

By: Ellis

S.B. No. 877

A BILL TO BE ENTITLED

AN ACT

relating to the provision of 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. Subchapter D, Chapter 85, Health and Safety Code, is amended by adding Section 85.090 to read as follows:

Sec. 85.090. 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 2. Section 32.024, Human Resources Code, is amended by adding Subsection (ee) to read as follows:

(ee) The executive commissioner of the Health and Human Services Commission shall adopt rules to require the department to

1 provide an HIV test in accordance with Chapter 85, Health and Safety  
2 Code, to a person who receives medical assistance.

3 SECTION 3. Chapter 1364, Insurance Code, is amended by  
4 adding Subchapter D to read as follows:

5 SUBCHAPTER D. COVERAGE OF CERTAIN TESTING REQUIRED

6 Sec. 1364.151. DEFINITIONS. In this subchapter, "AIDS" and  
7 "HIV" have the meanings assigned by Section 81.101, Health and  
8 Safety Code.

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

18 (1) an insurance company;

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

21 (3) a fraternal benefit society operating under  
22 Chapter 885;

23 (4) a stipulated premium company operating under  
24 Chapter 884;

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

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

27 (7) a health maintenance organization operating under

1 Chapter 843;

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

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

6 (b) Notwithstanding any provision in Chapter 1551, 1575,  
7 1579, or 1601 or any other law, this chapter applies to:

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

9 (2) a basic plan under Chapter 1575;

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

11 and

12 (4) basic coverage under Chapter 1601.

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

21 Sec. 1364.154. RULES. The commissioner may adopt rules  
22 necessary to implement this subchapter.

23 SECTION 4. The heading to Section 1507.004, Insurance Code,  
24 is amended to read as follows:

25 Sec. 1507.004. STANDARD HEALTH BENEFIT PLANS AUTHORIZED;  
26 MINIMUM REQUIREMENTS [~~REQUIREMENT~~].

27 SECTION 5. Section 1507.004, Insurance Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) Any standard health benefit plan must include coverage  
3 for tests or procedures to determine HIV infection, antibodies to  
4 HIV, or infection with any other probable causative agent of AIDS  
5 under Subchapter D, Chapter 1364.

6 SECTION 6. Section 1507.054, Insurance Code, is amended to  
7 read as follows:

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

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

16 SECTION 7. If before implementing the change in law made by  
17 Section 32.024(ee), Human Resources Code, as added by this Act, a  
18 state agency determines that a waiver or authorization from a  
19 federal agency is necessary for implementation of that change in  
20 law, the agency affected by the change in law shall request the  
21 waiver or authorization and may delay implementing that change in  
22 law until the waiver or authorization is granted.

23 SECTION 8. Subchapter D, Chapter 1364, Insurance Code, as  
24 added by this Act, and Sections 1507.004 and 1507.054, Insurance  
25 Code, as amended by this Act, apply only to a health benefit plan  
26 that is delivered, issued for delivery, or renewed on or after  
27 January 1, 2010. A health benefit plan that is delivered, issued

1 for delivery, or renewed before January 1, 2010, is covered by the  
2 law in effect at the time the health benefit plan was delivered,  
3 issued for delivery, or renewed, and that law is continued in effect  
4 for that purpose.

5 SECTION 9. (a) The executive commissioner of the Health and  
6 Human Services Commission shall adopt the rules required by Section  
7 85.090, Health and Safety Code, as added by this Act, and Section  
8 32.024(ee), Human Resources Code, as added by this Act, not later  
9 than January 1, 2010.

10 (b) Notwithstanding Section 85.090, Health and Safety Code,  
11 as added by this Act, a health care provider is not required to  
12 comply with that section until January 1, 2010.

13 SECTION 10. This Act takes effect September 1, 2009.