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LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/2R

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04/27/2011 02:30 PM

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Senator Joyner moved the following:

Senate Amendment (with title amendment)

Between lines 401 and 402

insert:

Section 7. 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



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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, or 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
33 Notwithstanding s. 120.60, for felonies in which the defendant
34 entered a plea of guilty or nolo contendere in an agreement with
35 the court to enter a pretrial intervention or drug diversion
36 program, the board, or the department if there is no board, may
37 not approve or deny the application for a license, certificate,
38 or registration until the final resolution of the case;

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



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43 conviction or plea ended more than 15 years before the date of
44 the application;

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

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

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

59
60 This subsection does not apply to applicants for initial
61 licensure or certification who were enrolled in an educational
62 or training program on or before July 1, 2010, which was
63 recognized by a board or, if there is no board, recognized by
64 the department, and who applied for licensure after July 1,
65 2010.

66 (3) The department shall refuse to renew a license,
67 certificate, or registration of any applicant if the candidate
68 or applicant or any principal, officer, agent, managing
69 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:



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72 chapter 409, chapter 817, or chapter 893, or a similar felony
73 offense committed in another state or jurisdiction since July 1,
74 2010.

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 2010.

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 health care Medicaid fraud to the department,



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101 regardless of the practice setting in which the alleged Medicaid
102 fraud 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 health care Medicaid fraud or similar charges
107 constitutes the permanent revocation of the license.

108 Section 8. Subsection (6) of section 456.036, Florida
109 Statutes, is amended to read:

110 456.036 Licenses; active and inactive status; delinquency.-

111 (6) (a) Except as provided in paragraph (b), a delinquent
112 licensee must affirmatively apply with a complete application,
113 as defined by rule of the board, or the department if there is
114 no board, for active or inactive status during the licensure
115 cycle in which a licensee becomes delinquent. Failure by a
116 delinquent licensee to become active or inactive before the
117 expiration of the current licensure cycle renders the license
118 null without any further action by the board or the department.
119 Any subsequent licensure shall be as a result of applying for
120 and meeting all requirements imposed on an applicant for new
121 licensure.

122 (b) A delinquent licensee whose license becomes delinquent
123 before the final resolution of a case under s. 456.0635(3) must
124 affirmatively apply by submitting a complete application, as
125 defined by rule of the board, or the department if there is no
126 board, for active or inactive status during the licensure cycle
127 in which the case achieves final resolution by order of the
128 court. Failure by a delinquent licensee to become active or
129 inactive before the expiration of that licensure cycle renders



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130 the license null without any further action by the board or the
131 department. Any subsequent licensure shall be as a result of
132 applying for and meeting all requirements imposed on an
133 applicant for new licensure.

134

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

136 And the title is amended as follows:

137

138 Delete line 39

139 and insert:

140

141 workgroup must address in its work plan; amending s.
142 456.0635, F.S.; revising the grounds under which the
143 Department of Health or corresponding board is
144 required to refuse to admit a candidate to an
145 examination and refuse to issue or renew a license,
146 certificate, or registration of a health care
147 practitioner; providing an exception; amending s.
148 456.036, F.S.; requiring a delinquent licensee whose
149 license becomes delinquent before the final resolution
150 of a case regarding Medicaid fraud to affirmatively
151 apply by submitting a complete application for active
152 or inactive status during the licensure cycle in which
153 the case achieves final resolution by order of the
154 court; providing that failure by a delinquent licensee
155 to become active or inactive before the expiration of
156 that licensure cycle renders the license null;
157 requiring that any subsequent licensure be as a result
158 of applying for and meeting all requirements imposed



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on an applicant for new licensure; providing an