

By the Committee on Criminal Justice; and Senators Joyner and Gaetz

591-03241-11

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1 A bill to be entitled  
2 An act relating to health care fraud; amending s.  
3 456.0635, F.S.; revising the grounds under which the  
4 Department of Health or corresponding board is  
5 required to refuse to admit a candidate to an  
6 examination and refuse to issue or renew a license,  
7 certificate, or registration of a health care  
8 practitioner; providing an exception; amending s.  
9 456.036, F.S.; requiring a delinquent licensee whose  
10 license becomes delinquent before the final resolution  
11 of a case regarding Medicaid fraud to affirmatively  
12 apply by submitting a complete application for active  
13 or inactive status during the licensure cycle in which  
14 the case achieves final resolution by order of the  
15 court; providing that failure by a delinquent licensee  
16 to become active or inactive before the expiration of  
17 that licensure cycle renders the license null;  
18 requiring that any subsequent licensure be as a result  
19 of applying for and meeting all requirements imposed  
20 on an applicant for new licensure; providing an  
21 effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 456.0635, Florida Statutes, is amended  
26 to read:

27 456.0635 Health care ~~Medicaid~~ fraud; disqualification for  
28 license, certificate, or registration.—

29 (1) ~~Medicaid~~ Fraud in the practice of a health care

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30 profession is prohibited.

31 (2) Each board within the jurisdiction of the department,  
32 or the department if there is no board, shall refuse to admit a  
33 candidate to any examination and refuse to issue ~~or renew~~ a  
34 license, certificate, or registration to any applicant if the  
35 candidate or applicant or any principal, officer, agent,  
36 managing employee, or affiliated person of the applicant, ~~has~~  
37 ~~been:~~

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

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

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

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

52  
53 Notwithstanding s. 120.60, for felonies in which the defendant  
54 entered a plea of guilty or nolo contendere in an agreement with  
55 the court to enter a pretrial intervention or drug diversion  
56 program, the board, or the department if there is no board, may  
57 not approve or deny the application for a license, certificate,  
58 or registration until the final resolution of the case;

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59 (b) Has been convicted of, or entered a plea of guilty or  
60 nolo contendere to, regardless of adjudication, a felony under  
61 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the  
62 sentence and any subsequent period of probation for such  
63 conviction or plea ended more than 15 years before the date of  
64 the application;

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

69 (d) ~~(c)~~ Has been terminated for cause, pursuant to the  
70 appeals procedures established by the state ~~or Federal~~  
71 Government, from any other state Medicaid program ~~or the federal~~  
72 Medicare program, unless the applicant has been in good standing  
73 with a state Medicaid program ~~or the federal Medicare program~~  
74 for the most recent 5 years and the termination occurred at  
75 least 20 years ~~before~~ ~~prior to~~ the date of the application; ~~or-~~

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

79  
80 This subsection does not apply to applicants for initial  
81 licensure or certification who were enrolled in an educational  
82 or training program on or before July 1, 2010, which was  
83 recognized by a board or, if there is no board, recognized by  
84 the department, and who applied for licensure after July 1,  
85 2010.

86 (3) The department shall refuse to renew a license,  
87 certificate, or registration of any applicant if the candidate

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88 or applicant or any principal, officer, agent, managing  
89 employee, or affiliated person of the applicant:

90 (a) Has been convicted of, or entered a plea of guilty or  
91 nolo contendere to, regardless of adjudication, a felony under:  
92 chapter 409, chapter 817, or chapter 893, or a similar felony  
93 offense committed in another state or jurisdiction since July 1,  
94 2010.

95 (b) Has been convicted of, or entered a plea of guilty or  
96 nolo contendere to, regardless of adjudication, a felony under  
97 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 since July 1,  
98 2010.

99 (c) Has been terminated for cause from the Florida Medicaid  
100 program pursuant to s. 409.913, unless the applicant has been in  
101 good standing with the Florida Medicaid program for the most  
102 recent 5 years.

103 (d) Has been terminated for cause, pursuant to the appeals  
104 procedures established by the state, from any other state  
105 Medicaid program, unless the applicant has been in good standing  
106 with a state Medicaid program for the most recent 5 years and  
107 the termination occurred at least 20 years before the date of  
108 the application.

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

112

113 For felonies in which the defendant entered a plea of guilty or  
114 nolo contendere in an agreement with the court to enter a  
115 pretrial intervention or drug diversion program, the department  
116 may not approve or deny the application for a renewal of a

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117 license, certificate, or registration until the final resolution  
118 of the case.

119 (4)~~(3)~~ Licensed health care practitioners shall report  
120 allegations of health care ~~Medicaid~~ fraud to the department,  
121 regardless of the practice setting in which the alleged Medicaid  
122 fraud occurred.

123 (5)~~(4)~~ The acceptance by a licensing authority of a  
124 candidate's relinquishment of a license which is offered in  
125 response to or anticipation of the filing of administrative  
126 charges alleging health care ~~Medicaid~~ fraud or similar charges  
127 constitutes the permanent revocation of the license.

128 Section 2. Subsection (6) of section 456.036, Florida  
129 Statutes, is amended to read:

130 456.036 Licenses; active and inactive status; delinquency.—

131 (6) (a) Except as provided in paragraph (b), a delinquent  
132 licensee must affirmatively apply with a complete application,  
133 as defined by rule of the board, or the department if there is  
134 no board, for active or inactive status during the licensure  
135 cycle in which a licensee becomes delinquent. Failure by a  
136 delinquent licensee to become active or inactive before the  
137 expiration of the current licensure cycle renders the license  
138 null without any further action by the board or the department.  
139 Any subsequent licensure shall be as a result of applying for  
140 and meeting all requirements imposed on an applicant for new  
141 licensure.

142 (b) A delinquent licensee whose license becomes delinquent  
143 before the final resolution of a case under s. 456.0635(3) must  
144 affirmatively apply by submitting a complete application, as  
145 defined by rule of the board, or the department if there is no

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146 board, for active or inactive status during the licensure cycle  
147 in which the case achieves final resolution by order of the  
148 court. Failure by a delinquent licensee to become active or  
149 inactive before the expiration of that licensure cycle renders  
150 the license null without any further action by the board or the  
151 department. Any subsequent licensure shall be as a result of  
152 applying for and meeting all requirements imposed on an  
153 applicant for new licensure.

154 Section 3. This act shall take effect July 1, 2011.