



Sub. H.B. 150

124th General Assembly
(As Passed by the General Assembly)

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Effective date: *

ACT SUMMARY

- Eliminates the existing newborn hearing screening program and replaces it with a statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment.
- Requires that the program include a hearing screening of each infant or newborn born in a hospital or freestanding birthing center before discharge unless the newborn or infant is transferred to another hospital.
- Requires that the newborn hearing screening use a physiologic test that incorporates the methods specified in rules adopted by the Public Health Council.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Expands the membership of the Infant Hearing Subcommittee of the Medically Handicapped Children's Medical Advisory Council and expands its duties consistent with the program the act establishes.
- Requires the Subcommittee to collect information on newborn hearing screening and issue an annual report and the Department of Health to provide support in compiling the reports.
- Requires the Public Health Council to adopt rules governing the program no later than six months after the act's effective date.
- Provides that by June 30, 2004, all hospitals and freestanding birthing centers must administer the hearing screenings unless granted an extension.
- Requires sickness and accident insurance policies and employee benefit plans that provide coverage for family members and benefits for children to include hearing screenings under the Department of Health's hearing screening program.

CONTENT AND OPERATION

Prior law

Prior law required the Ohio Department of Health to establish and maintain newborn infant hearing impairment risk criteria and develop a high-risk questionnaire to identify infants at risk of hearing impairment. The Public Health Council was required to adopt rules establishing a program administered by the Department of Health that required risk screening of each infant in a hospital nursery to determine whether the infant met the risk criteria established by the Department.¹ The rules had to include a provision that no infant could be required to undergo a risk screening if the infant's parent, guardian, or custodian objected on the grounds that the screening conflicted with the parent's, guardian's, or custodian's religious tenets and practices. (Revised Code § 3701.504.)

¹ *The Public Health Council consists of seven members appointed by the Governor. It is responsible for adopting rules in a number of public health areas, but has no executive or administrative duties. A "risk screening" was defined as the identification of infants at risk of hearing impairment through the use of the high-risk questionnaire developed by the Department.*

Each hospital was required by prior law to provide risk screening of newborn infants and promptly notify the primary care physician and the Department of Health of (1) the name of any infant identified by a risk screening as at risk for hearing impairment and (2) the name and address of the infant's parent, guardian, or custodian. (R.C. § 3701.505(A).) If an infant was identified as at risk for hearing impairment and the hospital provided hearing assessment, it was required to provide a hearing assessment for the infant; otherwise the hospital had to provide the infant's parent, guardian, or custodian with a list of hospitals, clinics, or other facilities providing hearing assessment and located within a reasonable distance of the address of the parent, guardian, or custodian.² (R.C. § 3701.505(B).)

The act

Statewide program to identify newborn and infant hearing impairment

(secs. 3701.503, 3701.504, 3701.505, and 3701.508)

The act requires the Department of Health to establish and maintain a statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment.³ The act also requires the Department to establish appropriate protocols for the treatment and follow-up care of newborns and infants with hearing impairment. The program must be incorporated into early intervention activities the Department undertakes in compliance with the federal Individuals with Disabilities Education Act.

The Public Health Council is to adopt rules governing the program, which must include a hearing screening of each infant or newborn born in a hospital or freestanding birthing center before discharge unless the newborn or infant is transferred to another hospital.⁴ In the case of an infant or newborn who is

² A "hearing assessment" was defined as the use of audiological procedures by or under the supervision of an audiologist, neurologist, or otolaryngologist to identify infants who are at risk of hearing impairment.

³ "Newborn" is defined by the act as a child who is less than 30 days old. The act defines an "infant" as a child who is at least 30 days but less than 24 months old. "Hearing impairment" means a loss of hearing in one or both ears in the frequency region important for speech recognition and comprehension. (R.C. § 3701.503(F), (G), and (H).)

⁴ A "hospital" is a hospital that has a maternity unit or newborn nursery. A "maternity unit" is any unit or place in a hospital where women are regularly received and provided care during all or part of the maternity cycle, excluding an emergency department or similar place dedicated to providing emergency health care. A "freestanding birthing

transferred to another hospital, the program must provide for a hearing screening when medically appropriate.

The act defines "hearing screening" as the identification of newborns and infants who may have a hearing impairment through the use of a physiologic test. A hearing screening must be performed under the direction of an audiologist or physician or in collaboration with a physician. No hearing screening is required if the infant or newborn's parent, guardian, or custodian objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices. The Public Health Council must provide for situations in which the parent, guardian, or custodian objects to the screening for other than religious reasons. Each hospital and freestanding birthing center must promptly notify the attending physician and the Department of Health of the screening results for each infant or newborn screened.

