BILL ANALYSIS

C.S.S.B. 8
By: Nelson
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have suggested various changes to state law that they contend will enhance the state's ability to detect and prevent fraud, waste, and abuse in Medicaid and across the health and human services system. C.S.S.B. 8 seeks to enact those changes to help ensure that public funds are expended on services for individuals who truly need them and not on fraud, waste, and abuse.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 2, 6, and 8 of this bill.

ANALYSIS

C.S.S.B. 8 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC), as soon as practicable after the bill's effective date, to establish a data analysis unit within HHSC to establish, employ, and oversee data analysis processes designed to improve contract management; detect data trends; and identify anomalies relating to service utilization, providers, payment methodologies, and compliance with requirements in Medicaid and child health plan program (CHIP) managed care and fee-for-service contracts. The bill requires HHSC to assign staff to the unit who perform duties only in relation to the unit and requires the unit to use all available data and tools for data analysis when establishing, employing, and overseeing such data analysis processes. The bill requires the unit, not later than the 30th day following the end of each calendar quarter, to provide an update on the unit's activities and findings to the governor, the lieutenant governor, the speaker of the house of representatives, the chair of the senate finance committee, the chair of the house appropriations committee, and the chairs of the standing committees of the senate and house of representatives having jurisdiction over the Medicaid program. The bill requires the unit to provide the initial update not later than the 30th day after the last day of the first complete calendar quarter occurring after the date the unit is established.

C.S.S.B. 8 prohibits a Medicaid or CHIP provider, including a provider participating in the network of a managed care organization that contracts with HHSC to provide services under Medicaid or CHIP, from engaging in any marketing activity, including any dissemination of material or other attempt to communicate, that involves unsolicited personal contact with a Medicaid client or a parent whose child is enrolled in Medicaid or CHIP, that is directed at the client or parent solely because the client or the parent's child is receiving benefits under Medicaid or CHIP, and that is intended to influence the client's or parent's choice of provider. The bill clarifies that its provisions do not prohibit a Medicaid or CHIP provider from engaging in such marketing activity if the activity involves only the general dissemination of information and does not involve unsolicited personal contact; from engaging in the dissemination of material or another attempt to communicate with a Medicaid client or a parent whose child is enrolled in Medicaid or CHIP, as permitted under the provider's contract, for the purpose of providing an appointment reminder, distributing promotional health materials, providing

information about the types of services offered by the provider, or coordinating patient care; or from engaging in a marketing activity that has been submitted for review and obtained a notice of prior authorization from HHSC. The bill clarifies that its provisions do not prohibit a provider participating in the Medicaid STAR + PLUS program from, as permitted under the provider's contract, engaging in a marketing activity that is intended to educate a Medicaid client about available long-term care services and supports.

C.S.S.B. 8 requires a provider participating in the network of a managed care organization that contracts with HHSC to provide Medicaid or CHIP services to comply with the marketing guidelines established by HHSC. The bill requires HHSC to establish a process by which providers may submit proposed marketing activities for review and prior authorization to ensure that providers are in compliance with the bill's marketing activity requirements and, if applicable, the marketing guidelines established by HHSC under certain specified statutory provisions, or to determine whether the providers are exempt from such requirements and guidelines. The bill authorizes HHSC to grant or deny a provider's request for authorization to engage in a proposed marketing activity. The bill requires the executive commissioner to adopt rules as necessary to implement the bill's provisions relating to provider marketing activities, including rules relating to exempt activities.

C.S.S.B. 8 requires HHSC to enter into a memorandum of understanding with the Texas Department of Motor Vehicles and the Department of Public Safety for purposes of obtaining the motor vehicle registration and driver's license information of a provider of medical transportation services, including a regional contracted broker and a subcontractor of the broker, to confirm that the provider complies with applicable requirements adopted by the executive commissioner of HHSC to ensure the safe and efficient provision of nonemergency transportation services under the medical transportation program by such brokers. The bill requires HHSC to establish a process by which providers of medical transportation services, including providers under a managed transportation delivery model, that contract with HHSC may request and obtain such information for purposes of ensuring that subcontractors providing medical transportation services meet the applicable requirements.

