

HOUSE BILL 354

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2000 Regular Session
0lr1352
CF 0lr1393

By: **Delegates Doory and Getty (Committee to Revise Article 27)**

Introduced and read first time: February 2, 2000

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 29, 2000

CHAPTER _____

1 AN ACT concerning

2 **Crimes - State Health Plan Fraud**

3 FOR the purpose of revising and restating the laws relating to State health plan
4 fraud, Medicaid fraud, and related offenses; prohibiting a person from
5 knowingly and willfully defrauding or attempting to defraud a State health
6 plan; prohibiting a person from knowingly and willfully obtaining or attempting
7 to obtain by means of a false representation money, property, or any thing of
8 value under certain circumstances; prohibiting a person from knowingly and
9 willfully defrauding or attempting to defraud a State health plan of the right to
10 honest services; prohibiting a person with the intent to defraud from making a
11 false representation relating to health care services or a State health plan;
12 prohibiting a certain person from knowingly and willfully converting all or any
13 part of a State health plan benefit or payment to a use that is not for the
14 authorized beneficiary; prohibiting a person from providing to another
15 individual items or services for which certain payment is or may be made from
16 certain funds and solicit, offer, make, or receive a kickback or bribe in connection
17 with providing certain items or services or making or receiving a benefit or
18 payment under the State health plan; prohibiting a person from soliciting,
19 offering, making, or receiving a rebate of a fee or charge for referring another
20 individual to a third person to provide items or services for which certain
21 payment is made; prohibiting a person from knowingly and willfully making a
22 false representation with respect to conditions or operations of a facility,
23 institution, or State health plan in order to help the facility, institution, or State
24 health plan qualify to receive certain reimbursement; prohibiting a person from
25 knowingly and willfully obtaining or aiding another individual in obtaining by
26 certain acts a drug product or medical care the payment for all or part of which
27 is made from certain funds; prohibiting an unauthorized person from knowingly
28 and willfully possessing certain medical or pharmacy assistance cards; altering

1 the application of certain welfare fraud provisions; providing for a certain
2 statute of limitations for certain misdemeanor offenses; limiting a certain
3 prohibition on further payments under a certain medical program to apply only
4 to health care providers; transferring certain welfare application perjury
5 provisions; establishing certain criminal and civil penalties; defining certain
6 terms; making stylistic changes; and generally relating to State health plan
7 fraud.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 230A
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1999 Supplement)

13 BY repealing
14 Article 27 - Crimes and Punishments
15 Section 230B through 230D
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1999 Supplement)

18 BY adding to
19 Article 27 - Crimes and Punishments
20 Section 230B through 230H, inclusive, to be under the amended subheading
21 "Fraud - State Health Plans"
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1999 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article 88A - Department of Human Resources
26 Section 62
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 1999 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Courts and Judicial Proceedings
31 Section 5-106(a)
32 Annotated Code of Maryland
33 (1998 Replacement Volume and 1999 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article - Courts and Judicial Proceedings
36 Section 5-106(k) and (x)
37 Annotated Code of Maryland
38 (1998 Replacement Volume and 1999 Supplement)

1 BY repealing
2 Article - Courts and Judicial Proceedings
3 Section 5-106(w)
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 1999 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Health - General
8 Section 15-101(i)
9 Annotated Code of Maryland
10 (1994 Replacement Volume and 1999 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 15-123
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 1999 Supplement)

16 BY repealing
17 Article - Health - General
18 Section 15-123.1
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1999 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article 27 - Crimes and Punishments**

24 230A.

25 (a) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A VIOLATION OF §§
26 230B THROUGH 230F OF THIS ARTICLE.

27 (B) (1) [Any] A person who fraudulently obtains, attempts to obtain, or aids
28 another person in fraudulently obtaining or attempting to obtain money, property,
29 food stamps, [medical care] or other assistance other than Medicaid to which [he]
30 THE PERSON is not entitled, under a social, [health,] or nutritional program based on
31 need, financed in whole or in part by the State of Maryland, and administered by the
32 State or its political subdivisions is guilty of a misdemeanor. For purposes of this
33 section, fraud shall include:

34 [(1)] (I) Wilfully making a false statement or representation;

35 [(2)] (II) Wilfully failing to disclose a material change in household or
36 financial condition; or

1 converting any part of the benefit or payment to a use other than for the use and
2 benefit of that other person;

