

## **BILL ANALYSIS**

Senate Research Center

H.B. 1637  
By: Alvarado (Carona)  
Health & Human Services  
5-16-97  
Committee Report (Amended)

### **DIGEST**

According to the U.S. General Accounting Office, health care fraud costs American taxpayers about \$100 billion each year. Identified cases of fraud include several incidents in which Medicaid providers intentionally performed unnecessary procedures, such as crowning undamaged teeth, or charging the state for services that were never rendered on children. This bill will increase penalties for fraudulent or other unlawful acts committed under the state Medicaid program that result in injury to a child.

### **PURPOSE**

As proposed, H.B. 1637 increases penalties for fraudulent or other unlawful acts committed under the state Medicaid program that result in injury to a child.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Health and Human Services Commission or an agency operating part of the medical assistance program in SECTION 1 (Section 32.039(s), Human Resources Code) and to the board of a state agency that operates as part of the state Medicaid program in SECTION 4 (Section 36.009(b), Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 32.039, Human Resources Code, by amending Subsection (b) and adding Subsection (s), to provide that a person who presents or causes to be presented to the Health and Human Services Commission or an agency operating part of the medical assistance program (department) a claim that contains a statement or representation the person knows to be false is liable to the department for a civil penalty of not less than \$5,000 or more than \$15,000 for each item or service for which payment was claimed if the false statement or representation results in injury to certain persons; or not more than \$2,000 for each item or service for which payment was claimed if the false statement or representation does not result in injury to a person described by Paragraph (A). Prohibits a person found liable under Subsection (b) for a false statement or representation that resulted in injury to certain persons from providing or arranging to provide health care services under the medical assistance program for a period of 10 years. Authorizes the department, by rule, to provide for a period of ineligibility longer than 10 years. Provides that the period of ineligibility begins on the date on which the determination that the person is liable becomes final. Provides that this subsection does not apply to a person who operates a nursing facility.

SECTION 2. Amends Chapter 32B, Human Resources Code, by adding Section 32.047, Human Resources Code, as follows:

Sec. 32.047. PROHIBITION OF CERTAIN HEALTH CARE SERVICE PROVIDERS.  
Provides that, under certain circumstances, a person is permanently prohibited from providing or arranging to provide health care services under the medical assistance program.

SECTION 3. Amends Section 36.004(a), Human Resources Code, to make conforming changes.

SECTION 4. Amends Section 36.009, Human Resources Code, to require certain persons to suspend or revoke a provider agreement between the department or agency and a person, other than a person who operates a nursing facility, found liable under Section 36.004 and a permit, license, or

certification granted by the department or agency to a person, other than a person who operates a nursing facility, found liable under Section 36.004. Prohibits a person found liable under Section 36.004 from providing or arranging to provide health care services under the state Medicaid program for a period of 10 years. Authorizes the board of a state agency that operates part of the Medicaid program, by rule, to provide for a period of ineligibility longer than 10 years. Provides that this subsection does not apply to a person who operates a nursing facility. Makes conforming changes.

SECTION 5. Provides that if before implementing any provision of this Act, the Health and Human Services Commission or other state agency determines that a waiver or authorization from a federal agency is necessary for implementation, the commission or other state agency shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 1997, but only if S.B. 30, Acts of the 75th Legislature, Regular Session, 1997, does not become law.

SECTION 8. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

#### Amendment 1.

(1) On page 1, line 21, between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(a)(A), or".

(2) On page 2, lines 1 and 2, strike "younger than 18 years of age" and substitute "described by Paragraph (A)".

(3) On page 2, line 4, between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(4) On page 2, line 10, immediately following the last sentence, insert "This subsection does not apply to a person who operates a nursing facility."

(5) On page 2, line 12, strike "32.043" and substitute "32.047".

(6) On page 2, line 13, strike "32.043" and substitute "32.047".

(7) On page 2, line 19, between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(8) On page 3, line 9, between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(9) On page 3, line 12, strike "youner than 18 years of age" and substitute "described by Paragraph (A)".

(10) On page 3, line 25, between "person" and "found", insert ", other than a person who operates a nursing facility,".

(11) On page 3, lines 25-27, strike "for an unlawful act that resulted in injury to a person youner than 18 years of age".

(12) On page 4, line 2, between "person" and "found", insert ", other than a person who operates a nursing facility,".

- (13) On page 4, lines 3 and 4, strike "for an unlawful act that resulted in injury to a person younger than 18 years of age".
- (14) On page 4, line 7, between "person" and "found", insert "who operates a nursing facility".
- (15) On page 4, lines 8 and 9, strike "for an unlawful act that does not result in injury to a person younger than 18 years of age".
- (16) On page 4, lines 11, between "person" and "found", insert "who operates a nursing facility".
- (17) On page 4, lines 12 and 13, strike "for an unlawful act that does not result in injury to a person younger than 18 years of age".
- (18) On page 4, lines 14 and 15, strike "that resulted in injury to a person younger than 18 years of age".
- (19) On page 4, line 18, strike "part of the state" and substitute "part of the".
- (20) On page 4, line 22, immediately following the last sentence, insert "This subsection does not apply to a person who operates a nursing facility."
- (21) On page 5, line 15, between "1997" and the period, insert ", but only if S.B. No. 30, Acts of the 75th Legislature, Regular Session, 1997, does not become law".