
By: **Chairman, Finance Committee (By Request - Departmental - Health and Mental Hygiene)**

Introduced and read first time: January 16, 2006

Rules suspended

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2006

CHAPTER _____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Office of the Inspector**

3 **General - Health Program Integrity and Recovery Act**

4 FOR the purpose of establishing the Office of the Inspector General in the
 5 Department of Health and Mental Hygiene; providing for the authority, duties,
 6 and powers of the Office; ~~prohibiting certain acts by providers; describing~~
 7 ~~certain provider duties; providing for penalties and sanctions for violating~~
 8 ~~certain prohibited acts; granting a provider notice and an opportunity to be~~
 9 ~~heard; providing a person with an award, civil immunity, and protection from~~
 10 ~~retaliation for cooperating with an investigation~~ under certain circumstances;
 11 prohibiting certain health care providers from taking retaliatory actions against
 12 certain employees under certain circumstances; authorizing certain employees
 13 to file civil actions against certain providers under certain circumstances;
 14 limiting the length of time an employee may file a civil action under certain
 15 circumstances; authorizing a court to take certain actions; requiring certain
 16 providers to display certain notices and provide certain information in a certain
 17 manner; requiring the Department to establish a task force to review certain
 18 laws and regulations for certain purposes; requiring a certain report to be
 19 submitted to certain committees; defining certain terms; and generally relating
 20 to health program integrity and recovery activities.

21 BY adding to

22 Article - Health - General

23 Section 2-501 through ~~2-509~~ 2-505, inclusive, to be under the new subtitle

24 "Subtitle 5. Health Program Integrity and Recovery Activities"

25 Annotated Code of Maryland

1 (2005 Replacement Volume and 2005 Supplement)

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

4 **Article - Health - General**

5 SUBTITLE 5. HEALTH PROGRAM INTEGRITY AND RECOVERY ACTIVITIES.

6 2-501.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) "ABUSE" MEANS PROVIDER PRACTICES THAT ARE INCONSISTENT WITH
10 SOUND FISCAL, BUSINESS, OR MEDICAL PRACTICES AND RESULT IN UNNECESSARY
11 COSTS TO A PROGRAM, OR IN REIMBURSEMENT FOR SERVICES THAT ARE NOT
12 MEDICALLY NECESSARY OR THAT FAIL TO MEET PROFESSIONALLY RECOGNIZED
13 HEALTH CARE STANDARDS.

14 (C) "CLAIM" MEANS A REQUEST OR DEMAND FOR MONEY, PROPERTY, OR
15 SERVICES MADE UNDER CONTRACT OR OTHERWISE, BY A CONTRACTOR, GRANTEE,
16 PROVIDER, OR OTHER PERSON SEEKING MONEY FOR THE PROVISION OF HEALTH
17 SERVICES IF:

18 (1) THE STATE OR DEPARTMENT PROVIDES ANY PORTION OF THE
19 MONEY OR PROPERTY THAT IS REQUESTED OR DEMANDED; OR

20 (2) THE STATE OR DEPARTMENT REIMBURSES THE CONTRACTOR,
21 GRANTEE, PROVIDER, OR OTHER PERSON FOR ANY PORTION OF THE MONEY OR
22 PROPERTY THAT IS REQUESTED OR DEMANDED.

23 (D) ~~"CORPORATE COMPLIANCE PROGRAM" MEANS A FORMAL~~
24 ~~ORGANIZATIONAL PROGRAM THAT:~~

25 ~~(1) PROMOTES PREVENTION, DETECTION, AND RESOLUTION OF~~
26 ~~CONDUCT THAT DOES NOT CONFORM TO THE REQUIREMENTS OF THIS SUBTITLE;~~
27 ~~AND~~

28 ~~(2) MAY INCLUDE THE FOLLOWING ELEMENTS:~~

29 ~~(I) DESIGNATION OF AN INDIVIDUAL WITHIN THE ORGANIZATION~~
30 ~~AS THE ORGANIZATION'S COMPLIANCE OFFICER;~~

31 ~~(II) A TRAINING PROGRAM REGARDING REIMBURSEMENT~~
32 ~~PRINCIPLES;~~

33 ~~(III) A HOTLINE TO PROMOTE EFFECTIVE COMMUNICATION;~~

1 ~~(IV) PUBLISHED GUIDANCE REGARDING DISCIPLINARY ACTION FOR~~
 2 ~~CORPORATE OFFICERS, MANAGERS, AND EMPLOYEES WHO FAIL TO COMPLY WITH~~
 3 ~~THE ORGANIZATION'S BILLING STANDARDS;~~

