

Bill No. HB 2231, 1st Eng.

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Latvala moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	Delete everything after the enacting clause		
15			
16	and insert:		
17	Section 1. Section 455.654, Florida Statutes, 1998		
18	Supplement, is amended to read:		
19	455.654 Financial arrangements between referring		
20	health care providers and providers of health care services.--		
21	(1) SHORT TITLE.--This section may be cited as the		
22	"Patient Self-Referral Act of 1992."		
23	(2) LEGISLATIVE INTENT.--It is recognized by the		
24	Legislature that the referral of a patient by a health care		
25	provider to a provider of health care services in which the		
26	referring health care provider has an investment interest		
27	represents a potential conflict of interest. The Legislature		
28	finds these referral practices may limit or eliminate		
29	competitive alternatives in the health care services market,		
30	may result in overutilization of health care services, may		
31	increase costs to the health care system, and may adversely		

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1 affect the quality of health care. The Legislature also  
2 recognizes, however, that it may be appropriate for providers  
3 to own entities providing health care services, and to refer  
4 patients to such entities, as long as certain safeguards are  
5 present in the arrangement. It is the intent of the  
6 Legislature to provide guidance to health care providers  
7 regarding prohibited patient referrals between health care  
8 providers and entities providing health care services and to  
9 protect the people of Florida from unnecessary and costly  
10 health care expenditures.

11 (3) DEFINITIONS.--For the purpose of this section, the  
12 word, phrase, or term:

13 (a) "Board" means any of the following boards relating  
14 to the respective professions: the Board of Medicine as  
15 created in s. 458.307; the Board of Osteopathic Medicine as  
16 created in s. 459.004; the Board of Chiropractic Medicine as  
17 created in s. 460.404; the Board of Podiatric Medicine as  
18 created in s. 461.004; the Board of Optometry as created in s.  
19 463.003; the Board of Pharmacy as created in s. 465.004; and  
20 the Board of Dentistry as created in s. 466.004.

21 (b) "Comprehensive rehabilitation services" means  
22 services that are provided by health care professionals  
23 licensed under part I or part III of chapter 468 or chapter  
24 486 to provide speech, occupational, or physical therapy  
25 services on an outpatient or ambulatory basis.

26 (c) "Designated health services" means, for purposes  
27 of this section, clinical laboratory services, physical  
28 therapy services, comprehensive rehabilitative services,  
29 diagnostic-imaging services, and radiation therapy services.

30 (d) "Diagnostic imaging services" means magnetic  
31 resonance imaging, nuclear medicine, angiography,

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1 arteriography, computed tomography, positron emission  
2 tomography, digital vascular imaging, bronchography,  
3 lymphangiography, splenography, ultrasound, EEG, EKG, nerve  
4 conduction studies, and evoked potentials.

5 (e) "Direct supervision" means supervision by a  
6 physician who is present in the office suite and immediately  
7 available to provide assistance and direction throughout the  
8 time services are being performed.

9 (f)(d) "Entity" means any individual, partnership,  
10 firm, corporation, or other business entity.

11 (g)(e) "Fair market value" means value in arms length  
12 transactions, consistent with the general market value, and,  
13 with respect to rentals or leases, the value of rental  
14 property for general commercial purposes, not taking into  
15 account its intended use, and, in the case of a lease of  
16 space, not adjusted to reflect the additional value the  
17 prospective lessee or lessor would attribute to the proximity  
18 or convenience to the lessor where the lessor is a potential  
19 source of patient referrals to the lessee.

20 (h)(f) "Group practice" means a group of two or more  
21 health care providers legally organized as a partnership,  
22 professional corporation, or similar association:

23 1. In which each health care provider who is a member  
24 of the group provides substantially the full range of services  
25 which the health care provider routinely provides, including  
26 medical care, consultation, diagnosis, or treatment, through  
27 the joint use of shared office space, facilities, equipment,  
28 and personnel;

29 2. For which substantially all of the services of the  
30 health care providers who are members of the group are  
31 provided through the group and are billed in the name of the

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1 group and amounts so received are treated as receipts of the  
2 group; and

3 3. In which the overhead expenses of and the income  
4 from the practice are distributed in accordance with methods  
5 previously determined by members of the group.

6 (i)~~(g)~~ "Health care provider" means any physician  
7 licensed under chapter 458, chapter 459, chapter 460, or  
8 chapter 461, or any health care provider licensed under  
9 chapter 463 or chapter 466.

