

1 AN ACT

2 relating to prevention of fraud and abuse under the medical  
3 assistance program; creating an offense.

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

5 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,  
6 is amended by adding Section 32.0291 to read as follows:

7 Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

8 (a) Notwithstanding any other law, the department may:

9 (1) perform a prepayment review of a claim for  
10 reimbursement under the medical assistance program to determine  
11 whether the claim involves fraud or abuse; and

12 (2) as necessary to perform that review, withhold  
13 payment of the claim for not more than five working days without  
14 notice to the person submitting the claim.

15 (b) Notwithstanding any other law, the department may  
16 impose a postpayment hold on payment of future claims submitted by a  
17 provider if the department has reliable evidence that the provider  
18 has committed fraud or wilful misrepresentation regarding a claim  
19 for reimbursement under the medical assistance program. The  
20 department must notify the provider of the postpayment hold not  
21 later than the fifth working day after the date the hold is imposed.

22 (c) On timely written request by a provider subject to a  
23 postpayment hold under Subsection (b), the department shall file a  
24 request with the State Office of Administrative Hearings for an

1 expedited administrative hearing regarding the hold. The provider  
2 must request an expedited hearing under this subsection not later  
3 than the 10th day after the date the provider receives notice from  
4 the department under Subsection (b). The administrative law judge  
5 shall order the department to discontinue imposing the hold unless  
6 the department makes a prima facie showing at the hearing that the  
7 evidence relied on by the department in imposing the hold is  
8 relevant, reliable, credible, and material to the issue of fraud or  
9 wilful misrepresentation.

10 (d) The department shall adopt rules that allow a provider  
11 subject to a postpayment hold under Subsection (b) to seek an  
12 informal resolution of the issues identified by the department in  
13 the notice provided under that subsection. A provider must seek an  
14 informal resolution under this subsection not later than the  
15 deadline prescribed by Subsection (c). A provider's decision to  
16 seek an informal resolution under this subsection does not extend  
17 the time by which the provider must request an expedited  
18 administrative hearing under Subsection (c). However, the  
19 department may request that any hearing initiated under Subsection  
20 (c) be stayed until the informal resolution process is completed.

21 SECTION 2. Section 32.032, Human Resources Code, is amended  
22 to read as follows:

23 Sec. 32.032. PREVENTION AND DETECTION OF FRAUD AND ABUSE.  
24 The department shall adopt reasonable rules for minimizing the  
25 opportunity for fraud and abuse, for establishing and maintaining  
26 methods for detecting and identifying situations in which a  
27 question of fraud or abuse in the program may exist, and for

1 referring cases where fraud or abuse appears to exist to the  
2 appropriate law enforcement agencies for prosecution.

3 SECTION 3. Section 32.0321(a), Human Resources Code, is  
4 amended to read as follows:

5 (a) The department by rule may require each provider of  
6 medical assistance in a provider type that has demonstrated  
7 significant potential for fraud or abuse to file with the  
8 department a surety bond in a reasonable amount. The department by  
9 rule shall require a provider of medical assistance to file with the  
10 department a surety bond in a reasonable amount if the department  
11 identifies a pattern of suspected fraud or abuse involving criminal  
12 conduct relating to the provider's services under the medical  
13 assistance program that indicates the need for protection against  
14 potential future acts of fraud or abuse.

15 SECTION 4. Section 32.039(a), Human Resources Code, is  
16 amended by adding Subdivision (1-a) to read as follows:

17 (1-a) "Inducement" includes a service, cash in any  
18 amount, entertainment, or any item of value.