4 ~~(V) PERIODIC REPORTING OF DATA NOT ORDINARILY REQUIRED TO~~
 5 ~~BE REPORTED; AND~~

6 ~~(VI) OTHER PROVISIONS THAT ARE NECESSARY TO COMBAT~~
 7 ~~MISTAKEN CLAIMS AND FRAUD, WASTE, AND ABUSE "EMPLOYEE" MEANS ANY~~
 8 ~~INDIVIDUAL WHO PERFORMS SERVICES FOR, OR UNDER THE CONTROL OR~~
 9 ~~DIRECTION OF, A PROVIDER FOR WAGES OR OTHER REMUNERATION.~~

10 (E) (1) "FRAUD" MEANS AN INTENTIONAL MATERIAL DECEPTION OR
 11 MISREPRESENTATION MADE BY A PERSON WITH THE KNOWLEDGE THAT THE
 12 DECEPTION OR MISREPRESENTATION COULD RESULT IN SOME UNAUTHORIZED
 13 BENEFIT OR PAYMENT.

14 (2) "FRAUD" INCLUDES ANY ACT THAT CONSTITUTES FRAUD UNDER
 15 APPLICABLE STATE OR FEDERAL LAW.

16 (F) ~~"KNOWING" OR "KNOWINGLY" MEANS THAT, WITH RESPECT TO~~
 17 ~~INFORMATION, A PERSON:~~

18 ~~(1) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;~~

19 ~~(2) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF~~
 20 ~~THE INFORMATION; OR~~

21 ~~(3) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF THE~~
 22 ~~INFORMATION, AND NO PROOF OF SPECIFIC INTENT TO DEFRAUD IS REQUIRED.~~

23 ~~(G)~~ "PROGRAM" MEANS THE MEDICAL ASSISTANCE PROGRAM, THE
 24 CIGARETTE RESTITUTION FUND PROGRAM, THE MENTAL HYGIENE
 25 ADMINISTRATION, THE DEVELOPMENTAL DISABILITIES ADMINISTRATION, THE
 26 ALCOHOL AND DRUG ABUSE ADMINISTRATION, THE FAMILY HEALTH
 27 ADMINISTRATION, THE COMMUNITY HEALTH ADMINISTRATION, OR ANY OTHER UNIT
 28 OF THE DEPARTMENT THAT PAYS A PROVIDER FOR A SERVICE RENDERED OR
 29 CLAIMED TO HAVE BEEN RENDERED TO A RECIPIENT.

30 ~~(H)~~ (G) (1) "PROVIDER" MEANS:

31 (I) AN INDIVIDUAL LICENSED OR CERTIFIED UNDER THE HEALTH
 32 OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE;

33 (II) A LICENSED FACILITY THAT PROVIDES HEALTH CARE TO
 34 INDIVIDUALS; ~~OR~~

35 (III) ANY OTHER PERSON WHO OR ENTITY THAT PROVIDES HEALTH
 36 CARE, PRODUCTS, OR SERVICES TO A PROGRAM RECIPIENT; OR

1 (2) "PROVIDER" INCLUDES:

2 (I) ~~A FACILITY AS DEFINED IN § 15-101 OF THE HEALTH GENERAL~~
3 ~~ARTICLE;~~

4 (II) ~~A HISTORIC PROVIDER AS DEFINED IN § 15-101 OF THE HEALTH~~
5 ~~GENERAL ARTICLE;~~

6 (III) ~~A MANAGED CARE ORGANIZATION AS DEFINED IN § 15-101 OF~~
7 ~~THE HEALTH GENERAL ARTICLE;~~

8 (IV) ~~A HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN §~~
9 ~~19-701 OF THE HEALTH GENERAL ARTICLE;~~

10 (V) ~~A FEDERALLY QUALIFIED HEALTH CENTER AS DEFINED IN §~~
11 ~~13-1101 OF THE HEALTH GENERAL ARTICLE; AND~~

12 (VI) (IV) A CONTRACTOR, SUBCONTRACTOR, OR VENDOR WHO
13 DIRECTLY OR INDIRECTLY PROVIDES THE DEPARTMENT OR ITS RECIPIENTS
14 SUPPLIES, DRUGS, EQUIPMENT, OR SERVICES.

