

ASSEMBLY, No. 2823

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblyman GARY S. SCHAER
District 36 (Bergen and Passaic)

SYNOPSIS

Establishes waiver, rebate or payment of insured's deductible, copayment, or coinsurance by health care practitioner as a form of insurance fraud subject to criminal and civil penalties.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning insurance fraud related to health care claims
2 and amending various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1997, c.353 (C.2C:21-4.3) is amended to
8 read as follows:

9 3. a. A practitioner is guilty of a crime of the second degree if
10 that person knowingly commits health care claims fraud in the
11 course of providing professional services. In addition to all other
12 criminal penalties allowed by law, a person convicted under this
13 subsection may be subject to a fine of up to five times the pecuniary
14 benefit obtained or sought to be obtained.

15 b. A practitioner is guilty of a crime of the third degree if that
16 person recklessly commits health care claims fraud in the course of
17 providing professional services. In addition to all other criminal
18 penalties allowed by law, a person convicted under this subsection
19 may be subject to a fine of up to five times the pecuniary benefit
20 obtained or sought to be obtained.

21 c. A person, who is not a practitioner subject to the provisions
22 of subsection a. or b. of this section, is guilty of a crime of the third
23 degree if that person knowingly commits health care claims fraud.
24 A person, who is not a practitioner subject to the provisions of
25 subsection a. or b. of this section, is guilty of a crime of the second
26 degree if that person knowingly commits five or more acts of health
27 care claims fraud and the aggregate pecuniary benefit obtained or
28 sought to be obtained is at least \$1,000. In addition to all other
29 criminal penalties allowed by law, a person convicted under this
30 subsection may be subject to a fine of up to five times the pecuniary
31 benefit obtained or sought to be obtained.

32 d. (1) A person, who is not a practitioner subject to the
33 provisions of subsection a. or b. of this section, is guilty of a crime
34 of the fourth degree if that person recklessly commits health care
35 claims fraud.

36 (2) A practitioner is guilty of a crime of the fourth degree
37 involving health care claims fraud if that practitioner, directly or
38 indirectly related to a claim, knowingly waives, rebates, gives, pays,
39 or offers to waive, rebate, give or pay all or part of the deductible,
40 copayment, or coinsurance owed by a covered person pursuant to
41 the terms of an insurance policy between the covered person and
42 that person's insurance company as defined by section 72 of
43 P.L.2003, c.89 (C.2C:21-4.5).

44 In addition to all other criminal penalties allowed by law, a
45 person convicted under this subsection may be subject to a fine of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 up to five times the pecuniary benefit obtained or sought to be
2 obtained.

3 e. Each act of health care claims fraud shall constitute an
4 additional, separate and distinct offense, except that five or more
5 separate acts may be aggregated for the purpose of establishing
6 liability pursuant to subsection c. of this section. Multiple acts of
7 health care claims fraud which are contained in a single record, bill,
8 claim, application, payment, affidavit, certification or other
9 document shall each constitute an additional, separate and distinct
10 offense for purposes of this section.

11 f. (1) The falsity, fictitiousness, fraudulence or misleading
12 nature of a statement may be inferred by the trier of fact in the case
13 of a practitioner who attempts to submit, submits, causes to be
14 submitted, or attempts to cause to be submitted, any record, bill,
15 claim or other document for treatment or procedure without the
16 practitioner, or an associate of the practitioner, having performed an
17 assessment of the physical or mental condition of the patient or
18 client necessary to determine the appropriate course of treatment.

19 (2) The falsity, fictitiousness, fraudulence or misleading nature
20 of a statement may be inferred by the trier of fact in the case of a
21 person who attempts to submit, submits, causes to be submitted, or
22 attempts to cause to be submitted any record, bill, claim or other
23 document for more treatments or procedures than can be performed
24 during the time in which the treatments or procedures were
25 represented to have been performed.

26 (3) Proof that a practitioner has signed or initialed a record, bill,
27 claim or other document gives rise to an inference that the
28 practitioner has read and reviewed that record, bill, claim or other
29 document.

30 g. In order to promote the uniform enforcement of this act, the
31 Attorney General shall develop health care claims fraud prosecution
32 guidelines and disseminate them to the county prosecutors within
33 120 days of the effective date of this act.

34 h. For the purposes of this section, a person acts recklessly
35 with respect to a material element of an offense when he
36 consciously disregards a substantial and unjustifiable risk that the
37 material element exists or will result from his conduct. The risk
38 must be of such a nature and degree that, considering the nature and
39 purpose of the actor's conduct and the circumstances known to him,
40 its disregard involves a gross deviation from the standard of
41 conduct that a reasonable person would observe in the actor's
42 situation.

