

By: Smith of Tarrant

H.B. No. 852

Substitute the following for H.B. No. 852:

By: Coleman

C.S.H.B. No. 852

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to nonpayment of hospitals under the state Medicaid  
3 program for certain preventable adverse conditions.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,  
6 is amended by adding Section 32.02805 to read as follows:

7 Sec. 32.02805. NONPAYMENT OF HOSPITALS FOR PREVENTABLE  
8 ADVERSE CONDITIONS. (a) The department in its adoption of  
9 reasonable rules and standards governing the determination of rates  
10 paid for inpatient hospital services on a prospective payment basis  
11 shall assure that a hospital may not receive additional payment  
12 associated with any of the following preventable adverse conditions  
13 involving a recipient of medical assistance during the recipient's  
14 hospitalization:

- 15 (1) a foreign object retained after surgery;  
16 (2) surgery performed on the wrong body part;  
17 (3) surgery performed on the wrong person;  
18 (4) the wrong surgical procedure performed on the  
19 recipient;  
20 (5) intravascular air embolism;  
21 (6) blood or blood product incompatibility;  
22 (7) a stage three or four pressure ulcer;  
23 (8) a fall or trauma resulting in a fracture,  
24 dislocation, intracranial injury, or crushing injury;

1           (9) a burn or electric shock;

2           (10) a catheter-associated urinary tract infection;

3           (11) a vascular catheter-associated infection;

4           (12) a manifestation of poor glycemic control,  
5 including diabetic ketoacidosis, nonketotic hyperosmolar coma,  
6 hypoglycemic coma, secondary diabetes with ketoacidosis, and  
7 secondary diabetes with hyperosmolarity;

8           (13) a surgical site infection or mediastinitis  
9 following a coronary artery bypass graft;

10           (14) a surgical site infection following certain  
11 orthopedic procedures of the spine, neck, shoulder, or elbow;

12           (15) a surgical site infection following bariatric  
13 surgery for obesity, including laparoscopic gastric bypass  
14 surgery, gastroenterostomy, and laparoscopic gastric restrictive  
15 surgery; and

16           (16) deep vein thrombosis and pulmonary embolism  
17 following certain orthopedic procedures, including total knee  
18 replacement or hip replacement.

19           (b) The executive commissioner of the Health and Human  
20 Services Commission may adopt rules to define additional  
21 preventable adverse conditions for which a hospital shall be denied  
22 additional payment under this section. In adopting rules under  
23 this subsection, the executive commissioner may consider only the  
24 same types of health care-associated adverse conditions or events  
25 for which the Medicare program will not provide additional payment  
26 under a policy adopted by the Centers for Medicare and Medicaid  
27 Services.

1       (c) The department's nonpayment of a hospital under this  
2 section does not in itself create civil liability and is not subject  
3 to discovery or admissible in any civil action against the  
4 hospital.

5       (d) The Health and Human Services Commission shall compile  
6 information regarding the denial of payment to hospitals under this  
7 section.

8       (e) The Health and Human Services Commission shall make  
9 statistical information derived from the data compiled under  
10 Subsection (d) readily available in a user-friendly format on the  
11 commission's website.

12       (f) The Health and Human Services Commission may not provide  
13 information under Subsection (e) in a manner that identifies a  
14 recipient of medical assistance.

15       SECTION 2. Not later than November 1, 2009, the executive  
16 commissioner of the Health and Human Services Commission shall  
17 adopt rules necessary to implement Section 32.02805, Human  
18 Resources Code, as added by this Act.

19       SECTION 3. Section 32.02805, Human Resources Code, as added  
20 by this Act, applies only to a preventable adverse condition  
21 occurring on or after the effective date of the rules adopted by the  
22 executive commissioner of the Health and Human Services Commission  
23 under Section 2 of this Act.

24       SECTION 4. If before implementing any provision of this Act  
25 a state agency determines that a waiver or authorization from a  
26 federal agency is necessary for implementation of that provision,  
27 the agency affected by the provision shall request the waiver or

1 authorization and may delay implementing that provision until the  
2 waiver or authorization is granted.

3 SECTION 5. This Act takes effect September 1, 2009.