1 A bill to be entitled
2 An act relating to Medicaid fraud; creating s. 409.9201,
3 F.S.; making it unlawful to sell or attempt or conspire to
4 sell, or to purchase or attempt or conspire to purchase,
5 certain Medicaid program prescription drugs; making it
6 unlawful to make certain false statements to obtain
7 certain Medicaid program goods or services; providing
8 criminal penalties; providing a definition; creating s.
9 812.0191, F.S.; providing definitions; making it unlawful
10 to deal in property paid for under the Medicaid program;
11 making it unlawful to engage in activities to obtain or
12 traffic in such property; providing criminal penalties;
13 amending s. 409.912, F.S.; requiring the Agency for Health
14 Care Administration to manage drug therapies for certain
15 patients; requiring mandatory enrollment of certain
16 persons in the Medicaid drug benefit management program;
17 amending s. 409.913, F.S.; restricting unauthorized
18 physicians from prescribing medications to certain
19 patients; providing exceptions; restricting health care
20 vendors from knowingly filling such prescriptions;
21 providing for reimbursement; providing civil penalties;
22 restricting the agency from reimbursing certain claims;
23 amending s. 16.56, F.S.; expanding the authority of the
24 Office of Statewide Prosecution to investigate and
25 prosecute certain additional offenses; amending s. 895.02,
26 F.S.; expanding the definition of the term "racketeering
27 activity" to include certain additional offenses; amending
28 s. 905.34, F.S.; expanding the subject matter jurisdiction
29 of the statewide grand jury to include certain additional

30 offenses; amending ss. 409.9071 and 409.9131, F.S.;
31 revising cross references to conform; providing an
32 effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Section 409.9201, Florida Statutes, is created
37 to read:
38 409.9201 Medicaid recipient fraud.--
39 (1) It is unlawful for any person receiving legend drugs
40 pursuant to a prescription funded by the Medicaid program to
41 sell or attempt or conspire to sell, or to cause any other
42 person to sell or attempt or conspire to sell, the legend drugs
43 involved. Any person who violates this subsection commits a
44 felony, as follows:
45 (a) If the value of the legend drugs involved is less than
46 $20,000, a felony of the third degree, punishable as provided in
47 s. 775.082, s. 775.083, or s. 775.084.
48 (b) If the value of the legend drugs involved is $20,000
49 or more, but less than $100,000, a felony of the second degree,
50 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
51 (c) If the value of the legend drugs involved is $100,000
52 or more, a felony of the first degree, punishable as provided in
53 s. 775.082, s. 775.083, or s. 775.084.
54 (2) It is unlawful for any person to purchase or attempt
55 or conspire to purchase legend drugs intended for a recipient
56 pursuant to a prescription funded by the Medicaid program. Any
57 person who violates this subsection commits a felony, as
58 follows:

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59 (a) If the value of the legend drugs involved is less than
60 $20,000, a felony of the third degree, punishable as provided in
61 s. 775.082, s. 775.083, or s. 775.084.
62 (b) If the value of the legend drugs involved is $20,000
63 or more, but less than $100,000, a felony of the second degree,
64 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
65 (c) If the value of the legend drugs involved is $100,000
66 or more, a felony of the first degree, punishable as provided in
67 s. 775.082, s. 775.083, or s. 775.084.
68 (3) It is unlawful for any person to make or cause to be
69 made, or to attempt or conspire to make or cause to be made, any
70 false statement or representation to any person for the purpose
71 of obtaining goods or services under the Medicaid program. Any
72 person who violates this subsection commits a felony, as
73 follows:
74 (a) If the value of the goods or services involved is less
75 than $20,000, a felony of the third degree, punishable as
76 provided in s. 775.082, s. 775.083, or s. 775.084.
77 (b) If the value of the goods or services involved is
78 $20,000 or more, but less than $100,000, a felony of the second
79 degree, punishable as provided in s. 775.082, s. 775.083, or s.
80 775.084.
81 (c) If the value of the goods or services involved is
82 $100,000 or more, a felony of the first degree, punishable as
83 provided in s. 775.082, s. 775.083, or s. 775.084.
84 (4) As used in this section, the term "value" means the
85 market value of the property at the time and place of the
86 offense or the amount billed to Medicaid for the property or, if
87 such value cannot be satisfactorily ascertained, the cost of

