

BILL ANALYSIS

C.S.H.B. 34
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas workers' compensation system is regulated by the Texas Department of Insurance's Division of Workers' Compensation which is responsible for the implementation and enforcement of Title Five of the Insurance Code, The Texas Workers' Compensation Act (Act). The Act outlines administrative violations for employees, employers, insurance carriers and healthcare providers involved in workers' compensation claims. However, there are not any specific prohibitions against kickbacks for arranging referrals for services by individuals in control of management of a claim.

C.S.H.B. 34 specifically prohibits paying, allowing, or offering fees, rebates or other considerations in exchange for the referral of medical or case management services on a claim.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 34 amends Texas Labor Code by adding Section 415.0036 which creates a Class A administrative violation if the person offers to pay, pays, solicits, or receives an improper inducement relating to the delivery of benefits to an injured employee or improperly attempts to influence the delivery of benefits to an injured employee, including making threats.

A violation in this section would apply to an agent of or an insurance adjuster, case manager, or other person who authority under this title to request performance of a service affecting the delivery of benefits to an injured employee in Texas.

The administrative penalty would apply to a violation which occurs on or after the effective date of this Act; for violations that occur prior to the effective date, the current law would be effective.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute applies to not only an insurance adjuster, case manager, but also to their agents. Additionally the substitute changes the application to other persons who have authority under this title to request performance of a service "regarding the management of a workers' compensation claim" and replaced that language with "affecting the delivery of benefits to an injured employee."

The substitute changes the language in subsection (b) in the original which describes a violation if a person "pays, allows, or gives or offers to pay, allow, or give, directly or indirectly, a fee, rebate, or other consideration not authorized under this title for the performance of a service described by Subsection (a), or for a referral regarding the service, to another person as an inducement for the performance or referral of the service." Whereas the substitute describes a violation if a person "offers to pay, pays, solicits, or receives an improper inducement relating to

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the delivery of benefits to an injured employee or improperly attempts to influence the delivery of benefits to an injured employee, including through the making of improper threats. This section applies to each person described by Subsection (a) who is a participant in the workers' compensation system of this state and to an agent of such a person.”