COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4608-04
Bill No.: SCS for SB 1279
Subject: Health Care; Health Care Professionals; Health Department; Hospitals; Health, Public; Vital Statistics
Type: Original
Date: April 5, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	($647,679)	($705,476)	($723,569)
Total Estimated Net Effect on General Revenue Fund	**($647,679)**	**($705,476)**	**($723,569)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Infection Control Advisory Panel Fund	($15,930) to Unknown	($10,620) to Unknown	($10,620) to Unknown
Total Estimated Net Effect on All State Funds	**($15,930) to Unknown**	**($10,620) to Unknown**	**($10,620) to Unknown**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services (DOH)** state this proposal requires the DOH to conduct a study of the causes and prevention of diseases for the purpose of decreasing the incidence of infection within health care facilities. DOH shall collect, analyze, and disclose nosocomial infection data from patient records.

The DOH would need to revise hospital and ambulatory surgical center regulations to reflect the proposal's infection control provisions. The statutory and regulatory changes would result in: (1)Additional infection control complaints that will require investigation, (2) Increased inspection time due to need to evaluate compliance with additional statutory and regulatory requirements, and (3) Increased inspection/investigation time due to identification of infection control problems stemming from receipt and analysis of infection data from facilities.

DOH would also be required to prepare an annual report to the governor and the general assembly on hospital and infection control standards and compliance. The legislation creates the Infection Control Advisory Panel. DOH would need to provide support this panel's activities.

Division Environmental Health and Communicable Disease Prevention assumptions: (1) DOH would periodically collect, analyze, and disclose aggregate (non-named) data and maintain

ASSUMPTION (continued)

baseline rates for the facilities. DOH would post data on the its internet website and in printed format, release a consumer guide for facilities, and take action against licensed facilities as necessary for non-compliance, (2) DOH would provide staff support to the Infection Control Advisory Panel through August 31, 2008, (3) DOH would need four new positions to implement this legislation.

Epidemiology Specialist (1.0 FTE):
The responsibilities of the position would include surveillance, data analysis and dissemination of comprehensive reports; epidemiologic assessment and notification of unusual events identified in the collected data, establish baselines, thresholds, high and low historical limits for trend analysis; and development of research parameters.

Research Analyst II (2.0 FTE):
The duties of this position include conducting on-site quality assurance review of the surveillance data that is being collected and reported by the hospitals and the analysis, collection, dissemination of surveillance data reported.

Senior Office Support Assistant:
The duties of this position include providing general administrative assistant support to the Research Analysts and Epidemiology Specialist, and compiling data within the surveillance databases created to collect the data. The position would provide administrative support to the Infection Control Advisory Panel.

Division of Senior Services and Regulation assumptions:

DOH reports in federal fiscal year 2003, 16 complaints were received alleging infection control issues in regulated health care facilities. As of March 11, 2004 of federal fiscal year 2004, 9 such complaints have been received. If this rate continues through the remainder of federal fiscal year 2004, approximately 22 infection control complaints will be received. Assuming a doubling of the rate of complaints due to the increased visibility and patient education resulting from this legislation, an additional 22 complaints would need to be investigated each year. Infection control complaints are some of the most time consuming to investigate because they involve extensive observation in multiple areas of the hospital. DOH estimates a typical infection control complaint investigation following the statutory and regulatory changes would require 56 hours for investigation, write-up, and follow-up. This results in the need for an additional 1,232 hours of employee time (22 additional investigations x 56 hrs./investigation).

DOH estimates that statutory and regulatory changes would result in adding an additional 8

hours ASSUMPTION (continued)

of inspection time for each of the 150 hospitals and an additional 6 hours of inspection time for each of the 62 ambulatory surgical centers licensed each year. This additional time for inspections includes write-up, and follow-up time in addition to the additional time at the facility. These changes will result in the need for an additional 1,572 hours of employee time [(150 facilities x 8 hours) + (62 facilities x 6 hours)].

The number of additional inspections/investigations that might be necessitated by concerns resulting from receipt and analysis of infection data is unknown at this time.

Total estimated hours of additional employee time:	
Increased complaint investigations	1,232 hours
Increased inspection time	1,572 hours
Inspections/Investigations due to concerns identified by data	Unknown
Total	2,804 hours plus

Two FTE full-time Health Facility Nursing Consultants would be needed to assume the additional duties involved above. It would be necessary to hire inspectors that have extensive knowledge and experience in infection control; therefore, DOH has used an annual salary rate of $53,484 instead of the market rate of $49,140 annually (4 steps above market).

One FTE Health Program Representative II will also be needed to support the activities of the Infection Control Advisory Panel, to track infection control information necessary for the annual report to the governor and general assembly on hospital and infection control standards and compliance and development of the report, and to support the Health Facility Nursing Consultants with general infection control research, training, etc.