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88 replacement of the property within a reasonable time after the
89 offense. Values of separate amounts of legend drugs or other
90 goods or services involved in distinct transactions committed
91 pursuant to one scheme or course of conduct, whether involving
92 the same person or several persons, may be aggregated in
93 determining the punishment for the offense.
94 Section 2. Section 812.0191, Florida Statutes, is created
95 to read:
96 812.0191 Dealing in property paid for in whole or in part
97 by the Medicaid program.--
98 (1) For the purposes of this section:
99 (a) "Property paid for in whole or in part by the Medicaid
100 program" includes any device, service, drug, or other property
101 furnished or intended to be furnished to a recipient under the
102 Medicaid or the Medicare program.
103 (b) "Value" has the same definition as provided in s.
104 812.012, but shall also include the amount billed or intended to
105 be billed to Medicaid for the property.
106 (2) It is unlawful for any person to traffic in or
107 endeavor to traffic in property that he or she knows or should
108 have known was paid for in whole or in part by the Medicaid
109 program. Any person who violates this subsection commits a
110 felony, as follows:
111 (a) If the value of the property involved is less than
112 $20,000, a felony of the third degree, punishable as provided in
113 s. 775.082, s. 775.083, or s. 775.084.
114 (b) If the value of the property involved is $20,000 or
115 more, but less than $100,000, a felony of the second degree,
116 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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117 (c) If the value of the property involved is $100,000 or
118 more, a felony of the first degree, punishable as provided in s.
119 775.082, s. 775.083, or s. 775.084.
120 (3) It is unlawful for any person to initiate, organize,
121 plan, finance, direct, manage, or supervise the obtaining of
122 property paid for in whole or in part by the Medicaid program
123 and to traffic in or endeavor to traffic in such property. Any
124 person who violates this subsection commits a felony of the
125 first degree, punishable as provided in s. 775.082, s. 775.083,
126 or s. 775.084.
127 Section 3. Paragraph (a) of subsection (40) of section
128 409.912, Florida Statutes, is amended to read:
129 409.912 Cost-effective purchasing of health care.--The
130 agency shall purchase goods and services for Medicaid recipients
131 in the most cost-effective manner consistent with the delivery
132 of quality medical care. The agency shall maximize the use of
133 prepaid per capita and prepaid aggregate fixed-sum basis
134 services when appropriate and other alternative service delivery
135 and reimbursement methodologies, including competitive bidding
136 pursuant to s. 287.057, designed to facilitate the cost-
137 effective purchase of a case-managed continuum of care. The
138 agency shall also require providers to minimize the exposure of
139 recipients to the need for acute inpatient, custodial, and other
140 institutional care and the inappropriate or unnecessary use of
141 high-cost services. The agency may establish prior authorization
142 requirements for certain populations of Medicaid beneficiaries,
143 certain drug classes, or particular drugs to prevent fraud,
144 abuse, overuse, and possible dangerous drug interactions. The
145 Pharmaceutical and Therapeutics Committee shall make

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146 recommendations to the agency on drugs for which prior
147 authorization is required. The agency shall inform the
148 Pharmaceutical and Therapeutics Committee of its decisions
149 regarding drugs subject to prior authorization.
150 (40)(a) The agency shall implement a Medicaid prescribed-
151 drug spending-control program that includes the following
152 components:
153 1. Medicaid prescribed-drug coverage for brand-name drugs
154 for adult Medicaid recipients is limited to the dispensing of
155 four brand-name drugs per month per recipient. Children are
156 exempt from this restriction. Antiretroviral agents are excluded
157 from this limitation. No requirements for prior authorization or
158 other restrictions on medications used to treat mental illnesses
159 such as schizophrenia, severe depression, or bipolar disorder
160 may be imposed on Medicaid recipients. Medications that will be
161 available without restriction for persons with mental illnesses
162 include atypical antipsychotic medications, conventional
163 antipsychotic medications, selective serotonin reuptake
164 inhibitors, and other medications used for the treatment of
165 serious mental illnesses. The agency shall also limit the amount
166 of a prescribed drug dispensed to no more than a 34-day supply.
167 The agency shall continue to provide unlimited generic drugs,
168 contraceptive drugs and items, and diabetic supplies. Although a
169 drug may be included on the preferred drug formulary, it would
170 not be exempt from the four-brand limit. The agency may
171 authorize exceptions to the brand-name-drug restriction based
172 upon the treatment needs of the patients, only when such
173 exceptions are based on prior consultation provided by the