43 i. (1) Nothing in this act shall preclude an indictment and
44 conviction for any other offense defined by the laws of this State.

45 (2) Nothing in this act shall preclude an assignment judge from
46 dismissing a prosecution of health care claims fraud if the
47 assignment judge determines, pursuant to N.J.S.2C:2-11, the

1 conduct charged to be a de minimis infraction.
2 (cf: P.L.2003, c.89, s.75)

3

4 2. Section 73 of P.L.2003, c.89 (C.2C:21-4.6) is amended to
5 read as follows:

6 73. a. A person is guilty of the crime of insurance fraud if that
7 person knowingly makes, or causes to be made, a false, fictitious,
8 fraudulent, or misleading statement of material fact in, or omits a
9 material fact from, or causes a material fact to be omitted from, any
10 record, bill, claim or other document, in writing, electronically,
11 orally or in any other form, that a person attempts to submit,
12 submits, causes to be submitted, or attempts to cause to be
13 submitted as part of, in support of or opposition to or in connection
14 with: (1) a claim for payment, reimbursement or other benefit
15 pursuant to an insurance policy, or from an insurance company or
16 the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174
17 (C.39:6-61 et seq.); (2) an application to obtain or renew an
18 insurance policy; (3) any payment made or to be made in
19 accordance with the terms of an insurance policy or premium
20 finance transaction; or (4) an affidavit, certification, record or other
21 document used in any insurance or premium finance transaction.

22 b. A person who operates a motor vehicle on the public
23 highways of this State, which motor vehicle is insured by a policy
24 issued under the laws of another state, is guilty of the crime of
25 insurance fraud if that person maintains a principal residence in this
26 State or has his motor vehicle principally garaged in this State and
27 he has knowingly prepared or made any written, electronic or oral
28 statement, presented to any insurance company or producer licensed
29 to transact the business of insurance under the laws of that other
30 state, and which resulted in obtaining a motor vehicle insurance
31 policy for his motor vehicle in that other state, that the person to be
32 insured: (1) maintains a principal residence in the other state when,
33 in fact, that person's principal residence is in this State; or (2) has
34 his motor vehicle principally garaged in the other state, when, in
35 fact, that person has his motor vehicle principally garaged in this
36 State. This subsection shall not apply to a person who insures a
37 vehicle in another state, as permitted by and in accordance with the
38 laws of that state, based on a second residence, or attendance at an
39 educational institution, in that other state, if in obtaining the policy
40 the person truthfully discloses to the insurance company or
41 producer the state of the person's principal residence and the state
42 where the vehicle is principally garaged.

43 c. Insurance fraud constitutes a crime of the second degree if
44 the person knowingly commits five or more acts of insurance fraud,
45 including acts of health care claims fraud pursuant to section 2 of
46 P.L.1997, c.353 (C.2C:21-4.2) and if the aggregate value of
47 property, services or other benefit wrongfully obtained or sought to
48 be obtained is at least \$1,000. Otherwise, insurance fraud in

1 violation of subsection a. of this section is a crime of the third
2 degree, unless this fraud involves an act of health care claims fraud
3 pursuant to subsection d. of section 3 of P.L.1997, c.353 (C.2C:21-
4 4.3), in which case it is a crime of the fourth degree, and insurance
5 fraud in violation of subsection b. of this section is a crime of the
6 fourth degree. Each act of insurance fraud shall constitute an
7 additional, separate and distinct offense, except that five or more
8 separate acts may be aggregated for the purpose of establishing
9 liability pursuant to this subsection. Multiple acts of insurance
10 fraud which are contained in a single record, bill, claim,
11 application, payment, affidavit, certification or other document shall
12 each constitute an additional, separate and distinct offense for
13 purposes of this section.

14 d. Proof that a person has signed or initialed an application,
15 bill, claim, affidavit, certification, record or other document may
16 give rise to an inference that the person has read and reviewed the
17 application, bill, claim, affidavit, certification, record or other
18 document.

19 e. In order to promote the uniform enforcement of this act, the
20 Attorney General shall develop insurance fraud prosecution
21 guidelines and disseminate them to county prosecutors within 180
22 days of the effective date of this act.

23 f. Nothing in this act shall preclude an indictment and
24 conviction for any other offense defined by the laws of this State.

