

104TH CONGRESS
1ST SESSION

H. R. 2326

To improve Federal efforts to combat fraud and abuse against health care programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 1995

Mr. SCHIFF (for himself, Mr. SHAYS, Mr. CLINGER, Mr. FOX of Pennsylvania, Mr. SCHUMER, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve Federal efforts to combat fraud and abuse against health care programs, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Health Care Fraud and Abuse Prevention Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COORDINATION OF FEDERAL ENFORCEMENT

- Sec. 101. Federal enforcement by Inspectors General and Attorney General.
- Sec. 102. State enforcement.
- Sec. 103. Payments to States.
- Sec. 104. Health Care Fraud and Abuse Control Account.
- Sec. 105. Acceptance of gifts, bequests, and devises.
- Sec. 106. Reimbursements of expenses and other payments to participating agencies.
- Sec. 107. Account Payments Advisory Board.
- Sec. 108. Establishment of health care fraud and abuse data base.
- Sec. 109. Definitions.
- Sec. 110. Effective date.

TITLE II—REVISIONS TO CRIMINAL LAW

- Sec. 201. Definition of Federal health care offense.
- Sec. 202. Health care fraud.
- Sec. 203. Theft or embezzlement.
- Sec. 204. False Statements.
- Sec. 205. Bribery and graft.
- Sec. 206. Illegal remuneration with respect to health care benefit programs.
- Sec. 207. Obstruction of criminal investigations of health care offenses.
- Sec. 208. Civil penalties for violations of Federal health care offenses.
- Sec. 209. Injunctive relief relating to health care offenses.
- Sec. 210. Authorized investigative demand procedures.
- Sec. 211. Grand jury disclosure.
- Sec. 212. Miscellaneous amendments to title 18, United States code.

TITLE III—ANTI-FRAUD INITIATIVES UNDER MEDICARE AND
MEDICAID

- Sec. 301. Revision to current penalties.
- Sec. 302. Solicitation and publication of modifications to existing safe harbors and new safe harbors.
- Sec. 303. Requiring Secretary to implement proposal to expedite payment adjustments based upon inherent reasonableness.
- Sec. 304. Requiring annual notice to medicare beneficiaries of need to prevent fraud and abuse against medicare program.
- Sec. 305. Requiring use of single provider number in submission of claims for payment under medicare and medicaid.
- Sec. 306. Liability of carriers and fiscal intermediaries for claims submitted by excluded providers.
- Sec. 307. Study of financial solvency and integrity standards for providers and suppliers.

1 **TITLE I—COORDINATION OF**
2 **FEDERAL ENFORCEMENT**

3 **SEC. 101. FEDERAL ENFORCEMENT BY INSPECTORS GEN-**
4 **ERAL AND ATTORNEY GENERAL.**

5 (a) AUDITS, INVESTIGATIONS, INSPECTIONS, AND
6 EVALUATIONS.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the Inspector General of each of the De-
9 partment of Health and Human Services, the De-
10 partment of Defense, the Department of Labor, the
11 Office of Personnel Management, and the Depart-
12 ment of Veterans Affairs, and the Attorney General
13 shall conduct audits, civil and criminal investiga-
14 tions, inspections, and evaluations relating to the
15 prevention, detection, and control of health care
16 fraud and abuse in violation of any Federal law.

17 (2) LIMITATION.—An Inspector General, other
18 than the Inspector General of the Department of
19 Health and Human Services, may not conduct any
20 audit, investigation, inspection, or evaluation under
21 paragraph (1) with respect to health care fraud or
22 abuse under title V, XI, XVIII, XIX, or XX of the
23 Social Security Act.

24 (b) POWERS.—For purposes of carrying out duties
25 and responsibilities under subsection (a), each Inspector

1 General referred to in subsection (a) may exercise powers
2 that are available to the Inspector General for purposes
3 of audits, investigations, and other activities under the In-
4 spector General Act of 1978 (5 U.S.C. App.).

5 (c) COORDINATION AND REVIEW OF ACTIVITIES OF
6 OTHER FEDERAL, STATE, AND LOCAL AGENCIES.—

7 (1) PROGRAM.—The Inspector General and the
8 Attorney General shall—

9 (A) jointly establish, on the effective date
10 specified in section 110(a), a program to pre-
11 vent, detect, and control health care fraud and
12 abuse in violation of any Federal law, which
13 takes into account the activities of Federal,
14 State, and local law enforcement agencies, Fed-
15 eral and State agencies responsible for the li-
16 censing and certification of health care provid-
17 ers, and State agencies designated under sec-
18 tion 102(a)(1); and

19 (B) publish a description of the program in
20 the Federal Register, by not later than 180
21 days after the date of the enactment of this
22 Act.

23 (2) ANNUAL INVESTIGATIVE PLAN.—Each In-
24 spector General referred to in subsection (a)(1) and
25 the Attorney General shall each develop an annual

1 investigative plan for the prevention, detection, and
2 control of health care fraud and abuse in accordance
3 with the program established under paragraph (1).

4 (d) CONSULTATIONS.—Each of the Inspectors Gen-
5 eral referred to in subsection (a)(1) and the Attorney Gen-
6 eral shall regularly consult with each other, with Federal,
7 State, and local law enforcement agencies, with Federal
8 and State agencies responsible for the licensing and cer-
9 tification of health care providers, and with Health Care
10 Fraud and Abuse Control Units, in order to assist in co-
11 ordinating the prevention, detection, and control of health
12 care fraud and abuse in violation of any federal law.

13 **SEC. 102. STATE ENFORCEMENT.**

14 (a) DESIGNATION OF STATE AGENCIES AND ESTAB-
15 LISHMENT OF HEALTH CARE FRAUD AND ABUSE CON-
16 TROL UNIT.—The Governor of each State—

17 (1) shall, consistent with State law, designate
18 agencies of the State which conduct, supervise, and
19 coordinate audits, civil and criminal investigations,
20 inspections, and evaluations relating to the preven-
21 tion, detection, and control of health care fraud and
22 abuse in violation of any Federal law in the State;
23 and

24 (2) may establish and maintain in accordance
25 with subsection (b) a State agency to act as a

1 Health Care Fraud and Abuse Control Unit for pur-
2 poses of this title.

3 (b) HEALTH CARE FRAUD AND ABUSE CONTROL
4 UNIT REQUIREMENTS.—A Health Care Fraud and Abuse
5 Control Unit established by a State under subsection
6 (a)(2) shall be a single identifiable entity of State govern-
7 ment which is separate and distinct from any State agency
8 with principal responsibility for the administration of
9 health care programs, and which meets the following re-
10 quirements:

11 (1) The entity—

12 (A) is a unit of the office of the State At-
13 torney General or of another department of
14 State government that possesses statewide au-
15 thority to prosecute individuals for criminal vio-
16 lations;

17 (B) is in a State the constitution of which
18 does not provide for the criminal prosecution of
19 individuals by a statewide authority, and has
20 formal procedures, approved by the Secretary,
21 that assure it will refer suspected criminal vio-
22 lations relating to health care fraud or abuse in
23 violation of any Federal law to the appropriate
24 authority or authorities of the State for pros-

1 execution and assure it will assist such authority
2 or authorities in such prosecutions; or

3 (C) has a formal working relationship with
4 the office of the State Attorney General or the
5 appropriate authority or authorities for pros-
6 ecution and has formal procedures (including
7 procedures under which it will refer suspected
8 criminal violations to such office), that provide
9 effective coordination of activities between the
10 Health Care Fraud and Abuse Control Unit
11 and such office with respect to the detection, in-
12 vestigation, and prosecution of suspected health
13 care fraud or abuse in violation of any Federal
14 law.

15 (2) The entity conducts a statewide program
16 for the investigation and prosecution of violations of
17 all applicable State laws regarding any and all as-
18 pects of health care fraud and abuse under Federal
19 law.