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174 agency or an agency contractor, but the agency must establish
175 procedures to ensure that:
176 a. There will be a response to a request for prior
177 consultation by telephone or other telecommunication device
178 within 24 hours after receipt of a request for prior
179 consultation;
180 b. A 72-hour supply of the drug prescribed will be
181 provided in an emergency or when the agency does not provide a
182 response within 24 hours as required by sub-subparagraph a.; and
183 c. Except for the exception for nursing home residents and
184 other institutionalized adults and except for drugs on the
185 restricted formulary for which prior authorization may be sought
186 by an institutional or community pharmacy, prior authorization
187 for an exception to the brand-name-drug restriction is sought by
188 the prescriber and not by the pharmacy. When prior authorization
189 is granted for a patient in an institutional setting beyond the
190 brand-name-drug restriction, such approval is authorized for 12
191 months and monthly prior authorization is not required for that
192 patient.
193 2. Reimbursement to pharmacies for Medicaid prescribed
194 drugs shall be set at the average wholesale price less 13.25
195 percent.
196 3. The agency shall develop and implement a process for
197 managing the drug therapies of Medicaid recipients who are using
198 significant numbers of prescribed drugs each month. The
199 management process may include, but is not limited to,
200 comprehensive, physician-directed medical-record reviews, claims
201 analyses, and case evaluations to determine the medical
202 necessity and appropriateness of a patient's treatment plan and

203 drug therapies. The agency may contract with a private
204 organization to provide drug-program-management services. The
205 Medicaid drug benefit management program shall include
206 initiatives to manage drug therapies for HIV/AIDS patients,
207 patients using 20 or more unique prescriptions in a 180-day
208 period, ~~and~~ the top 1,000 patients in annual spending, and
209 patients identified as abusers. Enrollment in this program shall
210 be mandatory for all recipients in these categories.
211 4. The agency may limit the size of its pharmacy network
212 based on need, competitive bidding, price negotiations,
213 credentialing, or similar criteria. The agency shall give
214 special consideration to rural areas in determining the size and
215 location of pharmacies included in the Medicaid pharmacy
216 network. A pharmacy credentialing process may include criteria
217 such as a pharmacy's full-service status, location, size,
218 patient educational programs, patient consultation, disease-
219 management services, and other characteristics. The agency may
220 impose a moratorium on Medicaid pharmacy enrollment when it is
221 determined that it has a sufficient number of Medicaid-
222 participating providers.
223 5. The agency shall develop and implement a program that
224 requires Medicaid practitioners who prescribe drugs to use a
225 counterfeit-proof prescription pad for Medicaid prescriptions.
226 The agency shall require the use of standardized counterfeit-
227 proof prescription pads by Medicaid-participating prescribers or
228 prescribers who write prescriptions for Medicaid recipients. The
229 agency may implement the program in targeted geographic areas or
230 statewide.

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231 6. The agency may enter into arrangements that require
232 manufacturers of generic drugs prescribed to Medicaid recipients
233 to provide rebates of at least 15.1 percent of the average
234 manufacturer price for the manufacturer's generic products.
235 These arrangements shall require that if a generic-drug
236 manufacturer pays federal rebates for Medicaid-reimbursed drugs
237 at a level below 15.1 percent, the manufacturer must provide a
238 supplemental rebate to the state in an amount necessary to
239 achieve a 15.1-percent rebate level.
240 7. The agency may establish a preferred drug formulary in
241 accordance with 42 U.S.C. s. 1396r-8, and, pursuant to the
242 establishment of such formulary, it is authorized to negotiate
243 supplemental rebates from manufacturers that are in addition to
244 those required by Title XIX of the Social Security Act and at no
245 less than 10 percent of the average manufacturer price as
246 defined in 42 U.S.C. s. 1936 on the last day of a quarter unless
247 the federal or supplemental rebate, or both, equals or exceeds
248 25 percent. There is no upper limit on the supplemental rebates
249 the agency may negotiate. The agency may determine that specific
250 products, brand-name or generic, are competitive at lower rebate
251 percentages. Agreement to pay the minimum supplemental rebate
252 percentage will guarantee a manufacturer that the Medicaid
253 Pharmaceutical and Therapeutics Committee will consider a
254 product for inclusion on the preferred drug formulary. However,
255 a pharmaceutical manufacturer is not guaranteed placement on the
256 formulary by simply paying the minimum supplemental rebate.
257 Agency decisions will be made on the clinical efficacy of a drug
258 and recommendations of the Medicaid Pharmaceutical and
259 Therapeutics Committee, as well as the price of competing

