

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Chairman, Senate Judiciary Committee
"Criminal Prosecution as a Deterrent to Health Care Fraud"
Hearing Before Crime and Drugs Subcommittee of Senate Judiciary Committee
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I would like to thank my longtime friend Senator Specter for chairing this hearing before the Subcommittee on Crime and Drugs to focus on our efforts to crack down on criminal health care fraud. This topic is timely and important, and I applaud Senator Specter for drawing attention to it.

I have worked hard in this Congress to combat the fraud that threatens to undermine our government's efforts to rebuild the economy and help those who are suffering in these tough economic times. Later this afternoon, President Obama will sign the Leahy-Grassley Fraud Enforcement and Recovery Act (FERA) into law. This bill is the most comprehensive legislation to combat mortgage and financial fraud in more than two decades. I introduced this legislation in February to address the growing concern that not enough had been done to protect the billions of dollars in taxpayer money being spent to stabilize our banking system and housing markets, and to make sure those who have taken advantage of vulnerable homeowners, investors, and retirees by committing fraud are held fully accountable under the law.

I want to thank the extraordinary efforts of the original co-sponsors of this bill - Senators Grassley and Kaufman - who worked tirelessly with me to pass FERA, as well as the six other members of this Committee who joined as co-sponsors: Senators Specter, Durbin, Schumer, Cardin, Whitehouse, and Klobuchar. I believe this important fraud legislation, which passed in both the Senate and the House with overwhelming support, is the kind of bipartisan achievement that the American people want and expect from Congress and from the new administration.

Now, we must turn from the problem of financial fraud to the growing crisis of health care fraud, and I hope we can all work together toward a similar bipartisan response. The President has called upon Congress to pass comprehensive health care reform this year, and I believe that strengthening our enforcement efforts to crack down on rampant fraud, waste, and abuse in the health care system is vital to the success of health care reform. Working with Senator Grassley, I have begun to consult with those on the Finance and HELP Committees who are crafting the health care reform legislation, and I hope this legislation will include provisions strengthening enforcement of health care fraud, just as we have done so successfully with mortgage and

financial fraud. Today's hearing, which is focused on the need to use criminal prosecution as a deterrent to health care fraud, is an important piece of that overall effort.

I was encouraged today to learn that Attorney General Holder and Health and Human Services Secretary Sebelius will make health care fraud enforcement a priority as well. Today, the Attorney General and the Secretary announced the expansion of the joint-agency health care task forces to Detroit and Houston, and new coordination efforts lead by Health Care Fraud Prevention and Enforcement Teams, which will be called HEAT teams, at both agencies. The Attorney General and the Secretary also pledged to make greater efforts to use technology and data sharing to stop fraud before it starts.

Working together to fight fraud throughout government has been a hallmark of this new administration, and I applaud the Attorney General and Secretary for their early commitment to combat health care fraud with innovative and cooperative enforcement strategies. These efforts will undoubtedly help reduce the costs of health care and protect taxpayers' funds in the future, and be an important part of our overall plan to reform health care in this country.

The scale of health care fraud in America today is staggering. Our nation spends more than \$2.2 trillion dollars a year on health care, and Federal and State governments make up more \$800 billion of that spending. According to conservative estimates, about three percent of the funds spent on health care are lost to fraud - that totals more than \$60 billion dollars a year. For the Medicare program alone, the General Accounting Office estimates that more than \$10 billion dollars was lost to fraud just last year. Unfortunately, this problem appears to be getting worse, not better.

The answer to this problem is to make our enforcement stronger and more effective. We need to deter fraud with swift and certain prosecution, as well as prevent fraud by using real-time internal controls that stop fraud even before it occurs. We need to make sure our enforcement efforts are fully coordinated, not only between the Justice Department and other agencies, but also between Federal, state, and private health care fraud investigators. Much has been done to improve enforcement since the late 1990s, but we can and must do more.

In 1997, the Clinton administration created the Health Care Fraud and Abuse Control (HCFAC) program to provide a framework for a coordinated attack on health care fraud. The HCFAC program has proven to work, having provided vital resources for the Justice Department, the Federal Bureau of Investigation, and the Inspector General's Office at HHS to fight fraud. And like so many fraud enforcement programs, HCFAC program pays for itself many, many time over, as last year it returned more than \$1.8 billion to the Federal Government and led to savings of more than \$30 billion in avoided health care costs and payments. We need to build upon and expand the success of the HCFAC program as we look to reform our health care system.

I also hope that we will continue to encourage whistleblowers to come forward and uncover these frauds, as I have for many years. I will continue working with Senator Grassley to strengthen even further the False Claims Act, which we bolstered in important ways in FERA, as it is one of our most potent tools for combating health care fraud.

But the task ahead is daunting. The Justice Department has more than 1,600 pending criminal health care investigations and more than 800 civil false claims case involving health care fraud. These cases involved some of the most sophisticated price schemes ever seen, and require significant expertise to discover and investigative skill to prove in court. Our enforcement efforts attacking health care fraud need to be aggressive, efficient, and creative. I look forward to hearing from all our witnesses about their recommendations for improving criminal health care fraud enforcement.

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