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1 A bill to be entitled  
2 An act relating to Medicaid fraud; amending s. 499.067,  
3 F.S.; requiring that the Department of Health deny,  
4 revoke, suspend, or refuse to issue or renew a permit or  
5 certificate of certain applicants, permittees, or  
6 certificateholders that have been convicted of, or entered  
7 a plea of guilty or nolo contendere to, regardless of  
8 adjudication, a felony involving Medicaid fraud; amending  
9 s. 624.418, F.S.; requiring that the Office of Insurance  
10 Regulation deny, suspend, or revoke a certificate of  
11 authority of a health insurer that has been convicted of,  
12 or entered a plea of guilty or nolo contendere to,  
13 regardless of adjudication, a felony involving Medicaid  
14 fraud; defining the term "health insurer" for purposes of  
15 penalties relating to Medicaid fraud; amending s.  
16 626.6115, F.S.; requiring that the Department of Financial  
17 Services deny, revoke, or suspend a health insurance  
18 agency's license or refuse to issue or renew an  
19 application for such a license if the business or  
20 applicant has been convicted of, or entered a plea of  
21 guilty or nolo contendere to, regardless of adjudication,  
22 a felony involving Medicaid fraud; defining the term  
23 "health insurance agency" for purposes of penalties  
24 relating to Medicaid fraud; amending s. 641.45, F.S.;  
25 requiring that the Office of Insurance Regulation deny,  
26 revoke, or suspend a certificate of authority or refuse to  
27 issue or renew an application for a certificate of  
28 authority for certain prepaid health clinics or applicants

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29 that have been convicted of, or entered a plea of guilty  
 30 or nolo contendere to, regardless of adjudication, a  
 31 felony involving Medicaid fraud; amending s. 641.52, F.S.;  
 32 providing for nonapplicability; requiring that the Agency  
 33 for Health Care Administration deny, revoke, or suspend a  
 34 health care provider certificate or refuse to issue or  
 35 renew an application for a health care provider  
 36 certificate for certain prepaid health clinics, health  
 37 maintenance organizations, or applicants that have been  
 38 convicted of, or entered a plea of guilty or nolo  
 39 contendere to, regardless of adjudication, a felony  
 40 involving Medicaid fraud; providing an effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Subsection (8) is added to section 499.067,  
 45 Florida Statutes, to read:

46 499.067 Denial, suspension, or revocation of permit,  
 47 certification, or registration.—

48 (8) (a) The department shall deny or refuse to issue a  
 49 permit or certificate to any applicant if the applicant has been  
 50 convicted of, or entered a plea of guilty or nolo contendere to,  
 51 regardless of adjudication, a felony under s. 409.920 or s.  
 52 409.9201, unless the conviction occurred more than 5 years  
 53 before the date of the application.

54 (b) The department shall revoke, suspend, or refuse to  
 55 renew a permit or certificate to any permittee or  
 56 certificateholder if the permittee or certificateholder has been

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57 convicted of, or entered a plea of guilty or nolo contendere to,  
 58 regardless of adjudication, a felony under s. 409.920 or s.  
 59 409.9201 on or after July 1, 2010, unless the conviction  
 60 occurred more than 5 years before the date of the application.

61 Section 2. Subsection (4) is added to section 624.418,  
 62 Florida Statutes, to read:

63 624.418 Suspension, revocation of certificate of authority  
 64 for violations and special grounds.—

65 (4) (a) The office shall revoke a health insurer's  
 66 certificate of authority if it finds that the insurer has been  
 67 convicted of, or entered a plea of guilty or nolo contendere to,  
 68 regardless of adjudication, a felony under s. 409.920 or s.  
 69 409.9201, unless the conviction occurred more than 5 years  
 70 before the date of the application.

71 (b) As used in this subsection, the term "health insurer"  
 72 means any insurance company authorized to transact health  
 73 insurance in this state as defined in s. 624.603, a health  
 74 maintenance organization authorized to transact business in this  
 75 state pursuant to part I of chapter 641, or a prepaid health  
 76 clinic authorized to transact business in this state pursuant to  
 77 part II of chapter 641.

78 Section 3. Section 626.6115, Florida Statutes, is amended  
 79 to read:

80 626.6115 Grounds for compulsory refusal, suspension, or  
 81 revocation of insurance agency license.—

82 (1) The department shall deny, suspend, revoke, or refuse  
 83 to continue the license of any insurance agency if it finds, as  
 84 to any insurance agency or as to any majority owner, partner,

85 manager, director, officer, or other person who manages or  
 86 controls such agency, that any of the following applicable  
 87 grounds exist:

88 (a)~~(1)~~ Lack by the agency of one or more of the  
 89 qualifications for the license as specified in this code.