25 g. Nothing in this act shall preclude an assignment judge from
26 dismissing a prosecution of insurance fraud if the assignment judge
27 determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a
28 de minimis infraction.

29 (cf: P.L.2015, c.48, s.1)

30

31 3. Section 4 of P.L.1997, c.353 (C.2C:51-5) is amended to read
32 as follows:

33 4. a. (1) A practitioner convicted of health care claims fraud
34 pursuant to subsection a. of section 3 of P.L.1997, c.353 (C.2C:21-
35 4.3) or a substantially similar crime under the laws of another state
36 or the United States shall forfeit his license and be forever barred
37 from the practice of the profession unless the court finds that such
38 license forfeiture would be a serious injustice which overrides the
39 need to deter such conduct by others and in such case the court shall
40 determine an appropriate period of license suspension which shall
41 be for a period of not less than one year. If the court does not
42 permanently forfeit such license pursuant to this paragraph, the
43 sentence shall not become final for 10 days in order to permit the
44 appeal of such sentence by the prosecution.

45 (2) Upon a first conviction of health care claims fraud pursuant
46 to subsection b. of section 3 of P.L.1997, c.353 (C.2C:21-4.3) or a
47 substantially similar crime under the laws of another state or the
48 United States, a practitioner shall have his license suspended and be

1 barred from the practice of the profession for a period of at least
2 one year.

3 (3) Upon a second conviction of health care claims fraud
4 pursuant to subsection b. of section 3 of P.L.1997, c.353 (C.2C:21-
5 4.3) or a substantially similar crime under the laws of another state
6 or the United States, a practitioner shall forfeit his license and be
7 forever barred from the practice of the profession.

8 (4) A person convicted of second degree insurance fraud
9 pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6) or a
10 substantially similar crime under the laws of another state or the
11 United States who holds a license or certificate of authority or
12 qualification to engage in the practice of a profession, occupation,
13 trade, or vocation or business, including but not limited to a
14 practitioner as defined in section 2 of P.L.1997, c.353 (C.2C:21-
15 4.2), shall forfeit that license or certificate and be forever barred
16 from the practice of that profession, occupation, trade, vocation or
17 business if the act or acts of insurance fraud were related to or
18 performed while engaged in the practice of that profession,
19 occupation, trade, vocation or business, unless the court finds that
20 such license or certificate forfeiture would be a serious injustice
21 which overrides the need to deter such conduct by others and in that
22 case the court shall determine an appropriate period of license or
23 certificate suspension which shall be for a period of not less than
24 one year. If the court does not permanently forfeit such license or
25 certificate pursuant to this paragraph, the sentence shall not become
26 final for 10 days in order to permit the appeal of that sentence by
27 the prosecution.

28 (5) A person convicted of third degree insurance fraud pursuant
29 to section 73 of P.L.2003, c.89 (C.2C:21-4.6) or a substantially
30 similar crime under the laws of another state or the United States
31 who holds a license or certificate of authority or qualification to
32 engage in the practice of a profession, occupation, trade, vocation
33 or business, including but not limited to a practitioner as defined in
34 section 2 of P.L.1997, c.353 (C.2C:21-4.2), shall have his license or
35 certificate suspended and be barred from the practice of that
36 profession, occupation, trade, vocation or business for a period of at
37 least one year if the act or acts of insurance fraud were related to or
38 performed while engaged in the practice of that profession,
39 occupation, trade, vocation or business.

40 (6) Upon a second conviction of third degree insurance fraud
41 pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6) or a
42 substantially similar crime under the laws of another state or the
43 United States which meets the criteria of paragraph (2) of this
44 subsection, a person shall forfeit his license or certificate and be
45 forever barred from the practice of that profession, occupation,
46 trade, vocation or business.

47 (7) Upon application of the county prosecutor or the Attorney
48 General, a person convicted of any crime of the second degree or

1 above enumerated in chapter 20 or 21 of Title 2C of the New Jersey
2 Statutes or a substantially similar crime under the laws of another
3 state or the United States who holds a license or certificate or
4 authority or qualification to engage in the practice of a profession,
5 occupation, trade, vocation or business, including a practitioner as
6 defined in section 2 of P.L.1997, c.353 (C.2C:21-4.2), shall forfeit
7 such license or certificate and be forever barred from the practice of
8 that profession, occupation, trade, vocation or business if the act or
9 acts underlying the conviction involved or were related to an
10 insurance transaction as defined in section 72 of P.L.2003, c.89
11 (C.2C:21-4.5) and touched upon or were performed while engaged
12 in the practice of that profession, occupation, trade, vocation or
13 business, unless the court finds that the license or certificate
14 forfeiture would be a serious injustice which overrides the need to
15 deter such conduct by others and in that case the court shall
16 determine an appropriate period of license or certificate suspension
17 which shall be for a period of not less than one year. If the court
18 does not permanently forfeit that license or certificate pursuant to
19 this paragraph, the sentence shall not become final for 10 days in
20 order to permit the appeal of that sentence by the prosecution.

