

BILL ANALYSIS

Senate Research Center
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S.B. 544
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recently, the Texas Civil Medicaid Fraud Division of the Office of the Attorney General participated in a lawsuit that resulted in a settlement relating to four different adulterated drugs. The drugs were adulterated because of poor manufacturing practices at a plant in Puerto Rico. The global settlement (Texas, other states, and the federal government) was for \$750 million. Texas will be receiving a part of the settlement that was coordinated by the National Association of Medicaid Fraud Control Units because this provision of law exists in federal statutes.

S.B. 544 modifies the Texas Medicaid Fraud Prevention Act to give the state a civil cause of action to pursue this type of violation. This provision would bring Texas in line with federal law and could allow the state to recover additional funds on behalf of the Medicaid program.

As proposed, S.B. 544 amends current law relating to unlawful acts against and criminal offenses involving the Medicaid program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.002, Human Resources Code, to provide that a person commits an unlawful act if the person performs certain actions, including knowingly makes or causes to be made a claim under the Medicaid program for a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner, a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry, or a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate.

SECTION 2. Amends Section 35A.02(a), Penal Code, to provide that a person commits an offense if the person performs certain actions, including knowingly makes or causes to be made a claim under the Medicaid program for a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner, a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry, or a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate.

SECTION 3. (a) Makes application of this Act prospective.

(b) Provides that, for purposes of this section, conduct constituting an offense under the penal law of this state occurred before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. Effective date: September 1, 2011.