10 (j)~~(h)~~ "Immediate family member" means a health care  
11 provider's spouse, child, child's spouse, grandchild,  
12 grandchild's spouse, parent, parent-in-law, or sibling.

13 (k)~~(i)~~ "Investment interest" means an equity or debt  
14 security issued by an entity, including, without limitation,  
15 shares of stock in a corporation, units or other interests in  
16 a partnership, bonds, debentures, notes, or other equity  
17 interests or debt instruments. The following investment  
18 interests shall be excepted from this definition:

19 1. An investment interest in an entity that is the  
20 sole provider of designated health services in a rural area;

21 2. An investment interest in notes, bonds, debentures,  
22 or other debt instruments issued by an entity which provides  
23 designated health services, as an integral part of a plan by  
24 such entity to acquire such investor's equity investment  
25 interest in the entity, provided that the interest rate is  
26 consistent with fair market value, and that the maturity date  
27 of the notes, bonds, debentures, or other debt instruments  
28 issued by the entity to the investor is not later than October  
29 1, 1996.

30 3. An investment interest in real property resulting  
31 in a landlord-tenant relationship between the health care

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1 provider and the entity in which the equity interest is held,  
2 unless the rent is determined, in whole or in part, by the  
3 business volume or profitability of the tenant or exceeds fair  
4 market value; or

5 4. An investment interest in an entity which owns or  
6 leases and operates a hospital licensed under chapter 395 or a  
7 nursing home facility licensed under chapter 400.

8 (l)(j) "Investor" means a person or entity owning a  
9 legal or beneficial ownership or investment interest, directly  
10 or indirectly, including, without limitation, through an  
11 immediate family member, trust, or another entity related to  
12 the investor within the meaning of 42 C.F.R... s. 413.17, in  
13 an entity.

14 (m) "Outside referral for diagnostic imaging services"  
15 means a referral of a patient to a group practice or sole  
16 provider for diagnostic imaging services by a physician who is  
17 not a member of the group practice or of the sole provider's  
18 practice and who does not have an investment interest in the  
19 group practice or sole provider's practice, for which the  
20 group practice or sole provider billed for both the technical  
21 and the professional fee for the patient, and the patient did  
22 not become a patient of the group practice or sole provider's  
23 practice.

24 (n) "Patient of a group practice" or "patient of a  
25 sole provider" means a patient who receives a physical  
26 examination, evaluation, diagnosis, and development of a  
27 treatment plan if medically necessary by a physician who is a  
28 member of the group practice or the sole provider's practice.

29 (o)(k) "Referral" means any referral of a patient by a  
30 health care provider for health care services, including,  
31 without limitation:

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- 1           1. The forwarding of a patient by a health care
- 2 provider to another health care provider or to an entity which
- 3 provides or supplies designated health services or any other
- 4 health care item or service; or
- 5           2. The request or establishment of a plan of care by a
- 6 health care provider, which includes the provision of
- 7 designated health services or other health care item or
- 8 service.
- 9           3. The following orders, recommendations, or plans of
- 10 care shall not constitute a referral by a health care
- 11 provider:
- 12           a. By a radiologist for diagnostic-imaging services.
- 13           b. By a physician specializing in the provision of
- 14 radiation therapy services for such services.
- 15           c. By a medical oncologist for drugs and solutions to
- 16 be prepared and administered intravenously to such
- 17 oncologist's patient, as well as for the supplies and
- 18 equipment used in connection therewith to treat such patient
- 19 for cancer and the complications thereof.
- 20           d. By a cardiologist for cardiac catheterization
- 21 services.
- 22           e. By a pathologist for diagnostic clinical laboratory
- 23 tests and pathological examination services, if furnished by
- 24 or under the supervision of such pathologist pursuant to a
- 25 consultation requested by another physician.
- 26           f. By a health care provider who is the sole provider
- 27 or member of a group practice for designated health services
- 28 or other health care items or services that are prescribed or
- 29 provided solely for such referring health care provider's or
- 30 group practice's own patients, and that are provided or
- 31 performed by or under the direct supervision of such referring

