

By: Wu

H.B. No. 526

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 who takes a sample of an individual's blood as part of a medical screening may submit the sample for an HIV diagnostic test, regardless of whether an HIV test is part of a primary diagnosis, unless the individual opts out of the HIV test.

(b) Before taking a sample of an individual's blood as part of a medical screening, a health care provider must obtain the individual's written consent for an HIV diagnostic test or verbally inform the individual that an HIV diagnostic test will be performed unless the individual opts out of the HIV test.

(c) A health care provider who submits an individual's blood for an HIV diagnostic test shall provide to each individual who receives a positive test result information on available HIV health services and referrals to community support programs.

1       (d) The executive commissioner shall adopt rules to  
2 implement this section. In adopting rules, the executive  
3 commissioner must consider the most recent recommendations of the  
4 Centers for Disease Control and Prevention for HIV testing of  
5 adults and adolescents.

6       SECTION 3. Section 32.024, Human Resources Code, is amended  
7 by adding Subsection (ee) to read as follows:

8       (ee) The executive commissioner shall adopt rules to  
9 require the commission to provide an HIV test in accordance with  
10 Section 85.0815, Health and Safety Code, to an individual who  
11 receives medical assistance.

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

14       SUBCHAPTER D. COVERAGE OF CERTAIN TESTING REQUIRED

15       Sec. 1364.151. DEFINITIONS. In this subchapter, "AIDS" and  
16 "HIV" have the meanings assigned by Section 81.101, Health and  
17 Safety Code.

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

27       (1) an insurance company;

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

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

5           (4) an approved nonprofit health corporation that  
6 holds a certificate of authority under Chapter 844;

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

9           (6) a stipulated premium company operating under  
10 Chapter 884;

11           (7) a fraternal benefit society operating under  
12 Chapter 885;

13           (8) a Lloyd's plan operating under Chapter 941; or

14           (9) a reciprocal exchange operating under Chapter 942.

15           (b) Notwithstanding any provision in Chapter 1551, 1575,  
16 1579, or 1601 or any other law, this subchapter applies to:

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

18           (2) a basic plan under Chapter 1575;

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

20 and

21           (4) basic coverage under Chapter 1601.

22           Sec. 1364.153. COVERAGE OF CERTAIN TESTING REQUIRED. A  
23 health benefit plan issuer may not exclude or deny coverage for the  
24 performance of medical tests or procedures to determine HIV  
25 infection, antibodies to HIV, or infection with any other probable  
26 causative agent of AIDS, regardless of whether the test or medical  
27 procedure is related to the primary diagnosis of the health

1 condition, accident, or sickness for which the enrollee seeks  
2 medical or surgical treatment.

3 Sec. 1364.154. RULES. The commissioner may adopt rules  
4 necessary to implement this subchapter.

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

7 Sec. 1507.004. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;  
8 MINIMUM REQUIREMENTS [~~REQUIREMENT~~].

9 SECTION 6. Section 1507.004, Insurance Code, is amended by  
10 adding Subsections (c), (d), and (e) to read as follows:

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

15 (d) Subsection (c) does not apply to a qualified health plan  
16 defined by 45 C.F.R. Section 155.20 if a determination is made under  
17 45 C.F.R. Section 155.170 that:

18 (1) Subsection (c) requires the plan to offer benefits  
19 in addition to the essential health benefits required under 42  
20 U.S.C. Section 18022(b); and

21 (2) this state must make payments to defray the cost of  
22 the additional benefits mandated by Subsection (c).

23 (e) If a determination described by Subsection (d) is made  
24 as to a qualified health plan, Subsection (c) does not apply to a  
25 non-qualified health plan offered in the same market as the  
26 qualified health plan.

27 SECTION 7. Section 1507.054, Insurance Code, is amended to

1 read as follows:

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

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

10           (c) Subsection (b) does not apply to a qualified health plan  
11 defined by 45 C.F.R. Section 155.20 if a determination is made under  
12 45 C.F.R. Section 155.170 that:

13                   (1) Subsection (b) requires the plan to offer benefits  
14 in addition to the essential health benefits required under 42  
15 U.S.C. Section 18022(b); and

16                   (2) this state must make payments to defray the cost of  
17 the additional benefits mandated by Subsection (b).

18           (d) If a determination described by Subsection (c) is made  
19 as to a qualified health plan, Subsection (b) does not apply to a  
20 non-qualified health plan offered in the same market as the  
21 qualified health plan.

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

1 law until the waiver or authorization is granted.

2 SECTION 9. Subchapter D, Chapter 1364, Insurance Code, as  
3 added by this Act, and Sections 1507.004 and 1507.054, Insurance  
4 Code, as amended by this Act, apply only to a health benefit plan  
5 that is delivered, issued for delivery, or renewed on or after  
6 January 1, 2024. A health benefit plan that is delivered, issued  
7 for delivery, or renewed before January 1, 2024, is covered by the  
8 law in effect at the time the health benefit plan was delivered,  
9 issued for delivery, or renewed, and that law is continued in effect  
10 for that purpose.

11 SECTION 10. (a) The executive commissioner of the Health  
12 and Human Services Commission shall adopt the rules required by  
13 Section 85.0815, Health and Safety Code, as added by this Act, and  
14 Section 32.024(ee), Human Resources Code, as added by this Act, not  
15 later than January 1, 2024.

16 (b) Notwithstanding Section 85.0815, Health and Safety  
17 Code, as added by this Act, a health care provider is not required  
18 to comply with that section until January 1, 2024.

19 SECTION 11. This Act takes effect September 1, 2023.