C.S.S.B. 8 requires HHSC to periodically review in accordance with an established schedule the prior authorization and utilization review processes within the Medicaid fee-for-service delivery model to determine if those processes need modification to reduce authorizations of unnecessary services and inappropriate use of services. The bill requires HHSC to also monitor such processes for anomalies and, on identification of an anomaly in a process, to review the process for modification earlier than scheduled. The bill requires HHSC to monitor Medicaid managed care organizations to ensure that the organizations are using prior authorization and utilization review processes to reduce authorizations of unnecessary services and inappropriate use of services.

C.S.S.B. 8, in a statutory provision making HHSC's office of inspector general responsible for the investigation of fraud and abuse in the provision of health and human services, includes among those responsibilities the prevention, detection, audit, inspection, review, and investigation of fraud, waste, and abuse in the provision and delivery of all health and human services in the state, including services through any state-administered health or human services program that is wholly or partly federally funded. The bill specifies that provisions governing HHSC's office of inspector general do not limit the authority of any other state agency or governmental entity.

C.S.S.B. 8 requires HHSC, beginning not later than September 1, 2014, and subject to the bill's provision relating to an authorized delay for medical transportation program services provided through a specified delivery model, to provide medical transportation program services on a regional basis through a managed transportation delivery model using managed transportation organizations and providers, as appropriate, that operate under a capitated rate system, assume financial responsibility under a full-risk model, operate a call center, use fixed routes when

available and appropriate, and agree to provide data to HHSC on determination by HHSC that the data is required to receive federal matching funds. The bill requires HHSC to procure managed transportation organizations under the program through a competitive bidding process. The bill requires a managed transportation organization that participates in the program to attempt to contract with medical transportation providers that are considered significant traditional providers, as defined by executive commissioner rule; meet the minimum quality and efficiency measures determined by HHSC and other requirements that may be imposed by the managed transportation organization; and agree to accept the prevailing contract rate of the managed transportation organization.

C.S.S.B. 8 authorizes a managed transportation organization, to the extent allowed under federal law, to own, operate, and maintain a fleet of vehicles or contract with an entity that owns, operates, and maintains a fleet of vehicles. The bill requires HHSC to consider the ownership, operation, and maintenance of a fleet of vehicles by a managed transportation organization to be a related-party transaction for purposes of applying experience rebates, administrative costs, and other administrative controls determined by HHSC. The bill requires HHSC to require managed transportation providers participating in the medical transportation program to meet minimum quality and efficiency measures as determined by HHSC. The bill authorizes HHSC to delay providing program services through a managed transportation delivery model in areas of Texas in which HHSC, on September 1, 2013, is operating a full-risk transportation broker model.

C.S.S.B. 8 amends the Health and Safety Code to expand the criteria that an emergency medical services provider applicant must satisfy in order to be issued a license by the Department of State Health Services (DSHS) that is valid for two years to include a requirement that the applicant possess sufficient professional experience and qualifications to provide emergency medical services and has not been excluded from participation in the state Medicaid program and that the applicant holds a letter of approval issued under the bill's provisions by the governing body of the municipality or the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services, as applicable.

C.S.S.B. 8 requires a person who applies for an emergency medical services provider license or for a renewal of such a license, in addition to the requirements for obtaining or renewing the license, to do the following: provide DSHS with a letter of credit issued by a federally insured bank or savings institution in the amount of $100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued, $75,000 for renewal of the license on the fourth anniversary of the date the initial license is issued, $50,000 for renewal of the license on the sixth anniversary of the date the initial license is issued, and $25,000 for renewal of the license on the eighth anniversary of the date the initial license is issued and each subsequent renewal; provide DSHS with a surety bond in the amount of $50,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued, $25,000 for renewal of the license on the fourth anniversary of the date the initial license is issued, and $10,000 for renewal of the license on the sixth anniversary of the date the initial license is issued and each subsequent renewal; and submit for approval by DSHS the name and contact information of the provider's administrator of record who satisfies the bill's requirements. The bill exempts an emergency medical services provider that is directly operated by a governmental entity from these bill provisions relating to additional license requirements.