260 products minus federal and state rebates. The agency is
261 authorized to contract with an outside agency or contractor to
262 conduct negotiations for supplemental rebates. For the purposes
263 of this section, the term "supplemental rebates" may include, at
264 the agency's discretion, cash rebates and other program benefits
265 that offset a Medicaid expenditure. Such other program benefits
266 may include, but are not limited to, disease management
267 programs, drug product donation programs, drug utilization
268 control programs, prescriber and beneficiary counseling and
269 education, fraud and abuse initiatives, and other services or
270 administrative investments with guaranteed savings to the
271 Medicaid program in the same year the rebate reduction is
272 included in the General Appropriations Act. The agency is
273 authorized to seek any federal waivers to implement this
274 initiative.
275 8. The agency shall establish an advisory committee for
276 the purposes of studying the feasibility of using a restricted
277 drug formulary for nursing home residents and other
278 institutionalized adults. The committee shall be comprised of
279 seven members appointed by the Secretary of Health Care
280 Administration. The committee members shall include two
281 physicians licensed under chapter 458 or chapter 459; three
282 pharmacists licensed under chapter 465 and appointed from a list
283 of recommendations provided by the Florida Long-Term Care
284 Pharmacy Alliance; and two pharmacists licensed under chapter
285 465.
286 9. The Agency for Health Care Administration shall expand
287 home delivery of pharmacy products. To assist Medicaid patients
288 in securing their prescriptions and reduce program costs, the

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289 agency shall expand its current mail-order-pharmacy diabetes-
290 supply program to include all generic and brand-name drugs used
291 by Medicaid patients with diabetes. Medicaid recipients in the
292 current program may obtain nondiabetes drugs on a voluntary
293 basis. This initiative is limited to the geographic area covered
294 by the current contract. The agency may seek and implement any
295 federal waivers necessary to implement this subparagraph.
296 Section 4. Subsections (8) through (31) of section
297 409.913, Florida Statutes, are renumbered as subsections (9)
298 through (32), respectively, present subsections (14) and (15)
299 are amended, and a new subsection (8) is added to said section
300 to read:
301 409.913 Oversight of the integrity of the Medicaid
302 program.--The agency shall operate a program to oversee the
303 activities of Florida Medicaid recipients, and providers and
304 their representatives, to ensure that fraudulent and abusive
305 behavior and neglect of recipients occur to the minimum extent
306 possible, and to recover overpayments and impose sanctions as
307 appropriate. Beginning January 1, 2003, and each year
308 thereafter, the agency and the Medicaid Fraud Control Unit of
309 the Department of Legal Affairs shall submit a joint report to
310 the Legislature documenting the effectiveness of the state's
311 efforts to control Medicaid fraud and abuse and to recover
312 Medicaid overpayments during the previous fiscal year. The
313 report must describe the number of cases opened and investigated
314 each year; the sources of the cases opened; the disposition of
315 the cases closed each year; the amount of overpayments alleged
316 in preliminary and final audit letters; the number and amount of
317 fines or penalties imposed; any reductions in overpayment

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318 amounts negotiated in settlement agreements or by other means;
319 the amount of final agency determinations of overpayments; the
320 amount deducted from federal claiming as a result of
321 overpayments; the amount of overpayments recovered each year;
322 the amount of cost of investigation recovered each year; the
323 average length of time to collect from the time the case was
324 opened until the overpayment is paid in full; the amount
325 determined as uncollectible and the portion of the uncollectible
326 amount subsequently reclaimed from the Federal Government; the
327 number of providers, by type, that are terminated from
328 participation in the Medicaid program as a result of fraud and
329 abuse; and all costs associated with discovering and prosecuting
330 cases of Medicaid overpayments and making recoveries in such
331 cases. The report must also document actions taken to prevent
332 overpayments and the number of providers prevented from
333 enrolling in or reenrolling in the Medicaid program as a result
334 of documented Medicaid fraud and abuse and must recommend
335 changes necessary to prevent or recover overpayments. For the
336 2001-2002 fiscal year, the agency shall prepare a report that
337 contains as much of this information as is available to it.
338 (8) Except in instances involving bona fide emergencies,
339 physicians who are not authorized Medicaid providers shall not
340 prescribe medications, medical supplies, or medical services to
341 Medicaid recipients when such non-Medicaid physicians know or
342 should know that a claim for reimbursement of any portion of the
343 cost of the prescribed medications, medical supplies, or medical
344 services will be submitted to the Medicaid program. Likewise,
345 except in instances involving bona fide emergencies, health care
346 vendors of prescription medications, medical supplies, or