15 (3) (2) "PROVIDER" DOES NOT INCLUDE A STATE AGENCY THAT
16 RECEIVES GRANT FUNDING FROM OR THROUGH THE DEPARTMENT IF THAT AGENCY
17 HAS IN PLACE A CORPORATE COMPLIANCE PROGRAM THAT MEETS DEPARTMENTAL
18 REQUIREMENTS.

19 (I) ~~"REASONABLE" MEANS FAIR, PROPER, OR SUITABLE UNDER THE~~
20 ~~CIRCUMSTANCES.~~

21 (4) (H) "RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES BENEFITS
22 UNDER A PROGRAM.

23 (K) (I) "RECOVERY" MEANS THE REPAYMENT OF MONEYS TO THE
24 DEPARTMENT BY A PROVIDER THROUGH RETURN, REIMBURSEMENT, RECOUPMENT,
25 WITHHOLDING OF FUTURE PAYMENTS, OFFSETS, OR ANY OTHER METHOD.

26 2-502.

27 THERE IS AN OFFICE OF THE INSPECTOR GENERAL IN THE DEPARTMENT.

28 2-503.

29 THE INSPECTOR GENERAL:

30 (1) MAY INVESTIGATE ~~MISTAKEN CLAIMS, AND~~ FRAUD, WASTE, AND
31 ABUSE OF DEPARTMENTAL FUNDS;

32 (2) SHALL COOPERATE WITH AND COORDINATE INVESTIGATIVE
33 EFFORTS WITH THE MEDICAID FRAUD CONTROL UNIT AND WHERE A PRELIMINARY
34 INVESTIGATION ESTABLISHES A SUFFICIENT BASIS TO WARRANT REFERRAL, SHALL
35 REFER SUCH MATTERS TO THE MEDICAID FRAUD CONTROL UNIT; AND

1 (3) SHALL COOPERATE WITH AND COORDINATE INVESTIGATIVE
2 EFFORTS WITH DEPARTMENTAL PROGRAMS AND OTHER STATE AND FEDERAL
3 AGENCIES TO ENSURE A PROVIDER IS NOT SUBJECT TO DUPLICATIVE AUDITS.

4 2-504.

5 THE INSPECTOR GENERAL, IN COLLABORATION WITH THE APPROPRIATE
6 DEPARTMENTAL PROGRAM, MAY:

7 (1) TAKE NECESSARY STEPS TO RECOVER ANY ~~MISTAKEN, WRONGFUL,~~
8 MISTAKEN CLAIMS PAID OR PAYMENTS OBTAINED IN ERROR OR FRAUDULENT
9 CLAIMS PAID TO OR OBTAINED BY A PROVIDER; AND

10 (2) TAKE NECESSARY STEPS TO RECOVER THE COST OF BENEFITS
11 MISTAKENLY, WRONGFULLY MISTAKENLY PAID OR OBTAINED IN ERROR, OR
12 FRAUDULENTLY PAID TO OR OBTAINED BY A RECIPIENT;

13 (3) ~~PERFORM AUDITS AND INSPECTIONS OF PROVIDERS;~~

14 (4) ~~WORK WITH PROVIDERS TO REDUCE MISTAKEN CLAIMS AND FRAUD,~~
15 ~~WASTE, AND ABUSE IN THE HEALTH CARE SYSTEM;~~

16 (5) ~~COORDINATE INVESTIGATIVE AND RECOVERY EFFORTS WITH~~
17 ~~OTHER DEPARTMENTS AND AGENCIES;~~

18 (6) ~~ISSUE AN ADMINISTRATIVE SUBPOENA FOR THE PRODUCTION OF~~
19 ~~ALL INFORMATION, DOCUMENTS, REPORTS, ANSWERS, RECORDS, ACCOUNTS,~~
20 ~~PAPERS, ELECTRONIC MEDIA, AND OTHER DATA AND DOCUMENTARY EVIDENCE~~
21 ~~THAT MAY ASSIST IN THE INVESTIGATION OF POTENTIAL FRAUD, WASTE, ABUSE,~~
22 ~~AND MISTAKEN OR WRONGFUL CLAIMS;~~