C.S.S.B. 8 prohibits the administrator of record for a licensed emergency medical services provider from being employed or otherwise compensated by another private for-profit emergency medical services provider and requires the administrator to meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state and to submit to a criminal history record check at the applicant's expense. The bill specifies that the limitation on information required for a certificate renewal does not apply to information an administrator of record is required to provide under the bill's provisions. The bill authorizes an administrator of record initially approved by DSHS to be required to complete an education course for new administrators of record. The bill requires the

executive commissioner to recognize, prepare, or administer the education course for new administrators of record and requires the course to include information about the laws and DSHS rules that affect emergency medical services providers. The bill requires an administrator of record approved by DSHS to annually complete at least eight hours of continuing education following initial approval. The bill requires the executive commissioner to recognize, prepare, or administer continuing education programs for administrators of record and requires the programs to include information about changes in law and DSHS rules that affect emergency medical services providers. The bill exempts an emergency medical services provider that is directly operated by a governmental entity from these bill provisions relating to administrators of record.

C.S.S.B. 8 requires DSHS, not later than December 1 of each even-numbered year, to electronically submit a report to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over DSHS on the effect of the bill's provisions relating to additional license requirements and administrators of record that includes the following: the total number of applications for emergency medical services provider licenses submitted to DSHS and the number of applications for which licenses were issued or licenses were denied by DSHS; the number of emergency medical services provider licenses that were suspended or revoked by DSHS for violations of those provisions and a description of the types of violations that led to the license suspension or revocation; the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those provisions; the number of complaints made against licensed emergency medical services providers for violations of those provisions and a description of the types of complaints; and the status of any coordination efforts of DSHS and the Texas Medical Board related to those provisions.

C.S.S.B. 8 requires an emergency medical services provider applicant to obtain a letter of approval from the governing body of the municipality in which the applicant is located and is applying to provide emergency medical services or, if the applicant is not located in a municipality, the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services. The bill authorizes a governing body of a municipality or a commissioners court of a county to issue a letter of approval to an emergency medical services provider applicant who is applying to provide emergency medical services in the municipality or county only if the governing body or commissioners court determines the following: the addition of another licensed emergency medical services provider will not interfere with or adversely affect the provision of emergency medical services by the licensed emergency medical services providers operating in the municipality or county; the addition of another licensed emergency medical services provider will remedy an existing provider shortage that cannot be resolved through the use of the licensed emergency medical services providers operating in the municipality or county; and the addition of another licensed emergency medical services provider will not cause an oversupply of licensed emergency medical services providers in the municipality or county. The bill prohibits an emergency medical services provider from expanding operations to or stationing any emergency medical services vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with a contract awarded by another municipality or county for the provision of emergency medical services, an emergency response made in connection with an existing mutual aid agreement, or an activation of a statewide emergency or disaster response by DSHS. The bill provides that the requirement to obtain such a letter of approval does not apply to the renewal of an emergency medical services provider license or to a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in Texas that applies for an emergency medical services provider license.

C.S.S.B. 8 authorizes the commissioner of health to suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record,

employee, or other representative has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of the administrator, employee, or representative, other than an offense for which points are assigned to a person's driver's license; has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense, including certain offenses as set out in the bill; or has been convicted of Medicare or Medicaid fraud, has been excluded from participation in the state Medicaid program, or has a hold on payment for reimbursement under the state Medicaid program.

C.S.S.B. 8 prohibits DSHS from issuing any new emergency medical services provider licenses for the period beginning on September 1, 2013, and ending on February 28, 2015. The bill provides that the moratorium does not apply to the issuance of an emergency medical services provider license to a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in Texas or to an emergency medical services provider applicant who is applying to provide services in response to 9-1-1 calls and is located in a rural area that is a county with a population of 50,000 or less or that is a relatively large, isolated, and sparsely populated area in a county with a population of more than 50,000.

