The State Legal Landscape

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Introduction

1. State HAI legal activity
2. State *Clostridium difficile* reporting mandates
3. Tips for promoting state government change
STATE HAI LEGAL ACTIVITY

- All 50 states + 2 US territories (DC, Puerto Rico) have state HAI programs
- Most have state HAI statutes and/or administrative regulations
Statutes Compared to Administrative Regulations

- **Statute:**
  - Enacted by state legislature
  - Purposely broad and vague
- **Administrative Regulation**
  - Promulgated by state agency
  - More specific to administrative operation of program
§ 22-11A-113. Rules and regulations to implement article.

Within one year after August 1, 2009, the board, after consultation with and the approval of the council, shall promulgate all rules and regulations pursuant to the Administrative Procedure Act necessary to implement the provisions of this article.

1. States mandating CDI data submission by hospitals
2. Progression over time
3. Source of law (independent state law or federal CMS requirements adopted by state law)
4. Legal authority (statutory or administrative)
States with CDI Reporting Requirements

### Table 1. State *Clostridium difficile* infection (CDI) reporting mandates as of July 1, 2013

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>States</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>State does not mandate CDI data reporting</td>
<td>AL, AK, AZ, CO, DC, FL, IA, ID, IN, KS, KY, LA, MA, MI, MO, MS, MT, ND, NE, NH, NJ, NV, OK, PR, SC, SD, TX, VA, VT, WA, WI, WY</td>
<td>32</td>
</tr>
<tr>
<td>State mandates CDI data reporting&lt;sup&gt;a&lt;/sup&gt;</td>
<td>AR, CA, CT, DE, GA, HI, IL, MD, ME, MN, NC, NM, NY, OH, OR, PA, RI, TN, UT, WV</td>
<td>20</td>
</tr>
</tbody>
</table>
States with CDI Reporting Requirements

State Clostridium difficile infection (CDI)
Reporting Mandates as of July 1, 2013. (n=52)

Notes: The District of Columbia and Puerto Rico are both NO. Alaska and Hawaii are not shown in true size or location.

Map: Jeff Jones, Ph.D., Georgia Southern University, August 2015
Progression Over Time

**Table 2. Effective dates of state *Clostridium difficile* infection data reporting requirements, by year, as of July 1, 2013**

<table>
<thead>
<tr>
<th>Year</th>
<th>States</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>PA, OH</td>
<td>2</td>
</tr>
<tr>
<td>2009</td>
<td>CA, NY</td>
<td>2</td>
</tr>
<tr>
<td>2010</td>
<td>TN</td>
<td>1</td>
</tr>
<tr>
<td>2011</td>
<td>RI</td>
<td>1</td>
</tr>
<tr>
<td>2012</td>
<td>IL, ME, NM, OR</td>
<td>4</td>
</tr>
<tr>
<td>2013a</td>
<td>AR, CT, DE, GA, HI, MD, MN, NC, UT, WV</td>
<td>10</td>
</tr>
</tbody>
</table>
## Source of Law

### Table 1. State *Clostridium difficile* infection (CDI) reporting mandates as of July 1, 2013

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>States</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source of law</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent state mandate</td>
<td>CA, IL, MD, ME, NM, NY, OH, OR, PA, RI, TN</td>
<td>11</td>
</tr>
<tr>
<td>CMS IQR requirement incorporated into state law</td>
<td>AR, CT, DE, GA, HI, MN, NC, UT, WV</td>
<td>9</td>
</tr>
</tbody>
</table>

**Note.** The term *states* here refers to US states, District of Columbia, and Puerto Rico. See the appendix for expansion of abbreviations. CMS IQR, Centers for Medicare & Medicaid Services Hospital Inpatient Quality Reporting program.
<table>
<thead>
<tr>
<th>Characteristic</th>
<th>States</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal authority</td>
<td>AR, CA, HI, IL, ME, UT</td>
<td>6</td>
</tr>
<tr>
<td>Statutory</td>
<td>CT, DE, GA, MD, MN, NC, NM, NY, OH, OR, PA, RI, TN, WV</td>
<td>14</td>
</tr>
<tr>
<td>Administrative</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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BRINGING ABOUT CHANGE

• Encouraging *C. diff* mandatory reporting
• Expanding reporting to additional healthcare facilities
• Encouraging training efforts
Methods of Change

1. Enactment of original statute
2. Amendment of statute
3. Rule promulgation
Enactment of Statute

- Difficult
- Major attention to HAI state program activity from 2009 forward
- Most states considered passage of law during that time period
Amending a Statute

- Also difficult
- State officials are wary of legislative amendment process
- Risky – questionable end result
• Simpler to promulgate or make changes to administrative rules
• Better method for bringing about change
§ 24-29-5. Hospital-acquired infections; indicators

A. The advisory committee shall determine the specific infections and indicators that are to be subject to surveillance and reporting. Indicators of hospital-acquired infections shall be selected based on scientific evidence that the infection or condition can be prevented with implementation and consistent use of evidence-based processes of care and on appropriateness for the state. The advisory committee shall consider the following indicators:

1. central line associated bloodstream infections;
2. surgical site wound infections;
3. ventilator assisted pneumonia;
4. catheter associated urinary tract infections; and
5. other hospital-acquired infections that the advisory committee may determine in consultation with technical advisors who are regionally or nationally recognized experts in the prevention, identification and control of hospital-acquired infections and the public reporting of performance data.

B. Initially, and through calendar year 2009, hospital-acquired infection surveillance shall be conducted on the incidence of central line associated bloodstream infections and health care worker influenza vaccination rates.

C. Beginning on January 1, 2010, the advisory committee shall identify additional hospital-acquired infection, condition or process indicators that will be tracked and reported by participating hospitals. At least annually, the advisory committee shall consider additional indicators that meet the standard for selection identified in Subsection A of this section.
Example: New Mexico Regulation

TITLE 7. HEALTH
CHAPTER 4. DISEASE CONTROL (EPIDEMIOLOGY)
PART 3. CONTROL OF DISEASE AND CONDITIONS OF PUBLIC HEALTH SIGNIFICANCE

7.4.3.11 NMAC (2012)

7.4.3.11 HEALTHCARE-ASSOCIATED INFECTION REPORTING

Acute care hospitals will submit data to the New Mexico department of health using the centers for disease control and prevention national healthcare safety network (NHSN) and confer rights to access the data to the New Mexico department of health for central line-associated bloodstream infections and clostridium difficile infections.
Involvement with HAI Advisory Committees

- Advisory committees form an integral component to decision-making.
- Many are mandated by the HAI law with specific requirements.
- Many were created in response to the federal HAI action plan requirements and associated funding.
1. Becoming a member of the state HAI committee
2. Participating via open meetings act
3. Requesting documents via freedom of information laws


References