3 (5) Furnishing to a person items or services for which payment of any
4 part is or may be made from federal or State funds under a State medical assistance
5 program; and soliciting, offering, or receiving any (i) kickback or bribe in connection
6 with the furnishing of those items or services, or the making or receipt of any
7 payment; or (ii) rebate of any fee or charge for referring a person to another person for
8 the furnishing of those items or services;

9 (6) Knowingly or wilfully making or causing to be made, inducing or
10 seeking to induce the making of any false statement or representation of a material
11 fact with respect to the conditions or operation of any institution or facility so that the
12 institution or facility may qualify as a hospital, skilled nursing facility, intermediate
13 care facility, or home health agency;

14 (7) Fraudulently obtaining, attempting to obtain, or aiding another
15 person in obtaining or attempting to obtain any drug product or any medical care, the
16 benefit or payment of any part of which is or may be made from federal or State funds
17 under a State medical assistance program, by use of:

18 (i) Fraud, deceit, misrepresentation or subterfuge;

19 (ii) Forgery or alteration of a medical assistance or pharmacy
20 assistance prescription; or

21 (iii) Concealment of any material fact or by the use of false names or
22 addresses;

23 (8) Unauthorized possession of a blank medical assistance prescription;
24 or

25 (9) Possessing a medical assistance card or pharmacy assistance card
26 without the authorization of the person to whom the card is issued.

27 (c) "Person" includes associations, firms, institutions, partnerships,
28 copartnerships, or corporations, and any member, agent, officer, or employee of any of
29 them.]

30 [230C.

31 It is unlawful to commit Medicaid fraud.]

32 [230D.

33 (a) Every person convicted of the crime of Medicaid fraud in which the value of
34 the money, services, or goods involved is \$500 or more is guilty of a felony, and shall:

35 (1) Make full restitution of the money, services, or goods, or the value of
36 those services or goods unlawfully received;

1 (2) Be subject to a fine of not more than \$10,000, and imprisonment for a
2 period not to exceed five years, or both.

3 (b) Every person convicted of the crime of Medicaid fraud in which the value of
4 the money, services, or goods involved is less than \$500 is guilty of a misdemeanor,
5 and shall:

6 (1) Make restitution of the money, services, or goods, or the value of
7 those services or goods unlawfully received;

8 (2) Be subject to a fine of not more than \$1,000, and imprisonment for a
9 period not to exceed three years, or both.]

10 230B.

11 (A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) "FALSE REPRESENTATION" MEANS:

14 (1) ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY CONCEALING,
15 FALSIFYING, OR OMITTING A MATERIAL FACT; OR

16 (2) ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY MAKING A MATERIALLY
17 FALSE OR FRAUDULENT STATEMENT OR ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY
18 USING A DOCUMENT THAT CONTAINS A STATEMENT OF MATERIAL FACT THAT THE
19 USER KNOWS TO BE FALSE OR FRAUDULENT.

20 (C) (1) "HEALTH CARE SERVICE" MEANS HEALTH OR MEDICAL CARE
21 PROCEDURES, GOODS, OR SERVICES THAT:

22 (I) PROVIDE TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN
23 DISEASE OR DYSFUNCTION; OR

24 (II) DISPENSE DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES,
25 OR MEDICAL GOODS FOR THE TREATMENT OF HUMAN DISEASE OR DYSFUNCTION.

26 (2) "HEALTH CARE SERVICE" INCLUDES ANY PROCEDURE, GOODS, OR
27 SERVICE THAT IS A REQUIRED BENEFIT OF A STATE HEALTH PLAN.

28 (D) "REPRESENTATION" INCLUDES AN ACKNOWLEDGMENT, CERTIFICATION,
29 CLAIM, RATIFICATION, REPORT OF DEMOGRAPHIC STATISTICS, ENCOUNTER DATA,
30 ENROLLMENT CLAIMS, FINANCIAL INFORMATION, HEALTH CARE SERVICES
31 AVAILABLE OR RENDERED, AND QUALIFICATIONS OF A PERSON RENDERING HEALTH
32 CARE OR ANCILLARY SERVICES.

33 (E) "SERIOUS INJURY" MEANS AN INJURY THAT:

34 (1) CREATES A SUBSTANTIAL RISK OF DEATH;

1 (2) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
2 DISFIGUREMENT;

3 (3) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED LOSS OF
4 THE FUNCTION OF ANY BODY PART, ORGAN, OR MENTAL FACULTY;

5 (4) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
6 IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN; OR

7 (5) INVOLVES EXTREME PHYSICAL PAIN.

