

103^D CONGRESS
1ST SESSION

H. R. 3093

To amend title 18, United States Code, with respect to health care fraud,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 1993

Mr. SCHUMER (for himself and Mr. SENSENBRENNER) introduced the
following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, with respect to
health care fraud, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Care Fraud
5 Prosecution Act of 1993”.

6 **SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.**

7 (a) OFFENSE.—Part I of title 18, United States
8 Code, is amended by inserting after chapter 50A the fol-
9 lowing:

1 **“CHAPTER 50B—HEALTH CARE FRAUD**

“Sec.

“1101. Health care fraud.

“1102. Illegal remunerations.

“1103. Civil Action.

“1104. Definitions.

2 **“§ 1101. Health care fraud**

3 “(a) IN GENERAL.—Whoever, in or affecting inter-
4 state commerce, knowingly—

5 “(1) executes, or attempts to execute, a scheme
6 or artifice to defraud to obtain a health care pay-
7 ment; or

8 “(2) presents to any person any statement as
9 part of, or in support of, a claim for a health care
10 payment, knowing that such statement contains any
11 false or misleading information concerning any fact
12 or thing material to such claim;

13 shall be fined under this title or imprisoned not more than
14 10 years, or both.

15 “(b) AGGRAVATED OFFENSES.—In an offense under
16 subsection (a) of this section—

17 “(1) if the offender knowingly or recklessly
18 causes serious bodily injury to an individual or
19 knowingly or recklessly endangers the life of a
20 person, the offender shall be fined under this
21 title or imprisoned not more than 15 years, or
22 both; and

1 “(2) if the offender knowingly or recklessly
2 causes the death of an individual, the offender
3 shall be fined under this title or imprisoned not
4 more than 25 years, or both.

5 **“§ 1102. Illegal remunerations**

6 “Whoever, in or affecting interstate commerce, know-
7 ingly solicits, receives, offers, or provides anything of
8 value—

9 “(1) for the referral of an individual to a per-
10 son for the furnishing of any item or service for
11 which a health care payment may be paid by a third
12 party payer;

13 “(2) for recommending, or arranging for, the
14 furnishing of any item or service for which a health
15 care payment may be paid by a third party payer;
16 or

17 “(3) which in effect reduces the cost of an item
18 or service for which a health care payment may be
19 paid by a third party payer, and then seeks that
20 health care payment from the third party payer;

21 without informing the third party payer fully about having
22 done so and reflecting the amount of the thing of value
23 in the claim for the health care payment, shall be fined
24 under this title or imprisoned not more than 5 years, or
25 both.

1 **“§ 1103. Civil action**

2 “Any person injured in business or property by a vio-
3 lation of this chapter may in a civil action recover treble
4 damages. The court may award the prevailing party a rea-
5 sonable attorney’s fee as a part of the costs.

6 **“§ 1104. Definitions**

7 “As used in this chapter—

8 “(1) the term ‘health care payment’ means a
9 payment for health care services or health care prod-
10 ucts, or the right to have a payment made by a third
11 party payer for specified health care services or
12 products; and

13 “(2) the term ‘third party payer’ means any
14 person, public or private, who undertakes to indem-
15 nify another against loss arising from a contingent
16 or unknown event.”.

17 (b) CLERICAL AMENDMENT.—The table of chapters
18 at the beginning of part I of title 18, United States Code,
19 is amended by inserting after the item relating to chapter
20 50A the following new item:

“50B. Health care fraud 1101.”.

21 **SEC. 3. INJUNCTIONS FOR HEALTH CARE FRAUD.**

22 Section 1345(a) of title 18, United States Code, is
23 amended—

24 (1) in paragraph (1)(A), by striking “or 1001”
25 and inserting “1001, 1101, or 1102”; and

1 (2) in paragraph (a)(2), by inserting “a viola-
2 tion of section 1101 or 1102 of this title or” after
3 “as a result of”.

4 **SEC. 4. CRIMINAL FORFEITURE OF FRAUD PROCEEDS.**

5 Section 982(a)(2)(B) of title 18, United States Code,
6 is amended—

7 (1) by inserting “1101, 1102,” after “844,”;

8 and

9 (2) by striking “or 1030” and inserting “1030,
10 or 1347”.

