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LEGISLATIVE ACTION

Senate

House

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Floor: WD/3R

04/29/2010 03:32 PM

Senator Aronberg moved the following:

Senate Amendment (with title amendment)

Between lines 2560 and 2561

insert:

Section 56. Section 456.0635, Florida Statutes, is amended to read:

456.0635 Health care ~~Medicaid~~ fraud; disqualification for license, certificate, or registration.—

(1) ~~Medicaid~~ Fraud in the practice of a health care profession is prohibited.

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue ~~or renew~~ a



492658

14 license, certificate, or registration to any applicant if the
15 candidate or applicant or any principal, officer, agent,
16 managing employee, or affiliated person of the applicant, ~~has~~
17 ~~been:~~

18 (a) Has been convicted of, or entered a plea of guilty or
19 nolo contendere to, regardless of adjudication, a felony under
20 chapter 409, chapter 817, chapter 893, or a similar felony
21 offense committed in another state or jurisdiction 21 U.S.C. ss.
22 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any
23 subsequent period of probation for such conviction or plea pleas
24 ended: more than 15 years prior to the date of the application;

25 1. For felonies of the first or second degree, more than 15
26 years before the date of application.

27 2. For felonies of the third degree, more than 10 years
28 before the date of application, except for felonies of the third
29 degree under s. 893.13(6) (a).

30 3. For felonies of the third degree under s. 893.13(6) (a),
31 more than 5 years before the date of application.

32 4. For felonies in which the defendant entered a plea of
33 guilty or nolo contendere in an agreement with the court to
34 enter a pretrial intervention or drug diversion program, the
35 department may not approve or deny the application for a
36 license, certificate, or registration until the final resolution
37 of the case;

38 (b) Has been convicted of, or entered a plea of guilty or
39 nolo contendere to, regardless of adjudication, a felony under
40 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the
41 sentence and any subsequent period of probation for such
42 conviction or plea ended more than 15 years before the date of



492658

43 the application;

44 (c) ~~(b)~~ Has been terminated for cause from the Florida
45 Medicaid program pursuant to s. 409.913, unless the applicant
46 has been in good standing with the Florida Medicaid program for
47 the most recent 5 years;

48 (d) ~~(e)~~ Has been terminated for cause, pursuant to the
49 appeals procedures established by the state ~~or Federal~~
50 ~~Government~~, from any other state Medicaid program ~~or the federal~~
51 ~~Medicare program~~, unless the applicant has been in good standing
52 with a state Medicaid program ~~or the federal Medicare program~~
53 for the most recent 5 years and the termination occurred at
54 least 20 years before ~~prior to~~ the date of the application; or-

55 (e) Is currently listed on the United States Department of
56 Health and Human Services Office of Inspector General's List of
57 Excluded Individuals and Entities.

58
59 This subsection does not apply to applicants for initial
60 licensure or certification who were enrolled in an educational
61 or training program on or before July 1, 2009, which was
62 recognized by a board or, if there is no board, recognized by
63 the department, and who applied for licensure after July 1,
64 2009.

65 (3) Each board within the jurisdiction of a board, or the
66 department if there is no board, shall refuse to renew a
67 license, certificate, or registration of any applicant if the
68 candidate or applicant or any principal, officer, agent,
69 managing employee, or affiliated person of the applicant:

70 (a) Has been convicted of, or entered a plea of guilty or
71 nolo contendere to, regardless of adjudication, a felony under:



492658

72 chapter 409, chapter 817, chapter 893, or a similar felony
73 offense committed in another state or jurisdiction since July 1,
74 2009.

75 (b) Has been convicted of, or entered a plea of guilty or
76 nolo contendere to, regardless of adjudication, a felony under
77 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 since July 1,
78 2009.

79 (c) Has been terminated for cause from the Florida Medicaid
80 program pursuant to s. 409.913, unless the applicant has been in
81 good standing with the Florida Medicaid program for the most
82 recent 5 years.

83 (d) Has been terminated for cause, pursuant to the appeals
84 procedures established by the state, from any other state
85 Medicaid program, unless the applicant has been in good standing
86 with a state Medicaid program for the most recent 5 years and
87 the termination occurred at least 20 years before the date of
88 the application.

89 (e) Is currently listed on the United States Department of
90 Health and Human Services Office of Inspector General's List of
91 Excluded Individuals and Entities.

92
93 For felonies in which the defendant entered a plea of guilty or
94 nolo contendere in an agreement with the court to enter a
95 pretrial intervention or drug diversion program, the department
96 may not approve or deny the application for a renewal of a
97 license, certificate, or registration until the final resolution
98 of the case.

99 (4)~~(3)~~ Licensed health care practitioners shall report
100 allegations of Medicaid fraud to the department, regardless of



492658

101 the practice setting in which the alleged Medicaid fraud
102 occurred.

