

1-1 By: Delisi (Senate Sponsor - Nichols) H.B. No. 889
1-2 (In the Senate - Received from the House March 26, 2007;
1-3 March 29, 2007, read first time and referred to Committee on Health
1-4 and Human Services; April 19, 2007, reported favorably by the
1-5 following vote: Yeas 9, Nays 0; April 19, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to certain actions that constitute unlawful acts against
1-9 the Medicaid program.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 36.002, Human Resources Code, is amended
1-12 to read as follows:

1-13 Sec. 36.002. UNLAWFUL ACTS. A person commits an unlawful
1-14 act if the person:

1-15 (1) knowingly makes or causes to be made a false
1-16 statement or misrepresentation of a material fact to permit a
1-17 person to receive a benefit or payment under the Medicaid program
1-18 that is not authorized or that is greater than the benefit or
1-19 payment that is authorized;

1-20 (2) knowingly conceals or fails to disclose
1-21 information that permits a person to receive a benefit or payment
1-22 under the Medicaid program that is not authorized or that is greater
1-23 than the benefit or payment that is authorized;

1-24 (3) knowingly applies for and receives a benefit or
1-25 payment on behalf of another person under the Medicaid program and
1-26 converts any part of the benefit or payment to a use other than for
1-27 the benefit of the person on whose behalf it was received;

1-28 (4) knowingly makes, causes to be made, induces, or
1-29 seeks to induce the making of a false statement or
1-30 misrepresentation of material fact concerning:

1-31 (A) the conditions or operation of a facility in
1-32 order that the facility may qualify for certification or
1-33 recertification required by the Medicaid program, including
1-34 certification or recertification as:

1-35 (i) a hospital;

1-36 (ii) a nursing facility or skilled nursing
1-37 facility;

1-38 (iii) a hospice;

1-39 (iv) an intermediate care facility for the
1-40 mentally retarded;

1-41 (v) an assisted living facility; or

1-42 (vi) a home health agency; or

1-43 (B) information required to be provided by a
1-44 federal or state law, rule, regulation, or provider agreement
1-45 pertaining to the Medicaid program;

1-46 (5) except as authorized under the Medicaid program,
1-47 knowingly pays, charges, solicits, accepts, or receives, in
1-48 addition to an amount paid under the Medicaid program, a gift,
1-49 money, a donation, or other consideration as a condition to the
1-50 provision of a service or product or the continued provision of a
1-51 service or product if the cost of the service or product is paid
1-52 for, in whole or in part, under the Medicaid program;

1-53 (6) knowingly presents or causes to be presented a
1-54 claim for payment under the Medicaid program for a product provided
1-55 or a service rendered by a person who:

1-56 (A) is not licensed to provide the product or
1-57 render the service, if a license is required; or

1-58 (B) is not licensed in the manner claimed;

1-59 (7) knowingly makes a claim under the Medicaid program
1-60 for:

1-61 (A) a service or product that has not been
1-62 approved or acquiesced in by a treating physician or health care
1-63 practitioner;

1-64 (B) a service or product that is substantially

2-1 inadequate or inappropriate when compared to generally recognized
2-2 standards within the particular discipline or within the health
2-3 care industry; or

2-4 (C) a product that has been adulterated, debased,
2-5 mislabeled, or that is otherwise inappropriate;

2-6 (8) makes a claim under the Medicaid program and
2-7 knowingly fails to indicate the type of license and the
2-8 identification number of the licensed health care provider who
2-9 actually provided the service;

2-10 (9) knowingly enters into an agreement, combination,
2-11 or conspiracy to defraud the state by obtaining or aiding another
2-12 person in obtaining an unauthorized payment or benefit from the
2-13 Medicaid program or a fiscal agent;

2-14 (10) is a managed care organization that contracts
2-15 with the Health and Human Services Commission or other state agency
2-16 to provide or arrange to provide health care benefits or services to
2-17 individuals eligible under the Medicaid program and knowingly:

2-18 (A) fails to provide to an individual a health
2-19 care benefit or service that the organization is required to
2-20 provide under the contract;

2-21 (B) fails to provide to the commission or
2-22 appropriate state agency information required to be provided by
2-23 law, commission or agency rule, or contractual provision; or

2-24 (C) engages in a fraudulent activity in
2-25 connection with the enrollment of an individual eligible under the
2-26 Medicaid program in the organization's managed care plan or in
2-27 connection with marketing the organization's services to an
2-28 individual eligible under the Medicaid program;

2-29 (11) knowingly obstructs an investigation by the
2-30 attorney general of an alleged unlawful act under this section;
2-31 [~~or~~]

2-32 (12) knowingly makes, uses, or causes the making or
2-33 use of a false record or statement to conceal, avoid, or decrease an
2-34 obligation to pay or transmit money or property to this state under
2-35 the Medicaid program; or

2-36 (13) knowingly engages in conduct that constitutes a
2-37 violation under Section 32.039(b).

2-38 SECTION 2. (a) Section 36.002, Human Resources Code, as
2-39 amended by this Act, applies only to conduct that occurs on or after
2-40 the effective date of this Act. Conduct that occurs before the
2-41 effective date of this Act is governed by the law in effect at the
2-42 time the conduct occurred, and that law is continued in effect for
2-43 that purpose.

2-44 (b) For purposes of this section, conduct constituting an
2-45 offense under the penal law of this state occurred before the
2-46 effective date of this Act if any element of the offense occurred
2-47 before that date.

2-48 SECTION 3. This Act takes effect September 1, 2007.

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