21 (8) Upon application of the county prosecutor or the Attorney
22 General, a person convicted of any crime of the third degree
23 enumerated in chapter 20 or 21 of Title 2C of the New Jersey
24 Statutes or a substantially similar crime under the laws of another
25 state or the United States who holds a license or certificate of
26 authority or qualification to engage in the practice of a profession,
27 occupation, trade, vocation or business, including but not limited to
28 a practitioner as defined in section 2 of P.L.1997, c.353 (C.2C:21-
29 4.2), shall have his license or certificate suspended and be barred
30 from the practice of that profession, occupation, trade, vocation or
31 business for a period of at least one year if the act or acts
32 underlying the conviction involved or were related to an insurance
33 transaction as defined in section 72 of P.L.2003, c.89 (C.2C:21-4.5)
34 and touched upon or were performed while engaged in the practice
35 of that profession, occupation, trade, vocation or business.

36 (9) A practitioner convicted of health care claims fraud pursuant
37 to subsection d. of section 3 of P.L.1997, c.353 (C.2C:21-4.3) or a
38 substantially similar crime under the laws of another state or the
39 United States may have his license or certificate suspended and be
40 barred from the practice of the profession for a period of not more
41 than one year.

42 b. A court of this State shall enter an order of license or
43 certificate forfeiture or suspension pursuant to subsection a. of this
44 section:

45 (1) Immediately upon a finding of guilt by the trier of fact or a
46 plea of guilty entered in any court of this State; or

47 (2) Upon application of the county prosecutor or the Attorney
48 General, when the license or certificate forfeiture or suspension is

1 made pursuant to paragraph (4) of subsection a. of this section or is
2 based upon a conviction of an offense under the laws of another
3 state or of the United States. An order of license or certificate
4 forfeiture or suspension pursuant to this paragraph shall be effective
5 as of the date the person is found guilty by the trier of fact or pleads
6 guilty to the offense.

7 This application may also be made in the alternative by the
8 Attorney General to the appropriate licensing agency.

9 The court shall provide notice of the forfeiture or suspension to
10 the appropriate licensing agency within 10 days of the date an order
11 of forfeiture or suspension is entered.

12 c. No court shall grant a stay of an order of license or
13 certificate forfeiture or suspension pending appeal of a conviction
14 or forfeiture or suspension order unless the court is clearly
15 convinced that there is a substantial likelihood of success on the
16 merits. If the conviction is reversed or the order of license or
17 certificate forfeiture or suspension is overturned, the court shall
18 provide notice of reinstatement to the appropriate licensing agency
19 within 10 days of the date of the order of reinstatement. The license
20 or certificate shall be restored, in accordance with applicable
21 procedures, unless the appropriate licensing agency determines to
22 suspend or revoke the license or certificate.

23 d. In any case in which the issue of license or certificate
24 forfeiture or suspension is not raised in a court of this State at the
25 time of a finding of guilt, entry of a guilty plea or sentencing, a
26 license or certificate forfeiture or suspension required by this
27 section may be ordered by a court or by the appropriate licensing
28 agency of this State upon application of the county prosecutor or
29 the Attorney General or upon application of the appropriate
30 licensing agency having authority to revoke or suspend the
31 professional's license or certificate. The fact that a court has
32 declined to order license or certificate forfeiture or suspension shall
33 not preclude the appropriate licensing agency having authority to
34 revoke or suspend the professional's license or certificate from
35 seeking to do so on the ground that the conduct giving rise to the
36 conviction demonstrates that the person is unfit to hold the license
37 or certificate or is otherwise liable for an offense as specified in
38 section 8 of P.L.1978, c.73 (C.45:1-21).

39 e. If the Supreme Court of the State of New Jersey issues Rules
40 of Court pursuant to this act, the Supreme Court may revoke the
41 license to practice law of any attorney who has been convicted,
42 under the laws of this State, of health care claims fraud pursuant to
43 section 3 of P.L.1997, c.353 (C.2C:21-4.3), or an offense which, if
44 committed in this State, would constitute health care claims fraud,
45 insurance fraud pursuant to section 73 of P.L.2003, c.89 (C.2C:21-
46 4.6), or an offense which, if committed in this State, would
47 constitute insurance fraud.