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1 health care provider or group practice; provided, however,  
 2 that effective July 1, 1999, a physician licensed pursuant to  
 3 chapter 458, chapter 459, chapter 460, or chapter 461 may  
 4 refer a patient to a sole provider or group practice for  
 5 diagnostic imaging services, excluding radiation therapy  
 6 services, for which the sole provider or group practice billed  
 7 both the technical and the professional fee for or on behalf  
 8 of the patient, if the referring physician has no investment  
 9 interest in the practice. The diagnostic imaging service  
 10 referred to a group practice or sole provider must be a  
 11 diagnostic imaging service normally provided within the scope  
 12 of practice to the patients of the group practice or sole  
 13 provider. The group practice or sole provider may accept no  
 14 more than 15 percent of their patients receiving diagnostic  
 15 imaging services from outside referrals, excluding radiation  
 16 therapy services.

17         g. By a health care provider for services provided by  
 18 an ambulatory surgical center licensed under chapter 395.

19         h. By a health care provider for diagnostic clinical  
 20 laboratory services where such services are directly related  
 21 to renal dialysis.

22         i. By a urologist for lithotripsy services.

23         j. By a dentist for dental services performed by an  
 24 employee of or health care provider who is an independent  
 25 contractor with the dentist or group practice of which the  
 26 dentist is a member.

27         k. By a physician for infusion therapy services to a  
 28 patient of that physician or a member of that physician's  
 29 group practice.

30         l. By a nephrologist for renal dialysis services and  
 31 supplies.

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1           (p) "Present in the office suite" means that the  
2 physician is actually physically present; provided, however,  
3 that the health care provider is considered physically present  
4 during brief unexpected absences as well as during routine  
5 absences of a short duration if the absences occur during time  
6 periods in which the health care provider is otherwise  
7 scheduled and ordinarily expected to be present and the  
8 absences do not conflict with any other requirement in the  
9 Medicare program for a particular level of health care  
10 provider supervision.

11           (g)(1) "Rural area" means a county with a population  
12 density of no greater than 100 persons per square mile, as  
13 defined by the United States Census.

14           (r) "Sole provider" means one health care provider  
15 licensed under chapter 458, chapter 459, chapter 460, or  
16 chapter 461, who maintains a separate medical office and a  
17 medical practice separate from any other health care provider  
18 and who bills for his or her services separately from the  
19 services provided by any other health care provider. A sole  
20 provider shall not share overhead expenses or professional  
21 income with any other person or group practice.

22           (4) REQUIREMENTS FOR ACCEPTING OUTSIDE REFERRALS FOR  
23 DIAGNOSTIC IMAGING.--

24           (a) A group practice or sole provider accepting  
25 outside referrals for diagnostic imaging services is required  
26 to comply with the following conditions:

27           1. Diagnostic imaging services must be provided  
28 exclusively by a group practice physician or by a full-time or  
29 part-time employee of the group practice or of the sole  
30 provider's practice.

31           2. All equity in the group practice or sole provider's



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1 practice accepting outside referrals for diagnostic imaging  
2 must be held by the physicians comprising the group practice  
3 or the sole provider's practice, each of which must provide at  
4 least 75 percent of his professional services to the group.  
5 Alternatively, the group must be incorporated under chapter  
6 617, Florida Statutes, and must be exempt under the provisions  
7 of the Internal Revenue Code 501(c)(3) and be part of a  
8 foundation in existence prior to January 1, 1999 that is  
9 created for the purpose of patient care, medical education,  
10 and research.

11 3. A group practice or sole provider may not enter  
12 into, extend or renew any contract with a practice management  
13 company that provides any financial incentives, directly or  
14 indirectly, based on an increase in outside referrals for  
15 diagnostic imaging services from any group or sole provider  
16 managed by the same practice management company.

17 4. The group practice or sole provider accepting  
18 outside referrals for diagnostic imaging services must bill  
19 for both the professional and technical component of the  
20 service on behalf of the patient and no portion of the  
21 payment, or any type of consideration, either directly or  
22 indirectly, may be shared with the referring physician.

23 5. Group practices or sole providers that have a  
24 Medicaid provider agreement with the Agency for Health Care  
25 Administration must furnish diagnostic imaging services to  
26 their Medicaid patients and may not refer a Medicaid recipient  
27 to a hospital for outpatient diagnostic imaging services  
28 unless the physician furnishes the hospital with documentation  
29 demonstrating the medical necessity for such a referral.