C.S.S.B. 8 amends the Human Resources Code to require the executive commissioner of HHSC, in adopting rules relating to a Medicaid provider's enrollment in light of certain criminal history record information, to require a provider's enrollment to be revoked or a person's application for enrollment as a Medicaid provider to be denied if the person has been excluded or debarred from participation in a state or federally funded health care program as a result of a criminal conviction or finding of civil or administrative liability for committing a fraudulent act, theft, embezzlement, or other financial misconduct under a state or federally funded health care program or as a result of a criminal conviction for committing an act under a state or federally funded health care program that caused bodily injury to a person who is 65 years of age or older, a person with a disability, or a person under 18 years of age. The bill establishes the conditions under which HHSC may reinstate a provider's enrollment or grant a person's previously denied application to enroll as a provider and requires HHSC to support such a decision with written findings of good cause.

C.S.S.B. 8 specifies that the period a Medicaid provider found liable for committing an unlawful act is ineligible to participate in the Medicaid program begins on the date on which the judgment finding the provider liable is entered by the trial court, rather than the date on which the determination that the provider is liable becomes final, except that the period of ineligibility for an individual licensed by a health care regulatory agency or for a physician, defined in the bill to include a physician, a professional association composed solely of physicians, a single legal entity authorized to practice medicine owned by two or more physicians, a nonprofit health corporation certified by the Texas Medical Board, or a partnership composed solely of physicians, begins on the date on which the determination that the individual or physician is liable becomes final.

C.S.S.B. 8 includes temporary provisions, set to expire September 1, 2015, requiring HHSC, in cooperation with DSHS and the Texas Medical Board, to conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the use of non-emergent services provided by ambulance providers under the Medicaid program; requiring DSHS, in cooperation with HHSC and the Texas Medical Board, to conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the licensure of nonemergency transportation providers; and requiring the Texas Medical Board, in cooperation with DSHS and HHSC, to conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the delegation of health care services by physicians or medical directors to qualified emergency medical services personnel and related to physicians' assessment of patients' needs for purposes of ambulatory transfer or transport or other purposes. The bill requires each of the reviews and solicitations of stakeholder input to be conducted as soon as practicable after

the bill's effective date. The bill requires HHSC, DSHS, and the Texas Medical Board, not later than January 1, 2014, to make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities reviewed by each entity and to amend the policies related to those activities as necessary to assist in accomplishing those changes.

C.S.S.B. 8 clarifies legislative intent regarding statutory provisions relating to certain rules adopted by HHSC governing the early and periodic screening, diagnosis, and treatment program and validates certain HHSC acts and decisions.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 8 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subchapter A, Chapter 531, Government Code, is amended.	SECTION 1. Same as engrossed version.
SECTION 2. Subchapter B, Chapter 531, Government Code, is amended.	SECTION 2. Same as engrossed version.
SECTION 3. Section 531.02414, Government Code, is amended.	SECTION 3. Substantially the same as engrossed version.
SECTION 4. Subchapter B, Chapter 531, Government Code, is amended.	SECTION 4. Same as engrossed version.
SECTION 5. Section 531.102, Government Code, is amended.	SECTION 5. Same as engrossed version.
SECTION 6. (a) Subchapter A, Chapter 533, Government Code, is amended.	SECTION 6. Substantially the same as engrossed version.
SECTION 7. Section 773.0571, Health and Safety Code, is amended to read as follows:	SECTION 7. (a) Section 773.0571, Health and Safety Code, is amended to read as follows:
Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The department shall issue to an emergency medical services provider a license that is valid for two years if the department is satisfied that:	Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The department shall issue to an emergency medical services provider applicant a license that is valid for two years if the department is satisfied that:
(1) the emergency medical services provider has adequate staff to meet the staffing standards prescribed by this chapter and the rules adopted under this chapter;	(1) the applicant [~~emergency medical services provider~~] has adequate staff to meet the staffing standards prescribed by this chapter and the rules adopted under this chapter;
(2) each emergency medical services vehicle is adequately constructed, equipped,	(2) each emergency medical services vehicle is adequately constructed, equipped,

maintained, and operated to render basic or advanced life support services safely and efficiently;

(3) the emergency medical services provider offers safe and efficient services for emergency prehospital care and transportation of patients; [~~and~~]

(4) the emergency medical services provider has a letter of credit evidencing that the provider has sufficient financial resources;

(5) the emergency medical services provider employs a medical director; and

(6) the emergency medical services provider complies with the rules adopted by the board under this chapter.