11 **SEC. 5. REWARDS FOR INFORMATION LEADING TO PROS-**
12 **ECUTION AND CONVICTION.**

13 Section 3059 of title 18, United States Code, is
14 amended by adding at the end the following:

15 “(c)(1) The Attorney General may pay a reward of—

16 “(A) an amount determined under paragraph

17 (2) of this subsection, in the case of an offense in

18 which the United States is a victim and restitution

19 or a civil recovery is obtained by the United States;

20 or

21 “(B) not more than \$100,000, in any other

22 case;

23 to any person who furnishes information or services that

24 lead to a conviction under section 1101 or 1102 of this

25 title.

1 “(2) The amount referred to in paragraph (1)(A) of
2 this subsection is an amount equal to—

3 “(A) not more than 30 percent of the first
4 \$1,000,000 of the recovery;

5 “(B) not more than 20 percent of the next
6 \$4,000,000; and

7 “(C) not more than 5 percent of the remaining
8 portion of the recovery.

9 “(3) An officer or employee of the United States or
10 of a State or local government who furnishes information
11 or renders services in the performance of official duty is
12 ineligible for a payment under this subsection with respect
13 to such information or services.”.

14 **SEC. 6. HEALTH CARE FRAUD TASK FORCES.**

15 (a) IN GENERAL.—The Attorney General, in con-
16 sultation with the Secretary of Health and Human Serv-
17 ices, shall establish regional health care fraud task forces
18 (hereinafter in this section referred to as “task forces”).

19 (b) PURPOSE.—The purpose of the task forces is to
20 ensure that adequate resources are made available to iden-
21 tify, investigate, and prosecute health care fraud and to
22 recover the proceeds of such fraud and other criminal ac-
23 tivity against health insurers.

1 (c) DUTIES.—Each such task force shall coordinate
2 the investigative and prosecutorial efforts within their re-
3 gion, as determined by the Attorney General.

4 (d) PARTICIPANTS.—The Federal agencies that shall
5 participate in the task forces are—

6 (1) the Department of Justice (including the
7 Federal Bureau of Investigation);

8 (2) the Department of Health and Human
9 Services (including the Food and Drug Administra-
10 tion and the Office of the Inspector General);

11 (3) the Internal Revenue Service;

12 (4) the United States Postal Inspection Service;

13 and

14 (5) the Veteran's Administration.

15 (e) LOCATIONS.—The task forces shall be established
16 in such cities as the Attorney General deems appropriate.

17 (f) OBJECTIVES.—The objective of each task force
18 shall be—

19 (1) to target, investigate and prosecute individ-
20 uals who organize, direct, finance, or are otherwise
21 engaged in health care fraud;

22 (2) to promote a coordinated health care fraud
23 enforcement effort in each task force region, and to
24 encourage maximum cooperation among all Federal
25 agencies;

1 (3) to work fully and effectively with State and
2 local law enforcement agencies; and

3 (4) to make full use of financial investigative
4 techniques, on behalf of both public and private enti-
5 ties, to maximize recovery of proceeds of unlawful
6 activities from persons who have committed health
7 care fraud crimes or have engaged in other criminal
8 activity in or against the health insurance industry.

9 (g) STANDARDS FOR TASK FORCE CASES.—Each
10 task force should focus upon significant investigations of
11 major health care fraud cases, or organizations engaging
12 in health care fraud, that warrant the involvement of more
13 than one investigative agency or that require significant
14 resources during the investigative stage.

15 (h) ADMINISTRATION.—The administrative functions
16 of the national task force program will be performed by
17 an executive office to be established within the Depart-
18 ment of Justice in Washington, D.C. It shall be supervised
19 by a Director, and the staff shall consist of professional
20 and support staff deemed necessary for the performance
21 of management and administrative functions.

22 (i) OVERSIGHT.—An Executive Review Board shall
23 oversee the task force program. It shall be composed of
24 ranking officials from each of the participating Federal
25 agencies and the Advisory Committee of the United States

1 Attorneys. Its role shall be to articulate policy, review allo-
2 cation of resources and coordinate the development and
3 maintenance of the task force program. The Board shall
4 also be responsible for resolving policy disputes that can-
5 not be resolved within or among the regional task forces
6 or the participating agencies. The Board shall meet no less
7 frequently than quarterly.

8 (j) GUIDELINES.—The Attorney General shall, in
9 consultation with the Executive Review Board, establish
10 guidelines for the operation and management of the task
11 force program.