30 6. All group practices and sole providers accepting  
31 outside referrals for diagnostic imaging shall report annually

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1 to the Agency for Health Care Administration providing the  
2 number of outside referrals accepted for diagnostic imaging  
3 services and the total number of all patients receiving  
4 diagnostic imaging services.

5 (b) If a group practice or sole provider accepts an  
6 outside referral for diagnostic imaging services in violation  
7 of this subsection or if a group practice or sole provider  
8 accepts outside referrals for diagnostic imaging services in  
9 excess of the percentage limitation established in  
10 subparagraph (a)2. of this subsection, the group practice or  
11 the sole provider shall be subject to the penalties in  
12 subsection (5).

13 (c) Each managing physician member of a group practice  
14 and each sole provider who accepts outside referrals for  
15 diagnostic imaging services shall submit an annual attestation  
16 signed under oath to the Agency for Health Care Administration  
17 which shall include the annual report required under s.  
18 455.654(4)(a)6. and which shall further confirm that each  
19 group practice or sole provider is in compliance with the  
20 percentage limitations for accepting outside referrals and the  
21 requirements for accepting outside referrals listed in s.  
22 455.654(4)(a). The agency may verify the report submitted by  
23 group practices and sole providers.

24 (5)(4) PROHIBITED REFERRALS AND CLAIMS FOR  
25 PAYMENT.--Except as provided in this section:

26 (a) A health care provider may not refer a patient for  
27 the provision of designated health services to an entity in  
28 which the health care provider is an investor or has an  
29 investment interest.

30 (b) A health care provider may not refer a patient for  
31 the provision of any other health care item or service to an

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1 entity in which the health care provider is an investor  
2 unless:  
3 1. The provider's investment interest is in registered  
4 securities purchased on a national exchange or  
5 over-the-counter market and issued by a publicly held  
6 corporation:  
7 a. Whose shares are traded on a national exchange or  
8 on the over-the-counter market; and  
9 b. Whose total assets at the end of the corporation's  
10 most recent fiscal quarter exceeded \$50 million; or  
11 2. With respect to an entity other than a publicly  
12 held corporation described in subparagraph 1., and a referring  
13 provider's investment interest in such entity, each of the  
14 following requirements are met:  
15 a. No more than 50 percent of the value of the  
16 investment interests are held by investors who are in a  
17 position to make referrals to the entity.  
18 b. The terms under which an investment interest is  
19 offered to an investor who is in a position to make referrals  
20 to the entity are no different from the terms offered to  
21 investors who are not in a position to make such referrals.  
22 c. The terms under which an investment interest is  
23 offered to an investor who is in a position to make referrals  
24 to the entity are not related to the previous or expected  
25 volume of referrals from that investor to the entity.  
26 d. There is no requirement that an investor make  
27 referrals or be in a position to make referrals to the entity  
28 as a condition for becoming or remaining an investor.  
29 3. With respect to either such entity or publicly held  
30 corporation:  
31 a. The entity or corporation does not loan funds to or

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1 guarantee a loan for an investor who is in a position to make  
2 referrals to the entity or corporation if the investor uses  
3 any part of such loan to obtain the investment interest.

4 b. The amount distributed to an investor representing  
5 a return on the investment interest is directly proportional  
6 to the amount of the capital investment, including the fair  
7 market value of any preoperational services rendered, invested  
8 in the entity or corporation by that investor.

9 4. Each board and, in the case of hospitals, the  
10 Agency for Health Care Administration, shall encourage the use  
11 by licensees of the declaratory statement procedure to  
12 determine the applicability of this section or any rule  
13 adopted pursuant to this section as it applies solely to the  
14 licensee. Boards shall submit to the Agency for Health Care  
15 Administration the name of any entity in which a provider  
16 investment interest has been approved pursuant to this  
17 section, and the Agency for Health Care Administration shall  
18 adopt rules providing for periodic quality assurance and  
19 utilization review of such entities.

20 (c) No claim for payment may be presented by an entity  
21 to any individual, third-party payor, or other entity for a  
22 service furnished pursuant to a referral prohibited under this  
23 section.

24 (d) If an entity collects any amount that was billed  
25 in violation of this section, the entity shall refund such  
26 amount on a timely basis to the payor or individual, whichever  
27 is applicable.

28 (e) Any person that presents or causes to be presented  
29 a bill or a claim for service that such person knows or should  
30 know is for a service for which payment may not be made under  
31 paragraph (c), or for which a refund has not been made under

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1 paragraph (d), shall be subject to a civil penalty of not more  
2 than \$15,000 for each such service to be imposed and collected  
3 by the appropriate board.