20 (3) The entity has procedures for—

21 (A) reviewing complaints of the abuse or
22 neglect of patients of health care facilities in
23 the State, and

24 (B) where appropriate, investigating and
25 prosecuting such complaints under the criminal

1 laws of the State or for referring the complaints
2 to other State or Federal agencies for action.

3 (4) The entity provides for the collection, or re-
4 ferral for collection to the appropriate agency, of
5 overpayments that—

6 (A) are made under any federally funded
7 or mandated health care program required by
8 this Act, and

9 (B) it discovers in carrying out its activi-
10 ties.

11 (5) The entity employs attorneys, auditors, in-
12 vestigators, and other necessary personnel, is orga-
13 nized in such a manner, and provides sufficient re-
14 sources, as is necessary to promote the effective and
15 efficient conduct of its activities.

16 (c) SUBMISSION OF ANNUAL PLAN.—Each Health
17 Care Fraud and Abuse Control Unit may submit each year
18 to the Inspector General and the Attorney General a plan
19 for preventing, detecting, and controlling, consistent with
20 the program established under section 101(c)(1), health
21 care fraud and abuse in violation of any Federal law.

22 (d) APPROVAL OF ANNUAL PLAN.—The Inspector
23 General shall approve a plan submitted under subsection
24 (c) by the Health Care Fraud and Abuse Control Unit

1 of a State, unless the Inspector General establishes that
2 the plan—

3 (1) is inconsistent with the program established
4 under section 101(c)(1); or

5 (2) will not enable the agencies of the State
6 designated under subsection (a)(1) to prevent, de-
7 tect, and control health care fraud and abuse in vio-
8 lation of any Federal law.

9 (e) REPORTS.—Each Health Care Fraud and Abuse
10 Control Unit shall submit to the Inspector General an an-
11 nual report containing such information as the Inspector
12 General determines to be necessary.

13 (f) SEMIANNUAL REPORTS OF INSPECTOR GENERAL
14 OF HEALTH AND HUMAN SERVICES.—The Inspector Gen-
15 eral shall include in its semiannual reports to the Congress
16 under section 5(a) of the Inspector General Act of 1978
17 (5 U.S.C. App.) an assessment of the Inspector General
18 of the effectiveness of States in preventing, detecting, and
19 controlling health care fraud and abuse.

20 **SEC. 103. PAYMENTS TO STATES.**

21 (a) IN GENERAL.—For each year for which a State
22 has an annual plan approved under section 102(d), and
23 subject to the availability of appropriations, the Inspector
24 General shall pay to the State for each quarter an amount
25 equal to 75 percent of the sums expended during the quar-

1 ter by agencies designated by the Governor of the State
2 under section 102(a)(1) in conducting activities described
3 in that subsection.

4 (b) TIME OF PAYMENT.—The Inspector General shall
5 make a payment under subsection (a) for a quarter by
6 not later than 30 days after the end of the quarter.

7 (c) PAYMENTS ARE ADDITIONAL.—Payments to a
8 State under this subsection shall be in addition to any
9 amounts paid under section 106.

10 **SEC. 104. HEALTH CARE FRAUD AND ABUSE CONTROL AC-**
11 **COUNT.**

12 (a) ESTABLISHMENT.—There is established on the
13 books of the Treasury of the United States a separate ac-
14 count, which shall be known as the Health Care Fraud
15 and Abuse Control Account. The Account shall consist
16 of—

17 (1) the Health Care Fraud and Abuse Expenses
18 Subaccount; and

19 (2) the Health Care Fraud and Abuse Reserve
20 Subaccount.

21 (b) EXPENSES SUBACCOUNT.—

22 (1) CONTENTS.—The Expenses Subaccount
23 consists of—

24 (A) amounts deposited under paragraph

25 (2); and

1 (B) amounts transferred from the Reserve
2 Subaccount under subsection (c)(2).

3 (2) DEPOSITS.—Except as provided in sub-
4 section (c)(1), there shall be deposited in the Ex-
5 penses Subaccount all amounts received by the
6 United States as—

7 (A) fines imposed in cases involving a Fed-
8 eral health care offense;

9 (B) civil penalties or damages (other than
10 restitution) in actions under section 3729 or
11 3730 of title 31, United States Code (commonly
12 referred to as the “False Claims Act”), that are
13 based on claims related to the provision of
14 health care items and services;

15 (C) administrative penalties under titles
16 XI, XVIII, and XIX of the Social Security Act;

17 (D) proceeds of seizures and forfeitures of
18 property for acts or omissions in violation of
19 any Federal law related to the provision of
20 health care items and services; and

21 (E) money and proceeds of property that
22 are accepted under section 105.

23 (3) USE.—Amounts in the Expenses Sub-
24 account shall be available to the Inspector General
25 and the Attorney General, under such terms and

1 conditions as the Inspector General and the Attor-
2 ney General jointly determine to be appropriate,
3 for—

4 (A) paying expenses incurred by their re-
5 spective agencies in carrying out activities
6 under section 101; and

7 (B) making reimbursements to other In-
8 spectors General and Federal, State, and local
9 agencies in accordance with section 106.

10 (c) RESERVE SUBACCOUNT.—

11 (1) DEPOSITS.—An amount otherwise required
12 under subsection (b)(1) to be deposited in the Ex-
13 penses Subaccount in a fiscal year shall be deposited
14 in the Reserve Subaccount, if—

15 (A) the amount in the Expenses Sub-
16 account is greater than \$500,000,000; and

17 (B) the deposit of that amount in the Ex-
18 penses Subaccount would result in the amount
19 in the Expenses Subaccount exceeding 110 per-
20 cent of the total amount deposited in the Ex-
21 penses Subaccount in the preceding fiscal year.

22 (2) TRANSFERS TO EXPENSES SUBACCOUNT.—

23 (A) ESTIMATION OF SHORTFALL.—Not
24 later than the first day of the last quarter of
25 each fiscal year, the Inspector General (in con-

1 sultation with the Attorney General) shall esti-
2 mate whether sufficient amounts will be avail-
3 able during such quarter in the Expenses Sub-
4 account for the uses described in subsection
5 (b)(3).

6 (B) TRANSFER TO COVER SHORTFALL.—If
7 the Inspector General estimates under sub-
8 section (a) that there will not be available suffi-
9 cient amounts in the Expenses Subaccount dur-
10 ing the last quarter of a fiscal year, there shall
11 be transferred from the Reserve Subaccount to
12 the Expenses Subaccount such amount as the
13 Inspector General estimates is required to en-
14 sure that sufficient amounts are available in the
15 Expenses Subaccount during such quarter.

16 (3) LIMITATION ON AMOUNT CARRIED OVER TO
17 SUCCEEDING FISCAL YEAR.—There shall be trans-
18 ferred to the general fund of the Treasury any
19 amount remaining in the Reserve Subaccount at the
20 end of a fiscal year (after any transfer made under
21 paragraph (2)) in excess of 10 percent of the total
22 amount authorized to be deposited in the Expenses
23 Subaccount (consistent with paragraph (1)) during
24 the fiscal year.

1 (d) RESTRICTION ON DEPOSITS.—In the case of a
2 Federal health care offense, the attorney for the Govern-
3 ment may not, in exchange for payment by a defendant
4 of a fine or other monetary amount to be deposited in the
5 Account, reduce the exposure of the defendant to a term
6 of imprisonment by moving for dismissal or reduction of
7 charges, agreeing to dismiss charges, agreeing not to bring
8 charges, or recommending a lesser sentence.

9 (e) ANNUAL REPORT TO CONGRESS.—Not later than
10 180 days after the end of each fiscal year (beginning with
11 fiscal year 1996), the Secretary of Health and Human
12 Services and the Attorney General shall submit a report
13 to the Committee on Government Reform and Oversight
14 of the House of Representatives and the Committee on
15 Governmental Affairs of the Senate on the operations of
16 the Account during the fiscal year, including a description
17 of the deposits made into the Account and the payments
18 made from the Account during the year.

