

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.