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347 medical services otherwise authorized to submit claims for
348 Medicaid reimbursements shall not submit claims for Medicaid
349 reimbursements when such health care vendors know or should know
350 the physician prescribing the medications, medical supplies, or
351 medical services is not an authorized Medicaid provider. Any
352 person or entity who knowingly violates this subsection or
353 knowingly participates in a plan or scheme to cause others to
354 violate this subsection shall be required to reimburse the
355 Medicaid program for the full amount of the Medicaid claim
356 submitted in violation of this subsection and shall be subject
357 to penalties equal to three times the amount of the unlawful
358 Medicaid claim submitted, together with civil monetary
359 assessments of up to $5,000 for each Medicaid claim submitted
360 for medications, medical equipment, or medical services in
361 violation of this subsection, as well as investigation and
362 prosecution costs and attorney's fees. The remedies set forth in
363 this subsection are in addition to all other available remedies.
364 The agency shall not reimburse providers for any claims that do
365 not meet all of the preceding criteria.
366 (15)(14) The agency may seek any remedy provided by law,
367 including, but not limited to, the remedies provided in
368 subsections (13) (12) and (16) (15) and s. 812.035, if:
369 (a) The provider's license has not been renewed, or has
370 been revoked, suspended, or terminated, for cause, by the
371 licensing agency of any state;
372 (b) The provider has failed to make available or has
373 refused access to Medicaid-related records to an auditor,
374 investigator, or other authorized employee or agent of the

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375 agency, the Attorney General, a state attorney, or the Federal
376 Government;
377 (c) The provider has not furnished or has failed to make
378 available such Medicaid-related records as the agency has found
379 necessary to determine whether Medicaid payments are or were due
380 and the amounts thereof;
381 (d) The provider has failed to maintain medical records
382 made at the time of service, or prior to service if prior
383 authorization is required, demonstrating the necessity and
384 appropriateness of the goods or services rendered;
385 (e) The provider is not in compliance with provisions of
386 Medicaid provider publications that have been adopted by
387 reference as rules in the Florida Administrative Code; with
388 provisions of state or federal laws, rules, or regulations; with
389 provisions of the provider agreement between the agency and the
390 provider; or with certifications found on claim forms or on
391 transmittal forms for electronically submitted claims that are
392 submitted by the provider or authorized representative, as such
393 provisions apply to the Medicaid program;
394 (f) The provider or person who ordered or prescribed the
395 care, services, or supplies has furnished, or ordered the
396 furnishing of, goods or services to a recipient which are
397 inappropriate, unnecessary, excessive, or harmful to the
398 recipient or are of inferior quality;
399 (g) The provider has demonstrated a pattern of failure to
400 provide goods or services that are medically necessary;
401 (h) The provider or an authorized representative of the
402 provider, or a person who ordered or prescribed the goods or
403 services, has submitted or caused to be submitted false or a

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404 pattern of erroneous Medicaid claims that have resulted in
405 overpayments to a provider or that exceed those to which the
406 provider was entitled under the Medicaid program;
407 (i) The provider or an authorized representative of the
408 provider, or a person who has ordered or prescribed the goods or
409 services, has submitted or caused to be submitted a Medicaid
410 provider enrollment application, a request for prior
411 authorization for Medicaid services, a drug exception request,
412 or a Medicaid cost report that contains materially false or
413 incorrect information;
414 (j) The provider or an authorized representative of the
415 provider has collected from or billed a recipient or a
416 recipient's responsible party improperly for amounts that should
417 not have been so collected or billed by reason of the provider's
418 billing the Medicaid program for the same service;
419 (k) The provider or an authorized representative of the
420 provider has included in a cost report costs that are not
421 allowable under a Florida Title XIX reimbursement plan, after
422 the provider or authorized representative had been advised in an
423 audit exit conference or audit report that the costs were not
424 allowable;
425 (l) The provider is charged by information or indictment
426 with fraudulent billing practices. The sanction applied for this
427 reason is limited to suspension of the provider's participation
428 in the Medicaid program for the duration of the indictment
429 unless the provider is found guilty pursuant to the information
430 or indictment;

