

108TH CONGRESS
2D SESSION

H. R. 4211

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2004

Mr. PALLONE introduced the following bill; which was referred to the Committee on Energy and Commerce

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 licensing
3 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 Medical
13 Examiners” and inserting “State licensing board”;

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

18 (7) in subsection (d)(2) (as so redesignated), in
19 the paragraph heading, by striking “Board of Med-
20 ical Examiners” and inserting “State licensing
21 board”;

22 (8) in subsection (e) (as so redesignated), in the
23 subsection heading, by striking “Board of Medical
24 Examiners” and inserting “State licensing board”;
25 and

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

2 “(f) CIVIL PENALTIES.—

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

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

12 **SEC. 4. CIVIL PENALTIES.**

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

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

20 (2) in subsection (a)—

21 (A) in the matter preceding paragraph

22 (1)—

23 (i) by striking “each hospital” and in-
24 serting “each health care entity and agen-

1 cy employing a physician or other licensed
2 health care practitioner”; and

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

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

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

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

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

15 “(d) CIVIL PENALTIES.—

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

21 “(2) REPEATED VIOLATIONS.—The Secretary
22 shall provide for civil penalties in addition to the
23 amount listed in paragraph (1) for a health care en-
24 tity or agency employing a physician or other li-

1 censed health care practitioner that establishes pat-
 2 terns of repeated violations of this section.”.

3 **SEC. 5. PROFESSIONAL REVIEW.**

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

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

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

14 “(A) knowingly disclosed false information;
 15 or

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

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

24 “(e) PROTECTION OF HEALTH CARE PRACTI-
 25 TIONERS.—A health care entity shall not penalize, dis-

1 criminate, or retaliate in any manner with respect to em-
 2 ployment, including discharge, promotion, compensation,
 3 or terms, conditions, or privileges of employment, against
 4 an employee who, in good faith, reports conduct that may
 5 be construed to violate a Federal or State law, including
 6 laws governing licensed health care professional practice
 7 standards, to a State authority, licensing authority, peer
 8 review organization, or employer.”.

9 **SEC. 6. HEALTH CARE ENTITY; SKILLED NURSING FACIL-**
 10 **ITY.**

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

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

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

17 (3) by inserting after paragraph (12) the fol-
 18 lowing:

19 “(13) The term ‘skilled nursing facility’ means
 20 an entity described in section 1819(a) of the Social
 21 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 “Against”;
 8 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.

