

§ 2C:21-4.2. Definitions relative to health care claims fraud

As used in this act:

"Health care claims fraud" means making, or causing to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omitting a material fact from, or causing a material fact to be omitted from, any record, bill, claim or other document, in writing, electronically or in any other form, that a person attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted for payment or reimbursement for health care services.

"Practitioner" means a person licensed in this State to practice medicine and surgery, chiropractic, podiatric medicine, dentistry, optometry, psychology, pharmacy, nursing, physical therapy, or law; any other person licensed, registered or certified by any State agency to practice a profession or occupation in the State of New Jersey or any person similarly licensed, registered, or certified in another jurisdiction.

§ 2C:21-4.3. Health care claims fraud, degree of crime; prosecution guidelines

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

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

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

d. A person, who is not a practitioner subject to the provisions of subsection a. or b. of this section, is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, a person convicted under

this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.

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

- f. (1) The falsity, fictitiousness, fraudulence or misleading nature of a statement may be inferred by the trier of fact in the case of a practitioner who attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted, any record, bill, claim or other document for treatment or procedure without the practitioner, or an associate of the practitioner, having performed an assessment of the physical or mental condition of the patient or client necessary to determine the appropriate course of treatment.
- (2) The falsity, fictitiousness, fraudulence or misleading nature of a statement may be inferred by the trier of fact in the case of a person who attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted any record, bill, claim or other document for more treatments or procedures than can be performed during the time in which the treatments or procedures were represented to have been performed.
- (3) Proof that a practitioner has signed or initialed a record, bill, claim or other document gives rise to an inference that the practitioner has read and reviewed that record, bill, claim or other document.

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

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

- i. (1) Nothing in this act shall preclude an indictment and conviction for any other offense defined by the laws of this State.
- (2) Nothing in this act shall preclude an assignment judge from dismissing a prosecution of health care claims fraud if the assignment judge determines, pursuant to *N.J.S. 2C:2-11*, the conduct charged to be a de minimis infraction.