

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1091*

Short Title: Workers' Comp. Fraud.

(Public)

Sponsors: Representatives Lemmond; Crawford, McComas, McMahan, G. Miller, Sharpe, and Thompson.

Referred to: Insurance, if favorable, Judiciary II.

May 14, 1996

A BILL TO BE ENTITLED

1 AN ACT TO CONFORM THE PENALTY FOR WORKERS' COMPENSATION
2 FRAUD TO THE PENALTY FOR INSURANCE FRAUD AND TO RAISE THE
3 PENALTIES FOR CERTAIN OTHER WORKERS' COMPENSATION OFFENSES
4 FROM CLASS 1 MISDEMEANORS TO CLASS H FELONIES.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 97-88.2 reads as rewritten:

8 **"§ 97-88.2. Penalty for misrepresentation.**

9 (a) Any person who willfully makes a false statement or representation of a
10 material fact for the purpose of obtaining or denying any benefit or payment, or assisting
11 another to obtain or deny any benefit or payment under this Article, shall be guilty of a
12 ~~Class 1 misdemeanor. The court may order restitution. Class H felony, punishable in~~
13 accordance with G.S. 58-2-161.

14 (b) The Commission shall:

- 15 (1) Perform investigations regarding all cases of suspected fraud and all
16 violations related to workers' compensation claims, by or against
17 insurers or self-funded employers, and refer possible criminal violations
18 to the appropriate prosecutorial authorities;
19 (2) Conduct administrative violation proceedings; and

1 (3) Assess and collect penalties and restitution.

2 (c) Any person who threatens an employee with criminal prosecution under the
3 provisions of subsection (a) of this section for the purpose of coercing or attempting to
4 coerce the employee into agreeing to compensation under this Article shall be guilty of a
5 ~~Class 1 misdemeanor.~~ Class H felony.

6 (d) The Commission shall not be liable in a civil action for any action made in
7 good faith under this section, including the identification and referral of a person for
8 investigation and prosecution for an alleged administrative violation or criminal offense.
9 Any person, including, but not limited to, an attorney, an employee, an employer, an
10 insurer, and an employee of an insurer, who in good faith comes forward with
11 information under this section, shall not be liable in a civil action.

12 (e) The Commission shall report annually to the General Assembly on the number
13 and disposition of investigations involving claimants, employers, insurance company
14 officials, officials of third-party administrators, insurance agents, attorneys, health care
15 providers, and vocational rehabilitation providers."

16 Sec. 2. G.S. 97-88.3 reads as rewritten:

17 "**§ 97-88.3. Penalty for health care providers.**

18 (a) In addition to any liability under G.S. 97-88.2, any health care provider who
19 willfully or intentionally undertakes the following acts is subject to an administrative
20 penalty, assessed by the Commission, not to exceed ten thousand dollars (\$10,000):

21 (1) Submitting charges for health care that was not furnished;

22 (2) Fraudulently administering, providing, and attempting to collect for
23 inappropriate or unnecessary treatment or services; or

24 (3) Violating the provisions of Article 28 of Chapter 90 of the General
25 Statutes.

26 A penalty assessed by the Commission for a violation of subdivision (3) of this
27 subsection is in addition to penalties assessed under G.S. 90-407.

28 (b) In addition to any liability under G.S. 97-88.2, any health care provider who
29 willfully or intentionally undertakes the following acts is subject to an administrative
30 penalty, assessed by the Commission, not to exceed one thousand dollars (\$1,000):

31 (1) Failing or refusing to timely file required reports or records;

32 (2) Making unnecessary referrals; and

33 (3) Knowingly violating this Article or rules promulgated hereunder,
34 including treatment guidelines, with intention to deceive or to gain
35 improper advantage of a patient, employee, insurer, or the Commission.

36 (c) A health care provider who knowingly charges or otherwise holds an employee
37 financially responsible for the cost of any services provided for a compensable injury
38 under this Article is guilty of a ~~Class 1 misdemeanor.~~ Class H felony.

39 (d) Any person, including, but not limited to, an employer, an insurer, and an
40 employee of an insurer, who in good faith comes forward with information under this
41 section, shall not be liable in a civil action.

1 (e) Information relating to possible violations under this section shall be reported
2 to the Commission which shall refer the same to the appropriate licensing or regulatory
3 board or authority for the health care provider involved.

4 (f) A hospital that relies in good faith on a written order of a physician in
5 performing health care services shall not be subject to an administrative penalty in
6 violation of this section."

7 Sec. 3. This act becomes effective October 1, 1996, and applies to offenses
8 occurring on or after that date.