

By: Nichols

S.B. No. 852

A BILL TO BE ENTITLED

AN ACT

relating to certain actions that constitute unlawful acts against the Medicaid program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

Sec. 36.002. UNLAWFUL ACTS. A person commits an unlawful act if the person:

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

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

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

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

1 (A) the conditions or operation of a facility in
2 order that the facility may qualify for certification or
3 recertification required by the Medicaid program, including
4 certification or recertification as:

5 (i) a hospital;

6 (ii) a nursing facility or skilled nursing
7 facility;

8 (iii) a hospice;

9 (iv) an intermediate care facility for the
10 mentally retarded;

11 (v) an assisted living facility; or

12 (vi) a home health agency; or

13 (B) information required to be provided by a
14 federal or state law, rule, regulation, or provider agreement
15 pertaining to the Medicaid program;

16 (5) except as authorized under the Medicaid program,
17 knowingly pays, charges, solicits, accepts, or receives, in
18 addition to an amount paid under the Medicaid program, a gift,
19 money, a donation, or other consideration as a condition to the
20 provision of a service or product or the continued provision of a
21 service or product if the cost of the service or product is paid
22 for, in whole or in part, under the Medicaid program;

23 (6) knowingly presents or causes to be presented a
24 claim for payment under the Medicaid program for a product provided
25 or a service rendered by a person who:

26 (A) is not licensed to provide the product or
27 render the service, if a license is required; or

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

2 (7) knowingly makes a claim under the Medicaid program
3 for:

4 (A) a service or product that has not been
5 approved or acquiesced in by a treating physician or health care
6 practitioner;

7 (B) a service or product that is substantially
8 inadequate or inappropriate when compared to generally recognized
9 standards within the particular discipline or within the health
10 care industry; or

11 (C) a product that has been adulterated, debased,
12 mislabeled, or that is otherwise inappropriate;

13 (8) makes a claim under the Medicaid program and
14 knowingly fails to indicate the type of license and the
15 identification number of the licensed health care provider who
16 actually provided the service;

17 (9) knowingly enters into an agreement, combination,
18 or conspiracy to defraud the state by obtaining or aiding another
19 person in obtaining an unauthorized payment or benefit from the
20 Medicaid program or a fiscal agent;

21 (10) is a managed care organization that contracts
22 with the Health and Human Services Commission or other state agency
23 to provide or arrange to provide health care benefits or services to
24 individuals eligible under the Medicaid program and knowingly:

25 (A) fails to provide to an individual a health
26 care benefit or service that the organization is required to
27 provide under the contract;

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

4 (C) engages in a fraudulent activity in
5 connection with the enrollment of an individual eligible under the
6 Medicaid program in the organization's managed care plan or in
7 connection with marketing the organization's services to an
8 individual eligible under the Medicaid program;

9 (11) knowingly obstructs an investigation by the
10 attorney general of an alleged unlawful act under this section;
11 [~~or~~]

12 (12) knowingly makes, uses, or causes the making or
13 use of a false record or statement to conceal, avoid, or decrease an
14 obligation to pay or transmit money or property to this state under
15 the Medicaid program; or

16 (13) knowingly engages in conduct that constitutes a
17 violation under Section 32.039(b).

18 SECTION 2. (a) Section 36.002, Human Resources Code, as
19 amended by this Act, applies only to conduct that occurs on or after
20 the effective date of this Act. Conduct that occurs before the
21 effective date of this Act is governed by the law in effect at the
22 time the conduct occurred, and that law is continued in effect for
23 that purpose.

24 (b) For purposes of this section, conduct constituting an
25 offense under the penal law of this state occurred before the
26 effective date of this Act if any element of the offense occurred
27 before that date.

1 SECTION 3. This Act takes effect September 1, 2007.