19 **SEC. 105. ACCEPTANCE OF GIFTS, BEQUESTS, AND DEVICES.**

20 The Attorney General or any Inspector General re-
21 ferred to in section 101(a) may accept, use, and dispose
22 of gifts, bequests, or devises of services or property (real
23 or personal), for the purpose of aiding or facilitating ac-
24 tivities under this title regarding health care fraud and
25 abuse. Gifts, bequests, or devises of money and proceeds

1 from sales of other property received as gifts, bequests,
2 or devises shall be deposited in the Account and shall be
3 available for use in accordance with section 104(b)(3).

4 **SEC. 106. REIMBURSEMENTS OF EXPENSES AND OTHER**
5 **PAYMENTS TO PARTICIPATING AGENCIES.**

6 (a) REIMBURSEMENT OF EXPENSES OF FEDERAL
7 AGENCIES.—The Inspector General and the Attorney
8 General, subject to the availability of amounts in the Ac-
9 count, shall jointly and promptly reimburse Federal agen-
10 cies for expenses incurred in carrying out section 101.

11 (b) PAYMENTS TO STATE AND LOCAL LAW EN-
12 FORCEMENT AGENCIES.—The Inspector General and the
13 Attorney General, subject to the availability of amounts
14 in the Account, shall jointly and promptly pay to any State
15 or local law enforcement agency that participated directly
16 in any activity which led to deposits in the Account, or
17 property the proceeds of which are deposited in the Ac-
18 count, an amount that reflects generally and equitably the
19 participation of the agency in the activity.

20 (c) FUNDS USED TO SUPPLEMENT AGENCY APPRO-
21 PRIATIONS.—It is intended that disbursements made from
22 the Account to any Federal agency be used to increase
23 and not supplant the recipient agency's appropriated oper-
24 ating budget.

1 **SEC. 107. ACCOUNT PAYMENTS ADVISORY BOARD.**

2 (a) ESTABLISHMENT.—There is established the Ac-
3 count Payments Advisory Board, which shall make rec-
4 ommendations to the Inspector General and the Attorney
5 General regarding the equitable allocation of payments
6 from the Account.

7 (b) MEMBERSHIP.—The Board shall consist of—

8 (1) each of the Inspectors General referred to
9 in section 101(a), other than the Inspector General
10 of the Department of Health and Human Services;
11 and

12 (2) 10 members appointed by the Inspector
13 General of the Department of Health and Human
14 Services to represent Health Care Fraud and Abuse
15 Control Units, of whom one shall be appointed—

16 (A) for each of the 10 regions established
17 by the Director of the Office of Management
18 and Budget under Office of Management and
19 Budget Circular A-105, to represent Units in
20 that region; and

21 (B) from among individuals recommended
22 by the heads of those agencies in that region.

23 (c) TERMS.—The term of a Member of the Board ap-
24 pointed under subsection (b)(2) shall be 3 years, except
25 that of such members first appointed 3 members shall
26 serve an initial term of one year and 3 members shall serve

1 an initial term of 2 years, as specified by the Inspector
2 General at the time of appointment.

3 (d) VACANCIES.—A vacancy on the Board shall be
4 filled in the same manner in which the original appoint-
5 ment was made, except that an individual appointed to
6 fill a vacancy occurring before the expiration of the term
7 for which the individual is appointed shall be appointed
8 only for the remainder of that term.

9 (e) CHAIRPERSON AND BYLAWS.—The Board shall
10 elect one of its members as chairperson and shall adopt
11 bylaws.

12 (f) COMPENSATION AND EXPENSES.—Members of
13 the Board shall serve without compensation, except that
14 the Inspector General may pay the expenses reasonably
15 incurred by the Board in carrying out its functions under
16 this section.

17 (g) NO TERMINATION.—Section 14(a)(2) of the Fed-
18 eral Advisory Committee Act (5 U.S.C. App.) does not
19 apply to the Board.

20 **SEC. 108. ESTABLISHMENT OF HEALTH CARE FRAUD AND**
21 **ABUSE DATA BASE.**

22 (a) IN GENERAL.—The Secretary of Health and
23 Human Services, in consultation with the Attorney Gen-
24 eral, shall establish a data base for the reporting of final
25 adverse actions taken by a Government agency against

1 health care providers, suppliers, or practitioners, or
2 against health care benefit programs, in order to provide
3 a central repository of such information to assist in the
4 prevention, detection, and prosecution of health care fraud
5 and abuse.

6 (b) REPORTING INFORMATION.—

7 (1) IN GENERAL.—For purposes of establishing
8 and maintaining the data base under this section,
9 each Government agency shall report any final ad-
10 verse action taken against a health care provider,
11 supplier, or practitioner, or against a health care
12 benefit program, together with the information de-
13 scribed in paragraph (2).

14 (2) INFORMATION TO BE REPORTED.—The in-
15 formation referred to in this paragraph is as follows:

16 (A) The name of any health care insurer,
17 provider, supplier, or practitioner or health care
18 benefit program which is the subject of the final
19 adverse action reported under paragraph (1).

20 (B) In the case of a final adverse action
21 taken against a health care provider, supplier,
22 or practitioner, the name (if known) of any
23 health care benefit program with which the in-
24 surer, provider, supplier, or practitioner is af-
25 filiated or associated.

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

2 (D) A description of the acts or omissions
3 and injuries upon which the final adverse action
4 was based.

5 (E) Such other information as required by
6 the Secretary.

7 (3) CONFIDENTIALITY.—The Secretary shall es-
8 tablish procedures to assure that in the submission
9 of information under this subsection the privacy of
10 individuals receiving health care services is appro-
11 priately protected.

12 (4) FORM AND MANNER OF REPORTING.—The
13 information required to be reported under this sub-
14 section shall be reported on a monthly basis and in
15 such form and manner as determined by the Sec-
16 retary. Such information shall first be required to be
17 reported on a date specified by the Secretary.

18 (5) TO WHOM REPORTED.—The information re-
19 quired to be reported under this subsection shall be
20 reported to the Secretary or such person or persons
21 designated by the Secretary.

22 (c) CORRECTION OF ERRONEOUS INFORMATION.—

23 (1) DISCLOSURE AND CORRECTION.—The Sec-
24 retary shall provide for a procedure through which
25 a person, to whom information within the data base

1 established under this section pertains, may review
2 that information and obtain the correction of errors
3 pertaining to that person.

4 (2) OTHER CORRECTIONS.—Each Government
5 agency shall report corrections of information al-
6 ready reported about any final adverse action taken
7 against a health care provider, supplier, or practi-
8 tioner, or a health care benefit program, in such
9 form and manner as required by the Secretary.

10 (d) ACCESS TO REPORTED INFORMATION.—

11 (1) AVAILABILITY.—The information in this
12 data base shall be available to the public, Federal
13 and State law enforcement agencies, Federal and
14 State government agencies, and health care benefit
15 programs pursuant to procedures established by the
16 Secretary and Attorney General.

17 (2) FEES.—The Secretary may establish rea-
18 sonable fees for the disclosure of information in this
19 data base.

20 (e) PROTECTION FROM LIABILITY FOR REPORT-
21 ING.—No person may be held liable in any civil action with
22 respect to reporting information required to be reported
23 under this section, unless the information reported was
24 false and the person had knowledge of the falsity of the
25 information.

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

3 (1) The term “final adverse action” includes
4 the following:

5 (A) Civil judgments in Federal or State
6 court related to the delivery of a health care
7 item or service.

8 (B) Federal or State criminal convictions
9 related to the delivery of a health care item or
10 service, as determined in accordance with proce-
11 dures applicable to the exclusion of individuals
12 and entities under section 1128(j) of the Social
13 Security Act.