No equivalent provision.

No equivalent provision.

maintained, and operated to render basic or advanced life support services safely and efficiently;

(3) the applicant [~~emergency medical services provider~~] offers safe and efficient services for emergency prehospital care and transportation of patients; [~~and~~]

(4) the applicant:

(A) possesses sufficient professional experience and qualifications to provide emergency medical services; and

(B) has not been excluded from participation in the state Medicaid program;

(5) the applicant holds a letter of approval issued under Section 773.0573 by the governing body of the municipality or the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services, as applicable; and

(6) the applicant [~~emergency medical services provider~~] complies with the rules adopted [~~by the board~~] under this chapter.

(b) Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.05711, 773.05712, and 773.05713 to read as follows:

Sec. 773.05711. ADDITIONAL EMERGENCY MEDICAL SERVICES PROVIDER LICENSE REQUIREMENTS. (a) In addition to the requirements for obtaining or renewing an emergency medical services provider license under this subchapter, a person who applies for a license or for a renewal of a license must:

(1) provide the department with a letter of credit issued by a federally insured bank or savings institution in the amount of:

(A) $100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued;

(B) $75,000 for renewal of the license on the fourth anniversary of the date the initial license is issued;

(C) $50,000 for renewal of the license on the sixth anniversary of the date the initial license is issued; and

(D) $25,000 for renewal of the license on the eighth anniversary of the date the initial license is issued and each subsequent renewal;

(2) provide the department with a surety bond in the amount of:

(A) $50,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued;

(B) $25,000 for renewal of the license on the fourth anniversary of the date the initial license is issued; and

(C) $10,000 for renewal of the license on the sixth anniversary of the date the initial license is issued and each subsequent renewal; and

(3) submit for approval by the department the name and contact information of the provider's administrator of record who satisfies the requirements under Section 773.05712.

(b) An emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

No equivalent provision.

Sec. 773.05712. ADMINISTRATOR OF RECORD. (a) The administrator of record for an emergency medical services provider licensed under this subchapter:

(1) may not be employed or otherwise compensated by another private for-profit emergency medical services provider;

(2) must meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state; and

(3) must submit to a criminal history record check at the applicant's expense.

(b) Section 773.0415 does not apply to information an administrator of record is required to provide under this section.

(c) An administrator of record initially approved by the department may be required to complete an education course for new administrators of record. The executive commissioner shall recognize, prepare, or administer the education course for new administrators of record, which must include information about the laws and department rules that affect emergency medical services providers.

(d) An administrator of record approved by the department under Section 773.05711(a) annually must complete at least eight hours of continuing education following initial

	approval. The executive commissioner shall recognize, prepare, or administer continuing education programs for administrators of record, which must include information about changes in law and department rules that affect emergency medical services providers. (e) An emergency medical services provider that is directly operated by a governmental entity is exempt from this section.
No equivalent provision.	Sec. 773.05713. REPORT TO LEGISLATURE. Not later than December 1 of each even-numbered year, the department shall electronically submit a report to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over the department on the effect of Sections 773.05711 and 773.05712 that includes: (1) the total number of applications for emergency medical services provider licenses submitted to the department and the number of applications for which licenses were issued or licenses were denied by the department; (2) the number of emergency medical services provider licenses that were suspended or revoked by the department for violations of those sections and a description of the types of violations that led to the license suspension or revocation; (3) the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those sections; (4) the number of complaints made against licensed emergency medical services providers for violations of those sections and a description of the types of complaints; and (5) the status of any coordination efforts of the department and the Texas Medical Board related to those sections.
No equivalent provision.	(c) Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.0573 to read as follows:
No equivalent provision.	Sec. 773.0573. LETTER OF APPROVAL FROM LOCAL GOVERNMENTAL ENTITY. (a) An emergency medical services provider applicant must obtain a letter of approval from: (1) the governing body of the municipality in which the applicant is located and is

applying to provide emergency medical services; or

(2) if the applicant is not located in a municipality, the commissioners court of the county in which the applicant is located and is applying to provide emergency medical services.