19 SECTION 5. Section 32.039, Human Resources Code, is amended  
20 by amending Subsections (b), (u), and (v) and adding Subsections  
21 (w) and (x) to read as follows:

22 (b) A person commits a violation if the person:

23 (1) presents or causes to be presented to the  
24 department a claim that contains a statement or representation the  
25 person knows or should know to be false;

26 (1-a) engages in conduct that violates Section  
27 102.001, Occupations Code;

1           (1-b) solicits or receives, directly or indirectly,  
2 overtly or covertly any remuneration, including any kickback,  
3 bribe, or rebate, in cash or in kind for referring an individual to  
4 a person for the furnishing of, or for arranging the furnishing of,  
5 any item or service for which payment may be made, in whole or in  
6 part, under the medical assistance program, provided that this  
7 subdivision does not prohibit the referral of a patient to another  
8 practitioner within a multispecialty group or university medical  
9 services research and development plan (practice plan) for  
10 medically necessary services;

11           (1-c) solicits or receives, directly or indirectly,  
12 overtly or covertly any remuneration, including any kickback,  
13 bribe, or rebate, in cash or in kind for purchasing, leasing, or  
14 ordering, or arranging for or recommending the purchasing, leasing,  
15 or ordering of, any good, facility, service, or item for which  
16 payment may be made, in whole or in part, under the medical  
17 assistance program;

18           (1-d) offers or pays, directly or indirectly, overtly  
19 or covertly any remuneration, including any kickback, bribe, or  
20 rebate, in cash or in kind to induce a person to refer an individual  
21 to another person for the furnishing of, or for arranging the  
22 furnishing of, any item or service for which payment may be made, in  
23 whole or in part, under the medical assistance program, provided  
24 that this subdivision does not prohibit the referral of a patient to  
25 another practitioner within a multispecialty group or university  
26 medical services research and development plan (practice plan) for  
27 medically necessary services;

1           (1-e) offers or pays, directly or indirectly, overtly  
2 or covertly any remuneration, including any kickback, bribe, or  
3 rebate, in cash or in kind to induce a person to purchase, lease, or  
4 order, or arrange for or recommend the purchase, lease, or order of,  
5 any good, facility, service, or item for which payment may be made,  
6 in whole or in part, under the medical assistance program;

7           (1-f) provides or offers an inducement in a manner or  
8 for a purpose not otherwise prohibited by this section or Section  
9 102.001, Occupations Code, to an individual, including a recipient,  
10 provider, or employee of a provider, for the purpose of influencing  
11 a decision regarding selection of a provider or receipt of a good or  
12 service under the medical assistance program or for the purpose of  
13 otherwise influencing a decision regarding the use of goods or  
14 services provided under the medical assistance program; or

15           (2) is a managed care organization that contracts with  
16 the department to provide or arrange to provide health care  
17 benefits or services to individuals eligible for medical assistance  
18 and:

19           (A) fails to provide to an individual a health  
20 care benefit or service that the organization is required to  
21 provide under the contract with the department;

22           (B) fails to provide to the department  
23 information required to be provided by law, department rule, or  
24 contractual provision;

25           (C) engages in a fraudulent activity in  
26 connection with the enrollment in the organization's managed care  
27 plan of an individual eligible for medical assistance or in

1 connection with marketing the organization's services to an  
2 individual eligible for medical assistance; or

3 (D) engages in actions that indicate a pattern  
4 of:

5 (i) wrongful denial of payment for a health  
6 care benefit or service that the organization is required to  
7 provide under the contract with the department; or

8 (ii) wrongful delay of at least 45 days or a  
9 longer period specified in the contract with the department, not to  
10 exceed 60 days, in making payment for a health care benefit or  
11 service that the organization is required to provide under the  
12 contract with the department.

13 (u) Except as provided by Subsection (w), a [A] person found  
14 liable for a violation under Subsection (c) that resulted in injury  
15 to an elderly person, as defined by Section 48.002(a)(1)  
16 [~~48.002(1)~~], a disabled person, as defined by Section  
17 48.002(a)(8)(A) [~~48.002(8)(A)~~], or a person younger than 18 years  
18 of age may not provide or arrange to provide health care services  
19 under the medical assistance program for a period of 10 years. The  
20 department by rule may provide for a period of ineligibility longer  
21 than 10 years. The period of ineligibility begins on the date on  
22 which the determination that the person is liable becomes final.  
23 [This subsection does not apply to a person who operates a nursing  
24 facility or an ICF-MR facility.]

