid identification number may be used on reimbursement claims for services provided to the woman's newborn child until the child is enrolled in Medicaid and assigned a separate Medicaid identification number.

(b) A hospital, birthing center, physician, nurse midwife, or midwife may use the resource guide provided on the department's Internet website or an alternative guide that provides the information required by Subsection (a). (H&S Code, Secs. 161.501(a)(2), (b)(2).)

Source Law

(a) A hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant shall:

. . .

(2) if the woman is a recipient of medical assistance under Chapter 32, Human Resources Code, provide the woman and the father of the infant, if possible, or another adult caregiver with:

(A) a resource guide that includes information in both English and Spanish relating to the development, health, and safety of a child from birth until age five, including information relating to:

(i) selecting and interacting with a primary health care practitioner and establishing a "medical home" for the child;

(ii) dental care;

(iii) effective parenting;

(iv) child safety;

(v) the importance of reading to a child;

(vi) expected developmental milestones;

(vii) health care resources

available in the state;

(viii) selecting appropriate child care;

(ix) other resources available in the state; and

(x) how to contact the commission to report the child's birth for the purpose of enrolling the newborn child in Medicaid; and

(B) a written notice developed by the commission informing the woman, father, or other caregiver that the newborn child is automatically eligible for Medicaid and that the woman's Medicaid identification number may be used on reimbursement claims for services provided to the woman's newborn child until the child is enrolled in Medicaid and assigned a separate Medicaid identification number;

. . . .

(b) A hospital, birthing center, physician, nurse midwife, or midwife:

. . .

(2) may use the resource guide provided on the department's website or an alternative guide that provides the information required by Subsection (a)(2).

Revised Law

Sec. 32.204. DUTIES OF PROVIDERS. A hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or health care at delivery of an infant shall:

(1) document in the woman's record that the woman received:

(A) the resource pamphlet; and

(B) if applicable, the resource guide and the notice described in Section 32.203(a)(2); and

(2) retain the documentation for at least five years in the hospital's, birthing center's, physician's, nurse midwife's, or midwife's records. (H&S Code, Secs. 161.501(a)(3), (4).)

Source Law

(a) A hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant shall:

. . .

(3) document in the woman's record that the woman received the resource pamphlet described in Subdivision (1) and the resource guide and notice described in Subdivision (2), if applicable; and

(4) retain the documentation for at least five years in the hospital's, birthing center's, physician's, nurse midwife's, or midwife's records.

Revised Law

Sec. 32.205. DUTIES OF DEPARTMENT AND EXECUTIVE COMMISSIONER. (a) The department shall:

(1) establish guidelines for the provision of the information required by Sections 32.202 and 32.203;

(2) make available on the department's Internet website:

(A) a printable version of the resource pamphlet; and

(B) a printable version of the resource guide;

(3) quarterly update the list of resources and required immunizations in the printable version of the resource pamphlet;

(4) make the resource pamphlet and resource guide available for distribution to hospitals, birthing centers, physicians, nurse midwives, and midwives; and

(5) with other health and human services agencies, coordinate funding for the development, publication, and distribution of the resource pamphlet and resource guide and solicit funding for the department's duties under this subchapter through means other than appropriations, such as gifts, grants, and sales of sponsorship or advertising.

(b) The department may include additional information in the resource pamphlet or resource guide as appropriate for parents of newborns.

(c) The department may make available online and distribute as the resource guide an existing publication created by another health and human services agency.

(d) The executive commissioner shall develop specific performance measures by which the commission may evaluate the effectiveness of the resource guide in:

(1) reducing costs to this state; and

(2) improving outcomes for children. (H&S Code, Secs. 161.501(c), 161.502.)

Source Law

[Sec. 161.501]

(c) The department may make available online and distribute an existing publication created by another health and human services agency as the resource guide required by Subsection (a)(2).

Sec. 161.502. DUTIES OF DEPARTMENT, EXECUTIVE COMMISSIONER, AND COMMISSION. (a) The department shall:

(1) establish guidelines for the provision of the information required by Section 161.501;

(2) make available on the department's website:

(A) a printable version of the pamphlet required by Section 161.501(a)(1); and

(B) a printable version of the resource guide required by Section 161.501(a)(2);

(3) update the list of resources and required immunizations in the pamphlet required under Subdivision (2)(A) quarterly;

(4) make the pamphlet and resource guide required by Section 161.501 available for distribution to hospitals, physicians, birthing centers, nurse midwives, and midwives; and

(5) coordinate funding for the development, publication, and distribution of the informational pamphlet and resource guide with other health and human services agencies, and solicit funding for the department's duties under this subchapter through means other than appropriations, such as gifts, grants, and sales of sponsorship or advertising.

(b) The department may include additional information in the pamphlet or resource guide as appropriate for parents of newborns.

(c) The executive commissioner shall develop specific performance measures by which the commission may evaluate the effectiveness of the resource guide under Section 161.501(a)(2) in:

(1) reducing costs to the state; and

(2) improving outcomes for children.

Revisor's Note

(1) Section 161.502(a)(2), Health and Safety Code, refers to the "pamphlet required by Section 161.501(a)(1)." Sections 161.502(a)(3) and (4) and (b), Health and Safety Code, subsequently refer to "the pamphlet" in that section, and from the context, those references are clearly to the same pamphlet referenced in Subsection (a)(2) of that section. Section 32.201 of the revised law defines "resource pamphlet" as the pamphlet provided under Section 32.202(a), Health and Safety Code, which revises Section 161.501(a)(1). The revised law therefore

substitutes "resource pamphlet" for "pamphlet."

(2) Section 161.502(a)(5), Health and Safety Code, refers to the development, publication, and distribution of the "informational pamphlet." The revised subchapter does not include another reference to an "informational pamphlet." From the context, the "informational pamphlet" is clearly a reference to the "pamphlet required by Section 161.501(a)(1)" in Section 161.502(a)(2), Health and Safety Code. Section 32.201 of the revised law defines "resource pamphlet" as the pamphlet provided under Section 32.202(a), Health and Safety Code, which revises Section 161.501(a)(1). The revised law therefore substitutes "resource pamphlet" for "informational pamphlet."

Revised Law

Sec. 32.206. LIABILITY NOT CREATED. This subchapter does not create civil or criminal liability. (H&S Code, Sec. 161.503.)

Source Law

Sec. 161.503. LIABILITY NOT CREATED. This subchapter does not create civil or criminal liability.

CHAPTER 38. PERINATAL PALLIATIVE CARE

Revised Law

Sec. 38.001. PURPOSE OF CHAPTER. The purpose of this chapter is to ensure a pregnant woman whose unborn child is diagnosed with a life-threatening or life-limiting illness or medical condition is informed of the availability of perinatal palliative care. (H&S Code, Sec. 161.751.)

Source Law

Sec. 161.751. PURPOSE OF SUBCHAPTER. The purpose of this subchapter is to ensure a pregnant woman whose unborn child is diagnosed with a life-threatening or life-limiting illness or medical condition is informed of the availability of perinatal palliative care.

