

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative R. Garcia offered the following:

2
3 **Amendment (with title amendment)**

4 Remove line 254 and insert:

5 (3) The agency shall impose a fine of \$5,000 against a
6 home health agency that demonstrates a pattern of billing any
7 payor for services not provided. A pattern may be demonstrated
8 by a showing of at least three billings for services not
9 provided within a 12-month period. The fine must be imposed for
10 each incident that is falsely billed. The agency may also:

11 (a) Require payback of all funds;

12 (b) Revoke the license; or

13 (c) Issue a moratorium in accordance with s. 408.814.

14 (4) The agency shall impose a fine of \$5,000 against a
15 home health agency that demonstrates a pattern of failing to
16 provide a service specified in the home health agency's written

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17 agreement with a patient or the patient's legal representative,
18 or the plan of care for that patient, unless a reduction in
19 service is mandated by Medicare, Medicaid, or a state program or
20 as provided in s. 400.492(3). A pattern may be demonstrated by a
21 showing of at least three incidences, regardless of the patient
22 or service, when the home health agency did not provide a
23 service specified in a written agreement or plan of care during
24 a 3-month period. The agency shall impose the fine for each
25 occurrence. The agency may also impose additional administrative
26 finances under s. 400.484 for the direct or indirect harm to a
27 patient, or deny, revoke, or suspend the license of the home
28 health agency for a pattern of failing to provide a service
29 specified in the home health agency's written agreement with a
30 patient or the plan of care for that patient.

31 (5) The agency may deny, revoke, or suspend the license of
32 a home health agency and shall impose a fine of \$5,000 against a
33 home health agency that:

34 (a) Gives remuneration for staffing services to:

35 1. Another home health agency with which it has formal or
36 informal patient-referral transactions or arrangements; or

37 2. A health services pool with which it has formal or
38 informal patient-referral transactions or arrangements,

39
40 unless the home health agency has activated its comprehensive
41 emergency management plan in accordance with s. 400.492. This
42 paragraph does not apply to a Medicare-certified home health
43 agency that provides fair market value remuneration for staffing
44 services to a non-Medicare-certified home health agency that is

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45 part of a continuing care facility licensed under chapter 651
46 providing services to its own residents if each resident
47 receiving home health services pursuant to this arrangement
48 attests in writing that he or she made a decision without
49 influence from the staff of the facility to select, from a list
50 of Medicare-certified home health agencies provided by the
51 facility, that Medicare-certified home health agency to provide
52 the services.

53 (b) Provides services to residents in an assisted living
54 facility for which the home health agency does not receive fair
55 market value remuneration.

56 (c) Provides staffing to an assisted living facility for
57 which the home health agency does not receive fair market value
58 remuneration.

59 (d) Fails to provide the agency, upon request, with copies
60 of all contracts with assisted living facilities which were
61 executed within 5 years before the request was submitted.

62 (e) Gives remuneration to a case manager, discharge
63 planner, facility-based staff member, or third-party vendor who
64 is involved in the discharge-planning process of a facility
65 licensed under chapter 395 or this chapter from whom the home
66 health agency receives referrals.

67 (f) Fails to submit to the agency, within 10 days after
68 the end of each calendar quarter, a written report that includes
69 the following data based on data as it existed on the last day
70 of the quarter:

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71 1. The number of insulin-dependent diabetic patients
72 receiving insulin-injection services from the home health
73 agency;

74 2. The number of patients receiving both home health
75 services from the home health agency and hospice services;

76 3. The number of patients receiving home health services
77 from that home health agency; and

78 4. The names and license numbers of nurses whose primary
79 job responsibility is to provide home health services to
80 patients and who received remuneration from the home health
81 agency in excess of \$25,000 during the calendar quarter.

82 (g) Gives cash, or its equivalent, to a Medicare or
83 Medicaid beneficiary.

84 (h) Has more than one medical director contract in effect
85 at one time or more than one medical director contract and one
86 contract with a physician-specialist whose services are mandated
87 for the home health agency in order to qualify to participate in
88 a federal or state health care program at one time.

89 (i) Gives remuneration to a physician without a medical
90 director contract being in effect. The contract must:

91 1. Be in writing and signed by both parties;
92 2. Provide for remuneration that is at fair market value
93 for an hourly rate, which must be supported by invoices
94 submitted by the medical director describing the work performed,
95 the dates on which that work was performed, and the duration of
96 that work; and

97 3. Be for a term of at least 1 year.
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99 The hourly rate specified in the contract may not be increased
100 during the term of the contract. The home health agency may not
101 execute a subsequent contract with that physician which has an
102 increased hourly rate and covers any portion of the term that
103 was in the original contract.

104 (j) Gives remuneration to:

105 1. A physician, and the home health agency is in violation
106 of paragraph (h) or paragraph (i);

107 2. A member of the physician's office staff; or

108 3. An immediate family member of the physician,

109
110 if the home health agency has received a patient referral in the
111 preceding 12 months from that physician or members of that
112 physician's office staff.

113 (k) Fails to provide to the agency, upon request, copies
114 of all contracts with a medical director which were executed
115 within 5 years before the request.

116 (6)-(3)(a) In addition to the requirements of s. 408.813,
117 any

118 ===== T I T L E A M E N D M E N T =====

119 Between lines 267 and 268, insert:

120 authorizing the agency to impose a fine, deny, revoke, or
121 suspend the license of against a home health agency under
122 certain circumstances;