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431 (m) The provider or a person who has ordered, or
432 prescribed the goods or services is found liable for negligent
433 practice resulting in death or injury to the provider's patient;
434 (n) The provider fails to demonstrate that it had
435 available during a specific audit or review period sufficient
436 quantities of goods, or sufficient time in the case of services,
437 to support the provider's billings to the Medicaid program;
438 (o) The provider has failed to comply with the notice and
439 reporting requirements of s. 409.907;
440 (p) The agency has received reliable information of
441 patient abuse or neglect or of any act prohibited by s. 409.920;
442 or
443 (q) The provider has failed to comply with an agreed-upon
444 repayment schedule.
445 (16) ~~(15)~~ The agency shall impose any of the following
446 sanctions or disincentives on a provider or a person for any of
447 the acts described in subsection (15) ~~(14)~~:
448 (a) Suspension for a specific period of time of not more
449 than 1 year.
450 (b) Termination for a specific period of time of from more
451 than 1 year to 20 years.
452 (c) Imposition of a fine of up to $5,000 for each
453 violation. Each day that an ongoing violation continues, such as
454 refusing to furnish Medicaid-related records or refusing access
455 to records, is considered, for the purposes of this section, to
456 be a separate violation. Each instance of improper billing of a
457 Medicaid recipient; each instance of including an unallowable
458 cost on a hospital or nursing home Medicaid cost report after
459 the provider or authorized representative has been advised in an

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460 audit exit conference or previous audit report of the cost
461 unallowability; each instance of furnishing a Medicaid recipient
462 goods or professional services that are inappropriate or of
463 inferior quality as determined by competent peer judgment; each
464 instance of knowingly submitting a materially false or erroneous
465 Medicaid provider enrollment application, request for prior
466 authorization for Medicaid services, drug exception request, or
467 cost report; each instance of inappropriate prescribing of drugs
468 for a Medicaid recipient as determined by competent peer
469 judgment; and each false or erroneous Medicaid claim leading to
470 an overpayment to a provider is considered, for the purposes of
471 this section, to be a separate violation.

472 (d) Immediate suspension, if the agency has received
473 information of patient abuse or neglect or of any act prohibited
474 by s. 409.920. Upon suspension, the agency must issue an
475 immediate final order under s. 120.569(2)(n).

476 (e) A fine, not to exceed $10,000, for a violation of
477 paragraph (15) ~~(14)~~(i).

478 (f) Imposition of liens against provider assets,
479 including, but not limited to, financial assets and real
480 property, not to exceed the amount of fines or recoveries
481 sought, upon entry of an order determining that such moneys are
482 due or recoverable.

483 (g) Prepayment reviews of claims for a specified period of
484 time.

485 (h) Comprehensive followup reviews of providers every 6
486 months to ensure that they are billing Medicaid correctly.

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487 (i) Corrective-action plans that would remain in effect
488 for providers for up to 3 years and that would be monitored by
489 the agency every 6 months while in effect.
490 (j) Other remedies as permitted by law to effect the
491 recovery of a fine or overpayment.
492
493 The Secretary of Health Care Administration may make a
494 determination that imposition of a sanction or disincentive is
495 not in the best interest of the Medicaid program, in which case
496 a sanction or disincentive shall not be imposed.
497 Section 5. Paragraph (a) of subsection (1) of section
498 16.56, Florida Statutes, is amended to read:
499 16.56 Office of Statewide Prosecution.--
500 (1) There is created in the Department of Legal Affairs an
501 Office of Statewide Prosecution. The office shall be a separate
502 "budget entity" as that term is defined in chapter 216. The
503 office may:
504 (a) Investigate and prosecute the offenses of:
505 1. Bribery, burglary, criminal usury, extortion, gambling,
506 kidnapping, larceny, murder, prostitution, perjury, robbery,
507 carjacking, and home-invasion robbery;
508 2. Any crime involving narcotic or other dangerous drugs;
509 3. Any violation of the provisions of the Florida RICO
510 (Racketeer Influenced and Corrupt Organization) Act, including
511 any offense listed in the definition of racketeering activity in
512 s. 895.02(1)(a), providing such listed offense is investigated
513 in connection with a violation of s. 895.03 and is charged in a
514 separate count of an information or indictment containing a
515 count charging a violation of s. 895.03, the prosecution of