8 (F) (1) "STATE HEALTH PLAN" INCLUDES:

9 (I) THE STATE MEDICAL ASSISTANCE PLAN ESTABLISHED IN
10 ACCORDANCE WITH TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT OF 1939;

11 (II) A MEDICAL ASSISTANCE PLAN ESTABLISHED BY THE STATE; OR

12 (III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH
13 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN §
14 15-101 OF THE HEALTH - GENERAL ARTICLE, HEALTH CARE COOPERATIVE OR
15 ALLIANCE, OR OTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH
16 CARE SERVICES THAT ARE WHOLLY OR PARTLY REIMBURSED BY OR ARE A
17 REQUIRED BENEFIT OF A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH TITLE
18 XIX OF THE FEDERAL SOCIAL SECURITY ACT OF 1939 OR BY THE STATE.

19 (2) "STATE HEALTH PLAN" INCLUDES A PERSON THAT PROVIDES OR
20 CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR AN
21 ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

22 230C.

23 A PERSON MAY NOT:

24 (1) ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ DEFRAUD OR ATTEMPT TO
25 DEFRAUD A STATE HEALTH PLAN IN CONNECTION WITH THE DELIVERY OF OR
26 PAYMENT FOR HEALTH CARE SERVICES;

27 (2) ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ OBTAIN OR ATTEMPT TO
28 OBTAIN BY MEANS OF A FALSE REPRESENTATION MONEY, PROPERTY, OR ANY THING
29 OF VALUE IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR HEALTH CARE
30 SERVICES THAT WHOLLY OR PARTLY ARE REIMBURSED BY OR ARE A REQUIRED
31 BENEFIT OF A STATE HEALTH PLAN;

32 (3) ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ DEFRAUD OR ATTEMPT TO
33 DEFRAUD A STATE HEALTH PLAN OF THE RIGHT TO HONEST SERVICES; OR

34 (4) WITH THE INTENT TO DEFRAUD MAKE A FALSE REPRESENTATION
35 RELATING TO HEALTH CARE SERVICES OR A STATE HEALTH PLAN.

1 230D.

2 (A) A PERSON WHO HAS APPLIED FOR OR RECEIVED A BENEFIT OR PAYMENT
3 UNDER A STATE HEALTH PLAN FOR THE USE OF ANOTHER INDIVIDUAL MAY NOT
4 ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ CONVERT ALL OR ANY PART OF A STATE
5 HEALTH PLAN BENEFIT OR PAYMENT TO A USE THAT IS NOT FOR THE AUTHORIZED
6 BENEFICIARY.

7 (B) A PERSON MAY NOT:

8 (1) PROVIDE TO ANOTHER INDIVIDUAL ITEMS OR SERVICES FOR WHICH
9 PAYMENT WHOLLY OR PARTLY IS OR MAY BE MADE FROM FEDERAL OR STATE FUNDS
10 UNDER A STATE HEALTH PLAN; AND

11 (2) SOLICIT, OFFER, MAKE, OR RECEIVE A KICKBACK OR BRIBE IN
12 CONNECTION WITH PROVIDING THOSE ITEMS OR SERVICES OR MAKING OR
13 RECEIVING A BENEFIT OR PAYMENT UNDER A STATE HEALTH PLAN.

14 (C) A PERSON MAY NOT SOLICIT, OFFER, MAKE, OR RECEIVE A REBATE OF A
15 FEE OR CHARGE FOR REFERRING ANOTHER INDIVIDUAL TO A THIRD PERSON TO
16 PROVIDE ITEMS OR SERVICES FOR WHICH PAYMENT WHOLLY OR PARTLY IS OR MAY
17 BE MADE FROM FEDERAL OR STATE FUNDS UNDER A STATE HEALTH PLAN.

18 230E.

19 A PERSON MAY NOT ~~WILLFULLY KNOWINGLY AND WILLFULLY~~ MAKE, CAUSE TO
20 BE MADE, INDUCE, OR ATTEMPT TO INDUCE THE MAKING OF A FALSE
21 REPRESENTATION WITH RESPECT TO THE CONDITIONS OR OPERATION OF A
22 FACILITY, INSTITUTION, OR STATE HEALTH PLAN IN ORDER TO HELP THE FACILITY,
23 INSTITUTION, OR STATE HEALTH PLAN QUALIFY TO RECEIVE REIMBURSEMENT
24 UNDER A STATE HEALTH PLAN.