90 (b)~~(2)~~ Material misstatement, misrepresentation, or fraud  
 91 in obtaining the license or in attempting to obtain the license.

92 (c)~~(3)~~ Denial, suspension, or revocation of a license to  
 93 practice or conduct any regulated profession, business, or  
 94 vocation relating to the business of insurance by this state,  
 95 any other state, any nation, any possession or district of the  
 96 United States, any court, or any lawful agency thereof. However,  
 97 the existence of grounds for administrative action against a  
 98 licensed agency does not constitute grounds for action against  
 99 any other licensed agency, including an agency that owns, is  
 100 under common ownership with, or is owned by, in whole or in  
 101 part, the agency for which grounds for administrative action  
 102 exist.

103 (2) (a) In addition to the grounds set forth in subsection  
 104 (1), the department shall deny, suspend, revoke, or refuse to  
 105 continue the license of any health insurance agency if it finds  
 106 that the health insurance agency or any majority owner, partner,  
 107 manager, director, officer, or other person who manages or  
 108 controls such agency has been convicted of, or entered a plea of  
 109 guilty or nolo contendere to, regardless of adjudication, a  
 110 felony under s. 409.920 or s. 409.9201, unless the conviction  
 111 occurred more than 5 years before the date of the application.

112 (b) As used in this subsection, the term "health insurance

113 agency" means a business location at which an individual, firm,  
 114 partnership, corporation, association, or other entity, other  
 115 than an employee of the individual, firm, partnership,  
 116 corporation, association, or other entity and other than an  
 117 insurer as defined by s. 624.03 or an adjuster as defined in s.  
 118 626.015, engages in any activity or employs individuals to  
 119 engage in any activity that by law may be performed only by a  
 120 licensed health agent as defined in s. 626.015.

121 Section 4. Subsection (4) is added to section 641.45,  
 122 Florida Statutes, to read:

123 641.45 Revocation or cancellation of certificate of  
 124 authority; suspension of authority to enroll new subscribers;  
 125 terms of suspension.—

126 (4) The office shall deny, suspend, or revoke a prepaid  
 127 health clinic's certificate of authority or refuse to issue or  
 128 renew an application for a certificate of authority if it finds  
 129 that the prepaid health clinic or applicant has been convicted  
 130 of, or entered a plea of guilty or nolo contendere to,  
 131 regardless of adjudication, a felony under s. 409.920 or s.  
 132 409.9201, unless the conviction occurred more than 5 years  
 133 before the date of the application.

134 Section 5. Subsection (5) of section 641.52, Florida  
 135 Statutes, is amended, and subsection (8) is added to that  
 136 section, to read:

137 641.52 Revocation of certificate; suspension of new  
 138 enrollment; suspension of the health care provider certificate;  
 139 administrative fine; notice of action to the office; penalty for  
 140 use of unlicensed providers.—

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141 (5) If the agency finds that one or more grounds exist for  
142 the revocation or suspension of a certificate issued under this  
143 part, the agency may, in lieu of such revocation or suspension,  
144 impose a fine upon the organization. With respect to any  
145 nonwillful violation, the fine may not exceed \$2,500 per  
146 violation. Such fines may not exceed an aggregate amount of  
147 \$25,000 for all nonwillful violations arising out of the same  
148 action. With respect to any knowing and willful violation of a  
149 lawful order or rule of the agency or a provision of this part,  
150 the agency may impose a fine upon the organization in an amount  
151 not to exceed \$20,000 for each such violation. Such fines may  
152 not exceed an aggregate amount of \$250,000 for all knowing and  
153 willful violations arising out of the same action. The agency  
154 shall, by January 1, 1997, adopt by rule penalty categories that  
155 specify varying ranges of fines for willful violations and for  
156 nonwillful violations. This subsection does not apply to an  
157 organization in which the agency has found that any ground set  
158 forth in subsection (8) exists for the revocation or suspension  
159 of a certificate issued under this part.

160 (8) The agency shall deny, suspend, or revoke an  
161 organization's health care provider certificate or refuse to  
162 issue or renew an application for a health care provider  
163 certificate if it finds that the organization or applicant has  
164 been convicted of, or entered a plea of guilty or nolo  
165 contendere to, regardless of adjudication, a felony under s.  
166 409.920 or s. 409.9201, unless the conviction occurred more than  
167 5 years before the date of the application.

168 Section 6. This act shall take effect July 1, 2010.