

2025 Regular Session

HOUSE BILL NO. 560

BY REPRESENTATIVE EGAN

1 AN ACT

2 To amend and reenact R.S. 46:437.3(introductory paragraph), (11), (14), and (29), 437.5(B),  
3 438.1(A) and (C)(1)(a) and (b), 438.3, 438.6(D)(3), 438.7(3), 439.1(A),(D), and (G),  
4 439.2(A)(1), (2), (3), and (4)(b), (B)(1), (2), (3), (4)(a), and (5), and (E), and  
5 439.4(A)(1), (C)(2), (F), and (G), to enact R.S. 46:437.3(31), 437.6(D), 437.7(E),  
6 438.5(F), 438.8(B)(3), and to repeal R.S. 46:437.3(7), (10), (15), (19), and (24),  
7 438.6(A)(2) and (3), 438.8(D)(2), 439.1(F), 439.2(F), and 440.3, relative to the  
8 Medical Assistance Programs Integrity Law; to provide for the prosecution and  
9 investigation of fraud related to medical assistance programs; to identify fraud and  
10 unlawful acts related to claims to medical assistance programs; to establish  
11 procedure for pursuing certain claims; to provide for qui tam actions; to provide for  
12 definitions; to provide for damages and recovery related to fraudulent claims to  
13 medical assistance programs; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 46:437.3(introductory paragraph), (11), (14), and (29), 437.5(B),  
16 438.1(A) and (C)(1)(a) and (b), 438.3, 438.6(D)(3), 438.7(3), 439.1(A),(D), and (G),  
17 439.2(A)(1), (2), (3), and (4)(b), (B)(1), (2), (3), (4)(a), and (5), and (E), and 439.4(A)(1),  
18 (C)(2), (F), and (G) are hereby amended and reenacted and R.S. 46:437.3(31), 437.6(D),  
19 437.7(E), 438.5(F), 438.8(B)(3) are hereby enacted to read as follows:

1 §437.3. Definitions

2 As used in this Part, the following terms shall have the following meanings:

3 \* \* \*

4 (11) "Knowing" or "knowingly" means that the person has actual knowledge  
5 of the information or acts in deliberate ignorance or reckless disregard of the truth  
6 or falsity of the information. No proof of specific intent to defraud is required.

7 \* \* \*

8 (14) "Medical assistance programs" means the Medical Assistance Program,  
9 also known as Title XIX of the Social Security Act and (Title XIX of the Social  
10 Security Act), commonly referred to as "Medicaid", and other programs operated by  
11 and funded in the department which provide payment to health care providers.  
12 administered by the department.

13 \* \* \*

14 (29) "Secretary or attorney general" means that either party is authorized to  
15 institute a proceeding or take other authorized action as provided in this Part  
16 pursuant to a memorandum of understanding between the two so as to notify the  
17 public as to whether the secretary or the attorney general is the deciding or  
18 controlling party in the proceeding or other authorized ~~matter.~~ matter; however the  
19 secretary may pursue an action pursuant to R.S. 46:438.1 et seq. only if the  
20 department referred the matter to the attorney general and the attorney general  
21 notified the secretary, in writing, that he declines to proceed with the matter.

22 \* \* \*

23 (31) "Managed care organization" means any person or entity contracted  
24 with the department for the provision or management of healthcare benefits under  
25 the medical assistance programs through a capitated rate.

26 \* \* \*

27 §437.5. Settlement

28 \* \* \*

29 B. ~~At a minimum, the settlement shall ensure that the recovery agreed to by~~  
30 ~~the parties covers the estimated loss sustained by the medical assistance programs.~~





1                   (3) "Substandard quality" in reference to services applicable to medical care  
 2                   as used in this Subsection shall mean substandard as to the appropriate standard of  
 3                   care as used to determine medical malpractice, including but not limited to the  
 4                   standard of care provided in R.S. 9:2794.

5                   F. No person shall knowingly make or cause to be made a claim under the  
 6                   medical assistance programs for any of the following:

7                   (1) A service or product that has not been approved or prescribed by a  
 8                   treating physician or health care practitioner.

9                   (2) A service or product that is substantially inadequate or inappropriate  
 10                  when compared to generally recognized standards within the particular discipline or  
 11                  within the health care industry.

12                  (3) A product that has been adulterated, debased, mislabeled, or is otherwise  
 13                  inappropriate.

14                  ~~G. No action shall be brought under this Section unless the amount of~~  
 15                  ~~alleged actual damages is one thousand dollars or more.~~ No person shall knowingly  
 16                  make, cause to be made, induce, or seek to induce the making of a false statement  
 17                  or misrepresentation of material fact concerning any of the following:

18                  (1) The condition or operation of a facility in order that the facility may  
 19                  qualify for certification or recertification required by the medical assistance  
 20                  programs including but not limited to certification or recertification of any of the  
 21                  following:

- 22                  (a) A hospital.
- 23                  (b) A nursing facility or skilled nursing facility.
- 24                  (c) A hospice.
- 25                  (d) An intermediate care facility for people with developmental disabilities.
- 26                  (e) An assisted living facility.
- 27                  (f) A home health agency.