25 (v) Except as provided by Subsection (w), a [A] person found  
26 liable for a violation under Subsection (c) that did not result in  
27 injury to an elderly person, as defined by Section 48.002(a)(1)

1 ~~[48.002(1)]~~, a disabled person, as defined by Section  
2 48.002(a)(8)(A) ~~[48.002(8)(A)]~~, or a person younger than 18 years  
3 of age may not provide or arrange to provide health care services  
4 under the medical assistance program for a period of three years.  
5 The department by rule may provide for a period of ineligibility  
6 longer than three years. The period of ineligibility begins on the  
7 date on which the determination that the person is liable becomes  
8 final~~[. This subsection does not apply to a person who operates a~~  
9 ~~nursing facility or an ICF-MR facility]~~.

10 (w) The department by rule may prescribe criteria under  
11 which a person described by Subsection (u) or (v) is not prohibited  
12 from providing or arranging to provide health care services under  
13 the medical assistance program. The criteria may include  
14 consideration of:

- 15 (1) the person's knowledge of the violation;  
16 (2) the likelihood that education provided to the  
17 person would be sufficient to prevent future violations;  
18 (3) the potential impact on availability of services  
19 in the community served by the person; and  
20 (4) any other reasonable factor identified by the  
21 department.

22 (x) Subsections (b)(1-b) through (1-f) do not prohibit a  
23 person from engaging in:

24 (1) generally accepted business practices, as  
25 determined by department rule, including:

- 26 (A) conducting a marketing campaign;  
27 (B) providing token items of minimal value that

1 advertise the person's trade name; and

2 (C) providing complimentary refreshments at an  
3 informational meeting promoting the person's goods or services;

4 (2) the provision of a value-added service if the  
5 person is a managed care organization; or

6 (3) other conduct specifically authorized by law,  
7 including conduct authorized by federal safe harbor regulations (42  
8 C.F.R. Section 1001.952).

9 SECTION 6. Subchapter B, Chapter 32, Human Resources Code,  
10 is amended by adding Section 32.0391 to read as follows:

11 Sec. 32.0391. CRIMINAL OFFENSE. (a) A person commits an  
12 offense if the person intentionally or knowingly commits a  
13 violation under Section 32.039(b)(1-b), (1-c), (1-d), or (1-e).

14 (b) An offense under this section is a state jail felony.

15 (c) If conduct constituting an offense under this section  
16 also constitutes an offense under another provision of law,  
17 including a provision in the Penal Code, the person may be  
18 prosecuted under either this section or the other provision.

19 (d) With the consent of the appropriate local county or  
20 district attorney, the attorney general has concurrent  
21 jurisdiction with that consenting local prosecutor to prosecute an  
22 offense under this section.

23 SECTION 7. Subchapter B, Chapter 32, Human Resources Code,  
24 is amended by adding Section 32.060 to read as follows:

25 Sec. 32.060. THIRD-PARTY BILLING VENDORS. (a) A  
26 third-party billing vendor may not submit a claim with the  
27 department for reimbursement on behalf of a provider of medical



1 services under the medical assistance program unless the vendor has  
2 entered into a contract with the department authorizing that  
3 activity.

