

Testimony of Dr. Paul Dunn supporting HB 1536

Good morning. I am Dr. Paul C. Dunn from Levelland, Texas. For those not familiar with far West Texas and the South Plains, Levelland is a small rural community 30 miles west of Lubbock, 30 miles east of the New Mexico state line. I'm here to speak in favor of HB 1536, due to my experiences with OIG.

I graduated from Baylor dental school in January of 1974 and went into a general dental practice with my father who practiced for 51 years and my older brother who is now practicing two days a week. My father was participating in the Texas dental medicaid program when I went into practice with him in 1974.

I have been active in my community and was appointed to the Texas State Board of Education by Governor Mark White in 1984. We dealt with H. Ross Perot, Educational Reform, the famous NO PASS - NO PLAY and teacher competency examinations. I am thus somewhat familiar with hearings such as these; I can only hope this committee does a better job than what I've seen out of HHSC and TMHP. I've attended all of the dental medicaid stakeholders meetings for the past three years and was always amazed at how HHSC AND TMHP would listen to the problems with the state medicaid system and at the next quarterly meeting tell us what had been discussed and decided and it was nothing like what I had witnessed or heard.

My dental practice was a general practice. I started practicing orthodontics because board certified orthodontics don't want to and don't need to work on kids in a system that requires tremendous paperwork and pays 50% of normal rates. I was one of the few dentists in West Texas that would see all kids. I was being referred patients from Midland/Odessa 120 miles to the south and from Amarillo 120 miles north. HHSC asked me to take over about 100 kids when Lubbock dentist Dr. James Robnett retired due to health issues and when Dr. Goodwin in Amarillo was convicted of medicaid fraud. HHSC was absolutely no help in the transferring of these kids or their records or authorizations.

When the state finally made the change to the managed care program, orthodontics were treated like bastard children. It took three months after the program began before I received a check from the insurance plans. I went through \$98,000 of my money to keep my office open while companies -- specifically MCNA -- made up their own rules as how to handle the orthodontic program. Only when I asked and received help from Governor Perry's office and set up a meeting with TMHP and MCNA and confronted MCNA about their total disregard for directives from TMHP did I start getting paid for my work.

Why the OIG isn't investigating MCNA beyond me, but that is a discussion for another time.

The new system was developing and my office staff and I were learning the ins and outs of managed care. In August of last year, a lady from OIG appeared at my office at 11:30 on a Monday morning and handed me a list of 70 patient records that she wanted copied, including written records, x-rays, photographs, and models. I was told that she would be back on Thursday morning to pick up all the copied records. She did not inform me that I had the option to ask for some additional time. I basically shut down my practice in order for my staff to collect these records, some of which dated back 6 years. I have a staff of 6 and it took all of us working till 10 each night to have the records ready.

At this point, I hired Dr. Robert Anderton, a dentist with a practice in Carrollton, Texas and a practicing attorney to represent me in case it was needed.

On January 2, 2013, I received a registered letter from HHSC stating they had found three examples of possible fraud out of the 70 patients and were placing a hold on all medicaid funds. My practice is 90% medicaid and that basically shut down all cash flow to my practice.

I called Dr. Anderton and asked him to request a hearing as soon as possible to dispute the charges. Dr. Anderton was able to set up a meeting with OIG on Thursday the 17th of January. The meeting was held at the office of the

OIG with myself, Dr. Anderton, Mr. Jack Stick, two additional attorneys with the OIG and an investigator with OIG.

Case one dealt with the accusation that I had filed for payments on one young man who they said I had filed for four visits and didn't see the young man in my office. I pulled the record, which I had copied for them in August. Written clearly on the chart was the date, the procedures I had performed on the young man for each date in question, and I pulled the appointment schedule from my computer and it showed that the young man indeed had been in the office.

The second charge was my being accused of filing for a dental orthodontia workup on an ineligible patient. I and the OIG had a copy of the same record showing the prior authorization letter with approval codes and numbers.

The third case was a young girl that I changed the type of appliance placed on the 6 year old due to behavioral problems which cost me more in lab costs than the original procedure.

At this point, I realized that Jack Stick was totally in charge. none of the other people representing OIG said a word, asked a question, or moved in their chairs. All conversation was between myself and Mr. Stick.

At this point, Mr. Stick told me that he didn't see any evidence of fraud. But he then indicated that OIG wanted 40% of my income back from the time that I had been working with the medicaid program. Mr. Stick told me that if I wrote a check to OIG for 1.2 million then this might all go away. If I sold everything I own with my life insurance thrown in, I couldn't raise 1.2 million.

I told Mr. Stick that since I had used all my reserved monies getting through the start up of managed care due to the fraud that MCNA was doing that I had enough monies to keep my office open for three weeks.

At this point, Mr. Stick said that they needed to keep good people like me working, that if I would send them financial information for the last two years they would see what they could do. He pointed to the large room outside and said it was usually full of 80 CPAs and they were good and quick and after they looked at it he would have an answer for the the next day. I had the financial information to my attorney on the following Monday and he forwarded it to the OIG.

On the 10th of February I let my front office staff go, one assistant, and one hygienist go because I couldn't pay their salaries. The young husband and wife team in my building said they would cover the utilities for two months. This left one assistant, my wife who recently finished chemotherapy for breast cancer and myself to run my practice.

Since January the 2nd, I have kept seeing the kids that I have started. Two weeks ago, I started running out of bands, brackets, and the lab is holding retainers until I send them money.

I was notified last Monday that OIG was going to release 49% of the monies on the work that I do from that point on. My overhead is 63.4 % and I'm supposed to operate a fully functional office on 49%? The OIG is not releasing any of the monies that I am owed for seeing the kids for most of the last three months. I estimate I am owed about \$50,000 but I'm not sure since MNCA and DentaQuest stopped sending any Explanation of Benefits as to work I have done, or information about claims that are correct. And with the dental plans at 90 days if you haven't turned in a clean claim they don't have to pay you for the work.

My attorney has not been able to learn the origin of this "49%" number, whether there was a formula for the amount released. He's been unable to get information as to time frames, or who it was that looked at my records and couldn't tell that a kid had been in my office.

I always thought that no matter what I had options as to legal procedures. Even with my dealing with the IRS, I

had some due process, negotiation, or something. But with OIG, I'm informed that the State of Texas and OIG doesn't like my handwriting.

I have been advised by legal counsel to not appear before this committee for fear that the OIG will descend on my office, going through every record until they find fraud. I believe my attorney. If they can't figure out from my records when a child was in the office, what can they read into the rest of my records?

But after all, what do I really have to lose at this point? Mr. Stick told me that if I did owe money that the State of Texas would work with me. I'm 66; do you want to put \$1.2 million on a 20 year note and I get to practice until I'm 86 years old? I doubt my skills will get better at that age. And if Mr. Stick said there was not fraud why is my money being held, anyway?

I feel like I've been treated like a terrorist. It appears that the OIG assumes that I am guilty of fraud, that because the State of Texas and TMHP didn't do their job that I am responsible for their mismanagement of the State of Texas' money. I followed the rules as given to me, I exceeded my duty to help out the disadvantaged children of this state, and in return, the State of Texas destroyed my dental practice of nearly 40 years. My practice -- even if they funded all my monies and restored my funding -- will not recover.

You have the ability with this bill to make one small change in this system. Hopefully, other providers will not be run over like I was by OIG. Thank you.