

ARKANSAS SENATE
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of Senate Bill No. 564

TO CLARIFY THE SCOPE OF HEALTHCARE FRAUD; AND TO UPDATE THE MEDICAID FRAUD ACT
AND THE MEDICAID FRAUD FALSE CLAIMS ACT.

Amendment No. 1 to Senate Bill No. 564

Amend Senate Bill No. 564 as originally introduced:

Page 1, delete lines 29 and 30, and substitute the following:

"(a) As used in this section, "healthcare plan" means a publicly or privately funded"

AND

Page 1, line 33, delete "(A)" and substitute "(1)"

AND

Page 1, line 34, delete "(B)" and substitute "(2)"

AND

Page 1, line 35, delete "(C)" and substitute "(3)"

AND

Page 1, line 36, delete "(D)" and substitute "(4)"

AND

Page 2, delete lines 1 through 7, and substitute the following:

"(5) The Social Security Disability Insurance program; and

(6) Medicare program.

~~(a)~~(b) A person commits healthcare fraud if, with a purpose to defraud a health healthcare plan, the person provides materially false information or"

AND

Page 3, delete lines 8 through 15, and substitute the following:



"healthcare fraud in any period of twelve (12) months is less than two thousand five hundred dollars (\$2,500);

(2) Class C felony if the aggregate amount of the healthcare fraud in any period of twelve (12) months is two thousand five hundred dollars (\$2,500) or more but less than five thousand dollars (\$5,000);

(3) Class B felony if the aggregate amount of the healthcare fraud in any period of twelve (12) months is five thousand dollars (\$5,000) or more but less than twenty-five thousand dollars"

AND

Page 5, delete lines 13 through 19, and substitute the following:

~~"Medicaid recipients including, but not limited to, medical documents and X-rays, developed by any person through the claimed provision of any goods or services to any Medicaid recipient."~~

AND

Immediately following SECTION 2, add an additional section to read as follows:

"SECTION 3. Arkansas Code § 5-55-103(a)(2), concerning the classification of Medicaid fraud, is amended to read as follows:

(2) Medicaid fraud is a:

~~(A) Class B felony if the aggregate amount of payments illegally claimed is two thousand five hundred dollars (\$2,500) or more; and~~

~~(B) Class C felony if the aggregate amount of payments illegally claimed is less than two thousand five hundred dollars (\$2,500) but more than two hundred dollars (\$200)~~

(A) Class C felony if the aggregate amount of payments illegally claimed is two thousand five hundred dollars (\$2,500) or more but less than five thousand dollars (\$5,000);

(B) Class B felony if the aggregate amount of payments illegally claimed is five thousand dollars (\$5,000) or more but less than twenty-five thousand dollars (\$25,000); and

(C) Class A felony if the aggregate amount of payments illegally claimed is twenty-five thousand dollars (\$25,000) or more."

AND

Page 5, delete lines 29 and 30, and substitute the following:

~~"maintain at their principal place of Medicaid business all records at least for a period of five (5) years from the date of claimed"~~

AND

Page 5, line 32, delete "(2)" and substitute "(2)(A)"

AND

Page 5, delete line 35, and substitute the following:

"services are provided.

(B) Closed records for inactive patients or clients may be

maintained in offsite storage if:

(i) The records can be produced within three (3) working days of being served with a request for records, subpoena, or other lawful notice from any agency with authority to audit the records; and

(ii) The records are maintained within the state.

(C) A Medicaid provider shall disclose upon request the location of any offsite storage facility to any agency with authority to audit the records."

AND

Page 6, delete lines 13 through 15, and substitute the following:

"(h)(1) Any person found not to have maintained any records upon conviction is guilty of a Class D felony"

AND

Page 6, delete line 19, and substitute the following:

"subdivision (h)(1) of this section is a Class A misdemeanor.

(i) It is an affirmative defense to a prosecution under this section that the records in question were lost or destroyed in a flood, fire, or other natural disaster or by a criminal act that did not result from the defendant's conduct."

AND

Page 6, line 36, delete "General for" and substitute "General or prosecuting attorney for"

AND

Page 7, delete lines 1 and 2, and substitute the following:

"reasonable and necessary expenses incurred during investigation and prosecution."

AND

Page 8, line 3, delete "General during" and substitute "General or the prosecuting attorney during"

AND

Page 9, line 13, delete "General during" and substitute "General or the prosecuting attorney during"

AND

Page 9, line 14, delete "General to" and substitute "General or the prosecuting attorney to"

AND

Page 9, line 17, delete "Mandatory fines." and substitute "Fines."

AND

Page 9, delete line 27, and substitute the following:
"following fines:"

AND

Page 10, delete lines 24 through 35, and substitute the following:

"(b)(1) The fines described in subdivision (a)(2) of this section may be waived by the prosecuting attorney.

(2) If the fines are waived, the trier of fact may impose fines under 5-4-201.

(c) All fines assessed under subsection (a) of this section shall be credited to the general revenues of the State of Arkansas."

AND

Page 17, delete line 31, and substitute the following:

"(E) Retention of any overpayment not returned within sixty (60) days from the date of discovery by the provider;"

AND

Page 18, delete lines 18 through 22, and substitute the following:
"provided to Medicaid recipients."

AND

Page 24, delete line 25, and substitute the following:

"(e)(1) A person who engages or has engaged in any"

AND

Page 25, delete lines 17 and 18, and substitute the following:

"maintain at the person's principal place of Medicaid business all records at least for a period of five (5) years from the date of claimed"

AND

Page 25, line 25, delete "(2)" and substitute "(2)(A)"

AND

Page 25, delete line 28, and substitute the following:

"services are provided.

(B) Closed records for inactive patients or clients can be maintained in offsite storage if:

(i) The records can be produced within three (3) working days of being served with a request for records, subpoena, or other lawful notice from any agency with authority to audit the records; and

(ii) The records are maintained within the State of Arkansas.

(C) A Medicaid provider shall disclose upon request the location of any offsite storage facility to any agency with authority to audit the records."

AND

Page 26, delete lines 7 through 14, and substitute the following:

"(b) A civil action under this section may not be brought more than five (5) years after the date on which the violation of this subchapter is committed."

AND

Page 26, delete line 19, and substitute the following:

"(3) ~~"Health plan"~~ "Healthcare plan" means a publicly or privately funded ~~health~~"

AND

Appropriately renumber the sections of the bill

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator D. Sanders

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Secretary