Revised Law

Sec. 38.002. DEFINITIONS. In this chapter:

(1) "Health care provider" has the meaning assigned by Section 34.001.

(2) "Perinatal palliative care" means the provision of comprehensive, supportive care, from diagnosis of an unborn child's life-threatening or life-limiting illness or medical condition through the duration of the perinatal period and possible death as a result of the illness or condition, to reduce the suffering of a woman who is pregnant or delivers the child, her unborn child or infant, and her family. The care may be provided concurrently with methods of treatment or therapies that seek to cure or minimize the effects of the illness or condition. The term:

(A) includes medical, social, and mental health care, including counseling regarding treatment options, education, informed consent, and expression of desires, and health care provided by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, specialty nurses, clergy, social workers, and other individuals focused on alleviating fear and pain and ensuring the woman, her unborn child or infant, and her family experience a supportive environment; and

(B) does not include an act or omission intended to cause or hasten an unborn child's death.

(3) "Perinatal period" means the period beginning at conception and ending on an infant's first birthday. (H&S Code, Sec. 161.752.)

Source Law

Sec. 161.752. DEFINITIONS. In this subchapter:

(1) "Health care provider" has the meaning assigned by Section 34.001.

(2) "Perinatal palliative care" means the provision of comprehensive, supportive care to reduce the suffering of a woman who is pregnant or delivers a child, her unborn child or infant, and her family, from diagnosis of the unborn child's life-threatening or life-limiting illness or medical condition through the duration of the perinatal period and possible death as a result of the illness or condition. The care may be provided concurrently with methods of treatment or therapies that seek to cure or minimize the effects of the illness or condition. The term:

(A) includes medical, social, and mental health care, including counseling regarding treatment options, education, informed consent, and

expression of desires, and health care provided by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, specialty nurses, clergy, social workers, and other individuals focused on alleviating fear and pain and ensuring the woman, her unborn child or infant, and her family experience a supportive environment; and

(B) does not include an act or omission intended to cause or hasten an unborn child's death.

(3) "Perinatal period" means the period beginning at conception and ending on an infant's first birthday.

Revised Law

Sec. 38.003. PERINATAL PALLIATIVE CARE INFORMATIONAL MATERIALS. (a) The commission, in collaboration with the department and the Palliative Care Interdisciplinary Advisory Council established under Chapter 118, shall develop perinatal palliative care informational materials and post the materials on the commission's Internet website. The materials must include:

(1) a description of the health care and other services available through perinatal palliative care; and

(2) information about medical assistance benefits that may be available for prenatal care, childbirth, and perinatal palliative care.

(b) The commission shall develop, regularly update, and publish a geographically indexed list of perinatal palliative care providers and programs in this state. The list must include the name, physical address, and phone number of each provider or program.

(c) The commission may include in the list described by Subsection (b) perinatal palliative care providers and programs in other states that provide care to residents of this state but may not include an abortion provider, as defined by Section 171.002, or an affiliate, as defined by Section 2273.001, Government Code, of an abortion provider unless the provider or affiliate performs abortions only during a medical emergency as defined by Section 171.002.

(d) The commission shall post on the commission's Internet website the list of perinatal palliative care providers and

programs, including the contact information, and note the providers and programs that provide services free of charge. (H&S Code, Sec. 161.753.)

Source Law

> Sec. 161.753. PERINATAL PALLIATIVE CARE INFORMATIONAL MATERIALS. (a) The commission, in collaboration with the department and the Palliative Care Interdisciplinary Advisory Council established under Chapter 118, shall develop perinatal palliative care informational materials and post the materials on the commission's Internet website. The materials must include:
>
> (1) a description of the health care and other services available through perinatal palliative care; and
>
> (2) information about medical assistance benefits that may be available for prenatal care, childbirth, and perinatal palliative care.
>
> (b) The commission shall develop, regularly update, and publish a geographically indexed list of perinatal palliative care providers and programs in this state. The list must include the name, physical address, and phone number of each provider or program. The commission may include perinatal palliative care providers and programs in other states that provide care to residents of this state but may not include an abortion provider, as defined by Section 171.002, or an affiliate, as defined by Section 2273.001, Government Code, of an abortion provider unless the provider or affiliate performs abortions only during a medical emergency as defined by Section 171.002.
>
> (c) The commission shall post on the commission's Internet website the list of perinatal palliative care providers and programs, including the contact information, and note the providers and programs that provide services free of charge.

Revised Law

Sec. 38.004. PERINATAL PALLIATIVE CARE CERTIFICATION FORM. The commission, in collaboration with the department, shall develop a form on which a pregnant woman certifies she received the perinatal palliative care informational materials and list of the perinatal palliative care providers and programs described by Section 38.003. (H&S Code, Sec. 161.754.)

Source Law

> Sec. 161.754. PERINATAL PALLIATIVE CARE CERTIFICATION FORM. The commission, in collaboration with the department, shall develop a form on which a pregnant woman certifies she received the perinatal palliative care informational materials and list of the perinatal palliative care providers and programs described by Section 161.753.

Revised Law

Sec. 38.005. HEALTH CARE PROVIDER DUTIES ON DIAGNOSIS OF UNBORN CHILD'S LIFE-THREATENING OR LIFE-LIMITING ILLNESS OR MEDICAL CONDITION. (a) A health care provider who diagnoses a pregnant woman's unborn child as having a life-threatening or life-limiting illness or medical condition shall, at the time of the diagnosis:

(1) provide the pregnant woman with a written copy of:

(A) the perinatal palliative care informational materials and list of the perinatal palliative care providers and programs described by Section 38.003; and

(B) the perinatal palliative care certification form described by Section 38.004; and

(2) obtain from the pregnant woman the signed perinatal palliative care certification form and place the form in the pregnant woman's medical records.

(b) A health care provider is not required to provide the perinatal palliative care informational materials or perinatal palliative care certification form under this chapter if the health care provider verifies the pregnant woman's medical record contains a signed perinatal palliative care certification form for that pregnancy as required under Subsection (a)(2). (H&S Code, Secs. 161.755, 161.756.)

Source Law

Sec. 161.755. HEALTH CARE PROVIDER DUTIES ON DIAGNOSIS OF UNBORN CHILD'S LIFE-THREATENING OR LIFE-LIMITING ILLNESS OR MEDICAL CONDITION. A health care provider who diagnoses a pregnant woman's unborn child as having a life-threatening or life-limiting illness or medical condition shall, at the time of the diagnosis:

(1) provide the pregnant woman with a written copy of:

(A) the perinatal palliative care informational materials and list of the perinatal palliative care providers and programs described by Section 161.753; and

(B) the perinatal palliative care certification form described by Section 161.754; and

(2) obtain from the pregnant woman the signed perinatal palliative care certification form and place the form in the pregnant woman's medical records.

Sec. 161.756. EXCEPTION. A health care provider is not required to provide the perinatal palliative care informational materials or perinatal palliative care certification form under this subchapter if the health care provider verifies the pregnant woman's medical record contains a signed perinatal palliative care certification form for that pregnancy as required under Section 161.755(2).

