

**FOOD FOR
THOUGHT**

TAHP
The Texas Association of Health Plans

Protecting Texas Health Care Dollars: Tackling Fraud, Waste & Abuse

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The Texas Association of Health Plans

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THE TEXAS LAWBOOK

Texas Doctor Sentenced to 10 Years, \$26 Million Restitution for Medicare Fraud

Dr. David M. Young, a 61-year-old physician from Fredericksburg, Texas, was paid a flat \$5,000 a week to electronically sign prescriptions for braces and genetic tests for more than 13,000 Medicare patients he never examined. He was sentenced to 10 years in federal prison and ordered to pay \$26.6 million in restitution.

Sources: U.S. Department of Justice (Jan. 15, 2025); The Texas Lawbook, "Office Manager For Imprisoned Telemedicine Exec Fingers Texas Doctor In Phony Prescription Scam" by Bruce Tomaso (May 15, 2024)

SCALE OF THE FRAUD

"He signed prescriptions for more than 13,000 patients he never examined — including undercover agents posing as beneficiaries."

— per court records cited by Fox 7 Austin

INSIDE THE SCHEME

"If I sent him 25 prescriptions, within 20 or 30 minutes, they were signed." Sunrise's own staff, she testified, included "hookers, drug addicts ... and some regular people."

— Pamela Edwin, Sunrise Medical office manager, testifying at trial

DALLAS EXPRESS

Attorney General Sues Texas Dental Providers For Medicaid Fraud With Gift Card Bribes

Attorney General Ken Paxton has sued a group of dental providers and marketers, accusing them of bribing Medicaid patients with gift cards and performing medically unnecessary procedures to defraud Texas Medicaid.

SCOPE OF THE SCHEME

"The scheme allegedly continued for years and resulted in tens of thousands of fraudulent Medicaid claims."

— as alleged in the AG's lawsuit, filed March 30, 2026

AG'S RESPONSE

"It is malicious and unacceptable that these providers were performing dangerous, medically unnecessary procedures on patients in order to scam our Medicaid system."

— Attorney General Ken Paxton

MCOs Have Saved Texas Medicaid Billions

Overpayment recovery isn't just enforcement — it's one of the main ways Texas keeps Medicaid spending under control.

\$1.1B

RECOVERED IN OVERPAYMENTS, FY 2025

MCOs identified and recovered \$1.1 billion in Medicaid overpayments last year alone: billing errors, coding mistakes, duplicate payments, and fraud referrals.

\$13.9B

SAVED THROUGH MANAGED CARE, 2009–2017

An HHSC study found the shift to managed care produced \$13.9 billion in savings: 11.7% of total spending, largely by preventing waste before it happens.

THE BOTTOM LINE

Every dollar an MCO recovers or prevents is a dollar that doesn't have to come out of the state budget — or get built into next year's premiums.

Not every dollar recovered is fraud — CMS reports most recoveries nationally stem from billing errors and documentation corrections. But every dollar recovered still lowers what Texas has to spend.

How Texas Catches Medicaid Fraud, Waste, & Abuse

Before a single dollar is recovered, a case moves through layers of review and most of it happens long before anything is ever called “fraud.”



Civil Enforcement, Meets Criminal Prosecution

HHSC's Inspector General and the Attorney General's Medicaid Fraud Control Unit work fraud from two different directions.

HHSC OFFICE OF INSPECTOR GENERAL

CIVIL & ADMINISTRATIVE ENFORCEMENT

685

cases MCOs refer to OIG each year, on average

6%

accepted by OIG for a full investigation, the rest stay with the MCO for investigation/collection.

50/50

recovery split with the MCO, after the federal government's 60% share

OIG alone can freeze a provider's payments statewide, and keeps all recoveries it finds on its own

&

OAG'S MEDICAID FRAUD CONTROL UNIT

CRIMINAL PROSECUTION

123

arrests in 2025

180

indictments in 2025

\$125M+

recovered in 2025 alone—over \$1B since 2020

Independent of HHSC by law and federally certified — prosecuting the most serious fraud and any patient abuse or neglect.