4 (f) Any health care provider or other entity that  
5 enters into an arrangement or scheme, such as a cross-referral  
6 arrangement, which the physician or entity knows or should  
7 know has a principal purpose of assuring referrals by the  
8 physician to a particular entity which, if the physician  
9 directly made referrals to such entity, would be in violation  
10 of this section, shall be subject to a civil penalty of not  
11 more than \$100,000 for each such circumvention arrangement or  
12 scheme to be imposed and collected by the appropriate board.

13 (g) A violation of this section by a health care  
14 provider shall constitute grounds for disciplinary action to  
15 be taken by the applicable board pursuant to s. 458.331(2), s.  
16 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s.  
17 466.028(2). Any hospital licensed under chapter 395 found in  
18 violation of this section shall be subject to the rules  
19 adopted by the Agency for Health Care Administration pursuant  
20 to s. 395.0185(2).

21 (h) Any hospital licensed under chapter 395 that  
22 discriminates against or otherwise penalizes a health care  
23 provider for compliance with this act.

24 (i) The provision of paragraph (a) shall not apply to  
25 referrals to the offices of radiation therapy centers managed  
26 by an entity or subsidiary or general partner thereof, which  
27 performed radiation therapy services at those same offices  
28 prior to April 1, 1991, and shall not apply also to referrals  
29 for radiation therapy to be performed at no more than one  
30 additional office of any entity qualifying for the foregoing  
31 exception which, prior to February 1, 1992, had a binding

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1 purchase contract on and a nonrefundable deposit paid for a  
2 linear accelerator to be used at the additional office. The  
3 physical site of the radiation treatment centers affected by  
4 this provision may be relocated as a result of the following  
5 factors: acts of God; fire; strike; accident; war; eminent  
6 domain actions by any governmental body; or refusal by the  
7 lessor to renew a lease. A relocation for the foregoing  
8 reasons is limited to relocation of an existing facility to a  
9 replacement location within the county of the existing  
10 facility upon written notification to the Office of Licensure  
11 and Certification.

12 (j) A health care provider who meets the requirements  
13 of paragraphs (b) and (i) must disclose his or her investment  
14 interest to his or her patients as provided in s. 455.701.

15 Section 2. The agency shall require registration by  
16 all group practices providing diagnostic imaging services,  
17 regardless of ownership. Registration information must include  
18 the medical specialty of each physician; address and phone  
19 number of the group; UPIN numbers for the group and each group  
20 member; and Medicare, Medicaid, and commercial billing numbers  
21 for the group. The agency shall complete the registration by  
22 December 31, 1999.

23 Section 3. Section 4 of chapter 98-192, Laws of  
24 Florida, is amended to read:

25 Section 4. This act shall take effect July 1, 1998.  
26 However, if the Agency for Health Care Administration between  
27 April 15, 1999 and November 15, 1999 receives written  
28 certification from the federal Health Care Financing  
29 Administration that the amendments enacted herein to s.  
30 395.701, F.S. or s. 395.7015, F.S., violate federal  
31 regulations regarding permissible state health care taxes

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1 which would cause the state to be denied federal Medicaid  
2 funds, then the amendment to the individual section contained  
3 herein and so identified by the Health Care Financing  
4 Administration as violating federal law hereby stands  
5 repealed. Upon receipt of written certification from the  
6 Health Care Financing Administration, the Agency for Health  
7 Care Administration shall forward such certification to the  
8 Secretary of State, the President of the Senate and the  
9 Speaker of the House of Representatives with a letter  
10 identifying the section or sections which stand repealed  
11 consistent with this section. The Secretary of State shall  
12 delete the amendment to the section so identified in the  
13 official records of the Florida Statutes consistent with this  
14 section. The effective date of the repeal of the section  
15 contained in the federal certification shall be the date that  
16 the notice is received by the Secretary of State., ~~except that~~  
17 ~~the amendment of sections 395.701 and 395.7015, Florida~~  
18 ~~Statutes, by this act shall take effect only upon the Agency~~  
19 ~~for Health Care Administration receiving written confirmation~~  
20 ~~from the federal Health Care Financing Administration that the~~  
21 ~~changes contained in such amendments will not adversely affect~~  
22 ~~the use of the remaining assessments as state match for the~~  
23 ~~state's Medicaid program.~~