23 (7) ~~ADMINISTER TO AND ACCEPT FROM AN INDIVIDUAL AN OATH,~~
24 ~~AFFIRMATION, OR AFFIDAVIT;~~

25 (8) ~~REQUIRE A PROVIDER SEEKING PAYMENT FROM A STATE HEALTH~~
26 ~~PROGRAM TO ADOPT AND HAVE IN PLACE A CORPORATE COMPLIANCE PROGRAM;~~

27 (9) ~~WHEN A PROVIDER'S FISCAL SITUATION WARRANTS, REQUIRE A~~
28 ~~SURETY BOND FROM A PROVIDER TO ASSURE THAT SUFFICIENT FUNDS ARE~~
29 ~~AVAILABLE TO SATISFY ANY RECOVERY AMOUNTS DUE TO THE DEPARTMENT;~~

30 (10) ~~ENFORCE THE PENALTIES IN § 2-507 OF THIS SUBTITLE; AND~~

31 (11) ~~ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

1 ~~2-505.~~

2 A PERSON MAY NOT:

3 (1) KNOWINGLY PRESENT, OR CAUSE TO BE PRESENTED, TO A
4 PROGRAM, OFFICER, OR EMPLOYEE OF THE DEPARTMENT A WRONGFUL OR
5 FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;

6 (2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A FALSE
7 RECORD OR STATEMENT TO GET A WRONGFUL OR FRAUDULENT CLAIM PAID OR
8 APPROVED BY THE STATE;

9 (3) CONSPIRE TO DEFRAUD A PROGRAM BY GETTING A WRONGFUL OR
10 FRAUDULENT CLAIM APPROVED OR PAID;

11 (4) KNOWINGLY MAKE A WRONGFUL OR FRAUDULENT CLAIM AGAINST
12 A PROGRAM;

13 (5) ENGAGE IN PRACTICES PROHIBITED UNDER THIS SECTION OR BY
14 FEDERAL OR STATE LAW OR REGULATION REGARDING PARTICIPATION IN A
15 PROGRAM OR PROVIDING HEALTH CARE SERVICES TO A RECIPIENT; OR

16 (6) FAIL TO COOPERATE WITH AN INVESTIGATION BY THE
17 DEPARTMENT, INCLUDING:

18 (I) FAILURE TO PROVIDE ACCESS TO THE PREMISES FOR
19 INSPECTION, AUDIT, AND COPYING OF RECORDS OF A PROVIDER;

20 (II) FAILURE TO RESPOND TO A REQUEST FOR PRODUCTION OF
21 DOCUMENTS IN A TIMELY MANNER;

22 (III) FAILURE TO MAINTAIN RECORDS FOR 5 YEARS AFTER A CLAIM
23 IS SUBMITTED FOR PAYMENT, OR THE PERIOD OF TIME REQUIRED BY THE PAYING
24 PROGRAM, WHICHEVER IS GREATER;

25 (IV) MAKING A FALSE STATEMENT; OR

26 (V) FAILURE TO PROVIDE STATEMENTS UNDER OATH.

27 ~~2-506.~~

28 (A) IF A PROVIDER HAS A REASONABLE INDICATION OF FRAUD, WASTE, OR
29 ABUSE, THE PROVIDER SHALL IMMEDIATELY NOTIFY IN WRITING THE APPROPRIATE
30 PROGRAM, THE INSPECTOR GENERAL, OR THE MEDICAID FRAUD CONTROL UNIT OF
31 THE OFFICE OF THE ATTORNEY GENERAL.

32 (B) ON RECEIPT OF NOTIFICATION, THE INSPECTOR GENERAL MAY:

33 (1) CONDUCT AN INVESTIGATION;

1 (2) REFER THE MATTER TO THE APPROPRIATE PROGRAM FOR
2 ~~INVESTIGATION OR RECOVERY; OR~~

3 (3) REFER THE MATTER TO THE MEDICAID FRAUD CONTROL UNIT OF
4 ~~THE OFFICE OF THE ATTORNEY GENERAL.~~

5 (C) ~~THE NOTIFICATION REQUIRED UNDER THIS SUBSECTION DOES NOT LIMIT
6 THE DEPARTMENT'S AUTHORITY TO INVESTIGATE MISTAKEN CLAIMS AND FRAUD,
7 WASTE, AND ABUSE IN ABSENCE OF NOTIFICATION.~~

8 (D) ~~IN DETERMINING WHETHER TO PROCEED WITH AN ACTION, AND AN
9 APPROPRIATE PENALTY, THE DEPARTMENT SHALL TAKE INTO ACCOUNT WHETHER
10 THE PROVIDER:~~

