

BILL ANALYSIS

H.B. 3310
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Instances where Medicaid fraud and abuse take place are not commonplace, yet they do happen. The Attorney General can have difficulty in prosecuting these types of cases for a variety of reasons, such as the inability of state agencies to share information and ambiguity in the law regarding kickbacks to healthcare professionals. HB 3310 will give the Office of the Attorney General more tools to prosecute Medicaid abuse by health care professionals by increasing penalties for abuse, allowing state agencies to better communicate with one another, and adds an anti-kickback provision. These changes will help the Office of the Attorney General more effectively prosecute violators of the Medicaid program.

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

HB 3310 defines a health care professional (professional) and participating agency, and authorizes a participating agency (agency) to submit a written request to another agency for information regarding a professional or managed care organization (MCO) that is the subject of an investigation for alleged fraud or abuse under the state Medicaid program by the requesting agency. The bill requires the agency that receives the request to provide the information unless it would jeopardize an investigation or is prohibited by other law, if it determines the information cannot be released has 30 days to notify in writing the requesting agency. An agency that discovers information that may indicate fraud or abuse may provide that information to another participating agency unless prohibited by law.

HB 3310 establishes that confidential information shared remains subject to certain confidentiality requirements and legal restrictions, and written permission to use the information in a licensure or enforcement action must be granted by agency that provided the information. The bill provides that this law does not affect the agencies authority to exchange information under other laws.

The bill clarifies that a person commits a violation of the Medical Assistance Program (program) if the person provides, offers, or receives an inducement in a certain manner or purpose, to or from a person, including a recipient, provider, employee or agent of a provider, third-party vendor, or public servant, for the purpose of influencing or being influenced in a decision regarding selection of a provider or the receipt, use or the inclusion or exclusion of goods or services available under the medical assistance program, and adds this provision to the list of criminal offenses under the program.

The bill increases the penalty for the offense of securing the execution of a document by deception to the next higher category of offense if the offense involves the state Medicaid program. The bill also provides that it is an offence under the Medicaid Fraud statute to knowingly obstruct an investigation by the attorney general of an alleged unlawful act under this section or under sections 32.039, Damages and Penalties, 32.0391 Criminal Offence, or 36.002, Unlawful Acts, of the Human Resources Code, and amends the penalties for the offence of Medicaid Fraud.

The bill amends the definition of "contraband" to include references to a felony under Chapter 32, Medical Assistance Program, of the Human Resources Code and Chapter 35A, Medicaid Fraud, of the Penal Code and deletes the reference to Chapter 36, Medicaid Fraud Prevention, of the Human Resources Code.

EFFECTIVE DATE

September 1, 2007.