Other Expenses:

Since the amount of donations to the infection control advisory fund are unknown, DOH is reflecting the costs for the panel as general revenue costs. Any revenue in the fund would be utilized to offset the costs for meetings of the panel. Infection Control Advisory Panel costs are based upon the standard of $65 per night for lodging, $45 per day for meals and $75 per trip for mileage. The legislation designates 9 advisory panel members. It is estimated that during the first year the panel would meet 6 times and then quarterly thereafter. First year costs = (9 members x $65 x 2 nights x 6 meetings) + (9 members x $45 x 2 days x 6 meetings) + (9 members x $75 per trip x 6 meetings). Year 2 and Year 3 costs = (9 members x $65 x 2 nights x 4 meetings) + (9 members x $45 x 2 days x 4 meetings) + (9 members x $75 per trip x 4

ASSUMPTION (continued)

meetings).

Oversight has presented the panel expenses in the Infection Control Advisory Panel Fund.

INFECTION CONTROL ADVISORY FUND

This fund is created by the legislation. Revenue to the fund would be from private donations and the fund is to be utilized to pay reasonable expenses of the panel. Since the revenues would be from private donations, the amount of anticipated revenues cannot be determined.

DOH stated the Center for Health Information Management and Evaluation assumptions are as follows:

Three Research Analyst IIIs and 1 Senior Office Support Assistant would be needed to:

Determine what data elements are needed to conduct the required analysis.
Publish rules.
Create data reporting requirements.
Prepare correspondence with hospitals on the reporting requirements.
Create computer edits to ensure clean data.
Correspond with hospitals on edit reports.
Create management controls to ensure hospitals are reporting according to the rules.
Correspond with hospitals that are not responding as required.
Create a database for analysis.
Conduct a later review on appropriate risk adjustment techniques.
Develop a risk adjustment technique suitable for the data.
Create reports on hospitals.
Publish reports on a quarterly basis.
Correspond with hospital concerning complaints about the reports.
Respond to consumers and media inquiries about the report.

Oversight has, for fiscal note purposes only, changed the starting salary for the DOH positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials from the **Office of the Secretary of State (SOS)** state this proposal creates the Missouri Hospital Infection Control Act of 2004. Based on experience with other divisions, the

ASSUMPTION (continued)

rules, regulations and forms issued by the DOH could require as many as 50 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is $23.00. The estimated cost of a page in the *Code of State Regulations* is $27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be $1,925 in FY 05.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.
Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of Attorney General (AGO)** assume that this proposal may create additional costs, as it permits the DOH to terminate certain practices and procedures in hospitals as well as suspend state payments to hospitals that do not provide information that is being sought. AGO assumes it would be required to review subpoenas, move in court to enforce subpoenas and represent the DOH in proceedings if hospitals are permitted to appeal the termination of practices and suspension of payments. AGO further assumes any potential costs arising from this proposal would be minimal and could be absorbed with existing resources.

Officials from Barton Co Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, and Washington County Memorial Hospital did not respond to our fiscal note request. **Oversight** assumes there will be an unknown cost to county hospitals for the necessary database systems to track infections.

Officials from the **Office of the State Treasurer (STO)** did not respond to our fiscal note request. **Oversight** assumes the STO would have no fiscal impact.

FISCAL IMPACT - State Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE			
Costs - Department of Health and Senior Services			
Personal Services (11 FTE)	($353,246)	($434,492)	($445,355)
Fringe Benefits	($146,244)	($179,880)	($184,377)
Expense and Equipment	($148,189)	($91,104)	($93,837)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**($647,679)**	**($705,476)**	**($723,569)**
INFECTION CONTROL ADVISORY PANEL FUND			
Income–Department of Health and Senior Services private donations			
Private donations	Unknown	Unknown	Unknown
Costs - Department of Health and Senior Services			
Panel expenses	($15,930)	($10,620)	($10,620)
ESTIMATED NET EFFECT ON INFECTION CONTROL ADVISORY PANEL FUND*	**($15,930) to Unknown**	**($10,620) to Unknown**	**($10,620) to Unknown**

FISCAL IMPACT - Local Government	FY 2005 (10 Mo.)	FY 2006	FY 2007
LOCAL FUNDS			
Costs - County Hospitals			
Expense and equipment	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL FUNDS	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT - Small Business

This proposal would have potential costs to small hospitals, ambulatory surgical centers, and other health facilities that the DOH may designate related to the collection, analysis, and reporting of nosocomial infection data. They may also incur costs associated with improving their infection control programs in accordance with the proposal's requirements and the requirements in revised regulations. Labs would incur cost to submit information to the DOH.

DESCRIPTION

This proposal creates the "Missouri Nosocomial Infection Control Act of 2004" to encourage health care facilities to take appropriate actions to decrease the risk of infection.

SECTION 192.020 - The Department of Health and Senior Services shall include MRSA and VRE in its list of communicable diseases.

SECTION 192.067 - The Department shall have the authority to collect, analyze, and disclose nosocomial infection data from patient records.