4 (b) To the extent practical, the contract shall contain  
5 provisions comparable to the provisions contained in contracts  
6 between the department and providers of medical services, with an  
7 emphasis on provisions designed to prevent fraud or abuse under the  
8 medical assistance program. At a minimum, the contract must  
9 require the third-party billing vendor to:

10 (1) provide documentation of the vendor's authority to  
11 bill on behalf of each provider for whom the vendor submits claims;

12 (2) submit a claim in a manner that permits the  
13 department to identify and verify the vendor, any computer or  
14 telephone line used in submitting the claim, any relevant user  
15 password used in submitting the claim, and any provider number  
16 referenced in the claim; and

17 (3) subject to any confidentiality requirements  
18 imposed by federal law, provide the department, the office of the  
19 attorney general, or authorized representatives with:

20 (A) access to any records maintained by the  
21 vendor, including original records and records maintained by the  
22 vendor on behalf of a provider, relevant to an audit or  
23 investigation of the vendor's services or another function of the  
24 department or office of attorney general relating to the vendor;  
25 and

26 (B) if requested, copies of any records described  
27 by Paragraph (A) at no charge to the department, the office of the

1 attorney general, or authorized representatives.

2 (c) On receipt of a claim submitted by a third-party billing  
3 vendor, the department shall send a remittance notice directly to  
4 the provider referenced in the claim. The notice must:

5 (1) include detailed information regarding the claim  
6 submitted on behalf of the provider; and

7 (2) require the provider to review the claim for  
8 accuracy and notify the department promptly regarding any errors.

9 (d) The department shall take all action necessary,  
10 including any modifications of the department's claims processing  
11 system, to enable the department to identify and verify a  
12 third-party billing vendor submitting a claim for reimbursement  
13 under the medical assistance program, including identification and  
14 verification of any computer or telephone line used in submitting  
15 the claim, any relevant user password used in submitting the claim,  
16 and any provider number referenced in the claim.

17 SECTION 8. Subchapter C, Chapter 531, Government Code, is  
18 amended by adding Section 531.1011 to read as follows:

19 Sec. 531.1011. DEFINITIONS. For purposes of this  
20 subchapter:

21 (1) "Fraud" means an intentional deception or  
22 misrepresentation made by a person with the knowledge that the  
23 deception could result in some unauthorized benefit to that person  
24 or some other person, including any act that constitutes fraud  
25 under applicable federal or state law.

26 (2) "Furnished" refers to items or services provided  
27 directly by, or under the direct supervision of, or ordered by a

1 practitioner or other individual (either as an employee or in the  
2 individual's own capacity), a provider, or other supplier of  
3 services, excluding services ordered by one party but billed for  
4 and provided by or under the supervision of another.

5 (3) "Hold on payment" means the temporary denial of  
6 reimbursement under the Medicaid program for items or services  
7 furnished by a specified provider.

8 (4) "Practitioner" means a physician or other  
9 individual licensed under state law to practice the individual's  
10 profession.

11 (5) "Program exclusion" means the suspension of a  
12 provider from being authorized under the Medicaid program to  
13 request reimbursement of items or services furnished by that  
14 specific provider.

15 (6) "Provider" means a person, firm, partnership,  
16 corporation, agency, association, institution, or other entity  
17 that was or is approved by the commission to:

18 (A) provide medical assistance under contract or  
19 provider agreement with the commission; or

20 (B) provide third-party billing vendor services  
21 under a contract or provider agreement with the commission.

22 SECTION 9. Section 531.102, Government Code, is amended by  
23 amending Subsections (a) and (d) and adding Subsections (f) and (g)  
24 to read as follows:

25 (a) The commission, through the commission's office of  
26 investigations and enforcement, is responsible for the  
27 investigation of fraud and abuse in the provision of health and

1 human services and the enforcement of state law relating to the  
2 provision of those services.

3 (d) The commission may require employees of health and human  
4 services agencies to provide assistance to the commission in  
5 connection with the commission's duties relating to the  
6 investigation of fraud and abuse in the provision of health and  
7 human services.

8 (f)(1) If the commission receives a complaint of Medicaid  
9 fraud or abuse from any source, it must conduct an integrity review  
10 to determine whether there is sufficient basis to warrant a full  
11 investigation. An integrity review must commence not later than 60  
12 days after the commission receives a complaint or has reason to  
13 believe that fraud or abuse has occurred. An integrity review shall  
14 be completed not later than 90 days after it has commenced.