12 **SEC. 7. NATIONAL HEALTH CARE FRAUD AND ABUSE DATA**
13 **BASE.**

14 (a) IN GENERAL.—The Attorney General, in con-
15 sultation with the Secretary of Health and Human Serv-
16 ices, shall establish a data base for the reporting of final
17 adverse actions against health care providers, suppliers,
18 or practitioners, in order to provide a central repository
19 of such information to assist in the prevention, detection,
20 and prosecution of health care fraud and abuse.

21 (b) REPORTING OF INFORMATION.—

22 (1) IN GENERAL.—Each government agency
23 and health care plan shall report any final adverse
24 action taken against a health care provider, supplier,
25 or practitioner.

1 (2) INFORMATION TO BE REPORTED.—The in-
2 formation to be reported under paragraph (1) in-
3 cludes the following:

4 (A) The name of any health care provider,
5 supplier, or practitioner who is the subject of a
6 final adverse action.

7 (B) The name (if known) of any health
8 care entity with which a health care provider,
9 supplier, or practitioner is affiliated or associ-
10 ated.

11 (C) The nature of the final adverse action.

12 (D) A description of the acts or omissions
13 and injuries upon which the final adverse action
14 was based, and such other information as re-
15 quired by the Attorney General.

16 (3) CONFIDENTIALITY.—The Attorney General
17 shall establish procedures to assure that the privacy
18 of individuals receiving health care services is appro-
19 priately protected.

20 (4) FORM AND MANNER OF REPORTING.—The
21 information required to be reported under this sub-
22 section shall be reported on a monthly basis and in
23 such form and manner as determined by the Attor-
24 ney General. Such information shall first be required

1 to be reported on a date specified by the Attorney
2 General.

3 (5) TO WHOM REPORTED.—The information re-
4 quired to be reported under this subsection shall be
5 reported to the Attorney General or such person or
6 persons designated by the Attorney General.

7 (c) CORRECTION OF ERRONEOUS INFORMATION.—

8 (1) DISCLOSURE AND CORRECTION.—The At-
9 torney General shall provide for a procedure through
10 which a person, to whom information within the
11 data base established under this section pertains,
12 may review that information and obtain the correc-
13 tion of errors pertaining to that person.

14 (2) OTHER CORRECTIONS.—Each Government
15 agency and health care plan shall report corrections
16 of information already reported about any final ad-
17 verse action taken against a health care provider,
18 supplier, or practitioner, in such form and manner
19 as required by the Attorney General.

20 (d) ACCESS TO REPORTED INFORMATION.—

21 (1) AVAILABILITY.—The information in this
22 data base shall be available to the public, Federal
23 and State government agencies, and health care
24 plans pursuant to procedures established by the
25 Attorney General.

1 (2) FEES.—The Attorney General may estab-
2 lish reasonable fees for the disclosure of information
3 in this data base.

4 (e) PROTECTION FROM LIABILITY FOR REPORT-
5 ING.—No person or entity shall be held liable in any civil
6 action with respect to any report made as required by this
7 section, without knowledge of the falsity of the informa-
8 tion contained in the report.

9 (f) DEFINITIONS AND SPECIAL RULES.—For pur-
10 poses of this section:

11 (1) The term “final adverse action” includes
12 the following:

13 (A) Civil judgments in Federal or State
14 court related to the delivery of a health care
15 item or service.

16 (B) Federal or State criminal convictions
17 related to the delivery of a health care item or
18 service.

19 (C) Actions by State or Federal agencies
20 responsible for the licensing and certification of
21 health care providers, suppliers, and licensed
22 health care practitioners, including—

23 (i) formal or official actions, such as
24 revocation or suspension of a license (and

1 the length of any such suspension), rep-
2 rimand, censure or probation,

3 (ii) any other loss of license of the
4 provider, supplier, or practitioner, whether
5 by operation of law, voluntary surrender or
6 otherwise, or

7 (iii) any other negative action or find-
8 ing by such State or Federal agency that
9 is publicly available information.

10 (D) Exclusion from participation in Fed-
11 eral or State health care programs.

12 (E) Any other actions as required by the
13 Attorney General.