14 (C) Actions by State or Federal agencies
15 responsible for the licensing and certification of
16 health care providers, suppliers, and licensed
17 health care practitioners, including—

18 (i) formal or official actions, such as
19 revocation or suspension of a license (and
20 the length of any such suspension), rep-
21 rimand, censure or probation;

22 (ii) any other loss of license of the
23 provider, supplier, or practitioner, whether
24 by operation of law, voluntary surrender or
25 otherwise; or

1 (iii) any other negative action or find-
2 ing by such State or Federal agency that
3 is publicly available information.

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

6 (E) Any other actions as required by the
7 Secretary.

8 (2) The term “Government agency” includes—

9 (A) the Department of Justice;

10 (B) the Department of Health and Human
11 Services;

12 (C) any other Federal agency that either
13 administers or provides payment for the deliv-
14 ery of health care services, including (but not
15 limited to) the Department of Defense and the
16 Department of Veterans Affairs;

17 (D) State law enforcement agencies;

18 (E) State Medicaid fraud and abuse con-
19 trol units described in section 1903(q) of the
20 Social Security Act; and

21 (F) State or Federal agencies responsible
22 for the licensing and certification of health care
23 providers and licensed health care practitioners.

24 (3) The term “health care benefit program” has
25 the meaning given such term in section 1347(b) of

1 title 18, United States Code, as added by section
2 202(b).

3 (4) The term “health care provider” means a
4 provider of services (as defined in section 1861(u) of
5 the Social Security Act) and any entity, including a
6 health maintenance organization or group medical
7 practice, that provides health care services (as speci-
8 fied by the Secretary in regulations).

9 (5) The terms “licensed health care practi-
10 tioner” and “practitioner” mean, with respect to a
11 State, an individual who is licensed or otherwise au-
12 thorized by the State to provide health care services
13 (or any individual who without authority holds him-
14 self or herself out to be so licensed or authorized).

15 (6) The term “Secretary” means the Secretary
16 of Health and Human Services.

17 (7) The term “supplier” means a supplier of
18 items and services for which payment may be made
19 under part B of title XVIII of the Social Security
20 Act.

21 **SEC. 109. DEFINITIONS.**

22 In this title:

23 (1) ACCOUNT.—The term “Account” means the
24 Health Care Fraud and Abuse Control Account es-
25 tablished by section 104(a).

1 (2) EXPENSES SUBACCOUNT.—The term “Ex-
2 penses Subaccount” means the Health Care Fraud
3 and Abuse Expenses Subaccount of the Account.

4 (3) FEDERAL HEALTH CARE OFFENSE.—The
5 term “Federal health care offense” has the meaning
6 given such term in section 24(a) of title 18, United
7 States Code.

8 (4) HEALTH CARE FRAUD AND ABUSE CONTROL
9 UNIT.—The term “Health Care Fraud and Abuse
10 Control Unit” means such a unit established by a
11 State in accordance with section 102(b).

12 (5) INSPECTOR GENERAL.—Except as otherwise
13 provided, the term “Inspector General” means the
14 Inspector General of the Department of Health and
15 Human Services.

16 (6) RESERVE SUBACCOUNT.—The term “Re-
17 serve Subaccount” means the Health Care Fraud
18 and Abuse Reserve Subaccount of the Account.

19 **SEC. 110. EFFECTIVE DATE.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), this title shall take effect after the expiration of the
22 180-day period which begins on the date of the enactment
23 of this Act.

1 (b) DEVELOPMENT AND PUBLICATION OF DESCRIP-
2 TION OF PROGRAM.—Section 101(c)(1) shall take effect
3 on the date of the enactment of this Act.

4 **TITLE II—REVISIONS TO**
5 **CRIMINAL LAW**

6 **SEC. 201. DEFINITION OF FEDERAL HEALTH CARE OF-**
7 **FENSE.**

8 (a) IN GENERAL.—Chapter 2 of title 18, United
9 States Code, is amended by adding at the end the follow-
10 ing:

11 **“§ 24. Definition of Federal health care offense**

12 “(a) As used in this title, the term ‘Federal health
13 care offense’ means—

14 “(1) a violation of, or criminal conspiracy to
15 violate section 226, 227, 669, 1035, 1347, or 1518
16 of this title;

17 “(2) a violation of, or criminal conspiracy to
18 violate section 1128B of the Social Security Act (42
19 U.S.C. 1320a–7b);

20 “(3) a violation of, or criminal conspiracy to
21 violate section 201, 287, 371, 664, 666, 1001, 1027,
22 1341, 1343, or 1954 of this title, if the violation or
23 conspiracy relates to a health care benefit program;

24 “(4) a violation of, or criminal conspiracy to
25 violate section 501 or 511 of the Employee Retire-

1 ment Income Security Act of 1974 (29 U.S.C. 1131
2 or 29 U.S.C. 1141), if the violation or conspiracy re-
3 lates to a health care benefit program;

4 “(5) the commission of, or attempt to commit,
5 an act which constitutes grounds for the imposition
6 of a penalty under section 303 of the Federal Food,
7 Drug, and Cosmetic Act, if the act or attempt re-
8 lates to a health care benefit program; or

9 “(6) a violation of, or criminal conspiracy to
10 violate, section 3 of the Anti-Kickback Act of 1986
11 (41 U.S.C. 53), if the violation or conspiracy relates
12 to a health care benefit program.

13 “(b) As used in this title, the term ‘health care bene-
14 fit program’ has the meaning given such term in section
15 1347(b) of this title.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 2 of title 18, United States
18 Code, is amended by inserting after the item relating to
19 section 23 the following new item:

 “24. Definition relating to Federal health care offense defined.”.

20 **SEC. 202. HEALTH CARE FRAUD.**

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

1 **“§ 1347. Health care fraud**

2 “(a) Whoever, having devised or intending to devise
3 a scheme or artifice, commits or attempts to commit an
4 act in furtherance of or for the purpose of executing such
5 scheme or artifice—

6 “(1) to defraud any health care benefit pro-
7 gram; or

8 “(2) to obtain, by means of false or fraudulent
9 pretenses, representations, or promises, any of the
10 money or property owned by, or under the custody
11 or control of, any health care benefit program,

12 shall be fined under this title or imprisoned not more than
13 10 years, or both. If the violation results in serious bodily
14 injury (as defined in section 1365 of this title), such per-
15 son shall be fined under this title or imprisoned not more
16 than 20 years, or both; and if the violation results in
17 death, such person shall be fined under this title, or im-
18 prisoned for any term of years or for life, or both.

19 “(b) As used in this section, the term ‘health care
20 benefit program’ means any public or private plan or con-
21 tract under which any medical benefit, item, or service is
22 provided to any individual, and includes any individual or
23 entity who is providing a medical benefit, item, or service
24 for which payment may be made under the plan or con-
25 tract.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 63 of title 18, United States
3 Code, is amended by adding at the end the following:

“1347. Health care fraud.”.

4 **SEC. 203. THEFT OR EMBEZZLEMENT.**

5 (a) IN GENERAL.—Chapter 31 of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing:

8 **“§ 669. Theft or embezzlement in connection with**
9 **health care**

10 “(a) Whoever embezzles, steals, or otherwise without
11 authority willfully and unlawfully converts to the use of
12 any person other than the rightful owner, or intentionally
13 misapplies any of the moneys, funds, securities, premiums,
14 credits, property, or other assets of a health care benefit
15 program, shall be fined under this title or imprisoned not
16 more than 10 years, or both.

17 “(b) As used in this section, the term ‘health care
18 benefit program’ has the meaning given such term in sec-
19 tion 1347(b) of this title.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 31 of title 18, United States
22 Code, is amended by adding at the end the following:

“669. Theft or embezzlement in connection with health care.”.

