

108TH CONGRESS
2D SESSION

S. 2341

To amend the Health Care Quality Improvement Act of 1986 to expand the National Practitioner Data Bank.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2004

Mr. CORZINE (for himself, Mr. LAUTENBERG, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Health Care Quality Improvement Act of 1986 to expand the National Practitioner Data Bank.

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 “Safe Health Care Re-
5 porting Act of 2004”.

6 **SEC. 2. REPORTING OF SANCTIONS.**

7 Section 422 of the Health Care Quality Improvement
8 Act of 1986 (42 U.S.C. 11132) is amended—

1 (1) in the section heading by striking “BOARDS
2 OF MEDICAL EXAMINERS” and inserting “STATE LI-
3 CENSING BOARDS”;

4 (2) in paragraphs (1) and (2) of subsection
5 (a)—

6 (A) by striking “physician’s” each place it
7 appears and inserting “physician’s or other
8 health care practitioner’s”; and

9 (B) by striking “physician” each place it
10 appears and inserting “physician or other
11 health care practitioner”; and

12 (3) in subsections (a) and (b), by striking
13 “Board of Medical Examiners” each place it appears
14 and inserting “State licensing board”.

15 **SEC. 3. REPORTING OF CERTAIN PROFESSIONAL REVIEW**
16 **ACTIONS.**

17 Section 423 of the Health Care Quality Improvement
18 Act of 1986 (42 U.S.C. 11133) is amended—

19 (1) by striking “Board of Medical Examiners”
20 each place it appears and inserting “State licensing
21 board”;

22 (2) in subsection (a)—

23 (A) by striking paragraph (2) and insert-
24 ing the following:

1 “(2) MANDATORY REPORTING ON OTHER LI-
2 CENSED HEALTH CARE PRACTITIONERS.—A health
3 care entity shall report to the appropriate State li-
4 censing boards and to the agency designated under
5 section 424(b), the information described in para-
6 graph (3) in the case of a licensed health care prac-
7 titioner who is not a physician, if the entity would
8 be required to report such information under para-
9 graph (1) with respect to the practitioner if the
10 practitioner were a physician.”;

11 (B) by redesignating paragraph (3)(C) as
12 paragraph (3)(D); and

13 (C) by striking paragraph (3)(B) and in-
14 serting the following:

15 “(B) a description of any adverse action,
16 including dismissal and review action, taken by
17 a hospital or other health care entity against a
18 health care practitioner who is employed by, has
19 privileges at, is under contract with, or other-
20 wise works at the health care entity for conduct
21 that may be construed to violate any Federal or
22 State law, including laws governing licensed
23 health care professional practice standards,

24 “(C) information on a health care practi-
25 tioner who voluntarily resigns during, or as a

1 result of, a pending dismissal or review action,
2 and”;

3 (3) by redesignating subsections (b), (c), and
4 (d) as subsections (c), (d), and (e), respectively;

5 (4) by inserting after subsection (a), the fol-
6 lowing:

7 “(b) STANDARD FOR REPORTING OF ADVERSE AC-
8 TIONS.—Adverse actions reported under subsection (a)(2)
9 shall be made in accordance with the rights and proce-
10 dures afforded to physicians under section 412.”;

11 (5) in subsection (c) (as so redesignated), in the
12 subsection heading, by striking “BOARD OF MED-
13 ICAL EXAMINERS” and inserting “STATE LICENSING
14 BOARD”;

15 (6) in subsection (d)(1) (as so redesignated), by
16 striking “subsection (a)(1)” and inserting “para-
17 graphs (1) and (2) of subsection (a) and subsection
18 (b)”;

19 (7) in subsection (d)(2) (as so redesignated), in
20 the paragraph heading, by striking “BOARD OF
21 MEDICAL EXAMINERS” and inserting “STATE LI-
22 CENSING BOARD”;

23 (8) in subsection (e) (as so redesignated), in the
24 subsection heading, by striking “BOARD OF MED-

1 ICAL EXAMINERS” and inserting “STATE LICENSING
2 BOARD”; and

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

4 “(f) CIVIL PENALTIES.—

5 “(1) IN GENERAL.—The Secretary shall provide
6 for the imposition of no more than \$50,000 per vio-
7 lation for health care entities that fail to comply
8 with this section.

9 “(2) REPEATED VIOLATIONS.—The Secretary
10 shall provide for civil penalties in addition to the
11 amount listed in paragraph (1) for health care enti-
12 ties that establish patterns of repeated violations of
13 this section.”.