28                  (2) Information the person is required to produce to the department by  
 29                  federal or state law, rule, regulation, or provider agreement.



1 §438.5. Civil monetary penalty

2 \* \* \*

3 F. Nothing in this Section shall limit the rights of a qui tam plaintiff who  
4 brings a qui tam action in accordance with Subpart C of this Part.

5 §438.6. Recovery

6 \* \* \*

7 D.

8 \* \* \*

9 (3) The ~~secretary or attorney general~~ state shall promptly remit awards for  
10 those costs, expenses, and fees incurred by the various clerks of court or sheriffs  
11 involved in the investigations or proceedings to the appropriate clerk or sheriff.

12 \* \* \*

13 §438.7. Reduced damages

14 If requested by the secretary or the attorney general, the court may reduce to  
15 not less than twice the actual damages or any recovery required to be imposed under  
16 the provisions of this Subpart if all of the following extenuating circumstances are  
17 found to be applicable:

18 \* \* \*

19 (3) At the time the violator furnished the information concerning the specific  
20 allegation to the ~~department or the attorney general~~ state, no criminal prosecution,  
21 civil action, or ~~departmental investigation or proceeding~~ administrative action had  
22 been commenced as to the alleged ~~violation~~. violation, and the violator did not have  
23 actual knowledge of the existence of an investigation into such a violation.

24 §438.8. Burden of proof; prima facie evidence; standard of review

25 \* \* \*

26 B. Proof by a preponderance of the evidence of a false or fraudulent claim  
27 or illegal remuneration shall be deemed to exist under the following circumstances:

28 \* \* \*

29 (3) Notwithstanding any other provision of law, rules of criminal procedure,  
30 or the rules of evidence to the contrary, a final judgment rendered in favor of the



1 materially adds to the publicly disclosed allegations or transactions, and who has  
2 voluntarily provided the information to the ~~government~~ state before filing an action  
3 in accordance with this Subpart.

4 \* \* \*

5 G. Notwithstanding any other law to the contrary, a qui tam complaint and  
6 information ~~filed with the secretary or attorney general~~ delivered to the state shall not  
7 be subject to discovery or become public record until judicial service of the qui tam  
8 action is made on any of the defendants, except that the information contained  
9 therein may be given to other governmental entities or their authorized agents for  
10 review and investigation. The entities and their authorized agents shall maintain the  
11 confidentiality of the information provided to them under this Subsection.

12 §439.2. Qui tam action procedures

13 A. The following procedures shall be applicable to a qui tam action:

14 (1) The complaint shall be captioned: "~~Medical Assistance Programs State~~  
15 of Louisiana Ex Rel.: [insert name of qui tam plaintiff(s)] v. [insert name of  
16 defendant(s)]". The qui tam complaint shall be filed with the appropriate state or  
17 federal district court.

18 (2) A copy of the qui tam complaint and written disclosure of substantially  
19 all material evidence and information each qui tam plaintiff possesses shall be served  
20 upon the ~~secretary or the attorney general~~ state in accordance with the applicable  
21 rules of civil procedure.

22 (3) When a person brings an action in accordance with this Subpart, no  
23 ~~person other than the secretary or attorney general~~ person or entity other than the  
24 state may intervene or bring a related action based on the ~~same~~ facts underlying the  
25 pending action.

26 (4)

27 \* \* \*

28 (b) For good cause shown, the ~~secretary or the attorney general~~ state may  
29 move the court for extensions of time during which the petition remains under seal.

1 Any such motions may be supported by affidavits or other submissions in camera  
2 and under seal.

3 B.(1) If the ~~secretary or the attorney general~~ state elects to intervene in the  
4 action, the ~~secretary or the attorney general~~ state shall not be bound by any act of a  
5 qui tam plaintiff. The secretary or the attorney general shall control the qui tam  
6 action proceedings on behalf of the state and the qui tam plaintiff may continue as  
7 a party to the ~~action.~~ action, subject to the limitations set forth in this Section and  
8 R.S. 46:439.3. For prescription purposes, any government complaint in intervention,  
9 whether filed separately or as an amendment to the ~~relator's~~ qui tam plaintiff's  
10 complaint, shall relate back to the filing date of the complaint, to the extent that the  
11 claim of the government arises out of the conduct, transactions, or occurrences set  
12 forth, or attempted to be set forth, in the ~~relator's~~ qui tam plaintiff's complaint.

13 (2) ~~The qui tam plaintiff and his counsel shall cooperate fully with the~~  
14 ~~secretary or the attorney during the pendency of the qui tam action.~~ Upon a showing  
15 by the state during the course of the litigation by the qui tam plaintiff that the action  
16 would interfere with or unduly delay the state's prosecution of the case, or it would  
17 be repetitious, irrelevant, or for the purposes of harassment, the court may, in its  
18 discretion, impose limitations on the qui tam plaintiff's participation, including but  
19 not limited to all of the following:

20 (a) Limiting the number of witnesses the qui tam plaintiff may call.

21 (b) Limiting the length of a witness' testimony.

22 (c) Limiting the qui tam plaintiff's cross-examination of a witness.