Revised Law

Sec. 38.006. COMPLAINTS; DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY. (a) If a health care provider fails to provide to a pregnant woman the perinatal palliative care informational materials as required by Section 38.005(a), the woman may submit a complaint to the commission in the form and manner the commission prescribes.

(b) A health care provider who violates Section 38.005(a) is subject to disciplinary action by the state licensing agency that regulates the provider. On determining the provider committed a violation, the agency shall:

(1) for an initial violation, issue a written warning to the provider; and

(2) for each subsequent violation, impose on the provider an administrative penalty in the amount of $1,000. (H&S Code, Sec. 161.757.)

Source Law

Sec. 161.757. COMPLAINTS; DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY. (a) If a health care provider fails to provide to a pregnant woman the perinatal palliative care informational materials as required by Section 161.755, the woman may submit a complaint to the commission in the form and manner the commission prescribes.

(b) A health care provider who violates Section 161.755 is subject to disciplinary action by the state licensing agency that regulates the provider. On determining the provider committed a violation, the agency shall:

(1) for an initial violation, issue a written warning to the provider; and

(2) for each subsequent violation, impose on the provider an administrative penalty in the amount of $1,000.

CHAPTER 90. EPIDEMIOLOGIC OR TOXICOLOGIC INVESTIGATIONS

Revised Law

Sec. 90.001. EPIDEMIOLOGIC OR TOXICOLOGIC INVESTIGATIONS; LIABILITY. (a) Under its duty to protect the public health, the

department shall conduct epidemiologic or toxicologic investigations of human illnesses or conditions and of environmental exposures that are harmful or believed to be harmful to the public health.

(b) The department may conduct those investigations to determine the nature and extent of the disease or environmental exposure believed to be harmful to the public health. The department shall report in writing to the Texas Commission on Environmental Quality any findings or determinations from the investigations that relate to environmental exposures believed to be harmful to the public, and the two agencies shall coordinate corrective measures as appropriate. The department shall use generally accepted methods of epidemiology or toxicology in conducting an investigation.

(c) A person shall provide medical, demographic, epidemiologic, toxicologic, or environmental information to the department as described by Section 81.061(c).

(d) A person is not liable for damages or other relief for providing medical or other confidential information to the department during an epidemiologic or toxicologic investigation. (H&S Code, Sec. 161.0211.)

Source Law

> Sec. 161.0211. EPIDEMIOLOGIC OR TOXICOLOGIC INVESTIGATIONS. (a) Under its duty to protect the public health, the department shall conduct epidemiologic or toxicologic investigations of human illnesses or conditions and of environmental exposures that are harmful or believed to be harmful to the public health.
>
> (b) The department may conduct those investigations to determine the nature and extent of the disease or environmental exposure believed to be harmful to the public health. Any findings or determinations from such investigations that relate to environmental exposures believed to be harmful to the public shall be reported in writing to the Texas Commission on Environmental Quality, and the two agencies shall coordinate corrective measures as appropriate. The department shall use generally accepted methods of epidemiology or toxicology in the conduct of an investigation.
>
> (c) A person shall provide medical, demographic, epidemiologic, toxicologic, or environmental information to the department as described by Section 81.061(c).

(d) A person is not liable for damages or other relief for providing medical or other confidential information to the department during an epidemiologic or toxicologic investigation.

Revised Law

Sec. 90.002. RIGHT OF ENTRY. To conduct an epidemiologic or toxicologic investigation, the commissioner or the commissioner's designee has the same authority to investigate, sample, inspect, and enter as described by Sections 81.061, 81.063, 81.064, and 81.065. (H&S Code, Sec. 161.0212.)

Source Law

Sec. 161.0212. RIGHT OF ENTRY. To conduct an epidemiologic or toxicologic investigation, the commissioner or the commissioner's designee has the same authority to investigate, sample, inspect, and enter as that described by Sections 81.061, 81.063, 81.064, and 81.065.

Revised Law

Sec. 90.003. CONFIDENTIALITY. Reports, records, and information furnished to the commissioner, the commissioner's designee, or the Texas Commission on Environmental Quality related to an epidemiologic or toxicologic investigation of human illnesses or conditions and of environmental exposures that are harmful or believed to be harmful to the public health:

(1) are not public information under Chapter 552, Government Code; and

(2) are subject to the same confidentiality requirements as described by Section 81.046. (H&S Code, Sec. 161.0213.)

Source Law

Sec. 161.0213. CONFIDENTIALITY. Reports, records, and information furnished to the commissioner or the commissioner's designee or the Texas Commission on Environmental Quality that relate to an epidemiologic or toxicologic investigation of human illnesses or conditions and of environmental exposures that are harmful or believed to be harmful to the public health are not public information under Chapter 552, Government Code, and are subject to the same confidentiality requirements as described by Section 81.046.

CHAPTER 111. MEDICAL COMMITTEES, MEDICAL PEER REVIEW COMMITTEES, AND COMPLIANCE OFFICERS

Revised Law

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Medical committee" includes:

(A) any committee, including a joint committee, of:

(i) a hospital;

(ii) a medical organization;

(iii) a university medical school or health science center;

(iv) a health maintenance organization licensed under Chapter 843, Insurance Code, including an independent practice association or other physician association with a committee or joint committee that is a condition of contract with the health maintenance organization;

(v) an extended care facility;

(vi) a hospital district; or

(vii) a hospital authority;

(B) a committee appointed ad hoc to conduct a specific investigation or established under state or federal law or rule or under the bylaws or rules of the organization or institution; and

(C) a committee, including a joint committee, of one or more health care systems if each health care system includes one or more of the entities listed in Paragraph (A).

(2) "Medical peer review committee" has the meaning assigned by Section 151.002, Occupations Code. (H&S Code, Secs. 161.031, 161.0315(a) (part), 161.032(b)(1) (part).)

Source Law

Sec. 161.031. MEDICAL COMMITTEE DEFINED. (a) In this subchapter, "medical committee" includes any committee, including a joint committee, of:

(1) a hospital;

(2) a medical organization;

(3) a university medical school or health science center;

(4) a health maintenance organization licensed under Chapter 843, Insurance Code, including an independent practice association or other physician association whose committee or joint committee is a condition of contract with the health maintenance organization;

(5) an extended care facility;

(6) a hospital district; or

(7) a hospital authority.

(b) The term includes a committee appointed ad hoc to conduct a specific investigation or established under state or federal law or rule or under the bylaws or rules of the organization or institution.

(c) The term includes a committee, including a joint committee, of one or more health care systems if each health care system includes one or more of the entities listed in Subsection (a).

[161.0315]

(a) [The governing body of a hospital, . . . may form a] medical peer review committee, as defined by Section 151.002, Occupations Code, or . . . .

[161.032]

(b) [Notwithstanding Section 551.002, Government Code, the following proceedings may be held in a closed meeting. . . :

[(1) a proceeding of a] medical peer review committee, as defined by Section 151.002, Occupations Code, or . . . .