1 **SEC. 204. FALSE STATEMENTS.**

2 (a) IN GENERAL.—Chapter 47 of title 18, United
3 States Code, is amended by adding at the end the follow-
4 ing:

5 **“§ 1035. False statements relating to health care mat-
6 ters**

7 “(a) Whoever, in any matter involving a health care
8 benefit program, knowingly and willfully falsifies, conceals,
9 or covers up by any trick, scheme, or device a material
10 fact, or makes any false, fictitious, or fraudulent state-
11 ments or representations, or makes or uses any false writ-
12 ing or document knowing the same to contain any false,
13 fictitious, or fraudulent statement or entry, shall be fined
14 under this title or imprisoned not more than 5 years, or
15 both.

16 “(b) As used in this section, the term ‘health care
17 benefit program’ has the meaning given such term in sec-
18 tion 1347(b) of this title.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of chapter 47 of title 18, United States
21 Code, is amended by adding at the end the following new
22 item:

“1035. False statements relating to health care matters.”.

1 **SEC. 205. BRIBERY AND GRAFT.**

2 (a) IN GENERAL.—Chapter 11 of title 18, United
3 States Code, is amended by adding at the end the follow-
4 ing:

5 **“§226. Bribery and graft in connection with health**
6 **care**

7 “(a) Whoever—

8 “(1) directly or indirectly, corruptly gives, of-
9 fers, or promises anything of value to a health care
10 official, or offers or promises to give anything of
11 value to any other person, or attempts to violate this
12 subsection, with intent—

13 “(A) to influence any of the health care of-
14 ficial’s actions, decisions, or duties relating to a
15 health care benefit program;

16 “(B) to influence such an official to com-
17 mit or aid in the committing, or collude in or
18 allow, any fraud, or make opportunity for the
19 commission of any fraud, on a health care bene-
20 fit program; or

21 “(C) to induce such an official to engage
22 in any conduct in violation of the lawful duty of
23 such official; or

24 “(2) being a health care official, directly or in-
25 directly, corruptly demands, seeks, receives, accepts,
26 or agrees to accept anything of value personally or

1 for any other person or entity, the giving of which
2 violates paragraph (1) of this subsection, or at-
3 tempts to violate this subsection,
4 shall be fined under this title or imprisoned not more than
5 15 years, or both.

6 “(b) Whoever—

7 “(1) otherwise than as provided by law for the
8 proper discharge of any duty, directly or indirectly
9 gives, offers, or promises anything of value to a
10 health care official, for or because of any of the
11 health care official’s actions, decisions, or duties re-
12 lating to a health care benefit program, or attempts
13 to violate this subsection; or

14 “(2) being a health care official, otherwise than
15 as provided by law for the proper discharge of any
16 duty, directly or indirectly, demands, seeks, receives,
17 accepts or agrees to accept anything of value person-
18 ally or for any other person or entity, the giving of
19 which violates paragraph (1) of this subsection, or
20 attempts to violate this subsection,

21 shall be fined under this title, or imprisoned not more than
22 2 years, or both.

23 “(c) As used in this section—

24 “(1) the term ‘health care official’ means—

1 **“§ 227. Illegal remuneration with respect to health**
2 **care benefit programs**

3 “(a) Whoever knowingly and willfully solicits or re-
4 ceives any remuneration (including any kickback, bribe, or
5 rebate) directly or indirectly, overtly or covertly, in cash
6 or in kind—

7 “(1) in return for referring any individual to a
8 person for the furnishing or arranging for the fur-
9 nishing of any item or service for which payment
10 may be made in whole or in part by any health care
11 benefit program; or

12 “(2) in return for purchasing, leasing, ordering,
13 or arranging for or recommending purchasing, leas-
14 ing, or ordering any good, facility, service, or item
15 for which payment may be made in whole or in part
16 by any health care benefit program, or attempting to
17 do so,

18 shall be fined under this title or imprisoned for not more
19 than 5 years, or both.

20 “(b) Whoever knowingly and willfully offers or pays
21 any remuneration (including any kickback, bribe, or re-
22 bate) directly or indirectly, overtly, or covertly, in cash or
23 in kind to any person to induce such person—

24 “(1) to refer an individual to a person for the
25 furnishing or arranging for the furnishing of any

1 item or service for which payment may be made in
2 whole or in part by any health benefit program; or

3 “(2) to purchase, lease, order, or arrange for or
4 recommend purchasing, leasing, or ordering any
5 good, facility, service, or item for which payment
6 may be made in whole or in part by any health bene-
7 fit program or attempts to do so,

8 shall be fined under this title or imprisoned for not more
9 than 5 years, or both.

10 “(c) Subsections (a) and (b) shall not apply to—

11 “(1) a discount or other reduction in price ob-
12 tained by a provider of services or other entity under
13 a health care benefit program if the reduction in
14 price is properly disclosed and appropriately re-
15 flected in the costs claimed or charges made by the
16 provider or entity under a health care benefit pro-
17 gram;

18 “(2) any amount paid by an employer to an em-
19 ployee (who has a bona fide employment relationship
20 with such employer) for employment in the provision
21 of covered items or services if the amount of the re-
22 munerations under the arrangement is consistent
23 with the fair market value of the services and is not
24 determined in a manner that takes into account (di-

1 rectly or indirectly) the volume or value of any refer-
2 rals;

3 “(3) any amount paid by a vendor of goods or
4 services to a person authorized to act as a purchas-
5 ing agent for a group of individuals or entities who
6 are furnishing services reimbursed under a health
7 care benefit program if—

8 “(A) the person has a written contract,
9 with each such individual or entity, which speci-
10 fies the amount to be paid the person, which
11 amount may be a fixed amount or a percentage
12 of the value of the purchases made by each
13 such individual or entity under the contract,
14 and

15 “(B) in the case of an entity that is a pro-
16 vider of services (as defined in section 1861(u)
17 of the Social Security Act, the person discloses
18 (in such form and manner as the Secretary of
19 Health and Human Services requires) to the
20 entity and, upon request, to the Secretary the
21 amount received from each such vendor with re-
22 spect to purchases made by or on behalf of the
23 entity;

24 “(4) a waiver of any coinsurance under part B
25 of title XVIII of the Social Security Act by a feder-

1 ally qualified health care center with respect to an
2 individual who qualifies for subsidized services under
3 a provision of the Public Health Service Act; and

4 “(5) any payment practice specified by the Sec-
5 retary of Health and Human Services in regulations
6 promulgated pursuant to section 14(a) of the Medi-
7 care and Medicaid Patient and Program Protection
8 Act of 1987.

9 “(d) Any person injured in his business or property
10 by reason of a violation of this section or section 226 of
11 this title may sue therefor in any appropriate United
12 States district court and shall recover threefold the dam-
13 ages such person sustains and the cost of the suit, includ-
14 ing a reasonable attorney’s fee.

15 “(e) As used in this section, ‘health care benefit pro-
16 gram’ has the meaning given such term in section 1347(b)
17 of this title.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 11 of title 18, United States
20 Code, is amended by adding at the end the following:

“227. Illegal remuneration with respect to health care benefit programs.”.

21 (c) CONFORMING AMENDMENT.—Section 1128B of
22 the Social Security Act (42 U.S.C. 1320a–7b) is amended
23 by striking subsection (b).

1 **SEC. 207. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF**
2 **HEALTH CARE OFFENSES.**

3 (a) IN GENERAL.—Chapter 73 of title 18, United
4 States Code, is amended by adding at the end the follow-
5 ing:

6 **“§1518. Obstruction of criminal investigations of**
7 **health care offenses**

8 “(a) Whoever willfully prevents, obstructs, misleads,
9 delays or attempts to prevent, obstruct, mislead, or delay
10 the communication of information or records relating to
11 a violation of a health care offense to a criminal investiga-
12 tor shall be fined under this title or imprisoned not more
13 than 5 years, or both.