15 (2) If the findings of an integrity review give the  
16 commission reason to believe that an incident of fraud or abuse  
17 involving possible criminal conduct has occurred in the Medicaid  
18 program, the commission must take the following action, as  
19 appropriate, not later than 30 days after the completion of the  
20 integrity review:

21 (A) if a provider is suspected of fraud or abuse  
22 involving criminal conduct, the commission must refer the case to  
23 the state's Medicaid fraud control unit, provided that such  
24 criminal referral does not preclude the commission from continuing  
25 its investigation of the provider, which investigation may lead to  
26 the imposition of appropriate administrative or civil sanctions; or

27 (B) if there is reason to believe that a

1 recipient has defrauded the Medicaid program, the commission may  
2 conduct a full investigation of the suspected fraud.

3 (g)(1) Whenever the commission learns or has reason to  
4 suspect that a provider's records are being withheld, concealed,  
5 destroyed, fabricated, or in any way falsified, the commission  
6 shall immediately refer the case to the state's Medicaid fraud  
7 control unit. However, such criminal referral does not preclude  
8 the commission from continuing its investigation of the provider,  
9 which investigation may lead to the imposition of appropriate  
10 administrative or civil sanctions.

11 (2) In addition to other instances authorized under  
12 state or federal law, the commission shall impose without prior  
13 notice a hold on payment of claims for reimbursement submitted by a  
14 provider to compel production of records or when requested by the  
15 state's Medicaid fraud control unit, as applicable. The commission  
16 must notify the provider of the hold on payment not later than the  
17 fifth working day after the date the payment hold is imposed.

18 (3) On timely written request by a provider subject to  
19 a hold on payment under Subdivision (2), other than a hold requested  
20 by the state's Medicaid fraud control unit, the commission shall  
21 file a request with the State Office of Administrative Hearings for  
22 an expedited administrative hearing regarding the hold. The  
23 provider must request an expedited hearing under this subdivision  
24 not later than the 10th day after the date the provider receives  
25 notice from the commission under Subdivision (2).

26 (4) The commission shall adopt rules that allow a  
27 provider subject to a hold on payment under Subdivision (2), other

1 than a hold requested by the state's Medicaid fraud control unit, to  
2 seek an informal resolution of the issues identified by the  
3 commission in the notice provided under that subdivision. A  
4 provider must seek an informal resolution under this subdivision  
5 not later than the deadline prescribed by Subdivision (3). A  
6 provider's decision to seek an informal resolution under this  
7 subdivision does not extend the time by which the provider must  
8 request an expedited administrative hearing under Subdivision (3).  
9 However, the commission may request that any hearing initiated  
10 under Subdivision (3) be stayed until the informal resolution  
11 process is completed.

12 (5) The commission shall, in consultation with the  
13 state's Medicaid fraud control unit, establish guidelines under  
14 which holds on payment or program exclusions:

15 (A) may permissively be imposed on a provider; or

16 (B) shall automatically be imposed on a provider.

17 SECTION 10. Section 531.103(f), Government Code, is amended  
18 to read as follows:

19 (f) A [The] district attorney, county attorney, city  
20 attorney, or private collection agency may collect and retain costs  
21 associated with a [the] case referred to the attorney or agency and  
22 20 percent of the amount of the penalty, restitution, or other  
23 reimbursement payment collected.

24 SECTION 11. Section 531.104, Government Code, is amended by  
25 adding Subsection (c) to read as follows:

26 (c) The memorandum of understanding must ensure that no  
27 barriers to direct fraud referrals to the state's Medicaid fraud

1 control unit by Medicaid agencies or unreasonable impediments to  
2 communication between Medicaid agency employees and the state's  
3 Medicaid fraud control unit will be imposed.