1 f. Nothing in this section shall be construed to prevent or limit
2 the appropriate licensing agency or any other party from taking any
3 other action permitted by law against the practitioner.
4 (cf: P.L.2003, c.89, s.76)

5
6 4. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to
7 read as follows:

8 4. a. A person or a practitioner violates this act if he:

9 (1) Presents or causes to be presented any written or oral
10 statement as part of, or in support of or opposition to, a claim for
11 payment or other benefit pursuant to an insurance policy or the
12 "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174
13 (C.39:6-61 et seq.), knowing that the statement contains any false or
14 misleading information concerning any fact or thing material to the
15 claim; or

16 (2) Prepares or makes any written or oral statement that is
17 intended to be presented to any insurance company, the Unsatisfied
18 Claim and Judgment Fund or any claimant thereof in connection
19 with, or in support of or opposition to any claim for payment or
20 other benefit pursuant to an insurance policy or the "Unsatisfied
21 Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et
22 seq.), knowing that the statement contains any false or misleading
23 information concerning any fact or thing material to the claim; or

24 (3) Conceals or knowingly fails to disclose the occurrence of an
25 event which affects any person's initial or continued right or
26 entitlement to (a) any insurance benefit or payment or (b) the
27 amount of any benefit or payment to which the person is entitled;

28 (4) Prepares or makes any written or oral statement, intended to
29 be presented to any insurance company or producer for the purpose
30 of obtaining:

31 (a) a motor vehicle insurance policy, that the person to be
32 insured maintains a principal residence in this State when, in fact,
33 that person's principal residence is in a state other than this State; or

34 (b) an insurance policy, knowing that the statement contains any
35 false or misleading information concerning any fact or thing
36 material to an insurance application or contract;

37 (5) Conceals or knowingly fails to disclose any evidence,
38 written or oral, which may be relevant to a finding that a violation
39 of the provisions of paragraph (4) of this subsection a. has or has
40 not occurred; or

41 (6) Prepares, presents or causes to be presented to any insurer or
42 other person, or demands or requires the issuance of, a certificate of
43 insurance that contains any false or misleading information
44 concerning the policy of insurance to which the certificate makes
45 reference, or assists, abets, solicits or conspires with another to do
46 any of these acts. As used in this paragraph, "certificate of
47 insurance" means a document or instrument, regardless of how
48 titled or described, that is, or purports to be, prepared or issued by

1 an insurer or insurance producer as evidence of property or casualty
2 insurance coverage. The term shall not include a policy of
3 insurance, insurance binder, policy endorsement, or automobile
4 insurance identification or information card.

5 b. A person or practitioner violates this act if he knowingly
6 assists, conspires with, or urges any person or practitioner to violate
7 any of the provisions of this act.

8 c. A person or practitioner violates this act if, due to the
9 assistance, conspiracy or urging of any person or practitioner, he
10 knowingly benefits, directly or indirectly, from the proceeds
11 derived from a violation of this act.

12 d. A person or practitioner who is the owner, administrator or
13 employee of any hospital violates this act if he knowingly allows
14 the use of the facilities of the hospital by any person in furtherance
15 of a scheme or conspiracy to violate any of the provisions of this
16 act.

17 e. A person or practitioner violates this act if, for pecuniary
18 gain, for himself or another, he directly or indirectly solicits any
19 person or practitioner to engage, employ or retain either himself or
20 any other person to manage, adjust or prosecute any claim or cause
21 of action, against any person, for damages for negligence, or, for
22 pecuniary gain, for himself or another, directly or indirectly solicits
23 other persons to bring causes of action to recover damages for
24 personal injuries or death, or for pecuniary gain, for himself or
25 another, directly or indirectly solicits other persons to make a claim
26 for personal injury protection benefits pursuant to P.L.1972, c.70
27 (C.39:6A-1 et seq.); provided, however, that this subsection shall
28 not apply to any conduct otherwise permitted by law or by rule of
29 the Supreme Court.