25 230F.

26 (A) A PERSON MAY NOT ~~WILLFULLY~~ WILLFULLY KNOWINGLY AND WILLFULLY OBTAIN,
27 ATTEMPT TO OBTAIN, OR AID ANOTHER INDIVIDUAL IN OBTAINING OR ATTEMPTING
28 TO OBTAIN A DRUG PRODUCT OR MEDICAL CARE, THE PAYMENT OF ALL OR A PART
29 OF WHICH IS OR MAY BE MADE FROM FEDERAL OR STATE FUNDS UNDER A STATE
30 HEALTH PLAN, BY:

31 (1) FRAUD, DECEIT, MISREPRESENTATION, OR CONCEALMENT;

32 (2) FORGERY OR ALTERATION OF A MEDICAL ASSISTANCE
33 PRESCRIPTION OR A PHARMACY ASSISTANCE PRESCRIPTION DISTRIBUTED UNDER A
34 STATE HEALTH PLAN;

35 (3) CONCEALMENT OF A MATERIAL FACT; OR

36 (4) USING A FALSE NAME OR A FALSE ADDRESS.

1 (B) A PERSON MAY NOT ~~WILLFULLY~~ KNOWINGLY AND WILLFULLY POSSESS A
2 MEDICAL ASSISTANCE CARD OR A PHARMACY ASSISTANCE CARD DISTRIBUTED
3 UNDER A STATE HEALTH PLAN OR THE MEDICAL ASSISTANCE OR PHARMACY
4 ASSISTANCE PROGRAM ESTABLISHED BY TITLE 15 OF THE HEALTH - GENERAL
5 ARTICLE WITHOUT THE AUTHORIZATION OF THE PERSON TO WHOM THE CARD IS
6 ISSUED.

7 230G.

8 (A) ANY HEALTH CARE PROVIDER THAT VIOLATES A PROVISION OF THIS
9 SUBHEADING IS LIABLE TO THE STATE FOR A CIVIL PENALTY NOT MORE THAN
10 TRIPLE THE AMOUNT OF THE OVERPAYMENT.

11 (B) THE CIVIL PENALTIES PROVIDED IN THIS SECTION ARE IN ADDITION TO
12 ANY OTHER PENALTIES PROVIDED BY LAW.

13 (C) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT A VICTIM'S RIGHT TO
14 RESTITUTION UNDER § 807 OF THIS ARTICLE.

15 230H.

16 (A) IF A VIOLATION OF THIS SUBHEADING RESULTS IN THE DEATH OF AN
17 INDIVIDUAL, A PERSON WHO VIOLATES A PROVISION OF THIS SUBHEADING IS
18 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
19 EXCEEDING LIFE OR A FINE NOT EXCEEDING \$200,000 OR BOTH.

20 (B) IF A VIOLATION OF THIS SUBHEADING RESULTS IN SERIOUS INJURY TO
21 AN INDIVIDUAL, A PERSON WHO VIOLATES A PROVISION OF THIS SUBHEADING IS
22 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
23 EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH.

24 (C) IF THE VALUE OF THE MONEY, HEALTH CARE SERVICES, OR OTHER GOODS
25 OR SERVICES INVOLVED IS \$500 OR MORE IN THE AGGREGATE, A PERSON WHO
26 VIOLATES A PROVISION OF THIS SUBHEADING IS GUILTY OF A FELONY AND ON
27 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE
28 NOT EXCEEDING \$100,000 OR BOTH.

29 (D) A PERSON WHO VIOLATES ANY OTHER PROVISION OF THIS SUBHEADING
30 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
31 NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

32 (E) (1) IN THIS SUBSECTION, "BUSINESS ENTITY" INCLUDES ASSOCIATION,
33 FIRM, INSTITUTION, PARTNERSHIP, COPARTNERSHIP, AND CORPORATION.

34 (2) A BUSINESS ENTITY THAT VIOLATES A PROVISION OF THIS
35 SUBHEADING IS SUBJECT TO A FINE NOT EXCEEDING:

36 (I) \$100,000 FOR EACH MISDEMEANOR; AND

37 (II) \$250,000 FOR EACH FELONY.

Article 88A - Department of Human Resources

2 62.