11 (1) ~~SELF-REPORTED; AND~~

12 (2) ~~HAS A CORPORATE COMPLIANCE PROGRAM.~~

13 ~~2-507.~~

14 (A) ~~A PROVIDER WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS
15 SUBJECT TO THE FOLLOWING ADMINISTRATIVE PENALTIES:~~

16 (1) ~~RECOVERY OF ANY DEPARTMENTAL FUNDS WRONGFULLY,
17 FRAUDULENTLY, OR MISTAKENLY PAID TO THE PROVIDER;~~

18 (2) ~~COSTS OF COLLECTION AND INVESTIGATION OF THE MISTAKEN
19 CLAIM AND FRAUD, WASTE, OR ABUSE;~~

20 (3) ~~INTEREST ON ANY MONEYS MISTAKENLY, WRONGFULLY, OR
21 FRAUDULENTLY OBTAINED BY THE PERSON;~~

22 (4) ~~IMPOSITION OF A LIEN ON ASSETS TO ENSURE SUFFICIENT FUNDS
23 ARE AVAILABLE TO SATISFY ANY RECOVERY AMOUNT DUE TO THE DEPARTMENT;~~

24 (5) ~~A FINE TO BE LEVIED BY THE DEPARTMENT OF UP TO \$10,000 PER
25 INCIDENT WITH A MAXIMUM OF \$100,000;~~

26 (6) ~~SUSPENSION OF THE PROVIDER'S PARTICIPATION IN A PROGRAM;~~

27 (7) ~~TERMINATION OF THE PROVIDER'S PARTICIPATION IN A PROGRAM;~~
28 ~~OR~~

29 (8) ~~ANY OTHER PENALTIES, LIMITS, CONDITIONS, OR CONTROLS
30 IMPOSED BY THE DEPARTMENT REGARDING THE PROVISION OF HEALTH CARE
31 SERVICES TO A RECIPIENT OR THE PROVIDER'S PARTICIPATION IN A DEPARTMENTAL
32 PROGRAM.~~

33 (B) ~~THE PENALTIES PROVIDED IN THIS SECTION ARE IN ADDITION TO ANY
34 CRIMINAL, CIVIL, OR ADMINISTRATIVE PENALTIES PROVIDED UNDER ANY OTHER
35 STATE OR FEDERAL STATUTE OR REGULATION.~~

~~1 (C) THE DEPARTMENT SHALL PAY ANY FINE COLLECTED UNDER THIS
2 SECTION INTO THE GENERAL FUND OF THE STATE.~~

~~3 (D) THE COMPTROLLER SHALL:~~

~~4 (1) DEPOSIT ANY FINE COLLECTED UNDER THIS SUBTITLE INTO THE
5 GENERAL FUND OF THE STATE; AND~~

~~6 (2) RETURN TO OR CREDIT THE RESPECTIVE PROGRAM WITH ANY
7 RECOVERY OR OTHER RESTORATION OF FUNDS FOR ACTIONS TAKEN UNDER THIS
8 SECTION.~~

~~9 (E) AN ACTION UNDER THIS SUBTITLE MAY NOT BE BROUGHT AFTER THE
10 LATER OF:~~

~~11 (1) 5 YEARS AFTER THE DATE ON WHICH THE VIOLATION OCCURS; OR~~

~~12 (2) 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE ACTION
13 ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN BY THE OFFICIAL OF THE
14 STATE OR DEPARTMENT CHARGED WITH THE RESPONSIBILITY FOR ACTING UNDER
15 THE CIRCUMSTANCES.~~

~~16 2-508.~~

~~17 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE
18 PROCEDURE ACT AND IN PARAGRAPH (3) OF THIS SUBSECTION, THE DEPARTMENT
19 SHALL GIVE A PERSON AGAINST WHOM AN ACTION IS CONTEMPLATED NOTICE AND
20 AN OPPORTUNITY FOR A HEARING.~~

~~21 (2) THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THE
22 ADMINISTRATIVE PROCEDURE ACT.~~

~~23 (3) FEDERAL AUTHORITY TO IMMEDIATELY SUSPEND PAYMENT TO A
24 PROVIDER RECEIVING FUNDS UNDER THE MEDICAID PROGRAM FOR FRAUDULENT
25 ACTIVITY IS EXPRESSLY RETAINED.~~