BECKER'S ASC

Denver Neuromonitoring Company, Surgeon Pay \$2 Million Over Kickback Scheme

Assure Neuromonitoring and a Denver-area neurosurgeon have agreed to pay more than \$2 million to resolve allegations that the company paid the surgeon kickbacks, funneled through a joint venture, to induce him to order its intraoperative neuromonitoring (IONM) services for his surgeries. The company then billed Medicare, Medicare Advantage plans, and Colorado Medicaid for the monitoring.

Sources: U.S. Attorney's Office, District of Colorado, "\$2 Million Resolves Kickback Allegations Relating to Denver Neuromonitoring Company" (Dec. 3, 2024); Becker's ASC, "Physician, device company to pay \$2M+ to settle kickback allegations"

THE JUSTICE DEPARTMENT'S TAKE

"Doctors' decisions about which services to use when providing care to patients should never be tainted by how much money the doctor can make from kickbacks."

— Matt Kirsch, Acting U.S. Attorney, District of Colorado

HOW THE SCHEME WORKS

- 1 Surgeon refers his patients for neuromonitoring during surgery.
- 2 Kickbacks flow back to him through a joint-venture shell company.
- 3 The neuromonitoring company bills Medicare, Medicaid & private insurers.

TDI Can't Investigate All Fraud

Texas wrote a strong fraud definition for Medicaid but employer health plans don't get the same protection.

TDI'S AUTHORITY TODAY • PENAL CODE CH. 35 (INSURANCE FRAUD): A false or misleading statement made to support a claim. In practice, this mostly only covers if a provider lied about whether a service was delivered.

WHAT FALLS THROUGH THE GAP: *already reachable under Medicaid's Ch. 35A, not under TDI's Ch. 35*



Upcoding

Billing a more expensive procedure code than what was actually performed.



Unnecessary Care

Services that are “substantially inadequate or inappropriate” compared to accepted medical standards — Ch. 35A's language.



Unapproved Treatment

Services never approved or acquiesced to by the patient's own treating physician.



Unbundling

Splitting one bundled service into separate, higher-cost claims.

THE FIX

HB 4012 (89th) would have extended Chapter 35A's broader fraud definition to employer health plans so TDI can investigate the same conduct HHSC's Inspector General already can for Medicaid.

SAN ANTONIO EXPRESS-NEWS



San Antonio employee healthcare costs are \$40 million over budget

The city of San Antonio is \$40 million over its employee healthcare budget this year, in part because city workers have been going to costly, out-of-network emergency rooms, according to officials.



PATIENT CONFUSION

“A significant number of visits to Freestanding ERs appear to be for non-emergency issues.”

— Erik Walsh, San Antonio City Manager, May 20 memo to city employees



COPAY WAIVERS

“Some providers weren’t charging the required out-of-pocket and deductible charges — which means the city bears the entire cost.”

— Express-News, reporting on the city’s May memo

PERMIAN PRESS

Freestanding ER bills raise MISD employee insurance costs

Midland ISD trustees heard on Tuesday, May 19, that the district's self-funded employee health insurance plan is on track to spend about \$1.7 million more than budgeted for the 2026-27 school year, and district staff said unusually high billing from freestanding emergency clinics is a major reason.

\$1.7M

projected overspend on MISD's employee health plan this year



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NOT EMERGENCY CARE

“A typical freestanding emergency room visit for a non-emergency issue can cost \$3,000 to \$10,000 or more, when a visit to a primary care physician may cost \$100 to \$250.”

— Midland ISD staff, presented to the board May 19

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TRUSTEE REACTION

“This is a stain on my profession. These people are exploiting Midlanders. They're exploiting our teachers and the taxpayers, and they need to be stopped.”