3 (a) [Every application for money, property, food stamps, medical care or other
4 assistance, under a social, health, or nutritional program based on need, financed in
5 whole or in part by the State of Maryland, and administered by the Department of
6 Human Resources, or the Department of Health and Mental Hygiene, or by the local
7 department of social services, whether under this or any other article in this Code,
8 shall be in writing and signed by the applicant. Any person who in making and
9 signing such an application makes a false or fraudulent statement with intent to
10 obtain any such money, property, food stamps, medical care or other assistance is
11 guilty of perjury and upon conviction therefor is subject to the penalties provided by
12 law for perjury.

13 (b) Beginning July 1, 1979, whenever a photoidentification card is issued to
14 the recipient of any public assistance, the Department of Social Services shall cause a
15 duplicate photoidentification print to be placed in the recipient's social service case
16 file.

17 [(c)] (B) (1) The Department of Human Resources may request and obtain
18 from any fiduciary institution doing business in the State any financial records that
19 the Department determines are necessary to verify or confirm an individual's
20 eligibility or ineligibility for public assistance.

21 (2) The Department of Human Resources shall adopt rules, procedures
22 and reimbursement schedules necessary to compensate fiduciary institutions for
23 compliance with this section.

24 [(d)] (C) (1) On or before July 1, 1985, the Department of Human Resources
25 shall adopt rules and regulations governing procedures for requesting, obtaining, and
26 examining financial records that the Department determines are necessary to verify
27 or confirm an individual's eligibility or ineligibility for public assistance.

28 (2) The Secretary of Human Resources shall notify a fiduciary
29 institution of those officers or employees of the Department of Human Resources
30 authorized to request and receive financial records from the fiduciary institution.

31 (3) An officer, employee, or representative of any agency authorized to
32 receive information under this section may not disclose any personally identifiable
33 information obtained or maintained under this section.

Article - Courts and Judicial Proceedings

35 5-106.

36 (a) Except as provided by this section, a prosecution for a misdemeanor shall
37 be instituted within 1 year after the offense was committed.

1 (k) A prosecution for [the] A MISDEMEANOR offense [of Medicaid fraud]
2 under THE FRAUD - STATE HEALTH PLANS SUBHEADING IN Article 27[, § 230B of
3 this] OF THE Code shall be instituted within 3 years after the offense was committed.

4 [(w) A prosecution for a Medicaid offense under § 15-123.1 of the Health -
5 General Article shall be instituted within 3 years after the offense was committed.]

6 [(x)] (W) A prosecution under Article 27, § 146(c) of the Code relating to
7 computer crimes shall be instituted within 3 years after the offense was committed.

8 **Article - Health - General**

9 15-101.

10 (i) "Program" means the Maryland Medical Assistance Program.

11 15-123.

12 (a) (1) [(i)] In this [subsection] SECTION the following words have the
13 meanings indicated.

14 [(ii)] (2) "Convicted" includes being convicted after a plea of nolo
15 contendere.

16 [(iii)] (3) "Fraud" includes the commission of or an attempt or
17 conspiracy to commit [a crime such as] THE CRIMES OF concealment of medical
18 records, [embezzlement, false pretenses, larceny, larceny after trust, Medicaid fraud,
19 Medicaid health plan fraud] VIOLATION UNDER THE FRAUD - STATE HEALTH PLANS
20 SUBHEADING OF ARTICLE 27 OF THE CODE, false representations relating to Medicaid
21 health plans, misappropriation by a fiduciary, [or] AND theft.

22 [(iv)] "Person" means an individual, partnership, limited partnership,
23 or corporation, including a professional corporation formed under Title 5, Subtitle 1 of
24 the Corporations and Associations Article.]

25 [(2)] (B) A [person] HEALTH CARE PROVIDER who is convicted of fraud
26 in connection with the Program or a similar FEDERAL OR STATE program [of any
27 other state] is ineligible for further payment under the Program.

28 [(b) (1) Any health care provider who is convicted of fraud, or who suffers a
29 judgment in favor of this State in a civil action based on fraud, in obtaining Medicaid
30 overpayments is liable to this State for triple the amount of the overpayment.

31 (2) In either a criminal or civil action, the court shall award the
32 appropriate sum in its sentence or judgment.]

33 [15-123.1.

34 (a) (1) In this section the following words have the meanings indicated.

