

108TH CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. CORZINE (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on _____

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—

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

1 (2) in paragraphs (1) and (2) of subsection
2 (a)—
3 (A) by striking “physician’s” each place it
4 appears and inserting “physician’s or other
5 health care practitioner’s”; and
6 (B) by striking “physician” each place it
7 appears and inserting “physician or other
8 health care practitioner”; and
9 (3) in subsections (a) and (b), by striking
10 “Board of Medical Examiners” each place it appears
11 and inserting “State licensing board”.

12 SEC. 3. REPORTING OF CERTAIN PROFESSIONAL REVIEW

13 ACTIONS.

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

16 (1) by striking “Board of Medical Examiners”
17 each place it appears and inserting “State licensing
18 board”;

19 (2) in subsection (a)—

20 (A) by striking paragraph (2) and insert-
21 ing the following:

22 “(2) MANDATORY REPORTING ON OTHER LI-
23 CENSED HEALTH CARE PRACTITIONERS.—A health
24 care entity shall report to the appropriate State li-
25 censing boards and to the agency designated under

1 section 424(b), the information described in para-
2 graph (3) in the case of a licensed health care prac-
3 titioner who is not a physician, if the entity would
4 be required to report such information under para-
5 graph (1) with respect to the practitioner if the
6 practitioner were a physician.”;

7 (B) by redesignating paragraph (3)(C) as
8 paragraph (3)(D); and

9 (C) by striking paragraph (3)(B) and in-
10 serting the following:

11 “(B) a description of any adverse action,
12 including dismissal and review actions, taken by
13 a hospital or other health care entity against a
14 health care practitioner for conduct that may be
15 construed to violate any Federal or State law,
16 including laws governing licensed health care
17 professional practice standards,

18 “(C) information on a health care practi-
19 tioner who voluntarily resigns during, or as a
20 result of, a pending dismissal or review action,
21 and”;

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

24 (4) by inserting after subsection (a), the fol-
25 lowing:

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

5 (5) in subsection (c) (as so redesignated), in the
6 subsection heading, by striking “BOARD OF MED-
7 ICAL EXAMINERS” and inserting “STATE LICENSING
8 BOARD”;

9 (6) in subsection (d)(1) (as so redesignated), by
10 striking “subsection (a)(1)” and inserting “para-
11 graphs (1) and (2) of subsection (a) and subsection
12 (b)”;

13 (7) in subsection (d)(2) (as so redesignated), in
14 the paragraph heading, by striking “BOARD OF
15 MEDICAL EXAMINERS” and inserting “STATE LI-
16 CENSING BOARD”;

17 (8) in subsection (e) (as so redesignated), in the
18 subsection heading, by striking “BOARD OF MED-
19 ICAL EXAMINERS” and inserting “STATE LICENSING
20 BOARD”; and

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

22 “(f) CIVIL PENALTIES.—

23 “(1) IN GENERAL.—The Secretary shall provide
24 for the imposition of no more than \$50,000 per vio-

1 lation for health care entities that fail to comply
2 with this section.

3 “(2) REPEATED VIOLATIONS.—The Secretary
4 shall provide for civil penalties in addition to the
5 amount listed in paragraph (1) for health care enti-
6 ties that establish patterns of repeated violations of
7 this section.”.

8 **SEC. 4. CIVIL PENALTIES.**

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

11 (1) by striking “hospital” each place it appears
12 and inserting “health care entity”;

13 (2) in subsection (a)—

14 (A) by inserting “and from the appropriate
15 State licensing board,” after “(or the agency
16 designated under section 424(b)),”;

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

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

21 (3) in subsection (c), by striking “hospital’s”
22 and inserting “health care entity’s”; and

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

24 “(d) CIVIL PENALTIES.—

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

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

10 **SEC. 5. PROFESSIONAL REVIEW.**

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

14 “(d) CIVIL LIABILITY IMMUNITY FOR HEALTH CARE
15 ENTITIES.—

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

21 “(A) knowingly disclosed false information;
22 or

23 “(B) violated any right of the former or
24 current employee that is protected under Fed-
25 eral or State laws.

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

6 “(e) PROTECTION OF HEALTH CARE PRACTI-
7 TIONERS.—A health care entity shall not penalize, dis-
8 criminate, or retaliate in any manner with respect to em-
9 ployment, including discharge, promotion, compensation,
10 or terms, conditions, or privileges of employment, against
11 an employee who, in good faith, reports activity that vio-
12 lates expected standards of care to a State authority, li-
13 censing authority, peer review organization, or employer.”.

14 **SEC. 6. REQUIRING MEDICARE PROVIDERS OF SERVICES**
15 **TO COMPLY WITH REPORTING AND**
16 **QUERYING REQUIREMENTS UNDER THE**
17 **HEALTH CARE QUALITY IMPROVEMENT ACT**
18 **OF 1986.**

19 Section 1866(a)(1) of the Social Security Act (42
20 U.S.C. 1395cc(a)(1), as amended by section 947 of the
21 Medicare Prescription Drug, Improvement, and Mod-
22 ernization Act of 2003 (Public Law 108–173)), is
23 amended—

24 (1) in subparagraph (U), by striking “and” at
25 the end;

1 (2) in subparagraph (V), by striking the period
2 at the end and inserting “, and”; and

3 (3) by inserting after subparagraph (V) the fol-
4 lowing new subparagraph:

5 “(W) to comply with the requirements of sec-
6 tions 423 and 425 of the Health Care Quality Im-
7 provement Act of 1986 (42 U.S.C. 11133; 11135).”.

8 **SEC. 7. SANCTIONS AGAINST AND BACKGROUND CHECKS**

9 **OF HEALTH CARE PRACTITIONERS AND PRO-
10 VIDERS.**

11 Section 1921 of the Social Security Act (42 U.S.C.
12 1396r-2) is amended—

13 (1) in the section heading, by inserting “AND
14 CRIMINAL BACKGROUND CHECKS OF” after
15 “AGAINST”; and

16 (2) in subsection (a)—

17 (A) by redesignating paragraph (2) as
18 paragraph (3); and

19 (B) by inserting after paragraph (1) the
20 following:

21 “(2) INFORMATION CONCERNING CRIMINAL
22 BACKGROUND OF LICENSED HEALTH CARE PRACTI-
23 TIONERS.—The State shall have in effect a system
24 of reporting criminal background information on li-
25 censed health care practitioners to the agency des-

1 ignated under section 424(b) of the Health Care
2 Quality Improvement Act of 1986 (42 U.S.C.
3 11134(b)).”.

4 **SEC. 8. ACCESS BY HEALTH CARE ENTITIES TO HEALTH**
5 **CARE FRAUD AND ABUSE DATABASE.**

6 Section 1128E(d)(1) of the Social Security Act (42
7 U.S.C. 1320a-7e(d)(1)) is amended by striking “and
8 health plans” and inserting “, health plans, and health
9 care entities (as defined in section 231(4) of the Health
10 Care Quality Improvement Act of 1986 (42 U.S.C.
11 11151(4)))”.

12 **SEC. 9. CONSOLIDATION OF THE NATIONAL PRACTITIONER**
13 **DATA BANK AND THE HEALTHCARE INTEG-**
14 **RITY AND PROTECTION DATA BANK.**

15 The Secretary of Health and Human Services shall
16 provide for the consolidation of the National Practitioner
17 Data Bank and the Healthcare Integrity and Protection
18 Data Bank.

19 **SEC. 10. DATE OF IMPLEMENTATION.**

20 The Secretary shall, through the promulgation of ap-
21 propriate regulations, implement the provisions of this Act
22 within 1 year after the date of the enactment of this Act.