

By: Collier

H.B. No. 2894

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of health care fraud.

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

SECTION 1. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

(C) sexual assault, if:

(i) during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

(ii) probable cause exists to believe that the defendant has committed the same or a similar sexual offense against five or more victims;

(D) continuous sexual abuse of young child or children under Section 21.02, Penal Code;

1 (E) indecency with a child under Section 21.11,  
2 Penal Code;

3 (F) an offense involving leaving the scene of an  
4 accident under Section 550.021, Transportation Code, if the  
5 accident resulted in the death of a person;

6 (G) trafficking of persons under Section  
7 20A.02(a)(7) or (8), Penal Code;

8 (H) continuous trafficking of persons under  
9 Section 20A.03, Penal Code; or

10 (I) compelling prostitution under Section  
11 43.05(a)(2), Penal Code;

12 (2) ten years from the date of the commission of the  
13 offense:

14 (A) theft of any estate, real, personal or mixed,  
15 by an executor, administrator, guardian or trustee, with intent to  
16 defraud any creditor, heir, legatee, ward, distributee,  
17 beneficiary or settlor of a trust interested in such estate;

18 (B) theft by a public servant of government  
19 property over which the public servant [~~he~~] exercises control in  
20 the public servant's [~~his~~] official capacity;

21 (C) forgery or the uttering, using or passing of  
22 forged instruments;

23 (D) injury to an elderly or disabled individual  
24 punishable as a felony of the first degree under Section 22.04,  
25 Penal Code;

26 (E) sexual assault, except as provided by  
27 Subdivision (1);

- 1 (F) arson;
- 2 (G) trafficking of persons under Section  
3 20A.02(a)(1), (2), (3), or (4), Penal Code; or
- 4 (H) compelling prostitution under Section  
5 43.05(a)(1), Penal Code;
- 6 (3) seven years from the date of the commission of the  
7 offense:
- 8 (A) misapplication of fiduciary property or  
9 property of a financial institution;
- 10 (B) securing execution of document by deception;
- 11 (C) a felony violation under Chapter 162, Tax  
12 Code;
- 13 (D) false statement to obtain property or credit  
14 under Section 32.32, Penal Code;
- 15 (E) money laundering;
- 16 (F) credit card or debit card abuse under Section  
17 32.31, Penal Code;
- 18 (G) fraudulent use or possession of identifying  
19 information under Section 32.51, Penal Code;
- 20 (H) exploitation of a child, elderly individual,  
21 or disabled individual under Section 32.53, Penal Code;
- 22 (I) health care [~~Medicaid~~] fraud under Section  
23 35A.02, Penal Code; or
- 24 (J) bigamy under Section 25.01, Penal Code,  
25 except as provided by Subdivision (6);
- 26 (4) five years from the date of the commission of the  
27 offense:

1 (A) theft or robbery;

2 (B) except as provided by Subdivision (5),  
3 kidnapping or burglary;

4 (C) injury to an elderly or disabled individual  
5 that is not punishable as a felony of the first degree under Section  
6 22.04, Penal Code;

7 (D) abandoning or endangering a child; or

8 (E) insurance fraud;

9 (5) if the investigation of the offense shows that the  
10 victim is younger than 17 years of age at the time the offense is  
11 committed, 20 years from the 18th birthday of the victim of one of  
12 the following offenses:

13 (A) sexual performance by a child under Section  
14 43.25, Penal Code;

15 (B) aggravated kidnapping under Section  
16 20.04(a)(4), Penal Code, if the defendant committed the offense  
17 with the intent to violate or abuse the victim sexually; or

18 (C) burglary under Section 30.02, Penal Code, if  
19 the offense is punishable under Subsection (d) of that section and  
20 the defendant committed the offense with the intent to commit an  
21 offense described by Subdivision (1)(B) or (D) of this article or  
22 Paragraph (B) of this subdivision;

23 (6) ten years from the 18th birthday of the victim of  
24 the offense:

25 (A) trafficking of persons under Section  
26 20A.02(a)(5) or (6), Penal Code;

27 (B) injury to a child under Section 22.04, Penal

1 Code; or

2 (C) bigamy under Section 25.01, Penal Code, if  
3 the investigation of the offense shows that the person, other than  
4 the legal spouse of the defendant, whom the defendant marries or  
5 purports to marry or with whom the defendant lives under the  
6 appearance of being married is younger than 18 years of age at the  
7 time the offense is committed; or

8 (7) three years from the date of the commission of the  
9 offense: all other felonies.

