

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/20/07

# A Bill

HOUSE BILL 2735

5 By: Representatives J. Roebuck, Pennartz  
6  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE HEALTH FACILITY INFECTION  
10 DISCLOSURE ACT OF 2007; AND FOR OTHER PURPOSES.  
11

### Subtitle

12 THE HEALTH FACILITY INFECTION DISCLOSURE  
13 ACT OF 2007.  
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code Title 20, Chapter 9 is amended to add an  
20 additional subchapter to read as follows:

21 20-9-1201. Title.

22 This subchapter shall be known and may be cited as the "Health Facility  
23 Infection Disclosure Act of 2007".  
24

25 20-9-1202. Definitions.

26 As used in this subchapter:

27 (1)(A) "Health facility" means any of the following facilities:

28 (i) A hospital, outpatient surgery center, public  
29 health center or recuperation center, as those facilities are defined in §  
30 20-9-201; and

31 (ii) Any other facility determined to be a source of  
32 healthcare associated infections and designated as such by the Division of  
33 Health of the Department of Health and Human Services.

34 (B) "Health facility" does not include:

35 (i) A physician's office unless the office is  
36 otherwise licensed as an outpatient surgery center; or



1 (ii) An establishment furnishing primarily  
2 domiciliary care;

3 (2) "Healthcare associated infection" means a localized or  
4 systemic condition in a person that:

5 (A) Results from adverse reaction to the presence of an  
6 infectious agent or a toxin of an infectious agent;

7 (B) Was not present or incubating in the person at the  
8 time of admission to the health facility; and

9 (3) "Division" means the Division of Health of the Department of  
10 Health and Human Services."

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12 20-9-1203. Health facility reports.

13 (a) A health facility shall collect data on healthcare associated  
14 infection rates for the following:

15 (1) Coronary artery bypass surgical site infections;

16 (2) Total hip or knee arthroplasty surgical site infections;

17 (3) Knee arthroscopy surgical site infections;

18 (4) Hernia repair surgical site infections;

19 (5) Central line-associated bloodstream infection in an  
20 intensive care unit; and

21 (6) Other categories as provided under § 20-9-1204(e).

22 (b)(1)(A) A health facility may voluntarily submit quarterly reports  
23 to the division on the facility's healthcare associated infection rates.

24 (B)(i) If a health care facility elects to submit  
25 quarterly reports, the reports shall be submitted to the division:

26 (a) In a format prescribed by the division;  
27 and

28 (b) By April 30, July 31, October 31, and  
29 January 31 of each year.

30 (ii) Each quarterly report shall cover the  
31 immediately preceding calendar quarter.

32 (C) Data in the quarterly reports shall cover a period  
33 ending not earlier than one (1) month before the submission of the report.

34 (2) If the health facility is a division or subsidiary of  
35 another entity that owns or operates other health facilities, the quarterly  
36 report shall be for the specific division or subsidiary and not for the other

1 entity.

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3 20-9-1204. Advisory Committee on Healthcare Associated Infections.

4 (a) The Director of the Division of Health of the Department of Health  
5 and Human Services shall appoint an Advisory Committee on Healthcare Acquired  
6 Infections, including without limitation representatives of:

7 (1) Public and private hospitals, including representatives of  
8 hospitals with fewer than fifty (50) beds and representatives of hospitals  
9 with more than fifty (50) beds;

10 (2) Outpatient surgery centers;

11 (3) Direct-care nursing staff;

12 (4) Physicians;

13 (5) Infection control professionals with expertise in healthcare  
14 associated infections;

15 (6) Academic researchers; and

16 (7) At least one (1) representative of a consumer organization.

17 (b) The advisory committee shall assist the Division of Health of the  
18 Department of Health and Human Services in the development of all aspects of  
19 the division's methodology for collecting, analyzing, and disclosing the data  
20 collected under this subchapter, including without limitation:

21 (1) Collection methods;

22 (2) Formatting; and

23 (3) Methods and means for the release and dissemination of the  
24 data.

25 (c)(1) In developing the methodology for collecting and analyzing the  
26 infection-rate data, the division and the advisory committee shall consider  
27 existing methodologies and systems for data collection.

28 (2) Any data collection and analytical methodologies used shall  
29 be:

30 (A) Capable of being validated; and

31 (B) Based upon nationally recognized and recommended  
32 standards, that may include those developed by the Centers for Disease  
33 Control and Prevention, the Centers for Medicare and Medicaid Services, the  
34 Agency for Healthcare Research and Quality or the National Quality Forum.