14 “(b) As used in this section the term ‘health care of-
15 fense’ has the meaning given such term in section 24 of
16 this title.

17 “(c) As used in this section the term ‘criminal inves-
18 tigator’ means any individual duly authorized by a depart-
19 ment, agency, or armed force of the United States to con-
20 duct or engage in investigations for prosecutions for viola-
21 tions of health care offenses.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 73 of title 18, United States
24 Code, is amended by adding at the end the following new
25 item:

“1518. Obstruction of criminal investigations of health care offenses.”.

1 **SEC. 208. CIVIL PENALTIES FOR VIOLATIONS OF FEDERAL**
2 **HEALTH CARE OFFENSES.**

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

6 **“§1348. Civil penalties for violations of Federal**
7 **health care offenses**

8 “The Attorney General may bring a civil action in
9 the appropriate United States district court against any
10 person who engages in conduct constituting a violation of
11 Federal health care offense, as that term is defined in sec-
12 tion 24 of this title and, upon proof of such conduct by
13 a preponderance of the evidence, such person shall be sub-
14 ject to a civil penalty of not more than \$50,000 for each
15 violation or the amount of compensation or proceeds which
16 the person received or offered for the prohibited conduct,
17 whichever amount is greater. The imposition of a civil pen-
18 alty under this section does not preclude any other crimi-
19 nal or civil statutory, common law, or administrative rem-
20 edy, which is available by law to the United States or any
21 other person.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 63 of title 18, United States Code, is amended
24 by adding at the end the following item:

“1348. Civil penalties for violations of Federal health care offenses.”.

1 **SEC. 209. INJUNCTIVE RELIEF RELATING TO HEALTH CARE**
2 **OFFENSES.**

3 Section 1345(a)(1) of title 18, United States Code,
4 is amended—

5 (1) by striking “or” at the end of subparagraph
6 (A);

7 (2) by inserting “or” at the end of subpara-
8 graph (B); and

9 (3) by adding at the end the following:

10 “(C) committing or about to commit a
11 Federal health care offense (as defined in sec-
12 tion 24 of this title).”.

13 **SEC. 210. AUTHORIZED INVESTIGATIVE DEMAND PROCE-**
14 **DURES.**

15 (a) IN GENERAL.—Chapter 233 of title 18, United
16 States Code, is amended by adding after section 3485 the
17 following:

18 **“§ 3486. Authorized investigative demand procedures**

19 “(a) AUTHORIZATION.—(1) In any investigation re-
20 lating to functions set forth in paragraph (2), the Attorney
21 General or the Director of the Federal Bureau of Inves-
22 tigation or their designees may issue in writing and cause
23 to be served a summons compelling the attendance and
24 testimony of witnesses and requiring the production of any
25 records (including any books, papers, documents, elec-
26 tronic media, or other objects or tangible things), which

1 may be relevant to an authorized law enforcement inquiry,
2 that a person or legal entity may possess or have care,
3 custody, or control. The attendance of witnesses and the
4 production of records may be required from any place in
5 any State or in any territory or other place subject to the
6 jurisdiction of the United States at any designated place
7 of hearing; except that a witness shall not be required to
8 appear at any hearing more than 500 miles distant from
9 the place where he was served with a subpoena. Witnesses
10 summoned under this section shall be paid the same fees
11 and mileage that are paid witnesses in the courts of the
12 United States. A summons requiring the production of
13 records shall describe the objects required to be produced
14 and prescribe a return date within a reasonable period of
15 time within which the objects can be assembled and made
16 available.

17 “(2) Investigative demands utilizing an administra-
18 tive summons are authorized for:

19 “(A) Any investigation with respect to any act
20 or activity constituting an offense involving a Fed-
21 eral health care offense as that term is defined in
22 section 24 of title 18, United States Code.

23 “(B) Any investigation, with respect to viola-
24 tions of sections 1073 and 1074 of title 18, United
25 States Code, or in which an individual has been law-

1 fully charged with a Federal offense and such indi-
2 vidual is avoiding prosecution or custody or confine-
3 ment after conviction of such offense or attempt.

4 “(b) SERVICE.—A subpoena issued under this section
5 may be served by any person designated in the subpoena
6 to serve it. Service upon a natural person may be made
7 by personal delivery of the subpoena to him. Service may
8 be made upon a domestic or foreign corporation or upon
9 a partnership or other unincorporated association which
10 is subject to suit under a common name, by delivering the
11 subpoena to an officer, to a managing or general agent,
12 or to any other agent authorized by appointment or by
13 law to receive service of process. The affidavit of the per-
14 son serving the subpoena entered on a true copy thereof
15 by the person serving it shall be proof of service.

16 “(c) ENFORCEMENT.—In the case of contumacy by
17 or refusal to obey a subpoena issued to any person, the
18 Attorney General may invoke the aid of any court of the
19 United States within the jurisdiction of which the inves-
20 tigation is carried on or of which the subpoenaed person
21 is an inhabitant, or in which he carries on business or may
22 be found, to compel compliance with the subpoena. The
23 court may issue an order requiring the subpoenaed person
24 to appear before the Attorney General to produce records,
25 if so ordered, or to give testimony touching the matter

1 under investigation. Any failure to obey the order of the
2 court may be punished by the court as a contempt thereof.
3 All process in any such case may be served in any judicial
4 district in which such person may be found.

5 “(d) IMMUNITY FROM CIVIL LIABILITY.—Notwith-
6 standing any Federal, State, or local law, any person, in-
7 cluding officers, agents, and employees, receiving a sum-
8 mons under this section, who complies in good faith with
9 the summons and thus produces the materials sought,
10 shall not be liable in any court of any State or the United
11 States to any customer or other person for such produc-
12 tion or for nondisclosure of that production to the cus-
13 tomer.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of chapter 223 of title 18, United States
16 Code, is amended by inserting after the item relating to
17 section 3485 the following new item:

“3486. Authorized investigative demand procedures.”.

18 (c) CONFORMING AMENDMENT.—Section
19 1510(b)(3)(B) of title 18, United States Code, is amended
20 by inserting “or a Federal Bureau of Investigation sum-
21 mons (issued under section 3486 of title 18),” after “sub-
22 poena”.

23 **SEC. 211. GRAND JURY DISCLOSURE.**

24 Section 3322 of title 18, United States Code, is
25 amended—

1 (1) by redesignating subsections (c) and (d) as
2 subsections (d) and (e), respectively; and

3 (2) by inserting after subsection (b) the follow-
4 ing:

5 “(c) A person who is privy to grand jury information
6 concerning a health care offense—

7 “(1) received in the course of duty as an attor-
8 ney for the Government; or

9 “(2) disclosed under rule 6(e)(3)(A)(ii) of the
10 Federal Rules of Criminal Procedure;

11 may disclose that information to an attorney for the Gov-
12 ernment to use in any civil investigation or proceeding re-
13 lated to a Federal health care offense (as defined in sec-
14 tion 24 of this title).”.

15 **SEC. 212. MISCELLANEOUS AMENDMENTS TO TITLE 18,**

16 **UNITED STATES CODE.**

17 (a) LAUNDERING OF MONETARY INSTRUMENTS.—
18 Section 1956(c)(7) of title 18, United States Code, is
19 amended by adding at the end thereof the following:

20 “(F) Any act or activity constituting an offense
21 involving a Federal health care offense as that term
22 is defined in section 24 of title 18, United States
23 Code.”.

24 (b) ENHANCED PENALTIES.—Section 2326(2) of title
25 18, United States Code, is amended by striking “sections

1 that—” and inserting “or in the case of a Federal health
2 care offense as that term is defined in section 24 of this
3 title, that—”.