10 SECTION 2. Section 3(a)(3), Article 37.07, Code of Criminal  
11 Procedure, is amended to read as follows:

12 (3) Regardless of the plea and whether the punishment  
13 is assessed by the judge or the jury, during the punishment phase of  
14 the trial of an offense under Section 35A.02, Penal Code, subject to  
15 the applicable rules of evidence, the state and the defendant may  
16 offer evidence not offered during the guilt or innocence phase of  
17 the trial concerning the total pecuniary loss to the affected  
18 health care [Medicaid] program caused by the defendant's conduct  
19 or, if applicable, the scheme or continuing course of conduct of  
20 which the defendant's conduct is part. Evidence may be offered in  
21 summary form [~~Subject to the applicable rules of evidence, an~~  
22 ~~employee of the Health and Human Services Commission's office of~~  
23 ~~inspector general or the office of attorney general's Medicaid~~  
24 ~~fraud control unit may testify]~~ concerning the total pecuniary loss  
25 to the affected health care [Medicaid] program. Testimony  
26 regarding the total pecuniary loss to the affected health care  
27 program [~~An employee who testifies under this subdivision]~~ is

1 subject to cross-examination. Evidence offered under this  
2 subdivision may be considered by the judge or jury in ordering or  
3 recommending the amount of any restitution to be made to the  
4 affected health care ~~[Medicaid]~~ program or the appropriate  
5 punishment for the defendant.

6 SECTION 3. Article 59.01(2), Code of Criminal Procedure, is  
7 amended to read as follows:

8 (2) "Contraband" means property of any nature,  
9 including real, personal, tangible, or intangible, that is:

10 (A) used in the commission of:

11 (i) any first or second degree felony under  
12 the Penal Code;

13 (ii) any felony under Section 15.031(b),  
14 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,  
15 33A, or 35, Penal Code;

16 (iii) any felony under The Securities Act  
17 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

18 (iv) any offense under Chapter 49, Penal  
19 Code, that is punishable as a felony of the third degree or state  
20 jail felony, if the defendant has been previously convicted three  
21 times of an offense under that chapter;

22 (B) used or intended to be used in the commission  
23 of:

24 (i) any felony under Chapter 481, Health  
25 and Safety Code (Texas Controlled Substances Act);

26 (ii) any felony under Chapter 483, Health  
27 and Safety Code;

- 1 (iii) a felony under Chapter 151, Finance  
2 Code;
- 3 (iv) any felony under Chapter 34, Penal  
4 Code;
- 5 (v) a Class A misdemeanor under Subchapter  
6 B, Chapter 365, Health and Safety Code, if the defendant has been  
7 previously convicted twice of an offense under that subchapter;
- 8 (vi) any felony under Chapter 32, Human  
9 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that  
10 involves a health care [the state Medicaid] program, as defined by  
11 Section 35A.01, Penal Code;
- 12 (vii) a Class B misdemeanor under Chapter  
13 522, Business & Commerce Code;
- 14 (viii) a Class A misdemeanor under Section  
15 306.051, Business & Commerce Code;
- 16 (ix) any offense under Section 42.10, Penal  
17 Code;
- 18 (x) any offense under Section 46.06(a)(1)  
19 or 46.14, Penal Code;
- 20 (xi) any offense under Chapter 71, Penal  
21 Code;
- 22 (xii) any offense under Section 20.05 or  
23 20.06, Penal Code; or
- 24 (xiii) an offense under Section 326.002,  
25 Business & Commerce Code;
- 26 (C) the proceeds gained from the commission of a  
27 felony listed in Paragraph (A) or (B) of this subdivision, a