~~26 (B) (1) A PERSON AGGRIEVED BY A FINAL DECISION OF THE DEPARTMENT
27 MAY TAKE A DIRECT JUDICIAL APPEAL.~~

~~28 (2) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW
29 OF A FINAL DECISION UNDER THE ADMINISTRATIVE PROCEDURE ACT.~~

~~30 (3) A FINAL DECISION OF THE DEPARTMENT MAY NOT BE STAYED
31 PENDING REVIEW.~~

~~32 (C) FOR ANY ACTION BROUGHT UNDER THIS SUBTITLE, THE PROVISIONS OF §
33 10-224 OF THE STATE GOVERNMENT ARTICLE ARE APPLICABLE ONLY TO RECOVERY
34 ACTIONS THAT ARE CLEARLY FRIVOLOUS, VEXATIOUS, OR BROUGHT PRIMARILY FOR
35 THE PURPOSES OF HARASSMENT.~~

1 ~~2-509; 2-505.~~

2 (A) ~~THE DEPARTMENT MAY AWARD A PERSON WHO IS INSTRUMENTAL IN THE~~
3 ~~RECOVERY OF DEPARTMENTAL FUNDS AN AMOUNT NOT GREATER THAN 10% OF THE~~
4 ~~PROCEEDS ACTUALLY RECOVERED.~~

5 (B) ~~AN EMPLOYEE OR CONTRACTOR OF FEDERAL, STATE, OR LOCAL~~
6 ~~GOVERNMENT IS NOT ELIGIBLE FOR AN AWARD UNDER THIS SECTION.~~

7 (C) ~~THE DEPARTMENT MAY NOT AWARD A PERSON WHO KNOWINGLY~~
8 ~~PARTICIPATED IN THE VIOLATION ON WHICH THE ACTION WAS BASED.~~

9 (D) A PERSON IS NOT CIVILLY LIABLE FOR:

10 (1) MAKING A REPORT IN GOOD FAITH OF A MISTAKEN CLAIM AND
11 FRAUD, WASTE, OR ABUSE; OR

12 (2) PARTICIPATING IN ANY INVESTIGATION RELATED TO A MISTAKEN
13 CLAIM AND FRAUD, WASTE, OR ABUSE.

14 (E) (B) (1) THIS SUBSECTION DOES NOT APPLY TO AN EMPLOYEE AS
15 DEFINED IN § 1-501(C) OF THE HEALTH OCCUPATIONS ARTICLE OR A STATE
16 EMPLOYEE.

17 (2) A PROVIDER MAY NOT TAKE A RETALIATORY ACTION AGAINST AN
18 EMPLOYEE BECAUSE THE EMPLOYEE:

19 (I) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR OR
20 TO A PUBLIC BODY AN ACTIVITY, POLICY, OR PRACTICE OF THE PROVIDER THAT THE
21 EMPLOYEE REASONABLY BELIEVES IS IN VIOLATION OF THIS SUBTITLE OR A
22 REGULATION ADOPTED UNDER THIS SUBTITLE;

23 (II) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A PUBLIC
24 BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A SUSPECTED
25 VIOLATION BY THE PROVIDER UNDER THIS SUBTITLE OR A REGULATION ADOPTED
26 UNDER THIS SUBTITLE; OR

27 (III) OBJECTS TO OR REFUSES TO PARTICIPATE IN ANY ACTIVITY,
28 POLICY, OR PRACTICE THAT THE EMPLOYEE REASONABLY BELIEVES IS IN
29 VIOLATION OF THIS SUBTITLE OR REGULATIONS ADOPTED UNDER THIS SUBTITLE.

30 (2) (3) ~~IF THE PROVIDER TAKES A RETALIATORY ACTION AGAINST THE~~
31 ~~EMPLOYEE, AN EMPLOYEE, OTHER THAN A STATE EMPLOYEE, MAY FILE A CIVIL~~
32 ~~ACTION AGAINST AN EMPLOYER, OTHER THAN A SUPERVISOR IN STATE~~
33 ~~GOVERNMENT, AN APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE HEAD~~
34 ~~OF A PRINCIPAL UNIT IN STATE GOVERNMENT.~~

35 (3) ~~THE CAUSE OF ACTION AND REMEDIES AVAILABLE AGAINST AN~~
36 ~~EMPLOYER THAT RETALIATES SHALL BE AS ARE AVAILABLE TO INDIVIDUALS UNDER~~
37 ~~TITLE 1, SUBTITLE 5 OF THE HEALTH OCCUPATIONS ARTICLE.~~