24       Section 4. The Agency for Health Care Administration,  
25 in conjunction with other agencies as appropriate shall  
26 conduct a detailed study and analysis of clinical laboratory  
27 services for kidney dialysis patients in the State of Florida.  
28 The study shall include, but not be limited to, an analysis of  
29 the past and present utilization rates of clinical laboratory  
30 services for dialysis patients; financial arrangements among  
31 kidney dialysis centers, their medical directors, any business

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1 relationships and affiliations with clinical laboratories and  
2 any self-referral to clinical laboratories; the quality and  
3 responsiveness of clinical laboratory services for dialysis  
4 patients in Florida; and the average annual revenue for  
5 dialysis patients for clinical laboratory services for the  
6 past 10 years. The agency shall report its findings to the  
7 Legislature by February 1, 2000.

8           Section 5. Each provider of diagnostic cardiac  
9 catheterization services shall comply with the requirements of  
10 section 408.036(3)(n)2.a.-d., Florida Statutes, and rules of  
11 the Agency for Health Care Administration governing the  
12 operation of adult inpatient diagnostic cardiac  
13 catheterization programs, including the most recent guidelines  
14 of the American College of Cardiology and American Heart  
15 Association Guidelines for Cardiac Catheterization and Cardiac  
16 Catheterization Laboratories.

17           Section 6. Subsections (6) and (7) of section 155.40,  
18 Florida Statutes, are added to said section, to read:

19           155.40 Sale or lease of county, district, or municipal  
20 hospital.--

21           (6) Unless otherwise expressly stated in the lease  
22 documents, the transaction involving the sale or lease of a  
23 hospital shall not be construed as:

24           (a) a transfer of a governmental function from the  
25 county, district, or municipality to the private purchaser or  
26 lessee;

27           (b) constituting a financial interest of the public  
28 lessor in the private lessee; or

29           (c) making a private lessee an integral part of the  
30 public lessor's decision-making process.

31           (7) The lessee of a hospital, pursuant to this section



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1 or any special act of the legislature, operating under a lease  
 2 shall not be construed to be "acting on behalf of" the lessor  
 3 as that term is used in statute, unless the lease document  
 4 expressly provides to the contrary.

5 Section 7. Subsection (3) is added to section 455.651,  
 6 Florida Statutes, 1998 Supplement, to read:

7 455.651 Disclosure of confidential information.--

8 (3) Any person injured as a result of a violation of  
 9 this section shall have a civil cause of action for treble  
 10 damages, reasonable attorney's fees, and costs.

11 Section 8. Subsections (4) and (7) of section 409.910,  
 12 Florida Statutes, 1998 Supplement, are amended to read:

13 409.910 Responsibility for payments on behalf of  
 14 Medicaid-eligible persons when other parties are liable.--

15 (4) After the department has provided medical  
 16 assistance under the Medicaid program, it shall seek recovery  
 17 of reimbursement from third-party benefits to the limit of  
 18 legal liability and for the full amount of third-party  
 19 benefits, but not in excess of the amount of medical  
 20 assistance paid by Medicaid, as to:

21 (a) Claims for which the department has a waiver  
 22 pursuant to federal law; or

23 (b) Situations in which the department learns of the  
 24 existence of a liable third party or in which third-party  
 25 benefits are discovered or become available after medical  
 26 assistance has been provided by Medicaid. Nothing in this  
 27 subsection shall limit the authority of the state or any  
 28 agency thereof to bring or maintain actions seeking recoveries  
 29 in excess of the amount paid as Medicaid benefits under  
 30 alternative theories of liability in conjunction with an  
 31 action filed pursuant to this section.

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1           (7) The department shall recover the full amount of  
2 all medical assistance provided by Medicaid on behalf of the  
3 recipient to the full extent of third-party benefits.

4           (a) Recovery of such benefits shall be collected  
5 directly from:

6           1. Any third party;

7           2. The recipient or legal representative, if he or she  
8 has received third-party benefits;

9           3. The provider of a recipient's medical services if  
10 third-party benefits have been recovered by the provider;  
11 notwithstanding any provision of this section, to the  
12 contrary, however, no provider shall be required to refund or  
13 pay to the department any amount in excess of the actual  
14 third-party benefits received by the provider from a  
15 third-party payor for medical services provided to the  
16 recipient; or

17           4. Any person who has received the third-party  
18 benefits.