(b) A governing body of a municipality or a commissioners court of a county may issue a letter of approval to an emergency medical services provider applicant who is applying to provide emergency medical services in the municipality or county only if the governing body or commissioners court determines that:

(1) the addition of another licensed emergency medical services provider will not interfere with or adversely affect the provision of emergency medical services by the licensed emergency medical services providers operating in the municipality or county;

(2) the addition of another licensed emergency medical services provider will remedy an existing provider shortage that cannot be resolved through the use of the licensed emergency medical services providers operating in the municipality or county; and

(3) the addition of another licensed emergency medical services provider will not cause an oversupply of licensed emergency medical services providers in the municipality or county.

(c) An emergency medical services provider is prohibited from expanding operations to or stationing any emergency medical services vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval under this section until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with:

(1) a contract awarded by another municipality or county for the provision of emergency medical services;

(2) an emergency response made in connection with an existing mutual aid agreement; or

(3) an activation of a statewide emergency or disaster response by the department.

(d) This section does not apply to:

(1) renewal of an emergency medical

	services provider license; or (2) a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in this state that applies for an emergency medical services provider license.
No equivalent provision.	(d) Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.06141 to read as follows:
No equivalent provision.	Sec. 773.06141. SUSPENSION, REVOCATION, OR DENIAL OF EMERGENCY MEDICAL SERVICES PROVIDER LICENSE. The commissioner may suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record, employee, or other representative: (1) has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of the administrator, employee, or representative, other than an offense for which points are assigned under Section 708.052, Transportation Code; (2) has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense, including: (A) an offense listed in Sections 3g(a)(1)(A) through (H), Article 42.12, Code of Criminal Procedure; or (B) an offense, other than an offense described by Subdivision (1), for which the person is subject to registration under Chapter 62, Code of Criminal Procedure; or (3) has been convicted of Medicare or Medicaid fraud, has been excluded from participation in the state Medicaid program, or has a hold on payment for reimbursement under the state Medicaid program under Subchapter C, Chapter 531, Government Code.
No equivalent provision.	(e) Notwithstanding Chapter 773, Health and Safety Code, as amended by this section, the Department of State Health Services may not issue any new emergency medical services provider licenses for the period beginning on September 1, 2013, and ending on February 28, 2015. The moratorium does not apply to the issuance of an emergency medical services provider license to a municipality, county, emergency

	services district, hospital, or emergency medical services volunteer provider organization in this state, or to an emergency medical services provider applicant who is applying to provide services in response to 9-1-1 calls and is located in a rural area, as that term is defined in Section 773.0045, Health and Safety Code.
No equivalent provision.	(f) Section 773.0571, Health and Safety Code, as amended by this section, and Section 773.0573, Health and Safety Code, as added by this section, apply only to an application for approval of an emergency medical services provider license submitted to the Department of State Health Services on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.
No equivalent provision.	(g) The changes in law made by this section apply only to an application for approval or renewal of an emergency medical services provider license submitted to the Department of State Health Services on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.
SECTION 8. Section 32.0322, Human Resources Code, is amended.	SECTION 8. Same as engrossed version.
SECTION 9. Section 36.005, Human Resources Code, is amended.	SECTION 9. Substantially the same as engrossed version.
SECTION 10. Subchapter C, Chapter 36, Human Resources Code, is amended by adding Section 36.1041 to read as follows: Sec. 36.1041. NOTIFICATION OF SETTLEMENT. (a) Not later than the 10th day after the date a person described by Section 36.104(b) reaches a proposed settlement agreement with a defendant, the person must notify the attorney general. If the person fails to notify the attorney general as required by this section, the proposed settlement is void. (b) Not later than the 30th day after the date the attorney general receives notice under Subsection (a), the attorney general shall file	No equivalent provision.

any objections to the terms of the proposed settlement agreement with the court.
(c) On filing of objections under Subsection (b), the court shall conduct a hearing. On a showing of good cause, the hearing may be held in camera. If, after the hearing, the court determines that the proposed settlement is fair, adequate, and reasonable under all the circumstances, the court may allow the parties to settle notwithstanding the attorney general's objection.
(d) If, after the hearing, the court determines that the attorney general's objection is well founded, the settlement shall not be approved by the court. The court may order the parties to renegotiate the settlement to address the attorney general's objection.