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516 which listed offense may continue independently if the
517 prosecution of the violation of s. 895.03 is terminated for any
518 reason;
519 4. Any violation of the provisions of the Florida Anti-
520 Fencing Act;
521 5. Any violation of the provisions of the Florida
522 Antitrust Act of 1980, as amended;
523 6. Any crime involving, or resulting in, fraud or deceit
524 upon any person;
525 7. Any violation of s. 847.0135, relating to computer
526 pornography and child exploitation prevention, or any offense
527 related to a violation of s. 847.0135;
528 8. Any violation of the provisions of chapter 815; ~~or~~
529 9. Any criminal violation of part I of chapter 499; or
530 10. Any criminal violation of the provisions of chapter
531 409 relating to Medicaid provider and recipient fraud;
532
533 or any attempt, solicitation, or conspiracy to commit any of the
534 crimes specifically enumerated above. The office shall have such
535 power only when any such offense is occurring, or has occurred,
536 in two or more judicial circuits as part of a related
537 transaction, or when any such offense is connected with an
538 organized criminal conspiracy affecting two or more judicial
539 circuits.
540 Section 6. Paragraph (a) of subsection (1) of section
541 895.02, Florida Statutes, is amended to read:
542 895.02 Definitions.--As used in ss. 895.01-895.08, the
543 term:

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544 (1) "Racketeering activity" means to commit, to attempt to
545 commit, to conspire to commit, or to solicit, coerce, or
546 intimidate another person to commit:
547 (a) Any crime which is chargeable by indictment or
548 information under the following provisions of the Florida
549 Statutes:
550 1. Section 210.18, relating to evasion of payment of
551 cigarette taxes.
552 2. Section 403.727(3)(b), relating to environmental
553 control.
554 3. Section 414.39, relating to public assistance fraud.
555 4. Sections ~~Section~~ 409.920 and 409.9201, relating to
556 Medicaid provider and recipient fraud.
557 5. Section 440.105 or s. 440.106, relating to workers'
558 compensation.
559 6. Sections 499.0051, 499.0052, 499.0053, 499.0054, and
560 499.0691, relating to crimes involving contraband and
561 adulterated drugs.
562 7. Part IV of chapter 501, relating to telemarketing.
563 8. Chapter 517, relating to sale of securities and
564 investor protection.
565 9. Section 550.235, s. 550.3551, or s. 550.3605, relating
566 to dogracing and horseracing.
567 10. Chapter 550, relating to jai alai frontons.
568 11. Chapter 552, relating to the manufacture,
569 distribution, and use of explosives.
570 12. Chapter 560, relating to money transmitters, if the
571 violation is punishable as a felony.
572 13. Chapter 562, relating to beverage law enforcement.

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573 14. Section 624.401, relating to transacting insurance
574 without a certificate of authority, s. 624.437(4)(c)1., relating
575 to operating an unauthorized multiple-employer welfare
576 arrangement, or s. 626.902(1)(b), relating to representing or
577 aiding an unauthorized insurer.
578 15. Section 655.50, relating to reports of currency
579 transactions, when such violation is punishable as a felony.
580 16. Chapter 687, relating to interest and usurious
581 practices.
582 17. Section 721.08, s. 721.09, or s. 721.13, relating to
583 real estate timeshare plans.
584 18. Chapter 782, relating to homicide.
585 19. Chapter 784, relating to assault and battery.
586 20. Chapter 787, relating to kidnapping.
587 21. Chapter 790, relating to weapons and firearms.
588 22. Section 796.03, s. 796.04, s. 796.05, or s. 796.07,
589 relating to prostitution.
590 23. Chapter 806, relating to arson.
591 24. Section 810.02(2)(c), relating to specified burglary
592 of a dwelling or structure.
593 25. Chapter 812, relating to theft, robbery, and related
594 crimes.
595 26. Chapter 815, relating to computer-related crimes.
596 27. Chapter 817, relating to fraudulent practices, false
597 pretenses, fraud generally, and credit card crimes.
598 28. Chapter 825, relating to abuse, neglect, or
599 exploitation of an elderly person or disabled adult.
600 29. Section 827.071, relating to commercial sexual
601 exploitation of children.