1 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of  
2 this subdivision, or a crime of violence;

3 (D) acquired with proceeds gained from the  
4 commission of a felony listed in Paragraph (A) or (B) of this  
5 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),  
6 or (xi) of this subdivision, or a crime of violence;

7 (E) used to facilitate or intended to be used to  
8 facilitate the commission of a felony under Section 15.031 or  
9 43.25, Penal Code; or

10 (F) used to facilitate or intended to be used to  
11 facilitate the commission of a felony under Section 20A.02 or  
12 Chapter 43, Penal Code.

13 SECTION 4. Article 59.06(p), Code of Criminal Procedure, is  
14 amended to read as follows:

15 (p) Notwithstanding Subsection (a), and to the extent  
16 necessary to protect the state's [~~commission's~~] ability to recover  
17 amounts wrongfully obtained by the owner of the property and  
18 associated damages and penalties to which the affected health care  
19 program [~~commission~~] may otherwise be entitled by law, the attorney  
20 representing the state shall transfer to the governmental entity  
21 administering the affected health care program [~~Health and Human~~  
22 ~~Services Commission~~] all forfeited property defined as contraband  
23 under Article 59.01(2)(B)(vi). If the forfeited property consists  
24 of property other than money or negotiable instruments, the  
25 attorney representing the state may, with the consent of the  
26 governmental entity administering the affected health care program  
27 [~~if approved by the commission~~], sell the property and deliver to



1 the governmental entity administering the affected health care  
2 program [~~commission~~] the proceeds from the sale, minus costs  
3 attributable to the sale. The sale must be conducted in a manner  
4 that is reasonably expected to result in receiving the fair market  
5 value for the property.

6 SECTION 5. Section 250.006(a), Health and Safety Code, is  
7 amended to read as follows:

8 (a) A person for whom the facility or the individual  
9 employer is entitled to obtain criminal history record information  
10 may not be employed in a facility or by an individual employer if  
11 the person has been convicted of an offense listed in this  
12 subsection:

13 (1) an offense under Chapter 19, Penal Code (criminal  
14 homicide);

15 (2) an offense under Chapter 20, Penal Code  
16 (kidnapping, unlawful restraint, and smuggling of persons);

17 (3) an offense under Section 21.02, Penal Code  
18 (continuous sexual abuse of young child or children), or Section  
19 21.11, Penal Code (indecent with a child);

20 (4) an offense under Section 22.011, Penal Code  
21 (sexual assault);

22 (5) an offense under Section 22.02, Penal Code  
23 (aggravated assault);

24 (6) an offense under Section 22.04, Penal Code (injury  
25 to a child, elderly individual, or disabled individual);

26 (7) an offense under Section 22.041, Penal Code  
27 (abandoning or endangering child);

- 1           (8) an offense under Section 22.08, Penal Code (aiding  
2 suicide);
- 3           (9) an offense under Section 25.031, Penal Code  
4 (agreement to abduct from custody);
- 5           (10) an offense under Section 25.08, Penal Code (sale  
6 or purchase of child);
- 7           (11) an offense under Section 28.02, Penal Code  
8 (arson);
- 9           (12) an offense under Section 29.02, Penal Code  
10 (robbery);
- 11          (13) an offense under Section 29.03, Penal Code  
12 (aggravated robbery);
- 13          (14) an offense under Section 21.08, Penal Code  
14 (indecent exposure);
- 15          (15) an offense under Section 21.12, Penal Code  
16 (improper relationship between educator and student);
- 17          (16) an offense under Section 21.15, Penal Code  
18 (invasive [~~improper photography or~~ visual recording);
- 19          (17) an offense under Section 22.05, Penal Code  
20 (deadly conduct);
- 21          (18) an offense under Section 22.021, Penal Code  
22 (aggravated sexual assault);
- 23          (19) an offense under Section 22.07, Penal Code  
24 (terroristic threat);
- 25          (20) an offense under Section 32.53, Penal Code  
26 (exploitation of child, elderly individual, or disabled  
27 individual);