Revisor's Note

Sections 161.0315(a) and 161.032(b)(1), Health and Safety Code, refer to "medical peer review committee, as defined by Section 151.002, Occupations Code." The revised law applies the definition of "medical peer review committee" to the revised chapter and adds it to the chapter definitions section for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 111.002. GOVERNING BODY AUTHORITY TO FORM COMMITTEE TO EVALUATE MEDICAL AND HEALTH CARE SERVICES. The governing body of a hospital, medical organization, university medical school or health science center, health maintenance organization, extended care facility, hospital district, or hospital authority may form a medical committee or a medical peer review committee to evaluate medical and health care services, except as provided by this chapter. (H&S Code, Sec. 161.0315(a) (part).)

Source Law

Sec. 161.0315. AUTHORITY OF GOVERNING BODY TO FORM COMMITTEE TO EVALUATE MEDICAL AND HEALTH CARE SERVICES. (a) The governing body of a hospital, medical organization, university medical school or health science center, health maintenance organization, extended care facility, hospital district, or hospital authority may form a medical peer review committee, . . . or a medical committee, as defined by Section 161.031, to evaluate medical and health care services, except as provided by this section.

Revisor's Note

Section 161.0315(a), Health and Safety Code, refers to a medical committee "as defined by Section 161.031" of that code. The revised law omits the quoted language as unnecessary. Section 161.031, Health and Safety Code, revised as Section 111.001 of that code, defines "medical committee" and applies by its own terms to this section.

Revised Law

Sec. 111.003. COMMITTEE FORMED BY HOSPITAL DISTRICT. (a) Except as provided by Subsection (c), a medical committee or medical peer review committee formed by the governing body of a hospital district may not evaluate medical and health care services provided by a health care facility that:

(1) contracts with the district to provide those services; and

(2) has formed a medical committee or medical peer review committee to evaluate the services provided by the facility.

(b) A hospital district may require in a contract with a health care facility described by Subsection (a) a provision that allows the governing body of the district to appoint a specified number of members to the facility's medical committee or medical peer review committee to evaluate medical and health care services for which the district contracts with the facility to provide. The governing body of a hospital district may receive in a closed meeting a report from the facility's medical committee or medical peer review committee under this section. A report, information,

or a record the district receives from the facility related to a review action conducted under the terms of the contract is:

(1) confidential;

(2) not subject to disclosure under Chapter 552, Government Code; and

(3) subject to the same confidentiality and disclosure requirements as a report, information, or record of a medical peer review committee under Section 160.007, Occupations Code.

(c) If a hospital district and a health care facility described by Subsection (a) do not agree on a contract provision described by Subsection (b), the district has, with respect to a review action for the evaluation of medical and health care services provided by the facility under a contract with the district, a right to:

(1) initiate the review action;

(2) appoint from the facility's medical staff a number of members to the facility's medical committee or medical peer review committee equal to the number of members the facility appoints to the committee to conduct the review action, without regard to whether the district initiates the action; and

(3) receive records, information, or reports from the medical committee or medical peer review committee related to the review action.

(d) The governing body of a hospital district may receive a report under Subsection (c)(3) in a closed meeting. A report, information, or record the district receives under Subsection (c)(3) is:

(1) confidential;

(2) not subject to disclosure under Chapter 552, Government Code; and

(3) subject to the same confidentiality and disclosure requirements as a report, information, or record of a medical peer review committee under Section 160.007, Occupations Code.

(e) A medical committee or medical peer review committee

formed by the governing body of a hospital district may compile a report, information, or record of the medical and health care services provided by a health care facility described by Subsection (a) and submit the compilation to the facility's medical committee or medical peer review committee. A report, information, or record compiled under this subsection is:

(1) confidential;

(2) not subject to disclosure under Chapter 552, Government Code; and

(3) subject to the same confidentiality and disclosure requirements as a report, information, or record of a medical peer review committee under Section 160.007, Occupations Code. (H&S Code, Secs. 161.0315(b), (c), (d), (e), (f).)

Source Law

> (b) Except as provided by Subsection (d), a medical peer review committee or medical committee formed by the governing body of a hospital district may not evaluate medical and health care services provided by a health care facility that:
>
> (1) contracts with the district to provide those services; and
>
> (2) has formed a medical peer review committee or medical committee to evaluate the services provided by the facility.
>
> (c) A hospital district may require in a contract with a health care facility described by Subsection (b) a provision that allows the governing body of the district to appoint a specified number of members to the facility's medical peer review committee or medical committee to evaluate medical and health care services for which the district contracts with the facility to provide. The governing body of a hospital district may receive a report from the facility's medical peer review committee or medical committee under this section in a closed meeting. A report, information, or a record that the district receives from the facility related to a review action conducted under the terms of the contract is:
>
> (1) confidential;
>
> (2) not subject to disclosure under Chapter 552, Government Code; and
>
> (3) subject to the same confidentiality and disclosure requirements to which a report, information, or record of a medical peer review committee under Section 160.007, Occupations Code, is subject.
>
> (d) If a hospital district and a health care facility described by Subsection (b) do not agree on a contract provision described by Subsection (c), the hospital district has, with respect to a review action for the evaluation of medical and health care services provided by the facility under a contract with the district, a right to:

(1) initiate the review action;

(2) appoint from the medical staff of the facility a number of members to the facility's medical peer review committee or medical committee equal to the number of members appointed to the committee by the facility to conduct the review action, without regard to whether the district initiates the action; and

(3) receive records, information, or reports from the medical peer review committee or medical committee related to the review action.

(e) The governing body of a hospital district may receive a report under Subsection (d)(3) in a closed meeting. A report, information, or a record that the hospital district receives under Subsection (d)(3) is:

(1) confidential;

(2) not subject to disclosure under Chapter 552, Government Code; and

(3) subject to the same confidentiality and disclosure requirements to which a report, information, or record of a medical peer review committee under Section 160.007, Occupations Code, is subject.

(f) A medical peer review committee or medical committee formed by the governing body of a hospital district may compile a report, information, or record of the medical and health care services provided by a health care facility described by Subsection (b) and submit the compilation to the facility's medical peer review committee or medical committee. A report, information, or record compiled under this subsection is:

(1) confidential;

(2) not subject to disclosure under Chapter 552, Government Code; and

(3) subject to the same confidentiality and disclosure requirements to which a report, information, or record of a medical peer review committee under Section 160.007, Occupations Code, is subject.

Revised Law

Sec. 111.004. CONFIDENTIAL RECORDS AND PROCEEDINGS; EXCEPTIONS. (a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena.

(b) Notwithstanding Section 551.002, Government Code, the following proceedings may be held in a closed meeting following the procedures prescribed by Subchapter E, Chapter 551, Government Code:

(1) a proceeding of a medical committee or medical peer review committee; or

(2) a meeting of the governing body of a public hospital, hospital district, hospital authority, or health maintenance organization of a public hospital, hospital authority, hospital district, or state-owned teaching hospital at which the

governing body receives records, information, or reports provided by a medical committee, medical peer review committee, or compliance officer.

(c) Records, information, or reports of a medical committee, medical peer review committee, or compliance officer and records, information, or reports provided by a medical committee, medical peer review committee, or compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under Chapter 552, Government Code.

(d) The records and proceedings may be used by the committee and the committee members only in the exercise of proper committee functions.