Prior law required each hospital that provided hearing assessments to provide to the infant's parent, guardian, or custodian a list of nearby facilities providing follow-up hearing evaluations. Under the act, any hospital, clinic, or other facility performing a hearing evaluation on an infant or newborn must report the results of the evaluation to the newborn or infant's attending physician. A "hearing evaluation" is an evaluation through the use of audiological procedures by a licensed audiologist or physician.

Hearing screening equipment

(secs. 3701.504(D) and 3701.508(A)(1))

The act provides that the Public Health Council's rules can require only that hearing screening equipment be capable of giving reliable results and may not specify particular equipment or a particular type of equipment. The act authorizes the Department to assist hospitals and freestanding birthing centers in the acquisition of equipment by providing information on grant opportunities or loans and, if funds are available, by mass purchasing equipment or establishing a grant system with Department funds.

center" is any facility in which deliveries routinely occur that is not licensed as a level one, two, or three maternity unit or a limited maternity unit. (R.C. §§ 3701.503 and 3702.51(Z).)



Who may conduct hearing screenings

(secs. 3701.505(A)(2) and 3701.508(B))

A hearing screening conducted under the program is to be conducted under the direction of a physician or audiologist or in collaboration with a physician. The Public Health Council is required to adopt rules that specify the training requirements for people who will conduct hearing screenings. In adopting the rules, the Council must consider incorporating cost-saving training methods, including computer-assisted learning and on-site training. A minimum educational level may not be established for people who conduct hearing screenings.

Reimbursement for infant hearing screening

(secs. 3701.505 and 3701.508)

Prior law provided that any facility providing a hearing assessment required by law before an infant attained nine months of age was to be reimbursed by the Department of Health at a rate determined by the Director if the infant's parents were financially unable to pay for the assessment and the facility was not reimbursed by a third-party payer. The act requires instead that the Department reimburse any hospital or freestanding birthing center providing a hearing screening mandated by the act, if both of the following are the case:

- (1) The screening is performed before the newborn or infant is discharged;
- (2) The parent, guardian, or custodian is financially unable to pay for the hearing screening, and the hospital or center is not reimbursed by a third-party payer. The Public Health Council is to adopt rules specifying how the Department is to determine whether a person is financially unable to pay for a hearing screening and define "third-party payer" for the purpose of the Department's reimbursement of hearing screenings.

Coverage for hearing screenings

(secs. 3923.55 and 3923.56)

Continuing law requires sickness and accident insurance policies and employee benefit plans that provide coverage for family members and benefits for children to include benefits for child health supervision services for children from birth to age nine. The benefits for child health supervision services that are provided to a child from birth to age one are not required to exceed a maximum of \$500.

The act provides that child health supervision services include hearing screenings under the Department of Health's hearing screening program. The coverage for hearing screenings must not exceed \$75 of the \$500 maximum coverage limit.

Distribution of information on infant hearing loss

(sec. 3701.506)

Prior law required the Department of Health to prepare and distribute to all hospitals required to provide infant risk screenings information describing factors or conditions of hearing loss and the effect of hearing loss on an infant or child's language development. The act requires the Department to provide hospitals and freestanding birthing centers required to provide hearing screenings, and each board of health, such information. The information is to include information on the importance of hearing screening, hearing evaluation, early intervention, and follow-up care for newborns and infants.⁵

Prior law provided that when an at-risk newborn was discharged, the hospital had to give the infant's parent, guardian, or custodian the information on hearing loss prepared by the Department. The act provides that a hospital or freestanding birthing center must give the information to the parent, guardian, or custodian of each newborn or infant born in the hospital or center, but does not specify when it is to be provided. Boards of health are required to provide this information to parents, guardians, and custodians of newborns or infants not born in a hospital or freestanding birthing center.

Infant Hearing Screening Subcommittee

(sec. 3701.507)

Continuing law requires the Medically Handicapped Children's Medical Advisory Council to appoint a permanent Infant Hearing Screening Subcommittee.⁶

⁵ "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in certain cities.

⁶ The Council consists of members appointed by the Director of Health. Its duty is to advise the Director on matters related to the Program for Medically Handicapped Children.

Composition of the Subcommittee

Under prior law, the Subcommittee consisted of at least eight members appointed by the Council: an otolaryngologist, a neonatologist, a pediatrician, a neurologist, a hospital administrator, one or more audiologists experienced in infant hearing assessment, a licensed speech pathologist, and a parent of a hearing-impaired child. Under the act, the Subcommittee is comprised of at least 22 members, including all of those listed above.⁷ The additional members are: at least one additional audiologist, an additional parent, a geneticist, an epidemiologist, an adult who is deaf or hearing impaired, a representative from an organization for the deaf or hearing impaired, a family advocate, a nurse from a well-baby neonatal nursery, a nurse from a special care neonatal nursery, a teacher of the deaf who works with infants and toddlers, a representative of the health insurance industry, a representative of the Bureau for Children with Medical Handicaps, a representative of the Department of Education, and a representative of the Department of Job and Family Services who has responsibilities regarding Medicaid. The act gives the Council discretion to appoint any other person to the Subcommittee.