602 30. Chapter 831, relating to forgery and counterfeiting.
603 31. Chapter 832, relating to issuance of worthless checks
604 and drafts.
605 32. Section 836.05, relating to extortion.
606 33. Chapter 837, relating to perjury.
607 34. Chapter 838, relating to bribery and misuse of public
608 office.
609 35. Chapter 843, relating to obstruction of justice.
610 36. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
611 s. 847.07, relating to obscene literature and profanity.
612 37. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
613 849.25, relating to gambling.
614 38. Chapter 874, relating to criminal street gangs.
615 39. Chapter 893, relating to drug abuse prevention and
616 control.
617 40. Chapter 896, relating to offenses related to financial
618 transactions.
619 41. Sections 914.22 and 914.23, relating to tampering with
620 a witness, victim, or informant, and retaliation against a
621 witness, victim, or informant.
622 42. Sections 918.12 and 918.13, relating to tampering with
623 jurors and evidence.
624 Section 7. Subsections (8) and (9) of section 905.34,
625 Florida Statutes, are amended, and subsection (10) is added to
626 said section, to read:
627 905.34 Powers and duties; law applicable.--The
628 jurisdiction of a statewide grand jury impaneled under this
629 chapter shall extend throughout the state. The subject matter

630 jurisdiction of the statewide grand jury shall be limited to the
631 offenses of:
632 (8) Any violation of s. 847.0135, s. 847.0137, or s.
633 847.0138 relating to computer pornography and child exploitation
634 prevention, or any offense related to a violation of s.
635 847.0135, s. 847.0137, or s. 847.0138; ~~or~~
636 (9) Any criminal violation of part I of chapter 499; or
637 (10) Any criminal violation of the provisions of chapter
638 409 relating to Medicaid provider and recipient fraud;
639
640 or any attempt, solicitation, or conspiracy to commit any
641 violation of the crimes specifically enumerated above, when any
642 such offense is occurring, or has occurred, in two or more
643 judicial circuits as part of a related transaction or when any
644 such offense is connected with an organized criminal conspiracy
645 affecting two or more judicial circuits. The statewide grand
646 jury may return indictments and presentments irrespective of the
647 county or judicial circuit where the offense is committed or
648 triable. If an indictment is returned, it shall be certified and
649 transferred for trial to the county where the offense was
650 committed. The powers and duties of, and law applicable to,
651 county grand juries shall apply to a statewide grand jury except
652 when such powers, duties, and law are inconsistent with the
653 provisions of ss. 905.31-905.40.
654 Section 8. Subsection (1) of section 409.9071, Florida
655 Statutes, is amended to read:
656 409.9071 Medicaid provider agreements for school districts
657 certifying state match.--

658 (1) The agency shall submit a state plan amendment by
659 September 1, 1997, for the purpose of obtaining federal
660 authorization to reimburse school-based services as provided in
661 former s. 236.0812 pursuant to the rehabilitative services
662 option provided under 42 U.S.C. s. 1396d(a)(13). For purposes of
663 this section, billing agent consulting services shall be
664 considered billing agent services, as that term is used in s.
665 409.913(10)~~(9)~~, and, as such, payments to such persons shall not
666 be based on amounts for which they bill nor based on the amount
667 a provider receives from the Medicaid program. This provision
668 shall not restrict privatization of Medicaid school-based
669 services. Subject to any limitations provided for in the General
670 Appropriations Act, the agency, in compliance with appropriate
671 federal authorization, shall develop policies and procedures and
672 shall allow for certification of state and local education funds
673 which have been provided for school-based services as specified
674 in s. 1011.70 and authorized by a physician's order where
675 required by federal Medicaid law. Any state or local funds
676 certified pursuant to this section shall be for children with
677 specified disabilities who are eligible for both Medicaid and
678 part B or part H of the Individuals with Disabilities Education
679 Act (IDEA), or the exceptional student education program, or who
680 have an individualized educational plan.
681 Section 9. Subsection (3) of section 409.9131, Florida
682 Statutes, is amended to read:
683 409.9131 Special provisions relating to integrity of the
684 Medicaid program.--
685 (3) ONSITE RECORDS REVIEW.--As specified in s.
686 409.913(9)~~(8)~~, the agency may investigate, review, or analyze a

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687 physician's medical records concerning Medicaid patients. The
688 physician must make such records available to the agency during
689 normal business hours. The agency must provide notice to the
690 physician at least 24 hours before such visit. The agency and
691 physician shall make every effort to set a mutually agreeable
692 time for the agency's visit during normal business hours and
693 within the 24-hour period. If such a time cannot be agreed upon,
694 the agency may set the time.
695 Section 10. This act shall take effect July 1, 2004.