35 (3) The proposed data collection and analysis methodology shall  
36 be disclosed for public comment before any public disclosure of healthcare

1 associated infection rates in an annual report under § 20-9-1205.

2 (4)(A) The data collection and analysis methodology shall be  
3 presented to all health facilities in this state on or before September 1,  
4 2008.

5 (B) The methodology may be amended based upon input from  
6 the health facilities.

7 (5)(A) The first voluntary quarterly report under § 20-9-1203(b)  
8 shall be presented to the division on or before January 31, 2009.

9 (B) Health facilities may begin voluntarily reporting data  
10 on January 31, 2009 or at any time thereafter.

11 (d) The division and the advisory committee shall evaluate on a  
12 regular basis the quality and accuracy of health facility data reported under  
13 this subchapter and the data collection, analysis, and dissemination  
14 methodologies used under this subchapter.

15 (e) After release of the second annual report published under § 20-9-  
16 1205, and upon consultation with the advisory committee and with other  
17 technical advisors who are recognized experts in the prevention,  
18 identification, and control of healthcare associated infections and the  
19 reporting of performance data, the division may add categories of infections  
20 to those set forth in § 20-9-1203(a).

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22 20-9-1205. Reports regarding healthcare associated infections.

23 (a)(1)(A) In consultation with the Advisory Committee on Healthcare  
24 Associated Infections, the Division of Health of the Department of Health and  
25 Human Services shall submit annually a report summarizing the health facility  
26 quarterly reports required under this subchapter to the Chair of the House  
27 Interim Committee on Public Health, Welfare, and Labor and the Chair of the  
28 Senate Interim Committee on Public Health, Welfare, and Labor.

29 (B) No health facility-identifiable data shall be included  
30 in the annual report, but aggregate statistical data may be included.

31 (2) The division shall publish the annual report on the  
32 division's website.

33 (3) The first annual report shall be submitted and published on  
34 or before January 1, 2010.

35 (b) The annual report prepared by the division under this subchapter  
36 regarding healthcare associated infections shall be appropriately risk-

1 adjusted.

2 (c)(1) The annual report shall include an executive summary written in  
3 plain language that shall include without limitation:

4 (2) A discussion of findings, conclusions, and trends  
5 concerning the overall status of healthcare associated infections in the  
6 state, including a comparison to previous years; and

7 (3) Policy recommendations of the division and the  
8 advisory committee.

9 (d) The annual report shall be made available to any person upon  
10 request.

11 (e) No health facility report or division disclosure shall contain  
12 information identifying a patient, employee, or healthcare professional in  
13 connection with a specific infection incident.

14 (f) No annual report or other division disclosure shall contain  
15 information that identifies or could be used to identify a specific health  
16 facility.

17 (g)(1) As part of the process of preparing the annual report,  
18 effective safeguards to protect against the dissemination of inconsistent,  
19 incomplete, invalid, inaccurate, or subjective health facility data shall be  
20 developed and implemented.

21 (2) These safeguards may include the exclusion of certain data  
22 or data from facilities with a low volume of patients or procedures if the  
23 use of the data would skew the results reported.

24 (h) The division shall develop, with the assistance of the advisory  
25 committee, a process of regular and confidential feedback for health  
26 facilities regarding the data collected so that each health facility's data  
27 will be available to that facility for its quality improvement efforts.

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29 20-9-1206. Privacy and confidentiality.

30 (a) It is the intent of the General Assembly that a patient's right of  
31 confidentiality shall not be violated in any manner under this subchapter.

32 (b) Social security numbers and any other information that could be  
33 used to identify an individual patient shall not be released under this  
34 subchapter.

35 (c) Except for the annual report that shall be a public document  
36 available to any person upon request, any data and materials collected or

1 compiled by a health facility or obtained by the division under this  
2 subchapter:

3 (1) Shall be exempt from disclosure under the Freedom of  
4 Information Act of 1967, § 25-19-101 et seq.; and

5 (2) Shall not be subject to discovery under the Arkansas Rules  
6 of Civil Procedure or admissible in any legal proceeding.

7 (d) Data collected and reported under this subchapter shall not be  
8 deemed to have established a standard of care for any purposes in a private  
9 civil litigation.

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11 20-9-1207. Rules.

12 The State Board of Health shall promulgate rules to implement this  
13 subchapter.

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15 20-9-1208 Funding.

16 This subchapter is contingent upon the appropriation and availability  
17 of funding necessary for the Division of Health of the Department of Health  
18 and Human Services to implement its provisions, and any requirements that  
19 actions be accomplished by a specific date shall be extended until the  
20 necessary funding is available.

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22 /s/ J. Roebuck, et al  
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