1 (21) an offense under Section 33.021, Penal Code  
2 (online solicitation of a minor);

3 (22) an offense under Section 34.02, Penal Code (money  
4 laundering);

5 (23) an offense under Section 35A.02, Penal Code  
6 (health care ~~[Medicaid]~~ fraud);

7 (24) an offense under Section 36.06, Penal Code  
8 (obstruction or retaliation);

9 (25) an offense under Section 42.09, Penal Code  
10 (cruelty to livestock animals), or under Section 42.092, Penal Code  
11 (cruelty to nonlivestock animals); or

12 (26) a conviction under the laws of another state,  
13 federal law, or the Uniform Code of Military Justice for an offense  
14 containing elements that are substantially similar to the elements  
15 of an offense listed by this subsection.

16 SECTION 6. Chapter 35A, Penal Code, is amended to read as  
17 follows:

18 CHAPTER 35A. HEALTH CARE ~~[MEDICAID]~~ FRAUD

19 Sec. 35A.01. DEFINITIONS. In this chapter:

20 (1) "Claim" means a written or electronically  
21 submitted request or demand that:

22 (A) is submitted by a provider or the provider's  
23 agent and identifies a service or product provided or purported to  
24 have been provided to a health care recipient as reimbursable under  
25 a health care program, without regard to whether the money that is  
26 requested or demanded is paid; or

27 (B) states the income earned or expense incurred

1 by a provider in providing a service or product and is used to  
2 determine a rate of payment under a health care program [~~has the~~  
3 ~~meaning assigned by Section 36.001, Human Resources Code~~].

4 (2) "Fiscal agent" means:

5 (A) a person who, through a contractual  
6 relationship with a state agency or the federal government,  
7 receives, processes, and pays a claim under a health care program;  
8 or

9 (B) the designated agent of a person described by  
10 Paragraph (A) [~~has the meaning assigned by Section 36.001, Human~~  
11 ~~Resources Code~~].

12 (3) "Health care practitioner" means a dentist,  
13 podiatrist, psychologist, physical therapist, chiropractor,  
14 registered nurse, or other provider licensed to provide health care  
15 services in this state [~~has the meaning assigned by Section 36.001,~~  
16 ~~Human Resources Code~~].

17 (4) "Health care program" means a program funded by  
18 this state, the federal government, or both and designed to provide  
19 health care services to health care recipients, including a program  
20 that is administered in whole or in part through a managed care  
21 delivery model.

22 (5) "Health care recipient" means an individual to  
23 whom a service or product is provided or purported to have been  
24 provided and with respect to whom a person claims or receives a  
25 payment for that service or product from a health care program or  
26 fiscal agent, without regard to whether the individual was eligible  
27 for benefits under the health care program.

1           (6) "Managed care organization" means a person who is  
2 authorized or otherwise permitted by law to arrange for or provide a  
3 managed care plan [~~has the meaning assigned by Section 36.001,~~  
4 ~~Human Resources Code~~].

5           [~~(5) "Medicaid program" has the meaning assigned by~~  
6 ~~Section 36.001, Human Resources Code.~~

7           [~~(6) "Medicaid recipient" has the meaning assigned by~~  
8 ~~Section 36.001, Human Resources Code.~~]

9           (7) "Physician" means a physician licensed to practice  
10 medicine in this state [~~has the meaning assigned by Section 36.001,~~  
11 ~~Human Resources Code~~].

12           (8) "Provider" means a person who participates in or  
13 has applied to participate in a health care program as a supplier of  
14 a service or product and includes:

15                   (A) a management company that manages, operates,  
16 or controls another provider;

17                   (B) a person, including a medical vendor, who  
18 provides a service or product to another provider or the other  
19 provider's agent;

20                   (C) an employee of the person who participates in  
21 or has applied to participate in the program;

22                   (D) a managed care organization; and

23                   (E) a manufacturer or distributor of a product  
24 for which a health care program provides reimbursement [~~has the~~  
25 ~~meaning assigned by Section 36.001, Human Resources Code~~].

