

By: Smith of Tarrant

H.B. No. 852

A BILL TO BE ENTITLED

AN ACT

relating to nonpayment of hospitals under the state Medicaid program for certain preventable adverse conditions.

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

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

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

(1) a foreign object retained after surgery;

(2) intravascular air embolism;

(3) blood or blood product incompatibility;

(4) a stage three or four pressure ulcer;

(5) a fall or trauma resulting in a fracture, dislocation, intracranial injury, or crushing injury;

(6) a burn or electric shock;

(7) a catheter-associated urinary tract infection;

(8) a vascular catheter-associated infection;

(9) a manifestation of poor glycemic control,

1 including diabetic ketoacidosis, nonketotic hyperosmolar coma,  
2 hypoglycemic coma, secondary diabetes with ketoacidosis, and  
3 secondary diabetes with hyperosmolarity;

4 (10) a surgical site infection or mediastinitis  
5 following a coronary artery bypass graft;

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

8 (12) a surgical site infection following bariatric  
9 surgery for obesity, including laparoscopic gastric bypass  
10 surgery, gastroenterostomy, and laparoscopic gastric restrictive  
11 surgery; and

12 (13) deep vein thrombosis and pulmonary embolism  
13 following certain orthopedic procedures, including total knee  
14 replacement or hip replacement.

15 (b) The department's nonpayment of a hospital under this  
16 section does not in itself create civil liability and is not subject  
17 to discovery or admissible in any civil action against the  
18 hospital.

19 (c) The Health and Human Services Commission shall compile  
20 information regarding the denial of payment to hospitals under this  
21 section.

22 (d) The Health and Human Services Commission shall make  
23 statistical information derived from the data compiled under  
24 Subsection (c) readily available in a user-friendly format on the  
25 commission's website.

26 (e) The Health and Human Services Commission may not provide  
27 information under Subsection (d) in a manner that identifies a

1 recipient of medical assistance.

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

6           SECTION 3. Section 32.02805, Human Resources Code, as added  
7 by this Act, applies only to a preventable adverse condition  
8 occurring on or after the effective date of the rules adopted by the  
9 executive commissioner of the Health and Human Services Commission  
10 under Section 2 of this Act.

11           SECTION 4. If before implementing any provision of this Act  
12 a state agency determines that a waiver or authorization from a  
13 federal agency is necessary for implementation of that provision,  
14 the agency affected by the provision shall request the waiver or  
15 authorization and may delay implementing that provision until the  
16 waiver or authorization is granted.

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