SECTION 11. (a) The Health and Human Services Commission, in cooperation with the Department of State Health Services and the Texas Medical Board, shall:
(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the use of non-emergent services provided by ambulance providers under the medical assistance program established under Chapter 32, Human Resources Code;
(2) not later that January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and
(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.
(b) This section expires September 1, 2015.

SECTION 10. Substantially the same as engrossed version.

SECTION 12. (a) The Department of State Health Services, in cooperation with the Health and Human Services Commission and the Texas Medical Board, shall:
(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the licensure of nonemergency transportation providers;
(2) not later than January 1, 2014, make recommendations to the legislature

SECTION 11. Same as engrossed version.

regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) This section expires September 1, 2015.

SECTION 13. (a) The Texas Medical Board, in cooperation with the Department of State Health Services and the Health and Human Services Commission, shall:

(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to:

(A) the delegation of health care services by physicians or medical directors to qualified emergency medical services personnel; and

(B) physicians' assessment of patients' needs for purposes of ambulatory transfer or transport or other purposes;

(2) not later than January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) This section expires September 1, 2015.

SECTION 12. Same as engrossed version.

SECTION 14. (a) This section is a clarification of legislative intent regarding Subsection (s), Section 32.024, Human Resources Code, and a validation of certain Health and Human Services Commission acts and decisions.

(b) In 1999, the legislature became aware that certain children enrolled in the Medicaid program were receiving treatment under the program outside the presence of a parent or another responsible adult. The treatment of unaccompanied children under the Medicaid program resulted in the provision of unnecessary services to those children, the exposure of those children to

SECTION 13. Same as engrossed version.

unnecessary health and safety risks, and the submission of fraudulent claims by Medicaid providers.

(c) In addition, in 1999, the legislature became aware of allegations that certain Medicaid providers were offering money and other gifts in exchange for a parent's or child's consent to receive unnecessary services under the Medicaid program. In some cases, a child was offered money or gifts in exchange for the parent's or child's consent to have the child transported to a different location to receive unnecessary services. In some of those cases, once transported, the child received no treatment and was left unsupervised for hours before being transported home. The provision of money and other gifts by Medicaid providers in exchange for parents' or children's consent to services deprived those parents and children of the right to choose a Medicaid provider without improper inducement.

(d) In response, in 1999, the legislature enacted Chapter 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session, 1999, which amended Section 32.024, Human Resources Code, by amending Subsection (s) and adding Subsection (s-1). As amended, Subsection (s), Section 32.024, Human Resources Code, requires that a child's parent or guardian or another adult authorized by the child's parent or guardian accompany the child at a visit or screening under the early and periodic screening, diagnosis, and treatment program in order for a Medicaid provider to be reimbursed for services provided at the visit or screening. As filed, the bill required a child's parent or guardian to accompany the child. The house committee report added the language allowing an adult authorized by the child's parent or guardian to accompany the child in order to accommodate a parent or guardian for whom accompanying the parent's or guardian's child to each visit or screening would be a hardship.

(e) The principal purposes of Chapter 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session, 1999, were to prevent Medicaid providers from committing fraud, encourage parental involvement in and management of health care of children enrolled in the early and periodic screening, diagnosis, and treatment program, and

ensure the safety of children receiving services under the Medicaid program. The addition of the language allowing an adult authorized by a child's parent or guardian to accompany the child furthered each of those purposes.