4 (c) AUTHORIZATION FOR INTERCEPTION OF WIRE,
5 ORAL, OR ELECTRONIC COMMUNICATIONS.—Section
6 2516(1)(c) of title 18, United States Code, is amended—

7 (1) by inserting “section 226 (bribery and graft
8 in connection with health care), section 227 (illegal
9 remunerations)” after “section 224 (bribery in
10 sporting contests),”; and

11 (2) by inserting “section 1347 (health care
12 fraud)” after “section 1344 (relating to bank
13 fraud),” .

14 (d) DEFINITIONS.—Section 1961(1) of title 18, Unit-
15 ed States Code, is amended—

16 (1) by inserting “sections 226 and 227 (relating
17 to bribery and graft, and illegal remuneration in
18 connection with health care)” after “section 224 (re-
19 lating to sports bribery),”;

20 (2) by inserting “section 669 (relating to theft
21 or embezzlement in connection with health care)”
22 after “section 664 (relating to embezzlement from
23 pension and welfare funds),”; and

1 (3) by inserting “section 1347 (relating to
2 health care fraud)” after “section 1344 (relating to
3 financial institution fraud),”.

4 (e) CRIMINAL FORFEITURE.—Section 982(a) of title
5 18, United States Code, is amended by adding at the end
6 the following new paragraph:

7 “(6) The court in imposing sentence on a per-
8 son convicted of a Federal health care offense as de-
9 fined in section 24 of this title, shall order that the
10 offender forfeit to the United States any real or per-
11 sonal property constituting or derived from proceeds
12 that the offender obtained directly or indirectly as
13 the result of the offense.”.

14 (f) REWARDS FOR INFORMATION LEADING TO PROS-
15 ECUTION AND CONVICTION.—Section 3059(c)(1) of title
16 18, United States Code, is amended by inserting “or fur-
17 nishes information unknown to the Government relating
18 to a possible prosecution of a Federal health care offense
19 as defined in section 24 of this title, which results in a
20 conviction” before the period at the end.

1 **TITLE III—ANTI-FRAUD INITIA-**
2 **TIVES UNDER MEDICARE AND**
3 **MEDICAID**

4 **SEC. 301. REVISION TO CURRENT PENALTIES.**

5 (a) PERMISSIVE EXCLUSION OF INDIVIDUALS WITH
6 OWNERSHIP OR CONTROL INTEREST IN SANCTIONED EN-
7 TITIES.—Section 1128(b) of the Social Security Act (42
8 U.S.C. 1320a–7(b)) is amended by adding at the end the
9 following new paragraph:

10 “(15) INDIVIDUALS CONTROLLING A SANC-
11 TIONED ENTITY.—Any individual who has a direct
12 or indirect ownership or control interest of 5 percent
13 or more, or an ownership or control interest (as de-
14 fined in section 1124(a)(3)) in, or who is an officer,
15 director, agent, or managing employee (as defined in
16 section 1126(b)) of, an entity—

17 “(A) that has been convicted of any of-
18 fense described in subsection (a) or in para-
19 graph (1), (2), or (3) of this subsection;

20 “(B) against which a civil monetary pen-
21 alty has been assessed under section 1128A; or

22 “(C) that has been excluded from partici-
23 pation under a program under title XVIII or
24 under a State health care program.”.

1 (b) IMPOSITION OF CIVIL MONETARY PENALTY ON
2 EMPLOYER BILLING FOR SERVICES FURNISHED BY EX-
3 CLUDED EMPLOYEE.—Section 1128A(a)(1) of the Social
4 Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

5 (1) by striking “or” at the end of subparagraph
6 (C);

7 (2) by striking “; or” at the end of subpara-
8 graph (D) and inserting “, or”; and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(E) is for a medical or other item or serv-
12 ice furnished by an individual who is an em-
13 ployee or agent of the person during a period
14 in which such employee or agent was excluded
15 from the program under which the claim was
16 made on any of the grounds for exclusion de-
17 scribed in subparagraph (D);”.

18 (c) DEPOSIT OF PENALTIES INTO HEALTH CARE
19 FRAUD AND ABUSE CONTROL ACCOUNT.—Section
20 1128A(f)(3) of such Act (42 U.S.C. 1320a–7a(f)(3)) is
21 amended by striking “as miscellaneous receipts of the
22 Treasury of the United States” and inserting “in the
23 Health Care Fraud and Abuse Control Account estab-
24 lished under section 104 of the Health Care Fraud and
25 Abuse Prevention Act of 1995”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to sanctions imposed
3 for acts or omissions occurring on or after the date of the
4 enactment of this Act.

5 **SEC. 302. SOLICITATION AND PUBLICATION OF MODIFICA-**
6 **TIONS TO EXISTING SAFE HARBORS AND NEW**
7 **SAFE HARBORS.**

8 (a) IN GENERAL.—

9 (1) SOLICITATION OF PROPOSALS FOR SAFE
10 HARBORS.—Not later than one year after the date
11 of the enactment of this Act and not less than every
12 2 years thereafter, the Secretary of Health and
13 Human Services (hereafter in this title referred to as
14 the “Secretary”) shall publish a notice in the Fed-
15 eral Register soliciting proposals, which will be ac-
16 cepted during a 60-day period, for—

17 (A) modifications to existing safe harbors
18 issued pursuant to section 14(a) of the Medi-
19 care and Medicaid Patient and Program Protec-
20 tion Act of 1987; and

21 (B) additional safe harbors specifying pay-
22 ment practices that shall not be treated as a
23 criminal offense under section 1128B(b) of the
24 Social Security Act and shall not serve as the

1 basis for an exclusion under section 1128(b)(7)
2 of such Act.

3 (2) PUBLICATION OF PROPOSED MODIFICA-
4 TIONS AND PROPOSED ADDITIONAL SAFE HAR-
5 BORS.—After considering the proposals described in
6 paragraph (1), the Secretary, in consultation with
7 the Attorney General, shall publish in the Federal
8 Register proposed modifications to existing safe har-
9 bors and proposed additional safe harbors, if appro-
10 pate, with a 60-day comment period. After consid-
11 ering any public comments received during this pe-
12 riod, the Secretary shall issue final rules modifying
13 the existing safe harbors and establishing new safe
14 harbors, as appropriate.

15 (3) REPORT.—The Inspector General of the
16 Department of Health and Human Services (here-
17 after in this section referred to as the “Inspector
18 General”) shall, in an annual report to Congress or
19 as part of the year-end semiannual report required
20 by section 5 of the Inspector General Act of 1978,
21 describe the proposals received under paragraph (1)
22 and explain which proposals were included in the
23 publication described in paragraph (2), which pro-
24 posals were not included in that publication, and the

1 reasons for the rejection of the proposals that were
2 not included.

3 (b) CRITERIA FOR MODIFYING AND ESTABLISHING
4 SAFE HARBORS.—In modifying and establishing safe har-
5 bors under subsection (a)(2), the Secretary may consider
6 the extent to which providing a safe harbor for the speci-
7 fied payment practice may result in any of the following:

8 (1) An increase or decrease in access to health
9 care services.

10 (2) An increase or decrease in the quality of
11 health care services.

12 (3) An increase or decrease in patient freedom
13 of choice among health care providers.

14 (4) An increase or decrease in competition
15 among health care providers.

16 (5) An increase or decrease in the ability of
17 health care facilities to provide services in medically
18 underserved areas or to medically underserved popu-
19 lations.

20 (6) An increase or decrease in the cost to health
21 care programs operated or financed by the Federal,
22 State, or local governments.

23 (7) An increase or decrease in the potential
24 overutilization of health care services.

1 (8) The existence or nonexistence of any poten-
2 tial financial benefit to a health care professional or
3 provider which may vary based on their decisions
4 of—

5 (A) whether to order a health care item or
6 service; or

7 (B) whether to arrange for a referral of
8 health care items or services to a particular
9 practitioner or provider.