30 f. A person who operates a motor vehicle on the public
31 highways of this State, which motor vehicle is insured by a policy
32 issued under the laws of another state, and who maintains a
33 principal residence in this State or who has his motor vehicle
34 principally garaged in this State violates the provisions of P.L.1983,
35 c.320 (C.17:33A-1 et seq.) if he has knowingly prepared or made
36 any written or oral statement, presented to any insurance company
37 or producer licensed to transact the business of insurance under the
38 laws of that other state, and which resulted in obtaining a motor
39 vehicle insurance policy for his motor vehicle in that other state,
40 that the person to be insured:

41 (1) Maintains a principal residence in the other state when, in
42 fact, that person's principal residence is in this State; or

43 (2) Has his vehicle principally garaged in the other state, when,
44 in fact, that person has his motor vehicle principally garaged in this
45 State.

46 This subsection shall not apply to a person who insures a vehicle
47 in another state, as permitted by and in accordance with the laws of
48 that state, based on a second residence, or attendance at an

1 educational institution, in that other state, if in obtaining the policy
2 the person truthfully discloses to the insurance company or
3 producer the state of the person's principal residence and the state
4 where the vehicle is principally garaged.

5 g. A practitioner violates the “New Jersey Insurance Fraud
6 Prevention Act,” P.L.1983, c.320 (C.17:33A-1 et seq.), if that
7 practitioner, directly or indirectly related to a claim, waives,
8 rebates, gives, pays, or offers to waive, rebate, give or pay all or
9 part of the deductible, copayment, or coinsurance owed by a
10 covered person pursuant to the terms of an insurance policy
11 between the covered person and that person’s insurance company.
12 (cf: P.L.2015, c.195, s.10)

13
14 5. This act shall take effect on the first day of the fourth month
15 next following enactment, and shall apply to any health care claim
16 submitted, attempted to be submitted, caused to be submitted, or
17 attempted to cause to be submitted, for payment or reimbursement
18 on or after that date.

20 21 STATEMENT

22
23 This bill establishes that a waiver, rebate or payment of an
24 insured’s deductible, copayment, or coinsurance by a health care
25 practitioner, owed by a covered person pursuant to the terms of an
26 insurance policy between that person and an insurance company,
27 shall be considered a form of insurance fraud. The bill amends
28 several sections of the State’s Criminal Code (Title 2C of the New
29 Jersey Statutes) concerning “health care claims fraud” and
30 “insurance fraud,” as well as the “New Jersey Insurance Fraud
31 Prevention Act,” P.L.1983, c.320 (C.17:33A-1 et seq.) in order to
32 accomplish its objectives.

33 First, the bill establishes that a health care practitioner is guilty
34 of a crime of the fourth degree involving health care claims fraud if
35 that practitioner, directly or indirectly related to a claim, knowingly
36 waives, rebates, gives, pays, or offers to waive, rebate, give or pay
37 all or part of the deductible, copayment, or coinsurance owed by a
38 covered person pursuant to the terms of an insurance policy
39 between the covered person and that person’s insurance company.
40 A crime of the fourth degree is punishable by a term of
41 imprisonment of up to 18 months, a fine of up to \$10,000, or both.

42 The bill also incorporates this form of fourth degree health care
43 claims fraud within the relevant provisions of the Criminal Code
44 which describe the broader crime of “insurance fraud,” set forth in
45 section 73 of P.L.2003, c.89 (C.2C:21-4.6).

46 In addition to the above described term of imprisonment and
47 fine, the commission of the fourth degree crime of health care
48 claims fraud may result in an order by the court or an appropriate

1 licensing agency, which suspends the guilty health care
2 practitioner's license or certificate for a period of not more than one
3 year, and bars the practitioner from the practice of the profession
4 during that time.

5 Second, under the "New Jersey Insurance Fraud Prevention Act,"
6 the bill establishes that a health care practitioner violates that act if
7 the practitioner, directly or indirectly related to a claim, waives,
8 rebates, gives, pays, or offers to waive, rebate, give or pay all or
9 part of the deductible, copayment, or coinsurance owed by a
10 covered person. In accordance with that act, a violation may
11 subject the health care practitioner to an administrative proceeding
12 before the Commissioner of Banking and Insurance, with a penalty
13 of between \$5,000 and \$15,000, plus restitution to any insurance
14 company that suffered losses due to the violation, or a civil action
15 in court with the same range of monetary penalties, plus payment of
16 court costs and reasonable attorneys' fees to the commissioner.

17 Further, violations of the "New Jersey Insurance Fraud
18 Prevention Act" may result in a recommendation to the appropriate
19 licensing agency with respect to a potential suspension or
20 revocation of the health care practitioner's license or certification.
21 See P.L.1998, c.21, s.41 (C.17:33A-25).