14 **SEC. 4. CIVIL PENALTIES.**

15 Section 425 of the Health Care Quality Improvement
16 Act of 1986 (42 U.S.C. 11135) is amended—

17 (1) in paragraphs (1) and (2) of subsection (a),
18 and subsections (b) and (c), by striking “hospital”
19 each place it appears and inserting “health care en-
20 tity or agency employing a physician or other li-
21 censed health care practitioner”;

22 (2) in subsection (a)—

23 (A) in the matter preceding paragraph

24 (1)—

1 (i) by striking “each hospital” and in-
2 sserting “each health care entity and agen-
3 cy employing a physician or other licensed
4 health care practitioner”; and

5 (ii) by inserting “and from the appro-
6 priate State licensing board,” after “(or
7 the agency designated under section
8 424(b)),”;

9 (B) in paragraph (1), by inserting “or em-
10 ployment” after “clinical privileges”; and

11 (C) in paragraph (2), by inserting “or em-
12 ployed” after “clinical privileges”;

13 (3) in subsection (c), by striking “hospital’s”
14 and inserting “the health care entity’s or agency’s”
15 and

16 (4) by adding at the end the following:

17 “(d) CIVIL PENALTIES.—

18 “(1) IN GENERAL.—The Secretary shall provide
19 for the imposition of no more than \$50,000 per vio-
20 lation for a health care entity or agency employing
21 a physician or other licensed health care practitioner
22 that fails to comply with this section.

23 “(2) REPEATED VIOLATIONS.—The Secretary
24 shall provide for civil penalties in addition to the
25 amount listed in paragraph (1) for a health care en-

1 tity or agency employing a physician or other li-
2 censed health care practitioner that establishes pat-
3 terns of repeated violations of this section.”.

4 **SEC. 5. PROFESSIONAL REVIEW.**

5 Section 411 of the Health Care Quality Improvement
6 Act of 1986 (42 U.S.C. 11111) is amended by adding at
7 the end the following:

8 “(d) CIVIL LIABILITY IMMUNITY FOR HEALTH CARE
9 ENTITIES.—

10 “(1) IN GENERAL.—A health care entity that
11 discloses information about a former or current em-
12 ployee pursuant to section 423 is immune from civil
13 liability for such disclosure and its consequences un-
14 less it is demonstrated that the employer—

15 “(A) knowingly disclosed false information;

16 or

17 “(B) violated any right of the former or
18 current employee that is protected under Fed-
19 eral or State laws.

20 “(2) APPLICATION.—This subsection applies to
21 any employee, agent, or other representative of the
22 current or former employer who is authorized to pro-
23 vide and who provides information in accordance
24 with section 423.

1 “(e) PROTECTION OF HEALTH CARE PRACTI-
 2 TIONERS.—A health care entity shall not penalize, dis-
 3 criminate, or retaliate in any manner with respect to em-
 4 ployment, including discharge, promotion, compensation,
 5 or terms, conditions, or privileges of employment, against
 6 an employee who, in good faith, reports conduct that may
 7 be construed to violate a Federal or State law, including
 8 laws governing licensed health care professional practice
 9 standards, to a State authority, licensing authority, peer
 10 review organization, or employer.”.

11 **SEC. 6. HEALTH CARE ENTITY; SKILLED NURSING FACIL-
 12 ITY.**

13 Section 431 of the Health Care Quality Improvement
 14 Act of 1986 (42 U.S.C. 11151) is amended—

15 (1) in paragraph (4)(i), by inserting “or skilled
 16 nursing facility” after “hospital”;

17 (2) by redesignating paragraphs (13) and (14)
 18 as paragraphs (14) and (15), respectively; and

19 (3) by inserting after paragraph (12) the fol-
 20 lowing:

21 “(13) The term ‘skilled nursing facility’ means
 22 an entity described in section 1819(a) of the Social
 23 Security Act (42 U.S.C. 1395i-3(a)).”.

1 **SEC. 7. SANCTIONS AGAINST AND BACKGROUND CHECKS**
 2 **OF HEALTH CARE PRACTITIONERS AND PRO-**
 3 **VIDERS.**

4 Section 1921 of the Social Security Act (42 U.S.C.
 5 1396r-2) is amended—

6 (1) in the section heading, by inserting “AND
 7 CRIMINAL BACKGROUND CHECKS OF” after
 8 “AGAINST”; and

9 (2) in subsection (a)—

10 (A) by redesignating paragraph (2) as
 11 paragraph (3); and

12 (B) by inserting after paragraph (1) the
 13 following:

14 “(2) INFORMATION CONCERNING CRIMINAL
 15 BACKGROUND OF LICENSED HEALTH CARE PRACTI-
 16 TIONERS.—The State shall have in effect a system
 17 of reporting criminal background information on li-
 18 censed health care practitioners to the agency des-
 19 ignated under section 424(b) of the Health Care
 20 Quality Improvement Act of 1986 (42 U.S.C.
 21 11134(b)).”.

22 **SEC. 8. DATE OF IMPLEMENTATION.**

23 The Secretary of Health and Human Services shall,
 24 through the promulgation of appropriate regulations, im-

- 1 plement the provisions of this Act within 1 year after the
- 2 date of enactment of this Act.

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