

Patient Protection and Affordable Care Act, H.R. 3590, 111th Cong. (as passed March 21, 2010).

## Section 1558

The Fair Labor Standards Act of 1938 is amended by inserting after section 18B (as added by section 1512) the following:

### 'SEC. 18C. PROTECTIONS FOR EMPLOYEES.

'(a) Prohibition- No employer shall discharge or in any manner discriminate against any employee with respect to his or her compensation, terms, conditions, or other privileges of employment because the employee (or an individual acting at the request of the employee) has--

'(1) received a credit under section 36B of the Internal Revenue Code of 1986 or a subsidy under section 1402 of this Act;

'(2) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of, any provision of this title (or an amendment made by this title);

'(3) testified or is about to testify in a proceeding concerning such violation;

'(4) assisted or participated, or is about to assist or participate, in such a proceeding; or

'(5) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this title (or amendment), or any order, rule, regulation, standard, or ban under this title (or amendment).

### '(b) Complaint Procedure-

'(1) IN GENERAL- An employee who believes that he or she has been discharged or otherwise discriminated against by any employer in violation of this section may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 2087(b) of title 15, United States Code.

'(2) NO LIMITATION ON RIGHTS- Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.'

## Section 6703(b)(3)

REPORTING OF CRIMES IN FEDERALLY FUNDED LONG-TERM CARE FACILITIES- Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 6005, is amended by inserting after section 1150A the following new section: . . .

‘(1) DETERMINATION- The owner or operator of each long-term care facility that receives Federal funds under this Act 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).

‘(3) COVERED INDIVIDUAL DEFINED- In this section, the term ‘covered individual’ means each individual who is an owner, operator, employee, manager, agent, or contractor of a long-term care facility that is the subject of a determination described in paragraph (1).

‘(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 . . .

. . . ‘(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 1128(b), or both.

#### Section 6105

(a) In General- Section 1128I of the Social Security Act, as added and amended by this Act, is amended by adding at the end the following new subsection:

'(f) Standardized Complaint Form-

'(1) DEVELOPMENT BY THE SECRETARY- The Secretary shall develop a standardized complaint form for use by a resident (or a person acting on the resident's behalf) in filing a complaint with a State survey and certification agency and a State long-term care ombudsman program with respect to a facility.

'(2) COMPLAINT FORMS AND RESOLUTION PROCESSES-

'(A) COMPLAINT FORMS- The State must make the standardized complaint form developed under paragraph (1) available upon request to--

'(i) a resident of a facility; and

'(ii) any person acting on the resident's behalf.

'(B) COMPLAINT RESOLUTION PROCESS- The State must establish a complaint resolution process in order to ensure that the legal representative of a resident of a facility or other responsible party is not denied access to such resident or otherwise retaliated against if they have complained about the quality of care provided by the facility or other issues relating to the facility . . .

#### Section 10104(j)(2)

(2)Section 3730(e) of title 31, United States Code, is amended by striking paragraph (4) and inserting the following:

‘(4)(A) The court shall dismiss an action or claim under this section, unless opposed by the Government, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed--

‘(i) in a Federal criminal, civil, or administrative hearing in which the Government or its agent is a party;

‘(ii) in a congressional, Government Accountability Office, or other Federal report, hearing, audit, or investigation; or

‘(iii) from the news media,

unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

‘(B) For purposes of this paragraph, ‘original source’ means an individual who either (i) prior to a public disclosure under subsection (e)(4)(a), has voluntarily disclosed to the Government the information on which allegations or transactions in a claim are based, or (2) who has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the Government before filing an action under this section.’.