— Trustee Matt Friez, a practicing physician, Midland ISD board

SOLUTION: ENFORCE THE COPAY-WAIVER BAN

Already Illegal — Almost Never Enforced

Waiving a patient's copay or deductible to mask inflated charges breaks state law, it just isn't enforced.

TEXAS LAW TODAY · TEX. INS. CODE §§552.003, 1204.055: Charging a different price because insurance pays, or waiving a copay or deductible to hide it, is already a Class B misdemeanor—but criminal penalties aren't the solution and aren't enforced.

WHAT UNENFORCED WAIVERS COST — freestanding ERs, Texas cities & school districts

13x

MORE EXPENSIVE THAN URGENT CARE

A freestanding ER visit for a non-emergency issue can cost 13 times what urgent care costs for the same condition — driving 5 million visits a year in Texas.

\$40M

OVER BUDGET IN ONE YEAR — SAN ANTONIO ALONE

The city's employee health plan is \$40 million over budget this year, driven in part by non-emergency freestanding-ER visits — including copays and deductibles the provider never collected.

THE FIX

Give regulators a real enforcement mechanism: create a licensure penalty for waiving cost-sharing to disguise inflated charges, starting with freestanding ERs.

UPCODING *def.*

Billing a health plan for a more expensive service, procedure, or piece of equipment than what was actually provided, and pocketing the difference.

The Texas AG and the FBI call it fraud. Texas prosecutors and federal investigators have prosecuted cases for years now against providers that fraudulently upcode in Medicaid and Medicare.