- 1 (2) "Bodily injury" means:
- 2 (i) A cut, abrasion, bruise, burn, or disfigurement;
- 3 (ii) Illness;
- 4 (iii) Impairment of the function of a body part, organ, or mental
5 faculty;
- 6 (iv) Physical pain; or
- 7 (v) Any other injury to the body.
- 8 (3) "False representation" means:
- 9 (i) Knowingly and willfully concealing, falsifying, or omitting a
10 material fact; or
- 11 (ii) Knowingly and willfully making a materially false or
12 fraudulent statement or using a document that contains a materially false or
13 fraudulent statement.
- 14 (4) (i) "Health care service" means any health or medical care
15 procedure, good, or service that:
- 16 1. Provides testing, diagnosis, or treatment of human disease
17 or dysfunction; or
- 18 2. Dispenses drugs, medical devices, medical appliances, or
19 medical goods for the treatment of human disease or dysfunction.
- 20 (ii) "Health care service" includes any procedure, good, or service
21 that is a required benefit of the program.
- 22 (5) (i) "Medicaid health plan" means:
- 23 1. A state plan established by Title XIX of the Social Security
24 Act; or
- 25 2. A private health insurance carrier, health maintenance
26 organization, managed care organization, as defined in § 15-101(e) of this subtitle,
27 health care cooperative or alliance, or other person that provides or contracts to
28 provide health care services that, in whole or in part, are reimbursed by or are a
29 required benefit of a state plan established by Title XIX of the Social Security Act.
- 30 (ii) "Medicaid health plan" includes a person that provides or
31 contracts or subcontracts to provide health care services for an entity described in
32 subparagraph (i) of this paragraph.
- 33 (6) "Medicaid health plan fraud" means:

1 (i) Knowingly defrauding or attempting to defraud a Medicaid
2 health plan in connection with the delivery of or payment for health care services,
3 including defrauding or attempting to defraud a Medicaid health plan of the right to
4 honest services; or

5 (ii) Knowingly and willfully obtaining or attempting to obtain, by
6 means of a false representation, money, property, or any thing of value in connection
7 with the delivery of or payment for health care services that, in whole or in part, are
8 reimbursed by or are a required benefit of a Medicaid health plan.

9 (7) "Representation" includes an acknowledgment, certification, claim,
10 ratification, or report of demographic statistics, encounter data, enrollment claims,
11 financial information, health care services available or rendered, and the
12 qualifications of a person that is rendering health care or ancillary services.

13 (8) "Serious bodily injury" means a bodily injury that involves:

14 (i) A substantial risk of death;

15 (ii) Extreme physical pain;

16 (iii) Protracted and obvious disfigurement; or

17 (iv) Protracted loss or impairment of the function of a body part,
18 organ, or mental faculty.

19 (b) (1) A person may not commit Medicaid health plan fraud.

20 (2) If the value of the money, health care services, or other goods or
21 services involved is less than \$500 in the aggregate, a person who violates this
22 subsection is guilty of a misdemeanor and, on conviction, is subject to a fine of not
23 more than \$50,000 or imprisonment for not more than 3 years or both.

24 (3) If the value of the money, health care services, or other goods or
25 services involved is \$500 or more in the aggregate, a person who violates this
26 subsection is guilty of a felony and, on conviction, is subject to a fine of not more than
27 \$100,000 or imprisonment for not more than 5 years or both.

28 (c) (1) A person may not make false representations relating to Medicaid
29 health plans.

30 (2) A person who violates this subsection is guilty of a misdemeanor and,
31 on conviction, is subject to a fine of not more than \$50,000 or imprisonment for not
32 more than 3 years or both.

33 (d) (1) If a violation results in serious bodily injury to an individual, a
34 person who violates subsection (b) or (c) of this section is guilty of a felony and, on
35 conviction, is subject to a fine of not more than \$100,000 or imprisonment for not
36 more than 20 years or both.

1 (2) If a violation results in the death of an individual, a person who
2 violates subsection (b) or (c) of this section is guilty of a felony and, on conviction, is
3 subject to a fine of not more than \$200,000 or imprisonment for not more than life or
4 both.

5 (e) Unless a greater fine is authorized under this section, a person that is not
6 an individual and that violates subsection (b) or (c) of this section is subject to a fine
7 of not more than:

8 (1) \$100,000 for each misdemeanor; and

9 (2) \$250,000 for each felony.

10 (f) A person who violates subsection (b) or (c) of this section may be required
11 to make full restitution of the money, or the value of the health care services or other
12 goods or services unlawfully received.]

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2000.