4 SECTION 12. Section 531.107(b), Government Code, is amended  
5 to read as follows:

6 (b) The task force is composed of a representative of the:

7 (1) attorney general's office, appointed by the  
8 attorney general;

9 (2) comptroller's office, appointed by the  
10 comptroller;

11 (3) Department of Public Safety, appointed by the  
12 public safety director;

13 (4) state auditor's office, appointed by the state  
14 auditor;

15 (5) commission, appointed by the commissioner of  
16 health and human services;

17 (6) Texas Department of Human Services, appointed by  
18 the commissioner of human services; ~~and~~

19 (7) Texas Department of Insurance, appointed by the  
20 commissioner of insurance; and

21 (8) Texas Department of Health, appointed by the  
22 commissioner of public health.

23 SECTION 13. Section 31.03, Penal Code, is amended by adding  
24 Subsection (j) to read as follows:

25 (j) With the consent of the appropriate local county or  
26 district attorney, the attorney general has concurrent  
27 jurisdiction with that consenting local prosecutor to prosecute an

1 offense under this section that involves the state Medicaid  
2 program.

3 SECTION 14. Section 32.45, Penal Code, is amended by adding  
4 Subsection (d) to read as follows:

5 (d) With the consent of the appropriate local county or  
6 district attorney, the attorney general has concurrent  
7 jurisdiction with that consenting local prosecutor to prosecute an  
8 offense under this section that involves the state Medicaid  
9 program.

10 SECTION 15. Section 32.46, Penal Code, is amended by adding  
11 Subsection (e) to read as follows:

12 (e) With the consent of the appropriate local county or  
13 district attorney, the attorney general has concurrent  
14 jurisdiction with that consenting local prosecutor to prosecute an  
15 offense under this section that involves the state Medicaid  
16 program.

17 SECTION 16. Section 37.10, Penal Code, is amended by adding  
18 Subsection (i) to read as follows:

19 (i) With the consent of the appropriate local county or  
20 district attorney, the attorney general has concurrent  
21 jurisdiction with that consenting local prosecutor to prosecute an  
22 offense under this section that involves the state Medicaid  
23 program.

24 SECTION 17. Articles 59.01(1) and (2), Code of Criminal  
25 Procedure, are amended to read as follows:

26 (1) "Attorney representing the state" means the  
27 prosecutor with felony jurisdiction in the county in which a



1 forfeiture proceeding is held under this chapter or, in a  
2 proceeding for forfeiture of contraband as defined under  
3 Subdivision (2)(B)(iv) of this article, the city attorney of a  
4 municipality if the property is seized in that municipality by a  
5 peace officer employed by that municipality and the governing body  
6 of the municipality has approved procedures for the city attorney  
7 acting in a forfeiture proceeding. In a proceeding for forfeiture  
8 of contraband as defined under Subdivision (2)(B)(vii) of this  
9 article, the term includes the attorney general.

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

12 (A) used in the commission of:

13 (i) any first or second degree felony under  
14 the Penal Code;

15 (ii) any felony under Section 15.031(b),  
16 21.11, 38.04, 43.25, or 43.26 or Chapter 29, 30, 31, 32, 33, 33A, or  
17 35, Penal Code; or

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

20 (B) used or intended to be used in the commission  
21 of:

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

24 (ii) any felony under Chapter 483, Health  
25 and Safety Code;

26 (iii) a felony under Chapter 153, Finance  
27 Code;

1 (iv) any felony under Chapter 34, Penal  
2 Code;

3 (v) a Class A misdemeanor under Subchapter  
4 B, Chapter 365, Health and Safety Code, if the defendant has been  
5 previously convicted twice of an offense under that subchapter;  
6 [~~or~~]

7 (vi) any felony under Chapter 152, Finance  
8 Code; or

9 (vii) any felony under Chapter 31, 32, or  
10 37, Penal Code, that involves the state Medicaid program, or any  
11 felony under Chapter 36, Human Resources Code;

12 (C) the proceeds gained from the commission of a  
13 felony listed in Paragraph (A) or (B) of this subdivision or a crime  
14 of violence; or

15 (D) acquired with proceeds gained from the  
16 commission of a felony listed in Paragraph (A) or (B) of this  
17 subdivision or a crime of violence.

