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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on Health and Human Services Appropriations  
(Gaetz) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 277 - 464

and insert:

interest has been administratively sanctioned by the agency  
since the last licensure renewal application for one or more of  
the following acts:

(a) An intentional or negligent act that materially affects  
the health or safety of a client of the provider;

(b) Knowingly providing home health services in an  
unlicensed assisted living facility or unlicensed adult family-



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12 care home, unless the home health agency or employee reports the  
13 unlicensed facility or home to the agency within 72 hours after  
14 providing the services;

15 (c) Preparing or maintaining fraudulent patient records,  
16 such as, but not limited to, charting ahead, recording vital  
17 signs or symptoms which were not personally obtained or observed  
18 by the home health agency's staff at the time indicated,  
19 borrowing patients or patient records from other home health  
20 agencies to pass a survey or inspection, or falsifying  
21 signatures;

22 (d) Failing to provide at least one service directly to a  
23 patient for a period of 60 days;

24 (e) Demonstrating a pattern of falsifying documents  
25 relating to the training of home health aides or certified  
26 nursing assistants or demonstrating a pattern of falsifying  
27 health statements for staff who provide direct care to patients.  
28 A pattern may be demonstrated by a showing of at least three  
29 fraudulent entries or documents;

30 (f) Demonstrating a pattern of billing any payor for  
31 services not provided. A pattern may be demonstrated by a  
32 showing of at least three billings for services not provided  
33 within a 12-month period;

34 (g) Demonstrating a pattern of failing to provide a service  
35 specified in the home health agency's written agreement with a  
36 patient or the patient's legal representative, or the plan of  
37 care for that patient, unless a reduction in service is mandated  
38 by Medicare, Medicaid, or a state program or as provided in s.  
39 400.492(3). A pattern may be demonstrated by a showing of at  
40 least three incidents, regardless of the patient or service, in



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41 which the home health agency did not provide a service specified  
42 in a written agreement or plan of care during a 3-month period;

43 (h) Giving remuneration to a case manager, discharge  
44 planner, facility-based staff member, or third-party vendor who  
45 is involved in the discharge planning process of a facility  
46 licensed under chapter 395, chapter 429, or this chapter from  
47 whom the home health agency receives referrals or gives  
48 remuneration as prohibited in s. 400.474(6) (a);

49 (i) Giving cash, or its equivalent, to a Medicare or  
50 Medicaid beneficiary;

51 (j) Demonstrating a pattern of billing the Medicaid program  
52 for services to Medicaid recipients which are medically  
53 unnecessary. A pattern may be demonstrated by a showing of at  
54 least two fraudulent entries or documents;

55 (k) Providing services to residents in an assisted living  
56 facility for which the home health agency does not receive fair  
57 market value remuneration; or

58 (l) Providing staffing to an assisted living facility for  
59 which the home health agency does not receive fair market value  
60 remuneration.

61 Section 5. Paragraph (e) is amended, and Paragraph (l) is  
62 added to subsection (6) of section 400.474, Florida Statutes, to  
63 read:

64 400.474 Administrative penalties.—

65 (6) The agency may deny, revoke, or suspend the license of  
66 a home health agency and shall impose a fine of \$5,000 against a  
67 home health agency that:

68 (e) Gives remuneration to a case manager, discharge  
69 planner, facility-based staff member, or third-party vendor who



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70 is involved in the discharge planning process of a facility  
71 licensed under chapter 395, chapter 429, or this chapter from  
72 whom the home health agency receives referrals.

73 (1) Demonstrates a pattern of billing the Medicaid program  
74 for services to Medicaid recipients that are medically  
75 unnecessary. A pattern may be demonstrated by a showing of at  
76 least two medically unnecessary services.

77 Section 6. Paragraph (a) of subsection (15) of section  
78 400.506, Florida Statutes, is amended to read:

79 400.506 Licensure of nurse registries; requirements;  
80 penalties.—

81 (15) (a) The agency may deny, suspend, or revoke the license  
82 of a nurse registry and shall impose a fine of \$5,000 against a  
83 nurse registry that:

84 1. Provides services to residents in an assisted living  
85 facility for which the nurse registry does not receive fair  
86 market value remuneration.

87 2. Provides staffing to an assisted living facility for  
88 which the nurse registry does not receive fair market value  
89 remuneration.

90 3. Fails to provide the agency, upon request, with copies  
91 of all contracts with assisted living facilities which were  
92 executed within the last 5 years.

93 4. Gives remuneration to a case manager, discharge planner,  
94 facility-based staff member, or third-party vendor who is  
95 involved in the discharge planning process of a facility  
96 licensed under chapter 395 or this chapter and from whom the  
97 nurse registry receives referrals. However, this subparagraph  
98 does not prohibit a nurse registry from providing promotional



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99 items or promotional products, food, or beverages. The  
100 cumulative value of these items may not exceed \$50 for a single  
101 event. The cumulative value of these items may not exceed \$100  
102 in a calendar year for all persons specified in this  
103 subparagraph who are affiliated with a facility.