ER VISITS, CODED SICKER EVERY YEAR

2004

8%

2021

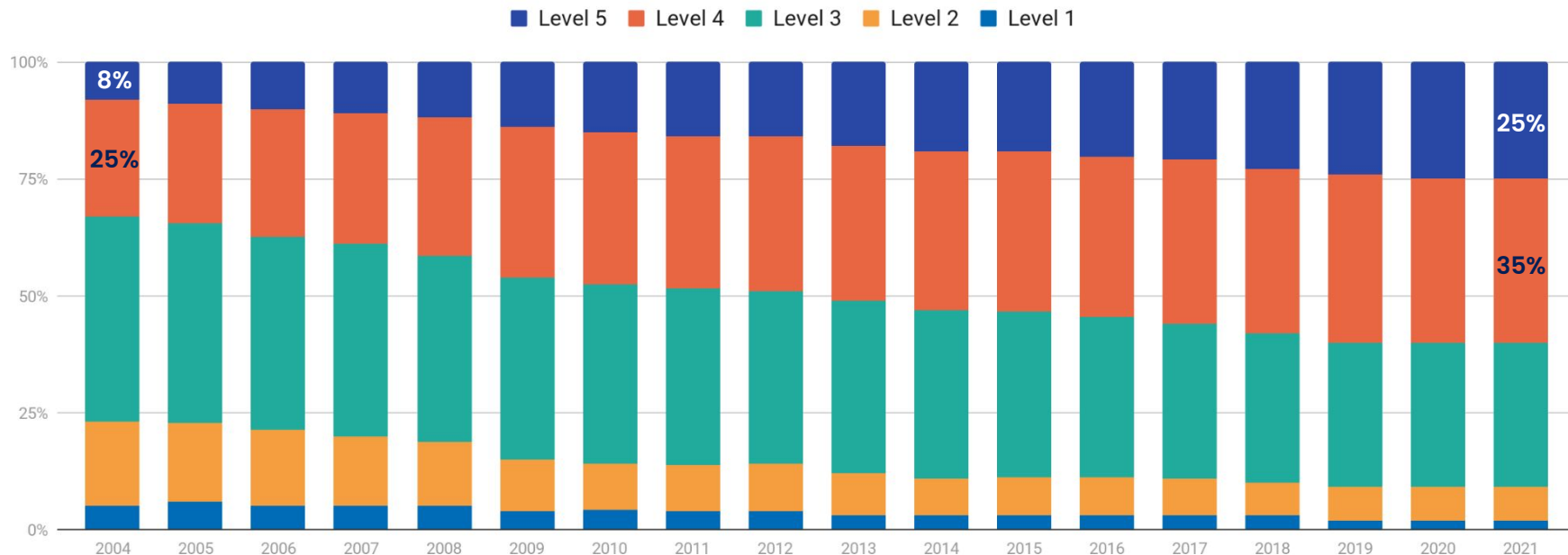
25%

share of all ER visits billed at Level 5 — the highest, most expensive severity code

Two Decades of Rising Coding Intensity

ER billing has been drifting toward higher-complexity codes for almost two decades—long before ambient AI scribes existed.

Share of emergency department claims billed at each complexity level, 2004–2021



AI doesn't create this incentive, it amplifies and automates it with advanced revenue maximization tools.

Upcoding, Prosecuted Across Texas

Hospitals, ambulance companies, physician groups, and equipment suppliers caught inflating bills to Medicaid and Medicare.

JOHN PETER SMITH HOSPITAL

Tarrant County · 2021

\$3.3M *settlement*

Billing modifiers were tacked onto claims up to 95% of the time, a whistleblower's suit alleged.

UNION HEALTHCARE SERVICES (CITY EMS)

Harris County · 2023

16 YRS *prison + \$388,648 restitution*

Owner convicted of Medicaid upcoding, unbundling, and billing for ambulance rides that were unnecessary — or never happened.

EL PASO EAR, NOSE & THROAT ASSOCIATES

El Paso · 2021

\$750K *settlement*

Accused of upcoding claims sent to Medicare, Medicaid, and TRICARE alike.

SPECTRUM FOUNDATION (DME SUPPLIER)

Richmond · 2013

48 MOS *prison + \$1.5M Medicare restitution*

Billed \$700,000 for rigid thoracic braces while patients actually received cheap, flexible ones.

THE NEW FRONTIER

AI Is Now Doing the **Upcoding**

Ambient AI scribes listen to your doctor or ER visit, draft the notes, and increasingly suggest the billing code — often without the patient's knowledge and consent.

“Right now, ambient scribes are inflationary, and that's a problem. We need technology to help us lower health care costs.” — Caroline Pearson, Executive Director, Peterson Health Technology Institute

NATIONWIDE

\$2.3B *in hospital bills*

tied to AI-assisted upcoding — \$663M inpatient, \$1.67B outpatient. Texas hospitals are among the early adopters.

IN TEXAS

28% *rise in upcoding*

over three years at some Texas facilities, where complex-coding rates climbed from 47% to 60%.

ADOPTION

46% *of U.S. hospitals*

already use AI for billing, coding, and claims — adoption has been climbing roughly 25 points a year.

THE BILL

\$1.8M *a year, added cost*

estimated impact of AI-driven billing inflation alone, for a mid-size employer with a \$100 million health plan.

SOLUTION: BAN AI-DRIVEN UPCODING

AI Is Already **Inflating the Bill**

Hospitals are using AI to push visits into higher-paying codes, with no requirement to tell anyone.

TEXAS'S AI LAW TODAY: Requires disclosure when AI shapes a diagnosis or treatment but says nothing about AI used to code or bill that same visit.

WHAT THE DATA SHOWS: *nationwide analysis of commercial claims, 2022–2025*

\$2.3B

ADDED TO HOSPITAL BILLS NATIONWIDE

AI-assisted upcoding added an estimated \$663M in inpatient and \$1.67B in outpatient billing in three years — and Texas hospitals are among the earliest adopters.

7x

FASTER BILLING INFLATION AT AI-ADOPTING HOSPITALS

Billing complexity rose 6.7% at one AI-adopting hospital vs. just 0.9% at a comparable hospital without AI — while actual treatment intensity barely moved.