103 (5)~~(4)~~ The acceptance by a licensing authority of a
104 candidate's relinquishment of a license which is offered in
105 response to or anticipation of the filing of administrative
106 charges alleging Medicaid fraud or similar charges constitutes
107 the permanent revocation of the license.

108 (6) The department shall adopt rules to administer the
109 provisions of this section related to denial of licensure
110 renewal.

111 Section 57. Paragraph (kk) of subsection (1) of section
112 456.072, Florida Statutes, is amended to read:

113 456.072 Grounds for discipline; penalties; enforcement.—

114 (1) The following acts shall constitute grounds for which
115 the disciplinary actions specified in subsection (2) may be
116 taken:

117 (kk) Being terminated from the state Medicaid program
118 pursuant to s. 409.913 or~~r~~ any other state Medicaid program~~r~~ or
119 excluded from the federal Medicare program, unless eligibility
120 to participate in the program from which the practitioner was
121 terminated has been restored.

122 Section 58. Subsection (13) of section 456.073, Florida
123 Statutes, is amended to read:

124 456.073 Disciplinary proceedings.—Disciplinary proceedings
125 for each board shall be within the jurisdiction of the
126 department.

127 (13) Notwithstanding any provision of law to the contrary,
128 an administrative complaint against a licensee shall be filed
129 within 6 years after the time of the incident or occurrence



492658

130 giving rise to the complaint against the licensee. If such
131 incident or occurrence involved fraud related to the Medicaid
132 program, criminal actions, diversion of controlled substances,
133 sexual misconduct, or impairment by the licensee, this
134 subsection does not apply to bar initiation of an investigation
135 or filing of an administrative complaint beyond the 6-year
136 timeframe. In those cases covered by this subsection in which it
137 can be shown that fraud, concealment, or intentional
138 misrepresentation of fact prevented the discovery of the
139 violation of law, the period of limitations is extended forward,
140 but in no event to exceed 12 years after the time of the
141 incident or occurrence.

142 Section 59. Subsection (1) of section 456.074, Florida
143 Statutes, is amended to read:

144 456.074 Certain health care practitioners; immediate
145 suspension of license.-

146 (1) The department shall issue an emergency order
147 suspending the license of any person licensed in a profession as
148 defined in this chapter ~~under chapter 458, chapter 459, chapter~~
149 ~~460, chapter 461, chapter 462, chapter 463, chapter 464, chapter~~
150 ~~465, chapter 466, or chapter 484~~ who pleads guilty to, is
151 convicted or found guilty of, or who enters a plea of nolo
152 contendere to, regardless of adjudication, to:

153 (a) A felony under chapter 409, chapter 812, chapter 817,
154 or chapter 893, chapter 895, chapter 896, ~~or under~~ 21 U.S.C. ss.
155 801-970, ~~or under~~ 42 U.S.C. ss. 1395-1396; or

156 (b) A misdemeanor or felony under 18 U.S.C. s. 669, ss.
157 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s.
158 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the



492658

159 Medicaid program.

160 Section 60. Paragraph (q) of subsection (2) of section
161 499.01, Florida Statutes, is amended to read:

162 499.01 Permits.—

163 (2) The following permits are established:

164 (q) *Device manufacturer permit.*—A device manufacturer
165 permit is required for any person that engages in the
166 manufacture, repackaging, or assembly of medical devices for
167 human use in this state, except that a permit is not required
168 if:

169 1. The person does not manufacture, repackage, or assemble
170 any medical devices or components for such devices, except those
171 devices or components which are exempt from registration
172 pursuant to s. 499.015(8); or

173 2. The person is engaged only in manufacturing,
174 repackaging, or assembling a medical device pursuant to a
175 practitioner's order for a specific patient.

176 ~~a.1.~~ A manufacturer or repackager of medical devices in
177 this state must comply with all appropriate state and federal
178 good manufacturing practices and quality system rules.

179 ~~b.2.~~ The department shall adopt rules related to storage,
180 handling, and recordkeeping requirements for manufacturers of
181 medical devices for human use.

182

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

184 And the title is amended as follows:

185 Delete line 127

186 and insert:

187 ch. 435, F.S., by the act; amending s. 456.0635, F.S.;



492658

188 revising the grounds under which the Department of
189 Health or corresponding board is required to refuse to
190 admit a candidate to an examination and refuse to
191 issue or renew a license, certificate, or registration
192 of a health care practitioner; providing an exception;
193 amending s. 456.072, F.S.; clarifying a ground under
194 which disciplinary action may be taken; amending s.
195 456.073, F.S.; revising applicability of
196 investigations and administrative complaints to
197 include Medicaid fraud; amending s. 456.074, F.S.;
198 authorizing the Department of Health to issue an
199 emergency order suspending the license of any person
200 licensed under ch. 456, F.S., who engages in specified
201 criminal conduct; amending s. 499.01, F.S.; exempting
202 certain persons from requirements for medical device
203 manufacturer permits; providing for prospective