

By Senator Justice

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

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

44
45 Be It Enacted by the Legislature of the State of Florida:

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

49 499.067 Denial, suspension, or revocation of permit,
50 certification, or registration.—

51 (8) (a) The department shall deny or refuse to issue a
52 permit or certificate to any applicant if the applicant has been
53 convicted of, or entered a plea of guilty or nolo contendere to,
54 regardless of adjudication, a felony under s. 409.920 or s.
55 409.9201, unless the conviction occurred more than 5 years
56 before the date of the application.

57 (b) The department shall revoke, suspend, or refuse to
58 renew a permit or certificate to any permittee or

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59 certificateholder if the permittee or certificateholder has been
60 convicted of, or entered a plea of guilty or nolo contendere to,
61 regardless of adjudication, a felony under s. 409.920 or s.
62 409.9201, on or after July 1, 2010, unless the conviction
63 occurred more than 5 years before the date of the application.

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

66 624.418 Suspension, revocation of certificate of authority
67 for violations and special grounds.—

68 (4) (a) The office shall revoke a health insurer's
69 certificate of authority if it finds that the insurer has been
70 convicted of, or entered a plea of guilty or nolo contendere to,
71 regardless of adjudication, a felony under s. 409.920 or s.
72 409.9201, unless the conviction occurred more than 5 years
73 before the date of the application.

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

81 Section 3. Section 626.6115, Florida Statutes, is amended
82 to read:

83 626.6115 Grounds for compulsory refusal, suspension, or
84 revocation of insurance agency license.—

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

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88 manager, director, officer, or other person who manages or
89 controls such agency, that any of the following applicable
90 grounds exist:

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

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

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

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

115 (b) As used in this subsection, the term "health insurance
116 agency" means a business location at which an individual, firm,

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117 partnership, corporation, association, or other entity, other
118 than an employee of the individual, firm, partnership,
119 corporation, association, or other entity and other than an
120 insurer as defined by s. 624.03 or an adjuster as defined in s.
121 626.015, engages in any activity or employs individuals to
122 engage in any activity that by law may be performed only by a
123 licensed health agent as defined in s. 626.015.

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

126 641.45 Revocation or cancellation of certificate of
127 authority; suspension of authority to enroll new subscribers;
128 terms of suspension.—

129 (4) The agency shall deny, suspend, or revoke a prepaid
130 health clinic's certificate of authority or refuse to issue or
131 renew an application for a certificate of authority if it finds
132 that the prepaid health clinic or applicant has been convicted
133 of, or entered a plea of guilty or nolo contendere to,
134 regardless of adjudication, a felony under s. 409.920 or s.
135 409.9201, unless the conviction occurred more than 5 years
136 before the date of the application.

137 Section 5. Subsection (5) of section 641.52, Florida
138 Statutes, is amended, and subsection (8) is added to that
139 section, to read:

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

144 (5) If the agency finds that one or more grounds exist for
145 the revocation or suspension of a certificate issued under this

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

163 (8) The agency shall deny, suspend, or revoke an
164 organization's health care provider certificate or refuse to
165 issue or renew an application for a health care provider
166 certificate if it finds that the organization or applicant has
167 been convicted of, or entered a plea of guilty or nolo
168 contendere to, regardless of adjudication, a felony under s.
169 409.920 or s. 409.9201, unless the conviction occurred more than
170 5 years before the date of the application.

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