



Physicians Caring for Texans

**House Committee on Insurance**  
**Testimony by Ezequiel “Zeke” Silva III, MD, Texas Medical Association**  
**House Bill 4012 (Commercial Fraud) by Rep. Dennis Paul**  
*April 17, 2025*

---

Chair Dean, Vice-Chair Vo, and committee members, on behalf of our more than 59,000 Texas Medical Association physician and medical student members, we thank you for the opportunity to provide testimony in opposition to House Bill 4012.

We share Representative Paul’s goal of addressing true instances of fraud. However, this bill goes far beyond that. It exposes well-meaning physicians to criminal and civil penalties for complex billing disputes, invites abusive litigation, and shifts the balance of power dramatically in favor of commercial insurers without ensuring accountability or clinical safeguards.

**Overreach of Criminal and Civil Liability**

HB 4012 creates new criminal penalties (Penal Code §35A.02(a-1)) for conduct involving commercial insurance claims – an area historically handled through regulatory or civil resolution. These penalties, including first-degree felonies, can be triggered by good-faith billing disagreements or documentation discrepancies.

**While some groups have claimed** this bill merely aligns authority across public and private markets, this is not accurate. Medicaid and Medicare have clearly defined coverage policies and standardized fraud controls; commercial health plans do not. Applying felony-level penalties to a fragmented private market – without consistent standards or clinical due process – is reckless and unfair.

**Encourages Meritless and Retaliatory Lawsuits**

The bill’s whistleblower provision mirrors qui tam actions under the Medicaid Fraud Prevention Act, but applies them to private insurance. Unlike the Medicaid program, the statute created under HB 4012 lacks guardrails against abuse in the far less-regulated commercial space. Physicians could face years of litigation over nuanced billing judgments, driven by financial incentives rather than patient harm.

**No Clinical Review or Safe Harbors**

HB 4012 includes no requirement for independent physician review before a claim is deemed “fraudulent.” Nor does it offer safe harbor for providers who act in good faith or self-report billing discrepancies. Without clinical oversight, the bill could deter physicians from providing appropriate but expensive or non-standard care – particularly in underserved communities. This chilling effect will lead to less innovation, more defensive medicine, and reduced access to care.

**Duplicative Enforcement and Conflicts of Interest**

The bill allows the Texas Department of Insurance (TDI) to retain up to 50% of any financial recovery resulting from enforcement, creating potential conflicts of interest and incentivizing aggressive

investigations. It also creates overlapping authority with the Office of Inspector General and the new Fraud Prevention Partnership, without defining how investigations will be coordinated. TDI already has enforcement power. HB 4012 adds bounty-based lawsuits and new criminal triggers, creating confusion and burdening honest physicians with more administrative overhead.

### **Conclusion**

For the aforementioned reasons, we respectfully oppose House Bill 4012. Fraud should be prosecuted – but this bill targets physicians broadly, not just bad actors. It expands authority without accountability, litigation without clinical due process, and oversight without insurer transparency.

We urge the committee to oppose HB 4012 and work with the physician community to develop targeted, balanced fraud prevention strategies.

We thank you for the opportunity to provide this testimony.