

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

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§22-11A-60.

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

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

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

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

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

17 "~~(4)~~ (5) HUMAN IMMUNODEFICIENCY VIRUS (HIV)
18 INFECTION. The presence of antibodies to Human
19 Immunodeficiency Virus as determined by enzyme immunoassay and
20 Western Blot or the presence of the HIV infection as
21 determined by viral culture, or by other means as determined
22 by the State Board of Health.

23 "~~(5)~~ (6) INFECTED HEALTH CARE WORKER. A health care
24 worker infected with HIV, ~~or~~ HBV, HCV, or other disease
25 designated by the State Board of Health by a rule adopted

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

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

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

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

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

1 "§22-11A-61.

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

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

12 "§22-11A-62.

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

21 "§22-11A-63.

22 "(a) Upon notification of the existence of an
23 infected health care worker, the State Health Officer shall
24 undertake an investigation of the practice of the health care
25 worker. In the investigation, the State Health Officer shall

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

18 "(b) The expert review panel may include the
19 physician of the infected health care worker, and shall
20 include the following:

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

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

4 "(3) A public health physician appointed by the
5 State Health Officer.

6 "(4) Two representatives of the licensing board of
7 the infected health care worker, if licensed, and if the
8 health care worker's practice is institutionally based, a
9 representative of the affected institution appointed by the
10 institution.

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

13 "(c) The expert review panel formed pursuant to this
14 section shall review the overall practice and procedures
15 performed by the infected health care worker and shall
16 consider:

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

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

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

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

1 "(5) The presence of conditions such as dermatitis,
2 dementia, neuropathy, or other conditions that may increase
3 the risk of transmission.

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

7 "(d) The performance of invasive procedures alone
8 shall not present sufficient cause to limit the practice of
9 the infected health care worker. The health care worker is
10 entitled to be present at meetings of the expert review panel
11 and to present any information pertinent to the panel
12 deliberations. All meetings of the expert review panel shall
13 be held in executive session and shall not be open to the
14 public.

15 "(e) The expert review panel shall recommend to the
16 State Health Officer limitations, if any, on the practice of
17 the infected health care worker that are reasonable and
18 necessary to protect the patients of the health care worker
19 and the public. The expert review panel shall also provide
20 recommendations to the State Health Officer about the need to
21 notify patients who previously may have had an invasive
22 procedure performed by an infected health care worker. The
23 State Health Officer shall accept the recommendations of the
24 expert review panel and issue a final order based on the
25 recommendations.

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

17 "(g) The final order of the State Health Officer may
18 be appealed to the State Committee of Public Health by
19 delivery of written notice of appeal to the State Health
20 Officer not more than 30 days after the date of the State
21 Health Officer's final order. The appeal may be heard by the
22 State Committee of Public Health in its entirety or may be
23 assigned to an administrative law judge or hearing officer for
24 trial and recommended decision. All hearings, administrative
25 proceedings, and deliberations of the committee in connection

1 with the appeal shall be held in executive session and shall
2 not be open to the public. The committee shall accept, modify,
3 or reject the final order of the State Health Officer.

4 "§22-11A-66.

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

12 "§22-11A-67.

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

21 "(b) The following persons and facilities shall
22 provide to the State Board of Health and the expert review
23 panel all requested documents or records three years old or
24 less:

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

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

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

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

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

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

25 "§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.