(e) The records, information, and reports received or maintained by a compliance officer retain the protection provided by this section only if the records, information, or reports are received, created, or maintained in the exercise of a proper function of the compliance officer as provided by the Office of Inspector General of the United States Department of Health and Human Services.

(f) This section and Subchapter A, Chapter 160, Occupations Code, do not apply to records made or maintained in the regular course of business by a hospital, health maintenance organization, medical organization, university medical center or health science center, hospital district, hospital authority, or extended care facility.

(g) Notwithstanding any other provision of this section, the records of a medical committee of a university medical school or a health science center, including a joint committee, may be disclosed to the extent required under federal law as a condition on the receipt of federal money. (H&S Code, Secs. 161.032(a), (b) (part), (c), (d), (e), (f), (g).)

Source Law

Sec. 161.032. RECORDS AND PROCEEDINGS

CONFIDENTIAL. (a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena.

(b) Notwithstanding Section 551.002, Government Code, the following proceedings may be held in a closed meeting following the procedures prescribed by Subchapter E, Chapter 551, Government Code:

(1) a proceeding of a medical peer review committee, . . . or medical committee; or

(2) a meeting of the governing body of a public hospital, hospital district, hospital authority, or health maintenance organization of a public hospital, hospital authority, hospital district, or state-owned teaching hospital at which the governing body receives records, information, or reports provided by a medical committee, medical peer review committee, or compliance officer.

(c) Records, information, or reports of a medical committee, medical peer review committee, or compliance officer and records, information, or reports provided by a medical committee, medical peer review committee, or compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under Chapter 552, Government Code.

(d) The records and proceedings may be used by the committee and the committee members only in the exercise of proper committee functions.

(e) The records, information, and reports received or maintained by a compliance officer retain the protection provided by this section only if the records, information, or reports are received, created, or maintained in the exercise of a proper function of the compliance officer as provided by the Office of Inspector General of the United States Department of Health and Human Services.

(f) This section and Subchapter A, Chapter 160, Occupations Code, do not apply to records made or maintained in the regular course of business by a hospital, health maintenance organization, medical organization, university medical center or health science center, hospital district, hospital authority, or extended care facility.

(g) Notwithstanding any other provision of this section, the records of a medical committee of a university medical school or a health science center, including a joint committee, may be disclosed to the extent required under federal law as a condition on the receipt of federal money.

Revised Law

Sec. 111.005. IMMUNITY FOR COMMITTEE MEMBERS. A member of a medical committee is not liable for damages to a person for an action taken or recommendation made within the scope of committee functions if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to the committee member. (H&S Code, Sec. 161.033.)

Source Law

Sec. 161.033. IMMUNITY FOR COMMITTEE MEMBERS. A member of a medical committee is not

liable for damages to a person for an action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to the committee member.

CHAPTER 162A. HUMAN MILK BANKS

Revised Law

Sec. 162A.001. MINIMUM GUIDELINES FOR HUMAN DONOR MILK BANKS. The department shall establish minimum guidelines for the procurement, processing, distribution, or use of human milk by donor milk banks. (H&S Code, Sec. 161.071.)

Source Law

Sec. 161.071. MINIMUM GUIDELINES FOR HUMAN DONOR MILK BANKS. The department shall establish minimum guidelines for the procurement, processing, distribution, or use of human milk by donor milk banks.

CHAPTER 175. PROVISION OF CERTAIN HEALTH CONDITION INFORMATION

SUBCHAPTER A. MORBIDITY, MORTALITY, OR IMMUNIZATION INFORMATION

Revised Law

Sec. 175.001. AUTHORITY TO DISCLOSE INFORMATION; USE OF INFORMATION; LIABILITY. (a) Unless prohibited by other law, a person, including a hospital, sanitorium, nursing facility, rest home, medical society, cancer registry, or other organization, may disclose interviews, reports, statements, memoranda, or other information relating to the condition and treatment of any individual, to be used in a study to reduce morbidity or mortality or to identify individuals who may need immunization, to:

(1) the department;

(2) a person who makes inquiries under immunization surveys conducted for the department;

(3) a medical organization;

(4) a hospital;

(5) a hospital committee; or

(6) a cancer registry, including a cancer registry of a cancer treatment center.

(b) A person is not liable for damages or other relief for:

(1) disclosing the information;

(2) releasing or publishing the findings or conclusions to advance medical research or medical education; or

(3) releasing or publishing a general summary of those studies. (H&S Code, Sec. 161.021.)

Source Law

Sec. 161.021. AUTHORIZATION TO PROVIDE INFORMATION; USE OF INFORMATION; LIABILITY. (a) Unless prohibited by other law, a person, including a hospital, sanatorium, nursing facility, rest home, medical society, cancer registry, or other organization, may provide interviews, reports, statements, memoranda, or other information relating to the condition and treatment of any person, to be used in a study to reduce morbidity or mortality or to identify persons who may need immunization, to:

(1) the department;

(2) a person that makes inquiries under immunization surveys conducted for the department;

(3) a medical organization;

(4) a hospital;

(5) a hospital committee; or

(6) a cancer registry, including a cancer registry of a cancer treatment center.

(b) A person is not liable for damages or other relief for:

(1) providing the information;

(2) releasing or publishing the findings or conclusions to advance medical research or medical education; or

(3) releasing or publishing a general summary of those studies.

Revisor's Note

(1) Section 161.021(a), Health and Safety Code, refers to a "person" whose information relating to their condition or treatment is being used in a study. Throughout this chapter, the revised law substitutes "individual" for "person" for clarity and consistency where the context clearly references a natural person and not an entity described by the definition of "person" provided by Section 311.005(2), Government Code (Code Construction Act).

(2) Section 161.021, Health and Safety Code, limits the authority to "provide" certain information. The revised law substitutes "disclose" for "provide" for consistency in terminology and because the terms are synonymous in context.

Revised Law

Sec. 175.002. USE AND PUBLICATION RESTRICTIONS; CONFIDENTIALITY; PRIVILEGE. (a) The department, a medical organization, a hospital, a hospital committee, or a cancer registry may use or publish information under Section 175.001 only to advance medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of the studies may be released by those persons for general publication.

(b) The identity of an individual whose condition or treatment has been studied is confidential and may not be disclosed except in immunization surveys conducted for the department to identify individuals who need immunization.

(c) Interviews, reports, statements, memoranda, and other information, other than immunization information, provided under this subchapter and any findings or conclusions resulting from the study of that information, are privileged. (H&S Code, Sec. 161.022.)

Source Law

Sec. 161.022. USE AND PUBLICATION RESTRICTIONS; CONFIDENTIALITY. (a) The department, a medical organization, a hospital, a hospital committee, or a cancer registry may use or publish information under Section 161.021 only to advance medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of the studies may be released by those persons for general publication.

(b) The identity of a person whose condition or treatment has been studied is confidential and may not be revealed except in immunization surveys conducted for the department to identify persons who need immunization.

(c) Interviews, reports, statements, memoranda, and other information, other than immunization information, furnished under this chapter and any findings or conclusions resulting from the study of that information, are privileged.