Duties of the Subcommittee

The Subcommittee is required to consult with the Director of Health regarding the administration, development, and implementation of the infant hearing screening program and advise and make recommendations regarding proposed rules. Its role as consultant to the Director included, under prior law, consulting on all of the following:

- (1) The establishment of newborn infant hearing-impairment risk criteria and development of a high-risk questionnaire;
- (2) Identification of locations where assessment of infants may be conducted;
- (3) Recommendations for methods and techniques of risk screening and hearing assessment;
- (4) Referral, data recording, and compilation, and procedures to encourage follow-up hearing assessments;

⁷ *Instead of audiologists experienced in infant hearing assessment and a speech pathologist, the act provides for the continuing members to include audiologists experienced in infant hearing screening and evaluation and a speech-language pathologist.*

(5) Maintenance of a register of infants determined to be at high risk for hearing impairment;

(6) Preparation of any information the Public Health Council requires the Department of Health to provide.

The act requires that the Subcommittee advise and make recommendations to the Director concerning all of the following:

(1) The establishment of the statewide hearing screening, tracking, and early intervention program;

(2) The identification of locations where hearing evaluations may be conducted;

(3) Methods and techniques of hearing screening and hearing evaluation;

(4) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;

(5) Maintenance of a register of newborns and infants who do not pass the hearing screening;

(6) Preparation of the information that the act requires be provided to hospitals, freestanding birthing centers, and boards of health, and any other information the Public Health Council requires the Department of Health to provide.

Transition period

(secs. 3701.505 and 3701.508; Section 3)

A hospital is required to continue to comply with the risk screening requirements in effect under prior law until the hospital complies or is required to comply with the Public Health Council's rules governing the act's hearing screening program. The Council must adopt the rules not later than six months after the act's effective date.

Hospitals and freestanding birthing centers are permitted to commence complying with the requirements of the act's hearing screening program at any time after the effective date of the Public Health Council's rules. Hospitals and centers must begin compliance not later than June 30, 2004, unless the Director of Health grants an extension. For the Director to grant an extension, a hospital or center must demonstrate justifiable cause. Justifiable cause may include having ordered but not yet received hearing screening equipment, ongoing efforts to

obtain financing for the equipment, or any other cause the Director accepts. An extension may delay the requirement to comply with the rules for up to one year after June 30, 2004.

A hospital or freestanding birthing center is not required to comply with the risk screening requirements of prior law after the hospital or center commences compliance with the Public Health Council's rules governing the act's screening program.

Mandatory reporting

(sec. 3701.509)

The act requires each hospital and freestanding birthing center that has conducted a hearing screening required by the act to provide the Department of Health certain information on the screenings. The information is to be provided in accordance with Public Health Council rules and must specify all of the following:

- (1) The number of newborns born in the hospital or center and the number of newborns and infants not screened because they were transferred to another hospital;
- (2) The number of newborns and infants referred to the hospital or center for a hearing screening and the number of those newborns and infants who received a hearing screening;
- (3) The number of newborns and infants who did not pass the hearing screening conducted by the hospital or center;
- (4) Any other information concerning the hearing screening program.

The Department must develop a mechanism to analyze and interpret the hearing screening information provided by the hospitals and freestanding birthing centers. The Department must notify all hospitals and centers subject to the reporting requirement of the date the Department anticipates that the mechanism will be complete. After the mechanism is complete, the Department must notify the hospitals and centers of the date by which they must submit the first report. The Department is required to conduct a timely review of the information in accordance with Public Health Council rules.

The act requires that the Infant Hearing Screening Subcommittee, with the support of the Department, compile and summarize the information submitted to the Department by hospitals and freestanding birthing centers. Beginning with the first year after the Department completes the mechanism to analyze and interpret the information, the Subcommittee must annually prepare and transmit a report to

the Director of Health, the Speaker of the House of Representatives, and the Senate President. The Council must make its report available to the public.

The act provides that the Department and all members of the Subcommittee must maintain the confidentiality of patient-identifying information submitted by hospitals and freestanding birthing centers. The Department may provide patient-identifying information to necessary entities to implement the state tracking and intervention program required by the act. Any entity receiving patient-identifying information must maintain the confidentiality of the information. The information is not a public record, except to the extent that information is used in preparing the reports required by the act.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|---|----------|---------------|
| Introduced | 03-08-01 | p. 219 |
| Reported, H. Health & Family Services | 10-11-01 | p. 907 |
| Passed House (95-2) | 10-16-01 | p. 923 |
| Reported, S. Health, Human Services, and Aging | 03-19-02 | p. 1592 |
| Passed Senate (32-0) | 03-19-02 | pp. 1594-1595 |
| House concurred in Senate amendments (95-2) | 03-20-02 | pp. 1573-1574 |

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