

STATEMENT TO
SENATE, No. 2270

with Assembly Floor Amendments
(Proposed By Assemblyman TALARICO
and Assemblywoman WRIGHT)

ADOPTED: JANUARY 8, 1998

This bill creates the new criminal offense of health care claims fraud and, in certain circumstances, requires the revocation or suspension of the licenses of those practitioners who commit this type of fraud.

These floor amendments would amend the bill to provide a findings and declarations section.

These floor amendments would also change the presumptions to inferences in section 3 of the bill and omit in entirety what is currently the presumption concerning making three or more false statements. The floor amendments would authorize the Attorney General to develop health care claims fraud prosecution guidelines. The Attorney General would be required to disseminate those guidelines to county prosecutors within 120 days of the effective date of the bill. The floor amendments would add the criminal code definition of "recklessly." The amendments provide nothing in the act would preclude an assignment judge from dismissing a prosecution of health care claims fraud if the judge determines that the conduct charged to be a de minimis infraction pursuant to N.J.S. 2C:2-11.

Section 4 of the bill, which provides that any practitioner who is convicted of health care claims fraud would be forever barred from the practice of his profession, would be amended to authorize the court, if it finds that such license forfeiture would be a serious injustice which overrides the need to deter such conduct by others, to determine an appropriate period of license suspension which shall be for a period of not less than one year. The amendments would also provide that if the court does not permanently forfeit such license, the sentence would not become final for 10 days in order to permit the appeal of such sentence by the prosecution. Subsection c. of section 4 would be amended to require the court, if a conviction is reversed or the order of license forfeiture or suspension is overturned, to provide notice of reinstatement to the appropriate licensing agency within 10 days of the date of the order of reinstatement.

In addition, these floor amendments would add new sections 5 and 6 to the bill. Section 5 would provide that if an order of expungement is granted to a person whose professional license was forfeited, that person would be allowed to petition the court to rescind the court's order of debarment provided that the person can demonstrate that he

is sufficiently rehabilitated.

Section 6 provides that if any provisions of the act, or any application of any provision, is held invalid, the invalidity would not affect other applications of the provision or other provisions of the act which reasonably can be given effect despite the invalidity.