

Absent-excused: Seliger.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**(Senator Eltife in Chair)**

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 207 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 207** at this time on its second reading:

**CSSB 207**, Relating to the authority and duties of the office of inspector general of the Health and Human Services Commission.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 207** (senate committee report) in SECTION 2 of the bill as follows:

- (1) In amended Section 531.102(g)(7), Government Code (page 4, line 13), strike "payment holds or" and substitute "[payment holds or]".
- (2) In amended Section 531.102(g), Government Code (page 4, between lines 15 and 16), insert the following:  
(7-a) The office shall, in consultation with the state's Medicaid fraud control unit, establish guidelines regarding the imposition of payment holds authorized under Subdivision (2).

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Seliger.

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 207** (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 531.1202, Government Code, is amended to read as follows:

Sec. 531.1202. RECORD OF AND CONFIDENTIALITY OF INFORMAL RESOLUTION MEETINGS. (a) On the written request of a provider, the [The] commission shall, at no expense to the provider who requested the meeting, provide for an informal resolution meeting held under Section 531.102(g)(6) or 531.120(b) to be recorded. The recording of an informal resolution meeting shall be made available

to the provider who requested the meeting. The commission may not record an informal resolution meeting unless the commission receives a written request from a provider under this subsection.

(b) Notwithstanding Section 531.1021(g) and except as provided by this section, an informal resolution meeting held under Section 531.102(g)(6) or 531.120(b) is confidential, and any information or materials obtained by the commission's office of inspector general, including the office's employees or the office's agents, during or in connection with an informal resolution meeting, including a recording made under Subsection (a), are privileged and confidential and not subject to disclosure under Chapter 552 or any other means of legal compulsion for release, including disclosure, discovery, or subpoena.

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Seliger.

Senator Hinojosa offered the following amendment to the bill:

#### **Floor Amendment No. 3**

Amend **CSSB 207** (senate committee report) in SECTION 2 of the bill, in amended Section 531.102(g)(5), Government Code (page 3, line 32), by striking "The decision" and substituting "Notwithstanding any other law, including Section 2001.058(e), the decision".

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Seliger.

Senator Uresti offered the following amendment to the bill:

#### **Floor Amendment No. 4**

Amend **CSSB 207** (senate committee report) as follows:

(1) Strike the recital to SECTION 6 of the bill amending Section 531.1201, Government Code (page 6, lines 36 and 37), and substitute the following:  
Sections 531.1201(a) and (b), Government Code, are amended to read as follows:

(2) In SECTION 6 of the bill, in amended Section 531.1201, Government Code (page 6, between lines 37 and 38), insert the following:

(a) A provider must request an appeal under this section not later than the 30th [15th] day after the date the provider is notified that the commission or the commission's office of inspector general will seek to recover an overpayment or debt from the provider. On receipt of a timely written request by a provider who is the subject of a recoupment of overpayment or recoupment of debt arising out of a fraud or abuse investigation, the office of inspector general shall file a docketing request with the State Office of Administrative Hearings or the Health and Human Services Commission appeals division, as requested by the provider, for an administrative hearing regarding the proposed recoupment amount and any associated damages or

penalties. The office shall file the docketing request under this section not later than the 60th day after the date of the provider's request for an administrative hearing or not later than the 60th day after the completion of the informal resolution process, if applicable.

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent-excused: Seliger.

Senator Uresti offered the following amendment to the bill:

#### **Floor Amendment No. 5**

Amend **CSSB 207** (senate committee report) as follows:

(1) In SECTION 7 of the bill, in the recital (page 6, line 57), strike "Section 531.1203" and substitute "Sections 531.1023, 531.1024, and 531.1203".

(2) In SECTION 7 of the bill, immediately following the recital (page 6, between lines 57 and 58), insert the following:

Sec. 531.1023. COMPLIANCE WITH FEDERAL CODING GUIDELINES.

The commission's office of inspector general, including office staff and any third party with which the office contracts to perform coding services, shall comply with federal coding guidelines, including guidelines for diagnosis-related group (DRG) validation and related audits.