(f) The legislature, in amending Subsection (s), Section 32.024, Human Resources Code, understood that:

(1) the effectiveness of medical, dental, and therapy services provided to a child improves when the child's parent or guardian actively participates in the delivery of those services;

(2) a parent is responsible for the safety and well-being of the parent's child, and that a parent cannot casually delegate this responsibility to a stranger;

(3) a parent may not always be available to accompany the parent's child at a visit to the child's doctor, dentist, or therapist; and

(4) Medicaid providers and their employees and associates have a financial interest in the delivery of services under the Medicaid program and, accordingly, cannot fulfill the responsibilities of a parent or guardian when providing services to a child.

(g)(1) On March 15, 2012, the Health and Human Services Commission notified certain Medicaid providers that state law and commission policy require a child's parent or guardian or another properly authorized adult to accompany a child receiving services under the Medicaid program. This notice followed the commission's discovery that some providers were transporting children from schools to therapy clinics and other locations to receive therapy services. Although the children were not accompanied by a parent or guardian during these trips, the providers were obtaining reimbursement for the trips under the Medicaid medical transportation program. The commission clarified in the notice that, in order for a provider to be reimbursed for transportation services provided to a child under the Medicaid medical transportation program, the child must be accompanied by the child's parent or guardian or another adult who is not the provider and whom the child's parent or guardian has authorized to accompany the child by submitting signed, written consent to the provider.

(2) In May 2012, a lawsuit was filed to

enjoin the Health and Human Services Commission from enforcing Subsection (s), Section 32.024, Human Resources Code, and 1 T.A.C. Section 380.207, as interpreted in certain notices issued by the commission. A state district court enjoined the commission from denying eligibility to a child for transportation services under the Medicaid medical transportation program if the child's parent or guardian does not accompany the child, provided that the child's parent or guardian authorizes any other adult to accompany the child. The court also enjoined the commission from requiring as a condition for a provider to be reimbursed for services provided to a child during a visit or screening under the early and periodic screening, diagnosis, and treatment program that the child be accompanied by the child's parent or guardian, provided that the child's parent or guardian authorizes another adult to accompany the child. The state has filed a notice of appeal of the court's order.

(3) The legislature declares that a rule or policy adopted by the Health and Human Services Commission before the effective date of this Act to require that, in order for a Medicaid provider to be reimbursed for services provided to a child under the early and periodic screening, diagnosis, and treatment program or the medical transportation program, the child must be accompanied by the child's parent or guardian or another adult whom the child's parent or guardian has authorized to accompany the child is conclusively presumed, as of the date the rule or policy was adopted, to be a valid exercise of the commission's authority and consistent with the intent of the legislature, provided that the rule or policy:

(A) was adopted pursuant to Subsection (s), Section 32.024, Human Resources Code; and

(B) prohibits the child's parent or guardian from authorizing the provider or the provider's employee or associate as an adult who may accompany the child.

(4) Subdivision (3) of this subsection does not apply to:

(A) an action or decision that was void at the time the action was taken or the decision was made;

(B) an action or decision that violates

federal law or the terms of a federal waiver; or (C) an action or decision that, under a statute of this state or the United States, was a misdemeanor or felony at the time the action was taken or the decision was made. (5) This section does not apply to: (A) an action or decision that was void at the time the action was taken or the decision was made; (B) an action or decision that violates federal law or the terms of a federal waiver; or (C) an action or decision that, under a statute of this state or the United States, was a misdemeanor or felony at the time the action was taken or the decision was made.	
SECTION 15. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall establish the data analysis unit required under Section 531.0082, Government Code, as added by this Act. The data analysis unit shall provide the initial update required under Subsection (d), Section 531.0082, Government Code, as added by this Act, not later than the 30th day after the last day of the first complete calendar quarter occurring after the date the unit is established.	SECTION 14. Same as engrossed version.
SECTION 16. Section 773.0571, Health and Safety Code, as amended by this Act, applies only to an application for an original emergency medical services provider license submitted to the Department of State Health Services on or after the effective date of this Act. An application submitted before the effective date of this Act, or the renewal of a license issued before that date, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.	No equivalent provision.
SECTION 17. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.	SECTION 15. Same as engrossed version.

SECTION 18. This Act takes effect September 1, 2013.	SECTION 16. Same as engrossed version.