THE FIX

Prohibit AI tools built or used to push billing codes higher than the clinical record supports, and extend HB 149's disclosure duty to AI used in coding and billing — not just diagnosis and treatment.

Austin ER Operator Pays \$429,231 To Settle COVID Overbilling Claims

Austin Emergency Center and its affiliated companies have agreed to pay \$429,231 to resolve allegations that they overcharged the federal employee health plan for COVID-19 tests and inflated billing codes for drive-through screenings, allegedly profiting from a public health emergency at taxpayer expense.

THE JUSTICE DEPARTMENT'S WARNING

“Those who have used or plan to use healthcare as a means to unlawfully enrich themselves should take note that the Department of Justice is actively looking for opportunities to recover stolen pandemic-era funds on behalf of the American people.”

— Justin R. Simmons, U.S. Attorney, Western District of Texas

THE INVESTIGATORS' TAKE

“We applaud our investigative staff and our partners at the Department of Justice for continuing to hold these providers accountable.”

— Derek M. Holt, Special Agent in Charge, U.S. Office of Personnel Management, Office of Inspector General

THE NEW YORK TIMES

***\$22,000 Per Hour:
Assistants Use a
Legislative Loophole
to Outearn Surgeons***

A law meant to end surprise medical billing has led to large paydays for some surgical assistants, who can earn far more than the doctors they help.

THE PAYOUT

SURGEON

\$1,843

SURGICAL

ASSISTANT

\$50,456

*paid through arbitration in
March for one
prostate-removal operation in
Dallas — under a law meant to
stop surprise medical bills*

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LAWYER'S REACTION

“It's a very blatant disregard of both the spirit of the law and what the law says.”

— Brady Connaughton, lawyer advising union health plans

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THE BIGGER RISK

“The threat I see is that, as it becomes more lucrative for these providers to be out of network, eventually they aren't going to want to be in network.”

— Thomas Nyhan, executive director of TeamCare health plan

Texas Lacks **Licensure Accountability for Fraud, Waste, and Abuse**

PROVIDER DISCIPLINE TODAY · TEX. OCC. CODE §§105.002: Knowingly billing a false or fraudulent claim is already “unprofessional conduct,” but does not require any discipline, and it does not apply to facility/ FSER bills.

WHY CONFIRMED FRAUD RARELY COSTS A LICENSE

No Automatic Referral

Fraud findings aren't required by law to be reported to a provider's licensing board.

No Licensure Jeopardy

Confirmed fraud doesn't necessarily stop the provider from practicing.

No Facility/FSER Applicability

Unprofessional conduct laws don't apply to hospitals and freestanding emergency rooms.

No Mandatory Discipline

Licensing boards aren't required to take action to protect patients and employers from fraudulent billing.

THE FIX

Require every state licensing board to take action on a confirmed case of fraudulent billing, and standardize penalties by requiring specific enforcement actions for initial and repeat violations.

Four Fixes to Close Texas's Fraud Enforcement Gaps

1

Match TDI's Fraud Definition to Medicaid's

TDI's Penal Code definition of insurance fraud is far narrower than the one HHSC's Office of Inspector General already uses for Medicaid. Align the two (Penal Code Ch. 35A) so commercial fraud gets the same scrutiny.

2

Make Billing Fraud a Licensure Violation

Confirmed fraud or abuse should put a provider's license on the line. Make it a licensure violation for every provider type, statewide.

3

Actually Enforce the Copay-Waiver Ban

Waiving a patient's copay or deductible to mask inflated charges is already illegal (Tex. Ins. Code §§552.003, 1204.055) — it's just not enforced. Give regulators real teeth, starting with freestanding ERs.

4

Make AI-Driven Upcoding Illegal

Texas's new AI disclosure law covers diagnosis and treatment but says nothing about AI used to inflate a bill. Close the gap and prohibit AI systems built to enable upcoding.