23 (d) Otherwise limiting the participation of the qui tam plaintiff in the  
24 litigation.

25 (3) If requested by the ~~secretary or the attorney general~~ state and  
26 notwithstanding the objection of the qui tam plaintiff, the court may dismiss the qui  
27 tam action provided the qui tam plaintiff has been notified by ~~the secretary or the~~  
28 ~~attorney general~~ the state of the filing of the motion to dismiss and the court has  
29 provided the qui tam plaintiff a contradictory hearing on the motion.

1           (4)(a) ~~If the secretary or the attorney general does not intervene, the qui tam~~  
2           ~~plaintiff may proceed with the qui tam action unless the secretary or the attorney~~  
3           ~~general shows that proceeding would adversely affect the prosecution of any pending~~  
4           ~~criminal actions or criminal investigations into the activities of the defendant. Such~~  
5           ~~a showing shall be made to the court in camera and neither the qui tam plaintiff or~~  
6           ~~the defendant shall be informed of the information revealed in camera. In which~~  
7           ~~case, the qui tam action shall be stayed for no more than one year. Whether or not~~  
8           ~~the state proceeds with the action, upon a showing by the state that certain actions~~  
9           ~~of discovery by the qui tam plaintiff would interfere with the investigation or~~  
10           ~~proceedings of a criminal or civil matter arising out of the same facts, the court may~~  
11           ~~stay such discovery for a period of not more than sixty days. The court shall conduct~~  
12           ~~an in-camera showing in accordance with this Subparagraph. The court may extend~~  
13           ~~the sixty-day period upon a further showing, in-camera, that the state has pursued the~~  
14           ~~criminal or civil investigation or proceedings with reasonable diligence and any~~  
15           ~~proposed discovery in the qui tam action will interfere with the ongoing criminal or~~  
16           ~~civil investigation or proceedings.~~

\* \* \*

18           (5) ~~If the qui tam plaintiff objects to a settlement of the qui tam action~~  
19           ~~proposed by the secretary or the attorney general, the court may authorize the~~  
20           ~~settlement only after a hearing to determine whether the proposed settlement is fair,~~  
21           ~~adequate, and reasonable under the circumstances. The state may settle the qui tam~~  
22           ~~action with the defendant notwithstanding the objection of the qui tam plaintiff if the~~  
23           ~~court determines, after a hearing, that the proposed settlement is fair, adequate, and~~  
24           ~~reasonable under the circumstances. The court may conduct the hearing in camera~~  
25           ~~upon a showing of good cause.~~

\* \* \*

27           E. If the state elects not to proceed with the action, the qui tam plaintiff shall  
28           ~~have the right to conduct the action. At the state's request, the ~~The~~ qui tam plaintiff~~  
29           ~~and the defendant shall serve all pleadings and papers filed, as well as discovery, in~~  
30           ~~the qui tam action on the secretary and the attorney general the state with all~~

1 pleadings in the action and supply the state with copies of all deposition transcripts  
2 at the state's expense.

3 \* \* \*

4 §439.4. Recovery awarded to a qui tam plaintiff

5 A.(1) Except as provided by Subsection D of this Section and Paragraph (3)  
6 of this Subsection, if the ~~secretary or the attorney general intervenes~~ state proceeds  
7 in the action brought by a qui tam plaintiff, the qui tam plaintiff shall receive at least  
8 fifteen percent, but not more than twenty-five percent, of recovery.

9 \* \* \*

10 C.

11 \* \* \*

12 (2) If the ~~secretary or the attorney general~~ state does not intervene and the  
13 qui tam plaintiff conducts the action, the court ~~shall~~ may award costs, expenses, fees,  
14 and attorney fees to a prevailing defendant if the court finds that the ~~allegations made~~  
15 ~~by the qui tam plaintiff were meritless or brought primarily for the purposes of~~  
16 ~~harassment.~~ claims of the qui tam plaintiff were clearly frivolous, clearly vexatious,  
17 or primarily for the purposes of harassment. ~~A finding by the court that qui tam~~  
18 ~~allegations were meritless or brought primarily for the purposes of harassment may~~  
19 ~~be used by the prevailing defendant in the qui tam action or any other civil~~  
20 ~~proceeding to recover losses or damages sustained as a result of the qui tam plaintiff~~  
21 ~~filing and pursuing such a qui tam action.~~

22 \* \* \*

23 F. In no instance shall ~~the secretary, the medical assistance programs, the~~  
24 ~~attorney general, or the state~~ the state, including but not limited to any state  
25 department, agency, or board, be liable for any costs, expenses, fees, or attorney fees  
26 incurred by the qui tam plaintiff or for any award entered against the qui tam  
27 plaintiff.

28 G. The percentage of the share awarded to or settled for by the qui tam  
29 plaintiff shall be determined using the total amount of the ~~award or settlement~~  
30 proceeds of the action or settlement of the claim.

1           Section 2. R.S. 46:437.3(7), (10), (15), (19), and (24), 438.6(A)(2) and (3),  
2           438.8(D)(2), 439.1(F), 439.2(F), and 440.3 are hereby repealed in their entirety.

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

PRESIDENT OF THE SENATE

---

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_