SECTION 192.131 - This section provides definitions for "advisory panel", "antibiogram", and "antimicrobial". Every laboratory performing culture and sensitivity testing on Missouri residents shall submit data on health care associated infections to the Department. The data to be reported shall be defined by the Department. By July 1, 2005, the data must include the number of patients by hospital, ambulatory surgical center, and other facility who are infected with MRSA and VRE.

All information collected pursuant to this section shall be confidential. However, this information shall be available to the appropriate facility or professional licensing authorities. The Advisory Panel shall develop a plan, using the collected data, to create a system that enhances the ability of health care providers to track preventable infections and that monitors trends relating to antibiotic-resistant microbes.

SECTION 192.665 - This section adds new definitions for "nosocomial infection", "nosocomial infection incidence rate", and "other facility".

SECTION 192.667(1)-(11) - The Department must collect data on nosocomial infection incidence rates from hospitals, ambulatory surgical centers, and other appropriate facilities. By July 1, 2005, the Department must promulgate rules regarding the standards and procedures for the collection and reporting of nosocomial infection incidence rates and these rules shall be based upon the methodologies established by the Centers for Disease Control and Prevention

National Nosocomial Infection Surveillance Program and the recommendations of the Infection Control

DESCRIPTION (continued)

Advisory Panel. Physician's offices shall be exempt from the reporting and disclosure of infection incidence rates.

The Infection Control Advisory Panel shall make a recommendation, based on certain factors, to the Department regarding the implementation of nosocomial infection data collection, analysis, and reporting. If the Department chooses the requirements of the Centers for Disease Control Prevention Nosocomial Infection Program instead of the requirements listed in this section, then hospitals and ambulatory surgical centers must participate in the federal program and provide the

necessary data as a condition for licensure.

SECTION 192.667(12)-(17) - The Department must disseminate reports to the public, based on data compiled over a twelve-month period and updated quarterly thereafter, that show for each hospital, ambulatory surgical center, and other facility a risk- adjusted nosocomial infection incidence rate for class I surgical site infections, ventilator-associated pneumonia, central line-related bloodstream infections, and other infections defined by rule by the Department. By December 31, 2006, these reports shall also be published on the Department's website and shall be annually distributed to the Governor and the General Assembly.

If the Hospital Industry Data Institute fails by July 31, 2008 and annually thereafter to publish a report of Missouri's compliance with the quality of care measures established by the Centers for Medicare and Medicaid Services, the Department shall have the authority to collect and publish this information. This information shall also be available to the Department for the licensing of hospitals and ambulatory surgical centers pursuant to Chapter 197, RSMo.

SECTION 197.150 - Hospitals, ambulatory surgical centers, and other facilities must have procedures for monitoring compliance with infection control regulations and standards. These procedures must be coordinated with administrative and personnel staff. The infection control program shall include the surveillance of personnel, with a portion of the surveillance done without the staff's knowledge.

SECTION 197.152 - Infection control officers and other employees shall be protected from retaliation from any hospitals, ambulatory surgical centers, or other facilities. The hospital or ambulatory surgical center infection control committee must convene as soon as possible to review any termination action. Employees who report infection control concerns in good faith

shall not be subject to retaliation or discrimination.

SECTION 197.154 - By July 1, 2005, the Department must promulgate rules establishing certain standards for the infection control programs, which shall based upon nationally recognized

DESCRIPTION (continued)

standards.

SECTION 197.156 - "Nosocomial infection outbreaks" are defined by the Centers for Disease Control and Prevention within a defined time period. The Department shall define the time period based upon the number of cultures isolated in a facility.

SECTION 197.158 - Beginning June 1, 2006, all hospitals and ambulatory surgical centers shall provide each patient an opportunity to submit complaints, comments, or suggestions.

SECTION 197.160 - The Department shall have access to all information compiled by hospitals, ambulatory surgical centers, and other facilities related to infection control practices, rates, and treatments. The failure to provide access to this information shall be grounds for a full or partial licensure suspension or revocation. If a hospital, ambulatory surgical center, or other facility willfully impedes access to this information, then the Department has the authority to direct any state agency to suspend all or a portion of state payments until the Department receives the information.

SECTION 197.162 - For the licensing of hospitals and ambulatory surgical centers, the Department shall give special attention to infection control practices and shall direct these facilities to set goals for reducing nosocomial infections. The Department must annually prepare a report on infection control standards and compliance. The report shall be distributed to the General Assembly and the Governor.

SECTION 197.165 - The Department must appoint an "Infection Control Advisory Panel", which shall terminate on September 1, 2008. Any reasonable expenses of the Panel shall be paid from private donations made specifically to the "Infection Control Advisory Panel Fund", which is created in the State Treasury.

SECTION 197.294 - No information disclosed by the Department to the public pursuant to this act shall be used to establish a standard of care in a civil action.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

CAM:LR:OD (12/02)

SOURCES OF INFORMATION

Department of Health and Senior Services
Secretary of State
Office of Attorney General

NOT RESPONDING: State Treasurer's Office, Barton Co Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, and Washington County Memorial Hospital

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Director
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