Sec. 531.1024. HOSPITAL UTILIZATION REVIEWS AND AUDITS:

PROVIDER EDUCATION PROCESS. The executive commissioner shall by rule develop a process for the commission's office of inspector general, including office staff and any third party with which the office contracts to perform coding services, to communicate with and educate providers about the diagnosis-related group (DRG) validation criteria that the office uses in conducting hospital utilization reviews and audits.

(3) Add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules establishing the process for communicating with and educating providers about diagnosis-related group (DRG) validation criteria under Section 531.1024, Government Code, as added by this Act.

(4) Renumber the SECTIONS of the bill appropriately.

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Seliger.

Senator Uresti offered the following amendment to the bill:

#### **Floor Amendment No. 6**

Amend **CSSB 207** (senate committee report) in SECTION 7 of the bill as follows:

(1) In added Section 531.1203(a), Government Code (page 6, line 64), between "include" and "that", insert "findings".

(2) In added Section 531.1203(c), Government Code (page 7, line 8), strike "detailed".

(3) In added Section 531.1203(c), Government Code (page 7, line 11), between "Medicaid" and the period, insert "in sufficient detail so that the audit results may be demonstrated to be statistically valid and are fully reproducible".

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent-excused: Seliger.

Senator Hinojosa offered the following amendment to the bill:

### Floor Amendment No. 7

Amend **CSSB 207** (senate committee report) as follows:

(1) Strike the recital to SECTION 2 of the bill amending Section 531.102, Government Code (page 1, lines 32-36), and substitute the following:

Section 531.102, Government Code, is amended by amending Subsections (g) and (k), amending Subsection (f) as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsections (a-2), (a-3), (a-4), (a-5), (f-1), (p), (q), (r), (s), and (t) to read as follows:

(2) In SECTION 2 of the bill, strike amended Section 531.102(a-1), Government Code (page 1, lines 37-40).

(3) In SECTION 2 of the bill, in amended Section 531.102, Government Code (page 1, between lines 40 and 41), insert the following:

(a-2) The executive commissioner is responsible for performing all administrative support services functions necessary to operate the office in the same manner that the executive commissioner is responsible for providing administrative support services functions for the health and human services system, including functions of the office related to the following:

- (1) procurement processes;
- (2) contracting policies;
- (3) information technology services;
- (4) legal services;
- (5) budgeting; and
- (6) personnel and employment policies.

(a-3) The commission's internal audit division shall regularly audit the office as part of the commission's internal audit program and shall include the office in the commission's risk assessments.

(a-4) The office shall closely coordinate with the executive commissioner and the relevant staff of health and human services system programs that the office oversees in performing functions relating to the prevention of fraud, waste, and abuse in the delivery of health and human services and the enforcement of state law relating to the provision of those services, including audits, utilization reviews, provider education, and data analysis.

(a-5) The office shall conduct investigations independent of the executive commissioner and the commission but shall rely on the coordination required by Subsection (a-4) to ensure that the office has a thorough understanding of the health and human services system for purposes of knowledgeably and effectively performing the office's duties under this section and any other law.

(4) In SECTION 2 of the bill, in amended Section 531.102, Government Code (page 5, between lines 30 and 31), insert the following:

(s) At each quarterly meeting of any advisory council responsible for advising the executive commissioner on the operation of the commission, the inspector general shall submit a report to the executive commissioner, the governor, and the legislature on:

(1) the office's activities;

(2) the office's performance with respect to performance measures established by the executive commissioner for the office;

(3) fraud trends identified by the office; and

(4) any recommendations for changes in policy to prevent or address fraud, waste, and abuse in the delivery of health and human services in this state.

(t) The office shall publish each report required under Subsection (s) on the office's Internet website.

(5) Strike SECTION 10 of the bill (page 7, lines 27-34).

(6) Renumber the SECTIONS of the bill accordingly.

**(President in Chair)**

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent-excused: Seliger.