1 (4) ~~A STATE EMPLOYEE WHO IS SUBJECT TO A RETALIATORY ACTION:~~

2 (1) ~~MAY FILE A COMPLAINT UNDER TITLE 5, SUBTITLE 3 OF THE~~
3 ~~STATE PERSONNEL AND PENSIONS ARTICLE; BUT~~

4 (2) ~~MAY NOT FILE A CIVIL ACTION UNDER THIS SUBSECTION ANY~~
5 ~~EMPLOYEE WHO IS SUBJECT TO AN ACTION IN VIOLATION OF PARAGRAPH (2) OF THIS~~
6 ~~SUBSECTION MAY INSTITUTE A CIVIL ACTION IN THE COUNTY WHERE:~~

7 (1) THE ALLEGED VIOLATION OCCURRED;

8 (2) THE EMPLOYEE RESIDES; OR

9 (3) THE PROVIDER MAINTAINS ITS PRINCIPAL OFFICE IN THE
10 STATE.

11 (4) THE ACTION SHALL BE BROUGHT WITHIN 1 YEAR AFTER THE
12 ALLEGED VIOLATION OF PARAGRAPH (2) OF THIS SUBSECTION OR WITHIN 1 YEAR
13 AFTER THE EMPLOYEE FIRST BECAME AWARE OF THE ALLEGED VIOLATION OF
14 PARAGRAPH (1) OF THIS SUBSECTION.

15 (5) IN ANY ACTION BROUGHT UNDER THIS SUBSECTION, A COURT MAY:

16 (1) ISSUE AN INJUNCTION TO RESTRAIN CONTINUED VIOLATION
17 OF THIS SUBSECTION;

18 (2) REINSTATE THE EMPLOYEE TO THE SAME OR AN EQUIVALENT
19 POSITION HELD BEFORE THE VIOLATION OF PARAGRAPH (2) OF THIS SUBSECTION;

20 (3) REMOVE ANY ADVERSE PERSONNEL RECORD ENTRIES BASED
21 ON OR RELATED TO THE VIOLATION OF PARAGRAPH (2) OF THIS SUBSECTION;

22 (4) REINSTATE FULL FRINGE BENEFITS AND SENIORITY RIGHTS;

23 (5) REQUIRE COMPENSATION FOR LOST WAGES, BENEFITS, AND
24 OTHER REMUNERATION; AND

25 (6) ASSESS REASONABLE ATTORNEY'S FEES AND OTHER
26 LITIGATION EXPENSES AGAINST:

27 1. THE PROVIDER, IF THE EMPLOYEE PREVAILS; OR

28 2. THE EMPLOYEE, IF THE COURT DETERMINES THAT THE
29 ACTION WAS BROUGHT BY THE EMPLOYEE IN BAD FAITH AND WITHOUT BASIS IN
30 LAW OR FACT.

31 (5) (6) ~~AN EMPLOYER A PROVIDER SHALL:~~

32 (1) CONSPICUOUSLY DISPLAY NOTICES OF ITS EMPLOYEE
33 PROTECTIONS UNDER THIS ~~SECTION~~ SUBSECTION; AND

1 (II) USE APPROPRIATE MEANS TO INFORM ITS EMPLOYEES OF THE
2 PROTECTIONS AND OBLIGATIONS PROVIDED UNDER THIS ~~SECTION~~ SUBSECTION.

3 (6) ~~THIS SECTION MAY NOT BE CONSTRUED TO CONTRAVENE THE~~
4 ~~HEALTH CARE WHISTLEBLOWER PROTECTION PROVISIONS OF TITLE 1, SUBTITLE 5~~
5 ~~OF THE HEALTH OCCUPATIONS ARTICLE.~~

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
7 Health and Mental Hygiene shall:

8 (1) establish a task force composed of all interested parties for the
9 purpose of consolidating departmental authority over fraud, waste, and abuse by
10 reviewing Maryland laws governing the Department, and regulations issued by the
11 Department, to eliminate overlapping and duplicate administrative authority within
12 the Department as a result of establishing the Office of Inspector General; and

13 (2) in accordance with § 2-1246 of the State Government Article, report
14 its findings and recommendations to the Senate Finance Committee and the House
15 Health and Government Operations Committee on or before December 1, 2006.

16 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take
17 effect October 1, 2006.