14 (2) The terms “licensed health care practi-
15 tioner”, “licensed practitioner”, and “practitioner”
16 mean, with respect to a State, an individual who is
17 licensed or otherwise authorized by the State to pro-
18 vide health care services (or any individual who,
19 without authority holds himself or herself out to be
20 so licensed or authorized).

21 (3) The term “health care provider” means a
22 provider of services as defined in section 1861(u) of
23 the Social Security Act, and any entity, including a
24 health maintenance organization, group medical

1 practice, or any other entity listed by the Secretary
2 in regulation, that provides health care services.

3 (4) The term “supplier” means a supplier of
4 health care items and services described in sections
5 1819 (a) and (b), and section 1861 of the Social Se-
6 curity Act.

7 (5) The term “Government agency” includes—

8 (A) The Department of Justice.

9 (B) The Department of Health and
10 Human Services.

11 (C) Any other Federal agency that either
12 administers or provides payment for the deliv-
13 ery of health care services, including, but not
14 limited to the Department of Defense and the
15 Veterans’ Administration.

16 (D) State law enforcement agencies.

17 (E) State Medicaid fraud and abuse units.

18 (F) State or Federal agencies responsible
19 for the licensing and certification of health care
20 providers and licensed health care practitioners.

21 (6) The term “health care plan” has the mean-
22 ing given to such term by section 1128(i) of the
23 Social Security Act.

24 (7) For purposes of paragraph (2), the exist-
25 ence of a conviction shall be determined under para-

1 graph (4) of section 1128(j) of the Social Security
2 Act.

3 **SEC. 8. NATIONAL HEALTH CARE FRAUD AND ABUSE HOT-**
4 **LINE.**

5 The Attorney General shall—

6 (1) establish a national, toll-free health care
7 fraud and abuse hotline to enable all persons, includ-
8 ing health care consumers, providers, and insurers,
9 to report (anonymously, if so desired) suspected in-
10 stances of health care fraud or abuse;

11 (2) provide for the appropriate referral of all in-
12 formation that is obtained through the hot line; and

13 (3) assure that the public is provided adequate
14 publicity about the existence and capabilities of the
15 hotline.

16 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated for fiscal
18 year 1994 for the purposes of carrying out this Act and
19 the amendments made by this Act—

20 (1) \$23,000,000 for the Federal Bureau of In-
21 vestigation to hire, equip, and train no fewer than
22 225 special agents and support staff to investigate
23 health-care fraud cases;

1 (2) \$5,000,000 to hire, equip, and train no
2 fewer than 50 assistant United States Attorneys and
3 support staff to prosecute health-care fraud cases;

4 (3) \$6,000,000 to hire, equip, and train no
5 fewer than 50 investigators in the Office of Inspec-
6 tor General, Department of Health and Human
7 Services, to be devoted exclusively to health-care
8 fraud cases;

9 (4) \$2,000,000 to establish, operate, and ad-
10 minister health care fraud task forces;

11 (5) \$2,000,000 to establish, operate, publicize,
12 and administer the national health care fraud and
13 abuse data base; and

14 (6) \$2,000,000 to establish, operate, publicize,
15 and administer the national health care fraud and
16 abuse hotline.

17 **SEC. 10. SCHEMES AND DEVICES RELATING TO EXPRESS**
18 **AND OTHER COMMERCIAL CARRIER SERV-**
19 **ICES.**

20 (a) IN GENERAL.—Chapter 63 of title 18, United
21 States Code, is amended by adding at the end the follow-
22 ing:

23 **“§ 1347. Express company fraud**

24 “Whoever engages in any conduct with respect to a
25 private or commercial interstate carrier which, were that

1 conduct engaged in with respect to the Postal Service,
2 would be a violation of section 1341 or 1342 of this title,
3 shall be punished as is provided under such section for
4 such violation.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of chapter 63 of title 18, United States
7 Code, is amended by adding at the end the following new
8 item:

“1347. Express company fraud.”.

9 **SEC. 11. LAUNDERING OF MONETARY INSTRUMENTS.—**

10 Section 1956(c)(7)(D) of title 18, United States
11 Code, is amended—

12 (1) by inserting “section 1101 or 1002 (relating
13 to health care fraud),” after “875 (relating to inter-
14 state communications),”; and

15 (2) by inserting “section 1347 (relating to ex-
16 press company fraud),” after “1203 (relating to hos-
17 tage taking),”.

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