104           5. Gives remuneration to a physician, a member of the  
105 physician's office staff, or an immediate family member of the  
106 physician, and the nurse registry received a patient referral in  
107 the last 12 months from that physician or the physician's office  
108 staff. However, this subparagraph does not prohibit a nurse  
109 registry from providing promotional items or promotional  
110 products, food, or beverages. The cumulative value of these  
111 items may not exceed \$50 for a single event. The cumulative  
112 value of these items may not exceed \$100 in a calendar year for  
113 all persons specified in this subparagraph who are affiliated  
114 with a physician's office.

115           Section 7. Section 408.8065, Florida Statutes, is created  
116 to read:

117           408.8065 Additional licensure requirements for home health  
118 agencies, home medical equipment providers, and health care  
119 clinics.-

120           (1) An applicant for initial licensure, or initial  
121 licensure due to a change of ownership, as a home health agency,  
122 home medical equipment provider, or health care clinic shall:

123           (a) Demonstrate financial ability to operate, as required  
124 under s. 408.810(8).

125           (b) Submit pro forma financial statements, including a  
126 balance sheet, income and expense statement, and a statement of  
127 cash flows for the first two years of operation which provide



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128 evidence that the applicant has sufficient assets, credit, and  
129 projected revenues to cover liabilities and expenses.

130 (c) Submit a statement of the applicant's estimated startup  
131 costs and sources of funds through the break-even point in  
132 operations demonstrating that the applicant has the ability to  
133 fund all startup costs, working capital, and contingency  
134 financing. The statement must show that the applicant has at a  
135 minimum 3 months of average projected expenses to cover startup  
136 costs, working capital, and contingency financing. The minimum  
137 amount for contingency funding shall not be less than one month  
138 of average projected expenses.

139 (d) An applicant will have demonstrated the financial  
140 ability to operate if the applicant's assets, credit, and  
141 projected revenues meet or exceed projected liabilities and  
142 expenses; and the applicant has provided independent evidence  
143 that the funds necessary for startup costs, working capital, and  
144 contingency financing exist and will be available as needed.

145  
146 All documents required under this subsection must be  
147 prepared in accordance with generally accepted accounting  
148 principles and may be in a compilation form. The financial  
149 statements must be signed by a certified public accountant.

150 (2) In addition to the penalties provided in s. 408.812,  
151 any person offering services requiring licensure under part III,  
152 part VII, or part X of chapter 400, who knowingly files a false  
153 or misleading license or license renewal application or who  
154 submits false or misleading information related to such  
155 application; and any person who violates or conspires to violate  
156 this section commits a felony of the third degree, punishable as



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157 provided in s. 775.082, s. 775.083, or s. 775.084.

158 Section 8. Subsection (3), and paragraph (a) of subsection  
159 (5), of section 408.810, Florida Statutes, is amended to read:

160 408.810 Minimum licensure requirements.—In addition to the  
161 licensure requirements specified in this part, authorizing  
162 statutes, and applicable rules, each applicant and licensee must  
163 comply with the requirements of this section in order to obtain  
164 and maintain a license.

165 (3) Unless otherwise specified in this part, authorizing  
166 statutes, or applicable rules, any information required to be  
167 reported to the agency must be submitted within 21 calendar days  
168 after the report period or effective date of the information,  
169 whichever is earlier, including, but not limited to, any change  
170 of:

171 (a) Information contained in the most recent application  
172 for licensure.

173 (b) Required insurance or bonds.

174 (5) (a) On or before the first day services are provided to  
175 a client, a licensee must inform the client and his or her  
176 immediate family or representative, if appropriate, of the right  
177 to report:

178 1. Complaints. The statewide toll-free telephone number for  
179 reporting complaints to the agency must be provided to clients  
180 in a manner that is clearly legible and must include the words:  
181 "To report a complaint regarding the services you receive,  
182 please call toll-free (phone number)."

183 2. Abusive, neglectful, or exploitative practices. The  
184 statewide toll-free telephone number for the central abuse  
185 hotline must be provided to clients in a manner that is clearly



186 legible and must include the words: "To report abuse, neglect,  
187 or exploitation, please call toll-free (phone number)."

188 3. Medicaid fraud. An agency written description of  
189 Medicaid fraud and the statewide toll-free telephone number

190

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

192 And the title is amended as follows:

193 Delete lines 17 - 34

194 and insert:

195 authorizing the Agency for Health Care Administration to deny,  
196 revoke, or suspend the license of or fine a home health agency  
197 that provides remuneration to certain facilities or bills the  
198 Medicaid program for medically unnecessary services; amending s.  
199 400.506, F.S.; exempting certain items from a prohibition  
200 against providing remuneration to certain persons by a nurse  
201 registry; creating s. 408.8065, F.S.; providing additional  
202 licensure requirements for home health agencies, home medical  
203 equipment providers, and health care clinics; imposing criminal  
204 penalties on a person who knowingly submits misleading  
205 information to the Agency for Health Care Administration in  
206 connection with applications for certain licenses; amending s.  
207 408.810, F.S.; revising provisions relating to information  
208 required for licensure; requiring certain licensees