

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 671

To establish a national commission on health care fraud and abuse.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. DURBIN (for himself, Ms. SNOWE, Mr. HUGHES, Mr. HALL of Ohio, Mrs. UNSOELD, Mr. BACCHUS of Florida, and Mr. DEFAZIO) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To establish a national commission on health care fraud and abuse.

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 “Ted Weiss Memorial  
5        Health Care Fraud and Abuse Commission Act of 1993”.

6        **SEC. 2. ESTABLISHMENT OF NATIONAL HEALTH CARE**  
7        **FRAUD AND ABUSE COMMISSION.**

8        (a) IN GENERAL.—There is established a commission  
9        to be known as the “Ted Weiss Memorial Health Care

1 Fraud and Abuse Commission” (in this Act referred to  
2 as the “Commission”).

3 (b) COMPOSITION.—The Commission shall be com-  
4 posed of 18 members as follows:

5 (1) OFFICIALS.—

6 (A) The Secretary of Health and Human  
7 Services (or the Secretary’s designee).

8 (B) The Inspector General of the Depart-  
9 ment of Health and Human Services (or the In-  
10 spector General’s designee).

11 (C) The Attorney General (or the Attorney  
12 General’s designee).

13 (D) The Director of the Federal Bureau of  
14 Investigation (or the Director’s designee).

15 (E) The Administrator of the Health Care  
16 Financing Administration (or the Administra-  
17 tor’s designee).

18 (2) PUBLIC MEMBERS.—Thirteen members, ap-  
19 pointed by the President, of which—

20 (A) one shall be an Attorney General of a  
21 State;

22 (B) one shall be a representative of State  
23 medicaid fraud control programs;

24 (C) one shall be a State official directly re-  
25 sponsible for regulation of health insurance;

1 (D) one shall be a representative of physi-  
2 cians;

3 (E) one shall be a representative of hos-  
4 pital administrators;

5 (F) one shall be a representative of health  
6 insurance companies;

7 (G) one shall be a representative of em-  
8 ployers who self-fund employee health benefit  
9 plans;

10 (H) one shall be a representative of em-  
11 ployers who purchase a health benefit plan from  
12 a health insurance company;

13 (I) one shall be a representative of medi-  
14 care carriers;

15 (J) one shall be a representative of medi-  
16 care peer review organizations;

17 (K) one shall be a representative of health  
18 care consumers;

19 (L) one shall be a representative of medi-  
20 care beneficiaries; and

21 (M) one shall be a representative of labor  
22 unions.

23 In making appointments under this paragraph of an  
24 individual who is a representative of persons or or-  
25 ganizations, the President shall consider the rec-

1       ommendations of national organizations that rep-  
2       resent such persons or organizations. The President  
3       shall report to Congress, within 90 days after the  
4       date of the enactment of this Act, the names of the  
5       members appointed under this paragraph.

6       (c) TERMS.—Each member shall be appointed for the  
7       life of the Commission. A vacancy in the Commission shall  
8       be filled in the manner in which the original appointment  
9       was made.

10   **SEC. 3. FUNCTIONS OF COMMISSION.**

11       (a) IN GENERAL.—The Commission shall—

12               (1) investigate the nature, magnitude, and cost  
13       of health care fraud and abuse in the United States,  
14       and

15               (2) identify and develop the most effective  
16       methods of preventing, detecting, and prosecuting or  
17       litigating such fraud and abuse, with particular em-  
18       phasis on coordinating public and private prevention,  
19       detection, and enforcement efforts.

20       (b) PARTICULARS.—Among other items, the Commis-  
21       sion shall examine at least the following:

22               (1) Mechanisms to provide greater standardiza-  
23       tion of claims administration in order to accommo-  
24       date fraud prevention and detection.

1           (2) Mechanisms to allow more freedom of  
2 health benefit plans to exchange information for co-  
3 ordinating case development and prosecution or liti-  
4 gation efforts, without undermining patient and pro-  
5 vider privacy protections or violating anti-trust laws.

6           (3) The extension to private health insurers of  
7 administrative remedies currently available to public  
8 insurers.

9           (4) Mechanisms for private insurers to organize  
10 and finance investigation and litigation efforts when  
11 more than one insurer may have received fraudulent  
12 claims from a provider.

13           (5) Creating a model State statute for estab-  
14 lishing State insurance fraud units and State laws to  
15 strengthen insurers' ability to pursue and recover  
16 from fraudulent providers.

17           (6) The need for regulation of new types of  
18 health care providers.

19           (7) Criteria for physician referrals to facilities  
20 in which they (or family members) have a financial  
21 interest.

22           (8) The availability of resources to law enforce-  
23 ment authorities to combat health care fraud and  
24 abuse.

1 (c) REPORT.—After approval by a majority vote, a  
2 quorum being present, the Commission shall transmit to  
3 Congress a report on its activities. The report shall be  
4 transmitted not later than 18 months after the date that  
5 a majority of the public members of the Commission have  
6 been appointed. The report shall contain a detailed state-  
7 ment of the Commission’s findings, together with such rec-  
8 ommendations as the Commission considers appropriate.

9 **SEC. 4. ORGANIZATION AND COMPENSATION.**

10 (a) ORGANIZATION.—

11 (1) QUORUM.—A majority of the members of  
12 the Commission shall constitute a quorum but a  
13 lesser number may hold hearings.

