§ 1320b-25. Reporting to law enforcement of crimes occurring in federally funded long-term care facilities

(a) Determination and notification

(1) Determination

The owner or operator of each long-term care facility that receives Federal funds under this chapter shall annually determine whether the facility received at least $10,000 in such Federal funds during the preceding year.

(2) Notification

If the owner or operator determines under paragraph (1) that the facility received at least $10,000 in such Federal funds during the preceding year, such owner or operator shall annually notify each covered individual (as defined in paragraph (3)) of that individual’s obligation to comply with the reporting requirements described in subsection (b).

(b) Reporting requirements

(1) In general

Each covered individual shall report to the Secretary and 1 or more law enforcement entities for the political subdivision in which the facility is located any reasonable suspicion of a crime (as defined by the law of the applicable political subdivision) against any individual who is a resident of, or is receiving care from, the facility.

(2) Timing

If the events that cause the suspicion—

(A) result in serious bodily injury, the individual shall report the suspicion immediately, but not later than 2 hours after forming the suspicion; and

(B) do not result in serious bodily injury, the individual shall report the suspicion not later than 24 hours after forming the suspicion.

(c) Penalties

(1) In general

If a covered individual violates subsection (b)—

(A) the covered individual shall be subject to a civil money penalty of not more than $200,000; and

(B) the Secretary may make a determination in the same proceeding to exclude the covered individual from participation in any Federal health care program (as defined in section 1320a-7(b)(7)(A) of this title).

(2) Increased harm

If a covered individual violates subsection (b) and the violation exacerbates the harm to the victim of the crime or results in harm to another individual—

(A) the covered individual shall be subject to a civil money penalty of not more than $300,000; and

(B) the Secretary may make a determination in the same proceeding to exclude the covered individual from participation in any Federal health care program (as defined in section 1320a-7(b)(7)(A) of this title).

(3) Excluded individual

During any period for which a covered individual is classified as an excluded individual under paragraph (1)(B) or (2)(B), a long-term care facility that employs such individual shall be ineligible to receive Federal funds under this chapter.

(4) Extenuating circumstances

(A) In general

The Secretary may take into account the financial burden on providers with underserved populations in determining any penalty to be imposed under this subsection.

(B) Underserved population defined

In this paragraph, the term “underserved population” means the population of an area designated by the Secretary as an area with a shortage of elder justice programs or a population group designated by the Secretary as having a shortage of such programs. Such areas or groups designated by the Secretary may include—

(i) areas or groups that are geographically isolated (such as isolated in a rural area);

(ii) racial and ethnic minority populations; and

(iii) populations underserved because of special needs (such as language barriers, disabilities, alien status, or age).

(d) Additional penalties for retaliation

(1) In general

A long-term care facility may not—

(A) discharge, demote, suspend, threaten, harass, or deny a promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee; or

(B) file a complaint or a report against a nurse or other employee with the appropriate State professional disciplinary agency because of lawful acts done by the nurse or employee,

for making a report, causing a report to be made, or for taking steps in furtherance of making a report pursuant to subsection (b)(1).

(2) Penalties for retaliation

If a long-term care facility violates subparagraph (A) or (B) of paragraph (1) the facility shall be subject to a civil money penalty of not more than $200,000 or the Secretary may classify the entity as an excluded entity for a period of 2 years pursuant to section 1320a-7(b)(7)(A) of this title, or both.

(3) Requirement to post notice

Each long-term care facility shall post conspicuously in an appropriate location a sign...
(in a form specified by the Secretary) specifying the rights of employees under this section. Such sign shall include a statement that an employee may file a complaint with the Secretary against a long-term care facility that violates the provisions of this subsection and information with respect to the manner of filing such a complaint.

(e) Procedure
The provisions of section 1320a–7a of this title (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty or exclusion under this section in the same manner as such provisions apply to a penalty or proceeding under section 1320a–7a(a) of this title.

(f) Definitions
In this section, the terms ‘elder justice’, ‘long-term care facility’, and ‘law enforcement’ have the meanings given those terms in ‘long-term care facility’, and ‘law enforcement’ have the meanings given those terms in section 1397f of this title.

§ 1320c. Purpose
The purpose of this part is to establish the contracting process which the Secretary must follow pursuant to the requirements of section 1395y(g) of this title, including the definition of the utilization and quality control peer review organizations with which the Secretary shall contract, the functions such peer review organizations are to perform, the confidentiality of medical records, and related administrative matters to facilitate the carrying out of the purposes of this part.

A prior section 1320c, act Aug. 14, 1935, ch. 531, title XI, § 1151, as added Pub. L. 92–603, title II, § 1150B, as added Pub. L. 97–248, enacting this part, amending sections 1395b–1, 1395d, 1395f, 1395k, 1395l, 1395l–1, 1395r, 1395x, 1395y, 1395cc, 1395pp, 1396a, and 1396b of this title, and enacting provisions set out as notes under sections 1395d and 1320c of this title, shall, subject to section 150 of section 1396b–2, (as set out as a note below), be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act (Sept. 3, 1982).

IOM STUDY OF QIOs
Pub. L. 100–506, div. B, title III, § 309(a)(9), Nov. 5, 1990, 104 Stat. 1388–113, provided that: ‘‘(a) The Secretary of Health and Human Services shall not terminate or fail to renew any agreement in effect with a professional standards review organization under part B of title XI of the Social Security Act in accordance with subtitle C of title I of the Social Security Act [this part] as amended by such subtitle.’’

EVALUATION OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS
Pub. L. 97–488, title III, § 309(d), Jan. 12, 1983, 96 Stat. 2410, provided that: ‘‘In order to avoid unfairly discriminating against professional standards review organizations whose performance was evaluated during the first and second calendar quarters of 1982, the Secretary of Health and Human Services shall disregard the results of such evaluations and shall carry out such new evaluations of such organizations as may be necessary to select utilization and quality control peer review organizations in accordance with subtitle C of title I of the Tax Equity and Fiscal Responsibility Act of 1982 [sections 141–150 of Pub. L. 97–248] and part B of title XI of the Social Security Act [this part] as amended by such subtitle.’’

MAINTENANCE OF CURRENT PROFESSIONAL STANDARDS REVIEW ORGANIZATION AGREEMENTS