Revisor's Note

(1) Section 161.022(b), Health and Safety Code, provides that an individual's identity is confidential and may not be "revealed." The revised law substitutes "disclosed" for "revealed" for consistency in terminology and because the terms are synonymous in

context.

(2) Section 161.022(c), Health and Safety Code, provides that certain information "furnished" under this chapter is privileged. Throughout this chapter, the revised law substitutes "provided" for "furnished" and "providing" for "furnishing" because, in this context, the terms are synonymous and "provide" is more commonly used in the Health and Safety Code.

(3) Section 161.022(c), Health and Safety Code, provides that interviews, reports, statements, memoranda, and other information, other than immunization information, furnished "under this chapter" and any findings or conclusions resulting from the study of that information are privileged. The revised law substitutes "subchapter" for "chapter" because it is clear from the context that the word "chapter" is a drafting error and the information referred to in Section 161.022(c), Health and Safety Code, is information used as part of a study conducted under Subchapter C, Chapter 161, Health and Safety Code. The provisions of Subchapter C, Chapter 161, Health and Safety Code, related to the conduct of those studies are revised as this subchapter.

Revised Law

Sec. 175.003. NO LIABILITY FOR REPORTS TO MEDICAL COMMITTEE. (a) This section applies to:

(1) a physician, hospital, medical organization, university health science center, or university medical school or an officer or employee of that person or entity; and

(2) a health maintenance organization or an officer, employee, or agent of the health maintenance organization, including an independent practice association or other physician association contracting with the health maintenance organization.

(b) A person or entity covered by this section is not liable

for damages to any person for providing information, reports, or records to a medical committee relating to a patient:

(1) examined or treated by the physician; or

(2) treated or confined in:

(A) the hospital;

(B) a clinic or facility staffed or operated by a university health science center or university medical school; or

(C) a hospital, clinic, or facility staffed, operated, or used by a health maintenance organization. (H&S Code, Sec. 161.023.)

Source Law

Sec. 161.023. NO LIABILITY FOR REPORTS TO MEDICAL COMMITTEE. (a) This section applies to:

(1) a physician, hospital, medical organization, university health science center, university medical school, or an officer or employee of that person or entity; and

(2) a health maintenance organization or an officer, employee, or agent of the health maintenance organization, including an independent practice association or other physician association contracting with the health maintenance organization.

(b) A person or entity covered by this section is not liable for damages to any person for furnishing information, reports, or records to a medical committee relating to a patient:

(1) examined or treated by the physician; or

(2) treated or confined in:

(A) the hospital;

(B) a clinic or facility staffed or operated by a university health science center or university medical school; or

(C) a hospital, clinic, or facility staffed, operated, or used by a health maintenance organization.

Revised Law

Sec. 175.004. APPLICATION TO HEALTH MAINTENANCE ORGANIZATION. This subchapter does not apply to a function of a health maintenance organization other than medical peer review and quality assurance conducted under Chapter 843, Insurance Code, the rules adopted under that chapter, or other applicable state and federal statutes and rules. (H&S Code, Sec. 161.024.)

Source Law

Sec. 161.024. APPLICATION TO HEALTH MAINTENANCE ORGANIZATION. This subchapter does not apply to a function of a health maintenance organization other

than medical peer review and quality assurance conducted under Chapter 843, Insurance Code, the rules adopted under that chapter, or other applicable state and federal statutes and rules.

Revisor's Note

Section 161.024, Health and Safety Code, refers to the application of Subchapter C, Chapter 161, Health and Safety Code, to certain functions of a health maintenance organization. The relevant portions of that subchapter relating to the functions of a health maintenance organization are revised as Subchapter A, Chapter 175, Health and Safety Code, and the revised law is drafted accordingly.

SUBCHAPTER B. DOWN SYNDROME INFORMATION

Revised Law

Sec. 175.051. DEFINITIONS. In this subchapter:

(1) "Down syndrome" means a chromosomal condition caused by the presence of an extra whole or partial copy of chromosome 21.

(2) "Health care provider" has the meaning assigned by Section 34.001 and includes a genetic counselor. (H&S Code, Sec. 161.651.)

Source Law

Sec. 161.651. DEFINITIONS. In this subchapter:
(1) "Down syndrome" means a chromosomal condition caused by the presence of an extra whole or partial copy of chromosome 21.
(2) "Health care provider" has the meaning assigned by Section 34.001 and includes a genetic counselor.

Revised Law

Sec. 175.052. DOWN SYNDROME INFORMATION. (a) The department shall make available Down syndrome information, including:

(1) information addressing physical, developmental, educational, and psychosocial outcomes, life expectancy, clinical course, and intellectual and functional development for individuals with Down syndrome;

(2) information regarding available treatment options

for individuals with Down syndrome;

(3) contact information for:

(A) national and local Down syndrome education and support programs, services, and organizations, including organizations in Houston, Dallas, San Antonio, and Austin; and

(B) information hotlines, resource centers, and clearinghouses; and

(4) any other information the department requires.

(b) The information described by Subsection (a) must be:

(1) current, evidence-based information that:

(A) has been reviewed by medical experts and local Down syndrome organizations; and

(B) does not explicitly or implicitly present pregnancy termination as an option when a prenatal test indicates that the unborn child has Down syndrome; and

(2) published in English and Spanish.

(c) The department shall make the information described by Subsection (a) available on the department's Internet website in an easily printable format. The department may provide the information in writing to health care providers if the department determines that providing written information is cost-effective. (H&S Code, Sec. 161.652.)

Source Law

Sec. 161.652. INFORMATION REGARDING DOWN SYNDROME. (a) The department shall make available information regarding Down syndrome that includes:

(1) information addressing physical, developmental, educational, and psychosocial outcomes, life expectancy, clinical course, and intellectual and functional development for individuals with Down syndrome;

(2) information regarding available treatment options for individuals with Down syndrome;

(3) contact information for national and local Down syndrome education and support programs, services, and organizations, including organizations in Houston, Dallas, San Antonio, and Austin, and information hotlines, resource centers, and clearinghouses; and

(4) any other information required by the department.

(b) The information described by Subsection (a) must be:

(1) current, evidence-based information

that:

(A) has been reviewed by medical experts and local Down syndrome organizations; and

(B) does not explicitly or implicitly present pregnancy termination as an option when a prenatal test indicates that the unborn child has Down syndrome; and

(2) published in English and Spanish.

(c) The department shall make the information described by Subsection (a) available on the department's Internet website in a format that may be easily printed. The department may provide the information described by Subsection (a) in writing to health care providers if the department determines that providing written information is cost-effective.

Revised Law

Sec. 175.053. DUTY OF HEALTH CARE PROVIDER. (a) A health care provider who administers or causes to be administered a test for Down syndrome or who initially diagnoses a child with Down syndrome shall provide the information described by Section 175.052 to:

(1) expectant parents who receive a prenatal test result indicating a probability or diagnosis that the unborn child has Down syndrome; or

(2) a parent of a child who receives:

(A) a test result indicating a probability or diagnosis that the child has Down syndrome; or

(B) a diagnosis of Down syndrome.