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend **CSSB 207** (senate committee printing) as follows:

(1) In SECTION 7 of the bill, in the recital (page 6, line 57), strike "Section 531.1203" and substitute "Sections 531.1027 and 531.1203".

(2) In SECTION 7 of the bill, immediately following the recital (page 6, between lines 57 and 58), insert the following:

Sec. 531.1027. PERFORMANCE AUDITS AND COORDINATION OF AUDIT ACTIVITIES. (a) Notwithstanding any other law, the commission's office of inspector general may conduct a performance audit of any program or project administered or agreement entered into by the commission or a health and human services agency, including an audit related to:

(1) contracting procedures of the commission or a health and human services agency; or

(2) the performance of the commission or a health and human services agency.

(b) The office shall coordinate the office's audit activities with those of the commission, including the development of audit plans, the performance of risk assessments, and the reporting of findings, to minimize the duplication of audit activities. In coordinating audit activities with the commission under this subsection, the office shall:

(1) seek input from the commission and consider previous audits conducted by the commission for purposes of determining whether to conduct a performance audit; and

(2) request the results of an audit conducted by the commission if those results could inform the office's risk assessment when determining whether to conduct, or the scope of, a performance audit.

The amendment to **CSSB 207** was read.

Senator Kolkhorst offered the following amendment to Floor Amendment No. 8:

#### **Floor Amendment No. 9**

Amend Floor Amendment No. 8 by Hinojosa to **CSSB 207** (senate committee printing) by adding the following appropriately numbered SECTION to the amendment and renumbering subsequent SECTIONS of the amendment accordingly:

SECTION \_\_\_\_\_. Section 531.1021(a), Government Code, as amended by S. B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The office of inspector general may issue [request that the executive commissioner or the executive commissioner's designee approve the issuance by the office of] a subpoena in connection with an investigation conducted by the office. A [If the request is approved, the office may issue a] subpoena may be issued under this section to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

The amendment to Floor Amendment No. 8 to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9 except as follows:

Absent-excused: Seliger.

Question recurring on the adoption of Floor Amendment No. 8 to **CSSB 207**, the amendment as amended was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 as amended except as follows:

Absent-excused: Seliger.

Senator Kolkhorst offered the following amendment to the bill:

#### **Floor Amendment No. 10**

Amend **CSSB 207** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in the recital (page 1, line 35), strike "Subsections (f-1)," and substitute "Subsections (a-2), (f-1)."

(2) In SECTION 2 of the bill, immediately following amended Section 531.102(a-1), Government Code (page 1, between lines 40 and 41), insert the following:

(a-2) The executive commissioner shall work in consultation with the office whenever the law requires the commissioner to adopt a rule or policy necessary to implement a power or duty of the office, including rules necessary to carry out a responsibility under Subsection (a).

(3) In SECTION 2 of the bill, in amended Section 531.102(g)(6), Government Code (page 3, line 38), between "executive commissioner" and "shall", insert ", in consultation with the office,".

(4) In SECTION 2 of the bill, in added Section 531.102(p), Government Code (page 4, line 58), strike "executive commissioner, on behalf of the office," and substitute "executive commissioner, in consultation with the office,".

(5) In SECTION 2 of the bill, in added Section 531.102(q), Government Code (page 5, line 8), strike "executive commissioner, on behalf of the office," and substitute "executive commissioner, in consultation with the office,".

(6) In SECTION 3 of the bill, in amended Section 531.113(e), Government Code (page 5, line 53), between "executive commissioner" and "shall", insert ", in consultation with the office,".

(7) In SECTION 12 of the bill (page 7, line 44), between "Commission" and "shall", insert "in consultation with the inspector general of the office of inspector general".

(8) In SECTION 14 of the bill (page 7, line 58), between "Commission" and "shall", insert "in consultation with the inspector general of the office of inspector general".

The amendment to **CSSB 207** was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10 except as follows:

Absent-excused: Seliger.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 207** as amended was passed to engrossment without objection.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Seliger.

#### **COMMITTEE SUBSTITUTE SENATE BILL 207 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 207** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Seliger.