19           (b) Upon receipt of any recovery or other collection  
20 pursuant to this section, the department shall distribute the  
21 amount collected as follows:

22           1. To itself, an amount equal to the state Medicaid  
23 expenditures for the recipient plus any incentive payment made  
24 in accordance with paragraph (14)(a).

25           2. To the Federal Government, the federal share of the  
26 state Medicaid expenditures minus any incentive payment made  
27 in accordance with paragraph (14)(a) and federal law, and  
28 minus any other amount permitted by federal law to be  
29 deducted.

30           3. To the recipient, after deducting any known amounts  
31 owed to the department for any related medical assistance or

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1 to health care providers, any remaining amount. This amount  
2 shall be treated as income or resources in determining  
3 eligibility for Medicaid.

4  
5 The provisions of this subsection do not apply to any proceeds  
6 received by the state, or any agency thereof, pursuant to a  
7 final order, judgment, or settlement agreement, in any matter  
8 in which the state asserts claims brought on its own behalf,  
9 and not as a subrogee of a recipient, or under other theories  
10 of liability. The provisions of this subsection do not apply  
11 to any proceeds received by the state, or an agency thereof,  
12 pursuant to a final order, judgment, or settlement agreement,  
13 in any matter in which the state asserted both claims as a  
14 subrogee and additional claims, except as to those sums  
15 specifically identified in the final order, judgment, or  
16 settlement agreement as reimbursements to the recipient as  
17 expenditures for the named recipient on the subrogation claim.

18 Section 9. The amendments to section 409.910, Florida  
19 Statutes, 1998 Supplement, made by this act are intended to  
20 clarify existing law and are remedial in nature. As such,  
21 they are specifically made retroactive to October 1, 1990, and  
22 shall apply to all causes of action arising on or after  
23 October 1, 1990.

24 Section 10. This act shall take effect July 1, 1999.

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26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete everything before the enacting clause

30  
31 and insert:

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1   A bill to be entitled

2                   An act relating to health care; amending s.

3                   455.654, F.S.; providing definitions; providing

4                   requirements for accepting outside referrals

5                   for diagnostic imaging; providing for

6                   disciplinary procedures against a group

7                   practice or sole provider that accepts an

8                   outside referral for diagnostic imaging

9                   services in violation of such requirements;

10                  requiring the Agency for Health Care

11                  Administration to study issues relating to

12                  quality care in providing diagnostic imaging

13                  services; requiring the agency to convene a

14                  technical advisory panel; providing for

15                  registration of all group practices;

16                  prescribing registration information; providing

17                  for the technical advisory panel to submit

18                  recommendations for agency rules; requiring the

19                  agency to adopt rules; providing a date for the

20                  adoption and publication of rules; authorizing

21                  group practices and sole providers to accept a

22                  prescribed percentage of their patients from

23                  outside referrals; requiring the Agency for

24                  Health Care Administration in conjunction with

25                  the Medicaid Fraud Unit of the Office of the

26                  Attorney General to study certain specified

27                  business activities and arrangements of

28                  providers of clinical laboratory services for

29                  kidney dialysis; requiring a report; amending

30                  s. 4, ch. 98-192, Laws of Florida; eliminating

31                  requirement that the agency receive written

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1 confirmation from the federal Health Care  
2 Financing Administration that amendments to ss.  
3 395.701 and 395.7015, F.S., will not adversely  
4 affect assessments or state match for the  
5 state's Medicaid program; providing duties for  
6 the agency and the Secretary of State;  
7 providing for a study and analysis of services  
8 for kidney dialysis patients; requiring  
9 providers of diagnostic cardiac catheterization  
10 services to comply with certain laws and rules  
11 adopted by the Agency for Health Care  
12 Administration; amending s. 155.40, F.S.;  
13 providing construction with respect to a  
14 transaction involving the sale or lease of a  
15 public hospital; providing construction with  
16 respect to specified hospital lessees; amending  
17 s. 455.651, F.S.; providing for a cause of  
18 action, damages, attorney's fees, and  
19 costs; amending s. 409.910, F.S.; clarifying  
20 that the state may recover and retain damages  
21 in excess of Medicaid payments made under  
22 certain circumstances; providing for  
23 retroactive application; providing an  
24 effective date.

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