(b) In addition to providing the information described by Subsection (a), a health care provider may provide additional information about Down syndrome that:

(1) is current and evidence-based; and

(2) has been reviewed by medical experts and national Down syndrome organizations. (H&S Code, Secs. 161.653(a), (b).)

Source Law

Sec. 161.653. DUTY OF HEALTH CARE PROVIDER. (a) A health care provider who administers or causes to be administered a test for Down syndrome or who initially diagnoses a child with Down syndrome shall provide the information described by Section 161.652 to:

(1) expectant parents who receive a prenatal test result indicating a probability or diagnosis that the unborn child has Down syndrome; or

(2) a parent of a child who receives:

(A) a test result indicating a probability or diagnosis that the child has Down

syndrome; or

(B) a diagnosis of Down syndrome.

(b) In addition to providing the information described by Subsection (a), a health care provider may provide additional information about Down syndrome that is current and evidence-based and has been reviewed by medical experts and national Down syndrome organizations.

Revised Law

Sec. 175.054. PROVIDER LIABILITY NOT CREATED. (a) Notwithstanding any other law, Section 175.053 does not impose a standard of care or create an obligation or duty that provides a basis for a cause of action against a health care provider.

(b) A health care provider may not be held civilly or criminally liable for failing to provide information as required by Section 175.053(a). (H&S Code, Sec. 161.653(c).)

Source Law

(c) Notwithstanding any other law, this section does not impose a standard of care or create an obligation or duty that provides a basis for a cause of action against a health care provider. A health care provider may not be held civilly or criminally liable for failing to provide information as required by Subsection (a).

SUBCHAPTER C. INFORMATION ON IMPAIRED FERTILITY RISK FROM CANCER TREATMENTS

Revised Law

Sec. 175.101. NOTICE FOR CHILDREN RECEIVING CHEMOTHERAPY OR RADIATION. (a) A health care facility at which a child will begin receiving chemotherapy or radiation that may directly or indirectly cause impaired fertility must, before the treatment begins, notify the child's parents or legal guardians of the risk of impaired fertility from treatment.

(b) The department shall develop and make available a written notice for a health care facility to use for purposes of this section. (H&S Code, Sec. 161.681.)

Source Law

Sec. 161.681. NOTICE FOR CHILDREN RECEIVING CHEMOTHERAPY OR RADIATION. (a) A health care facility at which a child will begin receiving chemotherapy or radiation that may directly or indirectly cause impaired fertility must, before the treatment begins, notify the child's parents or legal guardians of the risk of impaired fertility from treatment.

(b) The department shall develop and make available a written notice for a health care facility to use for purposes of this section.

CHAPTER 176. REPORTS OF GUNSHOT WOUNDS AND CONTROLLED SUBSTANCE OVERDOSES

SUBCHAPTER A. GUNSHOT WOUND REPORTING

Revised Law

Sec. 176.001. MANDATORY GUNSHOT WOUND REPORTING. A physician who attends or treats, or who is requested to attend or treat, a bullet or gunshot wound, or the administrator, superintendent, or other person in charge of a hospital, sanitorium, or other institution in which a bullet or gunshot wound is attended or treated or in which the attention or treatment is requested, shall immediately report the case to the law enforcement authority of the municipality or county in which the physician practices or in which the institution is located. (H&S Code, Sec. 161.041.)

Source Law

Sec. 161.041. MANDATORY REPORTING OF GUNSHOT WOUNDS. A physician who attends or treats, or who is requested to attend or treat, a bullet or gunshot wound, or the administrator, superintendent, or other person in charge of a hospital, sanitorium, or other institution in which a bullet or gunshot wound is attended or treated or in which the attention or treatment is requested, shall report the case at once to the law enforcement authority of the municipality or county in which the physician practices or in which the institution is located.

SUBCHAPTER B. CONTROLLED SUBSTANCE OVERDOSE REPORTING

Revised Law

Sec. 176.051. MANDATORY CONTROLLED SUBSTANCE OVERDOSE REPORTING; LIABILITY. (a) This section applies only to an overdose of a controlled substance listed in Penalty Group 1 under Section 481.102 or a controlled substance listed in Penalty Group 1-B under Section 481.1022.

(b) A physician who attends or treats, or who is requested to attend or treat, a controlled substance overdose, or the administrator, superintendent, or other person in charge of a hospital, sanitorium, or other institution in which the overdose is

attended or treated or in which the attention or treatment is requested, shall immediately report the case to the department.

(c) A physician or other person who reports a controlled substance overdose under this section shall include in the report:

(1) information regarding the date of the overdose;

(2) the type of controlled substance used;

(3) the sex and approximate age of the individual attended or treated for the overdose or for whom treatment was sought;

(4) the symptoms associated with the overdose;

(5) the extent of treatment made necessary by the overdose; and

(6) the patient outcome.

(d) The physician or other person making the report under this section may provide other demographic information concerning the individual attended or treated or for whom treatment was sought but may not disclose the individual's name or address or any other information concerning the individual's identity.

(e) A hospital, sanitorium, or other institution that makes a report under this section is not subject to civil or criminal liability for damages arising out of the report. An individual who makes a good-faith report under this section is not subject to civil or criminal liability for damages arising out of the report. (H&S Code, Sec. 161.042.)

Source Law

Sec. 161.042. MANDATORY REPORTING OF CONTROLLED SUBSTANCE OVERDOSES. (a) A physician who attends or treats, or who is requested to attend or treat, an overdose of a controlled substance listed in Penalty Group 1 under Section 481.102 or a controlled substance listed in Penalty Group 1-B under Section 481.1022, or the administrator, superintendent, or other person in charge of a hospital, sanitorium, or other institution in which an overdose of a controlled substance listed in Penalty Group 1 under Section 481.102 or a controlled substance listed in Penalty Group 1-B under Section 481.1022 is attended or treated or in which the attention or treatment is requested, shall report the case at once to the department.

(b) A physician or other person who reports an overdose of a controlled substance under this section

shall include in the report information regarding the date of the overdose, the type of controlled substance used, the sex and approximate age of the person attended or treated for the overdose or for whom treatment was sought, the symptoms associated with the overdose, the extent of treatment made necessary by the overdose, and the patient outcome. The physician or other person making the report may provide other demographic information concerning the person attended or treated or for whom treatment was sought but may not disclose the person's name or address or any other information concerning the person's identity.

(c) A hospital, sanitorium, or other institution that makes a report under this section is not subject to civil or criminal liability for damages arising out of the report. An individual who makes a good-faith report under this section is not subject to civil or criminal liability for damages arising out of the report.

Revisor's Note

Section 161.042(b), Health and Safety Code, refers to a "person attended or treated." Throughout this chapter, the revised law substitutes "individual" for "person" for clarity and consistency where the context clearly references a natural person and not an entity described by the definition of "person" provided by Section 311.005(2), Government Code (Code Construction Act).

Revised Law

Sec. 176.052. INFORMATION REPOSITORY FOR CERTAIN CONTROLLED SUBSTANCE OVERDOSES. (a) The department shall maintain a central repository for the collection and analysis of information relating to incidents of a controlled substance overdose for which a physician or other person is required to report to the department under Section 176.051. The department may not include in the repository any information the physician or other person is precluded from reporting under that section.

