

By: Davis of Dallas

H.B. No. 786

A BILL TO BE ENTITLED

AN ACT

relating to HIV and AIDS tests and to health benefit plan coverage of HIV and AIDS tests.

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

SECTION 1. The heading to Subchapter D, Chapter 85, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. HIV TESTING, TESTING PROGRAMS, AND COUNSELING

SECTION 2. Subchapter D, Chapter 85, Health and Safety Code, is amended by adding Section 85.0815 to read as follows:

Sec. 85.0815. OPT-OUT HIV TESTING IN CERTAIN ROUTINE MEDICAL SCREENINGS. (a) A health care provider that takes a sample of a person's blood as part of a routine medical screening shall submit the sample for an HIV diagnostic test, regardless of whether an HIV test is part of a primary diagnosis, unless the person opts out of the HIV test.

(b) Before taking a sample of a person's blood, a health care provider must verbally inform a person that an HIV test will be performed unless the person opts out of the HIV test.

(c) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement this section. In adopting rules, the executive commissioner must consider the most recent recommendations of the federal Centers for Disease Control and Prevention for HIV testing of adults and adolescents.

SECTION 3. Section 32.024, Human Resources Code, is amended

1 by adding Subsection (ee) to read as follows:

2 (ee) The executive commissioner of the Health and Human
3 Services Commission shall adopt rules to require the department to
4 provide an HIV test in accordance with Section 85.0815, Health and
5 Safety Code, to a person who receives medical assistance.

6 SECTION 4. Chapter 1364, Insurance Code, is amended by
7 adding Subchapter D to read as follows:

8 SUBCHAPTER D. COVERAGE OF CERTAIN TESTING REQUIRED

9 Sec. 1364.151. DEFINITIONS. In this subchapter, "AIDS" and
10 "HIV" have the meanings assigned by Section 81.101, Health and
11 Safety Code.

12 Sec. 1364.152. APPLICABILITY OF SUBCHAPTER. (a) This
13 subchapter applies only to a health benefit plan, including a large
14 or small employer health benefit plan written under Chapter 1501,
15 that provides benefits for medical or surgical expenses incurred as
16 a result of a health condition, accident, or sickness, including an
17 individual, group, blanket, or franchise insurance policy or
18 insurance agreement, a group hospital service contract, or an
19 individual or group evidence of coverage or similar coverage
20 document that is offered by:

21 (1) an insurance company;

22 (2) a group hospital service corporation operating
23 under Chapter 842;

24 (3) a fraternal benefit society operating under
25 Chapter 885;

26 (4) a stipulated premium company operating under
27 Chapter 884;

1 (5) a reciprocal exchange operating under Chapter 942;

2 (6) a Lloyd's plan operating under Chapter 941;

3 (7) a health maintenance organization operating under
4 Chapter 843;

5 (8) a multiple employer welfare arrangement that holds
6 a certificate of authority under Chapter 846; or

7 (9) an approved nonprofit health corporation that
8 holds a certificate of authority under Chapter 844.

9 (b) Notwithstanding any provision in Chapter 1551, 1575,
10 1579, or 1601 or any other law, this chapter applies to:

11 (1) a basic coverage plan under Chapter 1551;

12 (2) a basic plan under Chapter 1575;

13 (3) a primary care coverage plan under Chapter 1579;

14 and

15 (4) basic coverage under Chapter 1601.

16 Sec. 1364.153. COVERAGE OF CERTAIN TESTING REQUIRED. A
17 health benefit plan issuer may not exclude or deny coverage for the
18 performance of medical tests or procedures to determine HIV
19 infection, antibodies to HIV, or infection with any other probable
20 causative agent of AIDS, regardless of whether the test or medical
21 procedure is related to the primary diagnosis of the health
22 condition, accident, or sickness for which the enrollee seeks
23 medical or surgical treatment.

24 Sec. 1364.154. RULES. The commissioner may adopt rules
25 necessary to implement this subchapter.

26 SECTION 5. The heading to Section 1507.004, Insurance Code,
27 is amended to read as follows:

1 Sec. 1507.004. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;
2 MINIMUM REQUIREMENTS [~~REQUIREMENT~~].

3 SECTION 6. Section 1507.004, Insurance Code, is amended by
4 adding Subsection (c) to read as follows:

5 (c) Any standard health benefit plan must include coverage
6 for tests or procedures to determine HIV infection, antibodies to
7 HIV, or infection with any other probable causative agent of AIDS as
8 required by Subchapter D, Chapter 1364.

9 SECTION 7. Section 1507.054, Insurance Code, is amended to
10 read as follows:

11 Sec. 1507.054. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;
12 MINIMUM REQUIREMENTS. (a) A health maintenance organization
13 authorized to issue an evidence of coverage in this state may offer
14 one or more standard health benefit plans.

15 (b) Any standard health benefit plan must include coverage
16 for tests or procedures to determine HIV infection, antibodies to
17 HIV, or infection with any other probable causative agent of AIDS as
18 required by Subchapter D, Chapter 1364.

19 SECTION 8. If before implementing the change in law made by
20 Section 32.024(ee), Human Resources Code, as added by this Act, a
21 state agency determines that a waiver or authorization from a
22 federal agency is necessary for implementation of that change in
23 law, the agency affected by the change in law shall request the
24 waiver or authorization and may delay implementing that change in
25 law until the waiver or authorization is granted.

26 SECTION 9. Subchapter D, Chapter 1364, Insurance Code, as
27 added by this Act, and Sections 1507.004 and 1507.054, Insurance

1 Code, as amended by this Act, apply only to a health benefit plan
2 that is delivered, issued for delivery, or renewed on or after
3 January 1, 2012. A health benefit plan that is delivered, issued
4 for delivery, or renewed before January 1, 2012, is covered by the
5 law in effect at the time the health benefit plan was delivered,
6 issued for delivery, or renewed, and that law is continued in effect
7 for that purpose.

8 SECTION 10. (a) The executive commissioner of the Health
9 and Human Services Commission shall adopt the rules required by
10 Section 85.0815, Health and Safety Code, as added by this Act, and
11 Section 32.024(ee), Human Resources Code, as added by this Act, not
12 later than January 1, 2012.

13 (b) Notwithstanding Section 85.0815, Health and Safety
14 Code, as added by this Act, a health care provider is not required
15 to comply with that section until January 1, 2012.

16 SECTION 11. This Act takes effect September 1, 2011.