10 (9) Any other factors the Secretary deems ap-
11 propriate in the interest of preventing fraud and
12 abuse in health care programs operated or financed
13 by the Federal, State, or local governments.

14 **SEC. 303. REQUIRING SECRETARY TO IMPLEMENT PRO-**
15 **POSAL TO EXPEDITE PAYMENT ADJUST-**
16 **MENTS BASED UPON INHERENT REASON-**
17 **ABLENESS.**

18 Not later than 6 months after the date of the enact-
19 ment of this Act, the Secretary of Health and Human
20 Services shall implement its initiative of December 1994
21 to expedite the implementation of payment adjustments
22 for covered items under section 1834(a)(10)(B) of the So-
23 cial Security Act pursuant to the provisions of paragraphs
24 (8) and (9) of section 1842(b) of such Act.

1 **SEC. 304. REQUIRING ANNUAL NOTICE TO MEDICARE**
2 **BENEFICIARIES OF NEED TO PREVENT**
3 **FRAUD AND ABUSE AGAINST MEDICARE PRO-**
4 **GRAM.**

5 (a) IN GENERAL.—Section 1804(a) of the Social Se-
6 curity Act (42 U.S.C. 1395b–2(a)) is amended—

7 (1) by striking “and” at the end of paragraph
8 (2);

9 (2) by striking the period at the end of para-
10 graph (3) and inserting “, and”; and

11 (3) by inserting after paragraph (3) the follow-
12 ing new paragraph:

13 “(4) a description of the costs to the medicare
14 program of waste, fraud, and abuse, together with
15 suggestions for steps which medicare beneficiaries
16 may take to help combat waste, fraud, and abuse
17 against the program, including the toll-free tele-
18 phone number operated by the Secretary and the In-
19 spector General of the Department of Health and
20 Human Services for reporting information on fraud
21 and abuse against the program and the potential
22 availability of a reward for individuals reporting in-
23 formation which leads to a criminal prosecution and
24 conviction for health care fraud under title 18,
25 United States Code.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to the annual notice mailed
3 under section 1804(a) of the Social Security Act for years
4 beginning with 1997.

5 **SEC. 305. REQUIRING USE OF SINGLE PROVIDER NUMBER**
6 **IN SUBMISSION OF CLAIMS FOR PAYMENT**
7 **UNDER MEDICARE AND MEDICAID.**

8 (a) USE OF SINGLE NUMBER UNDER MEDICARE.—
9 Section 1842(r) of the Social Security Act (42 U.S.C.
10 1395u(r)) is amended to read as follows:

11 “(r)(1) Not later than 1 year after the date of the
12 enactment of the Health Care Fraud and Abuse Preven-
13 tion Act of 1995, the Secretary shall establish a system
14 which provides for a unique identifier for each individual
15 or entity who furnishes items or services for which pay-
16 ment may be made under this part.

17 “(2) No payment may be made under this title for
18 any item or service furnished by an individual or entity
19 unless the claim for payment with respect to the item or
20 service includes the unique identifier provided to the indi-
21 vidual or entity under the system established under para-
22 graph (1).”.

23 (b) PROVIDING MEDICARE NUMBER FOR SUBMIS-
24 SION OF MEDICAID CLAIMS.—Section 1902(x) of such Act
25 (42 U.S.C. 1396a(x)) is amended—

1 (1) by striking “(x)” and inserting “(x)(1)”;
2 and

3 (2) by adding at the end the following new
4 paragraph:

5 “(2) If an individual or entity submitting a claim to
6 the State for payment for providing medical assistance
7 under the State plan has a unique identifier assigned by
8 the Secretary pursuant to section 1842(r) for purposes of
9 title XVIII, the individual or entity shall include the iden-
10 tifier with such claim.”.

11 **SEC. 306. LIABILITY OF CARRIERS AND FISCAL**
12 **INTERMEDIARIES FOR CLAIMS SUBMITTED**
13 **BY EXCLUDED PROVIDERS.**

14 (a) REIMBURSEMENT TO SECRETARY FOR AMOUNTS
15 PAID TO EXCLUDED PROVIDERS.—

16 (1) REQUIREMENT FOR FISCAL
17 INTERMEDIARIES.—

18 (A) IN GENERAL.—Section 1816 of the So-
19 cial Security Act (42 U.S.C. 1395h), as amend-
20 ed by section 151(b)(1)(A) of the Social Secu-
21 rity Act Amendments of 1994, is amended by
22 adding at the end the following new subsection:

23 “(l) An agreement with an agency or organization
24 under this section shall require that such agency or orga-
25 nization reimburse the Secretary for any amounts paid for

1 a service under this title which is furnished by an individ-
2 ual or entity during any period for which the individual
3 or entity is excluded pursuant to section 1128, 1128A,
4 1156, or subsection (j)(2) from participation in the pro-
5 gram under this title, if the amounts are paid after the
6 Secretary notifies the agency or organization of the exclu-
7 sion.”.

8 (B) CONFORMING AMENDMENT.—Section
9 1816(i) of such Act (42 U.S.C. 1395h(i)) is
10 amended by adding at the end the following
11 new paragraph:

12 “(4) Nothing in this subsection shall be construed to
13 prohibit reimbursement by an agency or organization
14 under subsection (l).”.

15 (2) REQUIREMENT FOR CARRIERS.—Section
16 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)), as
17 amended by section 151(b)(1)(B) of the Social Secu-
18 rity Act Amendments of 1994, is amended—

19 (A) by striking “and” at the end of sub-
20 paragraph (I); and

21 (B) by inserting after subparagraph (I) the
22 following new subparagraph:

23 “(J) will reimburse the Secretary for any
24 amounts paid for an item or service under this part
25 which is furnished by an individual or entity during

1 any period for which the individual or entity is ex-
2 cluded pursuant to section 1128, 1128A, 1156, or
3 subsection (j)(2) from participation in the program
4 under this title, if the amounts are paid after the
5 Secretary notifies the carrier of the exclusion; and”.

6 (b) CONFORMING REPEAL OF MANDATORY PAYMENT
7 RULE.—Section 1862(e)(2) of such Act (42 U.S.C.
8 1395y(e)(2)) is amended to read as follows:

9 “(2) No individual or entity may bill (or collect any
10 amount from) any individual for any item or service for
11 which payment is denied under paragraph (1). No person
12 is liable for payment of any amounts billed for such an
13 item or service in violation of the previous sentence. If an
14 individual or entity knowingly and willfully bills (or col-
15 lects an amount) for such an item or service in violation
16 of such sentence, the Secretary may apply sanctions
17 against the individual or entity in the same manner as
18 the Secretary may apply sanctions against a physician in
19 accordance with subsection (j)(2) in the same manner as
20 such section applies with respect to a physician. Para-
21 graph (4) of subsection (j) shall apply in this paragraph
22 in the same manner as such paragraph applies to such
23 section.”.

1 **SEC. 307. STUDY OF FINANCIAL SOLVENCY AND INTEGRITY**
2 **STANDARDS FOR PROVIDERS AND SUPPLI-**
3 **ERS.**

4 (a) **STUDY.**—The Secretary of Health and Human
5 Services shall conduct a study of the feasibility and desir-
6 ability of imposing qualifications on individuals and enti-
7 ties providing items and services for which payment may
8 be made under the medicare and medicaid programs relat-
9 ing to financial solvency and fiscal integrity to protect the
10 programs from waste, fraud, and abuse.

11 (b) **REPORT.**—Not later than 1 year after the date
12 of the enactment of this Act, the Secretary shall submit
13 a report to Congress on the study conducted under sub-
14 section (a), and shall include in the report such rec-
15 ommendations as the Secretary considers appropriate for
16 financial solvency and fiscal integrity standards for provid-
17 ers and suppliers under the medicare and medicaid pro-
18 grams.

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