14 (2) CHAIRMAN.—The Commission shall elect  
15 one of its members to serve as chairman of the Com-  
16 mission.

17 (3) MEETINGS.—The Commission shall meet at  
18 the call of the chairman or a majority of its mem-  
19 bers. Meetings of the Commission are open to the  
20 public under section 10(a)(10) of the Federal Advi-  
21 sory Committee Act, except that the Commission  
22 may conduct meets in executive session but only if  
23 a majority of the members of the Commission (a  
24 quorum being present) approve going into executive  
25 session.

1 (b) COMPENSATION OF MEMBERS.—Members of the  
2 Commission shall serve without compensation, but shall  
3 be reimbursed for travel, subsistence, and other necessary  
4 expenses incurred in the performance of their duties as  
5 members of the Commission.

6 **SEC. 5. STAFF OF COMMISSION.**

7 (a) IN GENERAL.—The Commission may appoint and  
8 fix the compensation of a staff director and such other  
9 additional personnel as may be necessary to enable the  
10 Commission to carry out its functions, without regard to  
11 the laws, rules, and regulations governing appointment  
12 and compensation and other conditions of service in the  
13 competitive service.

14 (b) DETAIL OF FEDERAL EMPLOYEES.—Upon re-  
15 quest of the chairman, any Federal employee who is sub-  
16 ject to such laws, rules, and regulations, may be detailed  
17 to the Commission to assist it in carrying out its functions  
18 under this Act, and such detail shall be without interrup-  
19 tion or loss of civil service status or privilege.

20 (c) EXPERTS AND CONSULTANTS.—The Commission  
21 may procure temporary and intermittent services under  
22 section 3109(b) of title 5, United States Code, but at rates  
23 for individuals not to exceed the daily equivalent of 120  
24 percent of the maximum annual rate of basic pay payable  
25 for GS–15 of the General Schedule.

1 **SEC. 6. AUTHORITY OF COMMISSION.**

2 (a) HEARINGS AND SESSIONS.—The Commission  
3 may, for the purpose of carrying out this Act, hold hear-  
4 ings, sit and act at times and places, take testimony, and  
5 receive evidence as the Commission considers appropriate.  
6 The Commission may administer oaths or affirmations to  
7 witnesses appearing before it.

8 (b) OBTAINING OFFICIAL DATA.—

9 (1) IN GENERAL.—The Commission may secure  
10 directly from any department or agency of the  
11 United States information necessary to enable it to  
12 carry out this Act. Upon request of the chairman of  
13 the Commission, the head of that department or  
14 agency shall furnish that information to the Com-  
15 mission.

16 (2) ACCESS TO INFORMATION.—Information ob-  
17 tained by the Commission is available to the public  
18 in the same manner in which information may be  
19 made available under sections 552 and 552a of title  
20 5, United States Code.

21 (c) GIFTS, BEQUESTS, AND DEVICES.—The Commis-  
22 sion may accept, use, and dispose of gifts, bequests, or  
23 devises of services or property for the purpose of aiding  
24 or facilitating the work of the Commission.

25 (d) MAILS.—The Commission may use the United  
26 States mails in the same manner and under the same con-

1 ditions as other departments and agencies of the United  
2 States.

3 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon  
4 the request of the Commission, the Administrator of Gen-  
5 eral Services shall provide to the Commission, on a reim-  
6 bursable basis, the administrative support services nec-  
7 essary for the Commission to carry out its responsibilities  
8 under this Act.

9 (f) SUBPOENA POWER.—

10 (1) IN GENERAL.—The Commission may issue  
11 subpoenas requiring the attendance and testimony of  
12 witnesses and the production of any evidence relat-  
13 ing to any matter which the Commission is author-  
14 ized to investigate under this Act. The attendance of  
15 witnesses and the production of evidence may be re-  
16 quired from any place within the United States at  
17 any designated place of hearing within the United  
18 States.

19 (2) FAILURE TO OBEY A SUBPOENA.—If a per-  
20 son refuses to obey a subpoena issued under para-  
21 graph (1), the Commission may apply to a United  
22 States district court for an order requiring that per-  
23 son to appear before the Commission to give testi-  
24 mony, produce evidence, or both, relating to the  
25 matter under investigation. The application may be

1 made within the judicial district where the hearing  
2 is conducted or where that person is found, resides,  
3 or transacts business. Any failure to obey the order  
4 of the court may be punished by the court as civil  
5 contempt.

6 (3) SERVICE OF SUBPOENAS.—The subpoenas  
7 of the Commission shall be served in the manner  
8 provided for subpoenas issued by a United States  
9 district court under the Federal Rules of Civil Pro-  
10 cedure for the United States district courts.

11 (4) SERVICE OF PROCESS.—All process of any  
12 court to which application is to be made under para-  
13 graph (2) may be served in the judicial district in  
14 which the person required to be served resides or  
15 may be found.

16 **SEC. 7. TERMINATION.**

17 The Commission shall terminate 90 days after the  
18 date the report is submitted under section 3(c).

19 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to the Com-  
21 mission such sums as are necessary to carry out its func-  
22 tions, to remain available until expended.

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