26           (9) "Service" includes care or treatment of a health  
27 care recipient [~~has the meaning assigned by Section 36.001, Human~~

1 ~~Resources Code~~].

2 (10) "High managerial agent" means a director,  
3 officer, or employee who is authorized to act on behalf of a  
4 provider and has duties of such responsibility that the conduct of  
5 the director, officer, or employee reasonably may be assumed to  
6 represent the policy or intent of the provider.

7 Sec. 35A.02. HEALTH CARE [~~MEDICAID~~] FRAUD. (a) A person  
8 commits an offense if the person:

9 (1) knowingly makes or causes to be made a false  
10 statement or misrepresentation of a material fact to permit a  
11 person to receive a benefit or payment under a health care [~~the~~  
12 ~~Medicaid~~] program that is not authorized or that is greater than the  
13 benefit or payment that is authorized;

14 (2) knowingly conceals or fails to disclose  
15 information that permits a person to receive a benefit or payment  
16 under a health care [~~the Medicaid~~] program that is not authorized or  
17 that is greater than the benefit or payment that is authorized;

18 (3) knowingly applies for and receives a benefit or  
19 payment on behalf of another person under a health care [~~the~~  
20 ~~Medicaid~~] program and converts any part of the benefit or payment to  
21 a use other than for the benefit of the person on whose behalf it was  
22 received;

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

26 (A) the conditions or operation of a facility in  
27 order that the facility may qualify for certification or

1 recertification under a health care program [~~required by the~~  
2 ~~Medicaid program, including certification or recertification as:~~

3 [(i) ~~a hospital,~~

4 [(ii) ~~a nursing facility or skilled nursing~~  
5 ~~facility,~~

6 [(iii) ~~a hospice,~~

7 [(iv) ~~an intermediate care facility for the~~  
8 ~~mentally retarded,~~

9 [(v) ~~an assisted living facility, or~~

10 [(vi) ~~a home health agency]; or~~

11 (B) information required to be provided by a  
12 federal or state law, rule, regulation, or provider agreement  
13 pertaining to a health care [~~the Medicaid~~] program;

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

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

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

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

1           (7) knowingly makes or causes to be made a claim under  
2 a health care [~~the Medicaid~~] program for:

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

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

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

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

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

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

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



1 provide under the contract;

2 (B) fails to provide [~~to the commission~~] or  
3 falsifies [~~appropriate state agency~~] information required to be  
4 provided by law, [~~commission or agency~~] rule, or contractual  
5 provision; or

6 (C) engages in a fraudulent activity in  
7 connection with the enrollment of an individual eligible under a  
8 health care [~~the Medicaid~~] program in the organization's managed  
9 care plan or in connection with marketing the organization's  
10 services to an individual eligible under a health care [~~the~~  
11 ~~Medicaid~~] program;

12 (11) knowingly obstructs an investigation by the  
13 attorney general of an alleged unlawful act under this section or  
14 under Section 32.039, 32.0391, or 36.002, Human Resources Code; or

15 (12) knowingly makes, uses, or causes the making or  
16 use of a false record or statement to conceal, avoid, or decrease an  
17 obligation to pay or transmit money or property to this state or the  
18 federal government under a health care [~~the Medicaid~~] program.