18 SECTION 18. Article 59.06, Code of Criminal Procedure, is  
19 amended by adding Subsection (p) to read as follows:

20 (p) Notwithstanding Subsection (a), and to the extent  
21 necessary to protect the commission's ability to recover amounts  
22 wrongfully obtained by the owner of the property and associated  
23 damages and penalties to which the commission may otherwise be  
24 entitled by law, the attorney representing the state shall transfer  
25 to the Health and Human Services Commission all forfeited property  
26 defined as contraband under Article 59.01(2)(B)(vii). If the  
27 forfeited property consists of property other than money or

1 negotiable instruments, the attorney representing the state may, if  
2 approved by the commission, sell the property and deliver to the  
3 commission the proceeds from the sale, minus costs attributable to  
4 the sale. The sale must be conducted in a manner that is reasonably  
5 expected to result in receiving the fair market value for the  
6 property.

7 SECTION 19. (a) The Medicaid and Public Assistance Fraud  
8 Oversight Task Force, with the participation of the Texas  
9 Department of Health's Bureau of Vital Statistics and other  
10 agencies designated by the comptroller, shall study procedures and  
11 documentation requirements used by the state in confirming a  
12 person's identity for purposes of establishing entitlement to  
13 Medicaid and other benefits provided through health and human  
14 services programs.

15 (b) Not later than December 1, 2004, the Medicaid and Public  
16 Assistance Fraud Oversight Task Force, with assistance from the  
17 agencies participating in the study required by Subsection (a) of  
18 this section, shall submit a report to the legislature containing  
19 recommendations for improvements in the procedures and  
20 documentation requirements described by Subsection (a) of this  
21 section that would strengthen the state's ability to prevent fraud  
22 and abuse in the Medicaid program and other health and human  
23 services programs.

24 SECTION 20. Not later than December 1, 2003, the Office of  
25 the Attorney General and the Health and Human Services Commission  
26 shall amend the memorandum of understanding required by Section  
27 531.104, Government Code, as necessary to comply with Section

1 531.104(c), Government Code, as added by this Act.

2 SECTION 21. The changes in law made by this Act through  
3 amending Section 32.039(b), Human Resources Code, and adding  
4 Section 32.0391, Human Resources Code, apply only to a violation  
5 committed on or after the effective date of this Act. For purposes  
6 of this section, a violation is committed on or after the effective  
7 date of this Act only if each element of the violation occurs on or  
8 after that date. A violation committed before the effective date of  
9 this Act is covered by the law in effect when the violation was  
10 committed, and the former law is continued in effect for that  
11 purpose.

12 SECTION 22. If before implementing any provision of this  
13 Act a state agency determines that a waiver or authorization from a  
14 federal agency is necessary for implementation of that provision,  
15 the agency affected by the provision shall request the waiver or  
16 authorization and may delay implementing that provision until the  
17 waiver or authorization is granted.

18 SECTION 23. Section 531.103(e), Government Code, is  
19 repealed.

20 SECTION 24. (a) Except as otherwise provided by Subsection  
21 (b) of this section, this Act takes effect September 1, 2003.

22 (b) Section 32.060, Human Resources Code, as added by this  
23 Act, takes effect January 1, 2004.

David Dewhurst

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 1743 was passed by the House on April 14, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1743 on May 30, 2003, by a non-record vote.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 1743 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Antony Gau

Secretary of the Senate

APPROVED: 18 JUNE '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30pm O'CLOCK

June Shea  
Secretary of State