87R6862 MEW-F

By:  Klick H.B. No. 3235

A BILL TO BE ENTITLED

AN ACT

relating to the investigation by the commissioner of insurance of acts of health care fraud and the prosecution of health care fraud; creating a criminal offense.

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

SECTION 1.  Section 701.102, Insurance Code, is amended to read as follows:

Sec. 701.102.  INVESTIGATION OF CERTAIN ACTS OF FRAUD. (a) If the commissioner has reason to believe a person has engaged in, is engaging in, has committed, or is about to commit a fraudulent insurance act, the commissioner may conduct any investigation necessary inside or outside this state to:

(1)  determine whether the act occurred; or

(2)  aid in enforcing laws relating to fraudulent insurance acts, including by providing technical or litigation assistance to other governmental agencies.

(b)  In conducting investigations under Subsection (a), the commissioner shall give priority to investigating alleged conduct constituting an offense under Section 35A.02(a-1), Penal Code.

SECTION 2.  Section 35A.01, Penal Code, is amended by adding Subdivisions (2-a) and (2-b) and amending Subdivision (9) to read as follows:

(2-a) "Health benefit claim" means a written or electronically submitted request or demand that:

(A)  is submitted by a person who supplies or purports to supply a service or product to an individual covered by a health benefit plan or that person's agent and identifies a service or product provided or purported to have been provided to the covered individual as reimbursable by a health benefit plan issuer, without regard to whether the money that is requested or demanded is paid and without regard to whether the individual was eligible for benefits under the health benefit plan; or

(B)  states the income earned or expense incurred by a person in providing a service or product to an individual covered by a health benefit plan and is used to determine a rate of payment by a health benefit plan issuer.

(2-b) "Health benefit plan issuer" means a person who is authorized or otherwise permitted by law to arrange for or provide health insurance or health benefits, including a health maintenance organization.

(9)  "Service" includes care or treatment of a health care recipient or an individual covered by a health benefit plan, as applicable.

SECTION 3.  Section 35A.02, Penal Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (d) to read as follows:

(a-1)  A person commits an offense if the person knowingly makes or causes to be made a health benefit claim to a health benefit plan issuer for:

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

(2)  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

(3)  a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate.

(b)  An offense under this section is:

(1)  a Class C misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program or by a health benefit plan issuer, as applicable, directly or indirectly, as a result of the conduct is less than $100;

(2)  a Class B misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program or by a health benefit plan issuer, as applicable, directly or indirectly, as a result of the conduct is $100 or more but less than $750;

(3)  a Class A misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program or by a health benefit plan issuer, as applicable, directly or indirectly, as a result of the conduct is $750 or more but less than $2,500;

(4)  a state jail felony if:

(A)  the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program or by a health benefit plan issuer, as applicable, directly or indirectly, as a result of the conduct is $2,500 or more but less than $30,000;

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

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

(5)  a felony of the third degree if:

(A)  the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program or by a health benefit plan issuer, as applicable, directly or indirectly, as a result of the conduct is $30,000 or more but less than $150,000; or

(B)  it is shown on the trial of the offense that the defendant submitted more than 25 but fewer than 50 fraudulent claims under a health care program or to a health benefit plan issuer, as applicable, and the submission of each claim constitutes conduct prohibited by Subsection (a);

(6)  a felony of the second degree if:

(A)  the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program or by a health benefit plan issuer, as applicable, directly or indirectly, as a result of the conduct is $150,000 or more but less than $300,000; or

(B)  it is shown on the trial of the offense that the defendant submitted 50 or more fraudulent claims under a health care program or to a health benefit plan issuer, as applicable, and the submission of each claim constitutes conduct prohibited by Subsection (a); or

(7)  a felony of the first degree if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program or by a health benefit plan issuer, as applicable, directly or indirectly, as a result of the conduct is $300,000 or more.

(d)  When multiple payments or monetary or in-kind benefits are provided under one or more health care programs or by one or more health benefit plan issuers as a result of one scheme or continuing course of conduct, the conduct may be considered as one offense and the amounts of the payments or monetary or in-kind benefits aggregated in determining the grade of the offense.

SECTION 4.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5.  This Act takes effect September 1, 2021.