19 (b) An offense under this section is:

20 (1) a Class C misdemeanor if the amount of any payment  
21 or the value of any monetary or in-kind benefit provided or claim  
22 for payment made under a health care [~~the Medicaid~~] program,  
23 directly or indirectly, as a result of the conduct is less than  
24 \$100;

25 (2) a Class B misdemeanor if the amount of any payment  
26 or the value of any monetary or in-kind benefit provided or claim  
27 for payment made under a health care [~~the Medicaid~~] program,

1 directly or indirectly, as a result of the conduct is \$100 or more  
2 but less than \$750;

3 (3) a Class A misdemeanor if the amount of any payment  
4 or the value of any monetary or in-kind benefit provided or claim  
5 for payment made under a health care [~~the Medicaid~~] program,  
6 directly or indirectly, as a result of the conduct is \$750 or more  
7 but less than \$2,500;

8 (4) a state jail felony if:

9 (A) the amount of any payment or the value of any  
10 monetary or in-kind benefit provided or claim for payment made  
11 under a health care [~~the Medicaid~~] program, directly or indirectly,  
12 as a result of the conduct is \$2,500 or more but less than \$30,000;

13 (B) the offense is committed under Subsection  
14 (a)(11); or

15 (C) it is shown on the trial of the offense that  
16 the amount of the payment or value of the benefit described by this  
17 subsection cannot be reasonably ascertained;

18 (5) a felony of the third degree if:

19 (A) the amount of any payment or the value of any  
20 monetary or in-kind benefit provided or claim for payment made  
21 under a health care [~~the Medicaid~~] program, directly or indirectly,  
22 as a result of the conduct is \$30,000 or more but less than  
23 \$150,000; or

24 (B) it is shown on the trial of the offense that  
25 the defendant submitted more than 25 but fewer than 50 fraudulent  
26 claims under a health care [~~the Medicaid~~] program and the  
27 submission of each claim constitutes conduct prohibited by

1 Subsection (a);

2 (6) a felony of the second degree if:

3 (A) the amount of any payment or the value of any  
4 monetary or in-kind benefit provided or claim for payment made  
5 under a health care [~~the Medicaid~~] program, directly or indirectly,  
6 as a result of the conduct is \$150,000 or more but less than  
7 \$300,000; or

8 (B) it is shown on the trial of the offense that  
9 the defendant submitted 50 or more fraudulent claims under a health  
10 care [~~the Medicaid~~] program and the submission of each claim  
11 constitutes conduct prohibited by Subsection (a); or

12 (7) a felony of the first degree if the amount of any  
13 payment or the value of any monetary or in-kind benefit provided or  
14 claim for payment made under a health care [~~the Medicaid~~] program,  
15 directly or indirectly, as a result of the conduct is \$300,000 or  
16 more.

17 (c) If conduct constituting an offense under this section  
18 also constitutes an offense under another section of this code or  
19 another provision of law, the actor may be prosecuted under either  
20 this section or the other section or provision or both this section  
21 and the other section or provision.

22 (d) When multiple payments or monetary or in-kind benefits  
23 are provided under one or more health care programs [~~the Medicaid~~  
24 ~~program~~] as a result of one scheme or continuing course of conduct,  
25 the conduct may be considered as one offense and the amounts of the  
26 payments or monetary or in-kind benefits aggregated in determining  
27 the grade of the offense.

1           (e) The punishment prescribed for an offense under this  
2 section, other than the punishment prescribed by Subsection (b)(7),  
3 is increased to the punishment prescribed for the next highest  
4 category of offense if it is shown beyond a reasonable doubt on the  
5 trial of the offense that the actor was a [~~provider or~~] high  
6 managerial agent at the time of the offense.

7           (f) With the consent of the appropriate local county or  
8 district attorney, the attorney general has concurrent  
9 jurisdiction with that consenting local prosecutor to prosecute an  
10 offense under this section that involves a health care [~~the~~  
11 ~~Medicaid~~] program.

12           SECTION 7. The change in law made by this Act applies only  
13 to an offense committed on or after the effective date of this Act.  
14 An offense committed before the effective date of this Act is  
15 governed by the law in effect on the date the offense was committed,  
16 and the former law is continued in effect for that purpose. For  
17 purposes of this section, an offense was committed before the  
18 effective date of this Act if any element of the offense occurred  
19 before that date.

20           SECTION 8. This Act takes effect September 1, 2019.