(b) The department shall release statistical information contained in the central repository on the request of a medical professional or representative of a law enforcement agency. (H&S Code, Sec. 161.044.)

Source Law

Sec. 161.044. CONTROLLED SUBSTANCE OVERDOSE

INFORMATION REPOSITORY. (a) The department shall maintain a central repository for the collection and analysis of information relating to incidents of a controlled substance overdose for which a physician or other person is required to report to the department under Section 161.042. The department may not include in the repository any information the physician or other person is precluded from reporting under that section.

(b) The department shall release statistical information contained in the central repository on the request of a medical professional or representative of a law enforcement agency.

Revised Law

Sec. 176.053. MANDATORY CONTROLLED SUBSTANCE OVERDOSE REPORTING FOR PUBLIC SAFETY MAPPING; LIABILITY; CONFIDENTIALITY. (a) In this section:

(1) "Controlled substance" has the meaning assigned by Section 481.002.

(2) "Emergency medical services personnel" has the meaning assigned by Section 773.003.

(3) "Opioid antagonist" has the meaning assigned by Section 483.101.

(4) "Overdose" means an acute condition caused by abuse or misuse of a controlled substance evidenced by symptoms such as extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death.

(b) This section applies only to emergency medical services personnel operating within the geographical jurisdiction of a local health authority or law enforcement agency, as applicable, that has entered into a participation agreement for overdose mapping under Section 370.007, Local Government Code.

(c) A person to whom this section applies who responds to an overdose incident shall report information about the incident as soon as possible to the local health authority or law enforcement agency, as applicable, that has entered into the participation agreement under Section 370.007, Local Government Code. A person satisfies the requirements of this section by reporting information to either the appropriate local health authority or law enforcement agency.

(d) A report under this section must include, if possible:

(1) the date and time of the overdose incident;

(2) the approximate location of the overdose incident, using:

(A) an address;

(B) the latitude and longitude of the location; or

(C) the location data from a cellular device;

(3) whether an opioid antagonist was administered, and if so, the number of doses and the type of delivery; and

(4) whether the overdose was fatal or nonfatal.

(e) A person who reports information about an overdose incident under this section in good faith is not subject to civil or criminal liability for making the report.

(f) A law enforcement agency may use information received from a report under this section only for mapping overdose locations for public safety purposes.

(g) Information in a report described by this section is confidential and not subject to disclosure under Chapter 552, Government Code. (H&S Code, Sec. 161.045.)

Source Law

Sec. 161.045. MANDATORY REPORTING OF CONTROLLED SUBSTANCE OVERDOSES FOR PUBLIC SAFETY MAPPING. (a) In this section:

(1) "Controlled substance" has the meaning assigned by Section 481.002.

(2) "Emergency medical services personnel" has the meaning assigned by Section 773.003.

(3) "Opioid antagonist" has the meaning assigned by Section 483.101.

(4) "Overdose" means an acute condition caused by abuse or misuse of a controlled substance evidenced by symptoms such as extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death.

(b) This section applies only to emergency medical services personnel operating within the geographical jurisdiction of a local health authority or law enforcement agency, as applicable, that has entered into a participation agreement for overdose mapping under Section 370.007, Local Government Code.

(c) A person to whom this section applies who responds to an overdose incident shall report information about the incident as soon as possible to the local health authority or law enforcement agency,

as applicable, that has entered into the participation agreement under Section 370.007, Local Government Code. A person satisfies the requirements of this section by reporting information to either the appropriate local health authority or law enforcement agency.

(d) A report under this section must include, if possible:

(1) the date and time of the overdose incident;

(2) the approximate location of the overdose incident, using:

(A) an address;

(B) the latitude and longitude of the location; or

(C) the location data from a cellular device;

(3) whether an opioid antagonist was administered, and if so, the number of doses and the type of delivery; and

(4) whether the overdose was fatal or nonfatal.

(e) A person who reports information about an overdose incident under this section in good faith is not subject to civil or criminal liability for making the report.

(f) A law enforcement agency may use information received from a report under this section only for mapping overdose locations for public safety purposes.

(g) Information in a report described by this section is confidential and not subject to disclosure under Chapter 552, Government Code.

SUBCHAPTER C. ENFORCEMENT

Revised Law

Sec. 176.101. CRIMINAL PENALTY. (a) A person commits an offense if the person is required to report under this chapter and intentionally fails to report.

(b) An offense under this section is a misdemeanor punishable by:

(1) confinement in jail for not more than six months; or

(2) a fine of not more than $100. (H&S Code, Sec. 161.043.)

Source Law

Sec. 161.043. CRIMINAL PENALTY. (a) A person commits an offense if the person is required to report under this subchapter and intentionally fails to report.

(b) An offense under this section is a misdemeanor punishable by confinement in jail for not more than six months or by a fine of not more than $100.

CHAPTER 184. DISCLOSURE OF PAYMENT AGREEMENTS FOR LABORATORY TESTS

Revised Law

Sec. 184.001. LABORATORY INFORMATION REQUIRED. (a) A person licensed in this state to practice medicine, dentistry, podiatry, veterinary medicine, or chiropractic may not agree with a clinical, bioanalytical, or hospital laboratory to make payments to the laboratory for individual tests, combinations of tests, or test series for a patient unless the person:

(1) discloses on the bill or statement to the patient or to a third party payor the name and address of the laboratory and the net amount paid to or to be paid to the laboratory; or

(2) discloses in writing on request to the patient or third party payor the net payment amount.

(b) The disclosure permitted by Subsection (a)(2) must show the charge for the laboratory test or test series and may include an explanation, in net dollar amounts or percentages, of:

(1) the charge from the laboratory;

(2) the charge for handling; and

(3) an interpretation charge. (H&S Code, Sec. 161.061.)

Source Law

Sec. 161.061. LABORATORY INFORMATION REQUIRED. (a) A person licensed in this state to practice medicine, dentistry, podiatry, veterinary medicine, or chiropractic may not agree with a clinical, bioanalytical, or hospital laboratory to make payments to the laboratory for individual tests, combinations of tests, or test series for a patient unless:

(1) the person discloses on the bill or statement to the patient or to a third party payor the name and address of the laboratory and the net amount paid to or to be paid to the laboratory; or

(2) discloses in writing on request to the patient or third party payor the net amount.

(b) The disclosure permitted by Subsection (a)(2) must show the charge for the laboratory test or test series and may include an explanation, in net dollar amounts or percentages, of the charge from the laboratory, the charge for handling, and an interpretation charge.

Revised Law

Sec. 184.002. GROUNDS FOR LICENSE DENIAL. The agency responsible for licensing and regulating a person subject to this

chapter may, in addition to any other authority granted, deny a license application or other permission to practice if the person violates this chapter. (H&S Code, Sec. 161.062.)

Source Law

> Sec. 161.062. GROUNDS FOR LICENSE DENIAL. The agency responsible for licensing and regulating a person subject to this subchapter may, in addition to any other authority granted, deny a license application or other permission to practice if the person violates this subchapter.