

By Senator Flores

37-00921A-13

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1                   A bill to be entitled  
2           An act relating to home health agencies; amending s.  
3           400.474, F.S.; deleting requirements for the quarterly  
4           reporting by a home health agency of certain data  
5           submitted to the Agency for Health Care  
6           Administration; providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

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10           Section 1. Subsection (6) of section 400.474, Florida  
11           Statutes, is amended to read:

12           400.474 Administrative penalties.—

13           (6) The agency may deny, revoke, or suspend the license of  
14           a home health agency and shall impose a fine of \$5,000 against a  
15           home health agency that:

16           (a) Gives remuneration for staffing services to:

17           1. Another home health agency with which it has formal or  
18           informal patient-referral transactions or arrangements; or

19           2. A health services pool with which it has formal or  
20           informal patient-referral transactions or arrangements,

21  
22           unless the home health agency has activated its comprehensive  
23           emergency management plan in accordance with s. 400.492. This  
24           paragraph does not apply to a Medicare-certified home health  
25           agency that provides fair market value remuneration for staffing  
26           services to a non-Medicare-certified home health agency that is  
27           part of a continuing care facility licensed under chapter 651  
28           for providing services to its own residents if each resident  
29           receiving home health services pursuant to this arrangement

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30 attests in writing that he or she made a decision without  
31 influence from staff of the facility to select, from a list of  
32 Medicare-certified home health agencies provided by the  
33 facility, that Medicare-certified home health agency to provide  
34 the services.

35 (b) Provides services to residents in an assisted living  
36 facility for which the home health agency does not receive fair  
37 market value remuneration.

38 (c) Provides staffing to an assisted living facility for  
39 which the home health agency does not receive fair market value  
40 remuneration.

41 (d) Fails to provide the agency, upon request, with copies  
42 of all contracts with assisted living facilities which were  
43 executed within 5 years before the request.

44 (e) Gives remuneration to a case manager, discharge  
45 planner, facility-based staff member, or third-party vendor who  
46 is involved in the discharge planning process of a facility  
47 licensed under chapter 395, chapter 429, or this chapter from  
48 whom the home health agency receives referrals.

49 ~~(f) Fails to submit to the agency, within 15 days after the~~  
50 ~~end of each calendar quarter, a written report that includes the~~  
51 ~~following data based on data as it existed on the last day of~~  
52 ~~the quarter:~~

53 ~~1. The number of insulin-dependent diabetic patients~~  
54 ~~receiving insulin-injection services from the home health~~  
55 ~~agency;~~

56 ~~2. The number of patients receiving both home health~~  
57 ~~services from the home health agency and hospice services;~~

58 ~~3. The number of patients receiving home health services~~

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59 ~~from that home health agency; and~~

60 ~~4. The names and license numbers of nurses whose primary~~  
61 ~~job responsibility is to provide home health services to~~  
62 ~~patients and who received remuneration from the home health~~  
63 ~~agency in excess of \$25,000 during the calendar quarter.~~

64 (f)~~(g)~~ Gives cash, or its equivalent, to a Medicare or  
65 Medicaid beneficiary.

66 (g)~~(h)~~ Has more than one medical director contract in  
67 effect at one time or more than one medical director contract  
68 and one contract with a physician-specialist whose services are  
69 mandated for the home health agency in order to qualify to  
70 participate in a federal or state health care program at one  
71 time.

72 (h)~~(i)~~ Gives remuneration to a physician without a medical  
73 director contract being in effect. The contract must:

- 74 1. Be in writing and signed by both parties;  
75 2. Provide for remuneration that is at fair market value  
76 for an hourly rate, which must be supported by invoices  
77 submitted by the medical director describing the work performed,  
78 the dates on which that work was performed, and the duration of  
79 that work; and  
80 3. Be for a term of at least 1 year.

81  
82 The hourly rate specified in the contract may not be increased  
83 during the term of the contract. The home health agency may not  
84 execute a subsequent contract with that physician which has an  
85 increased hourly rate and covers any portion of the term that  
86 was in the original contract.

87 (i)~~(j)~~ Gives remuneration to:

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88 1. A physician, and the home health agency is in violation  
89 of paragraph (g) ~~(h)~~ or paragraph (h) ~~(i)~~;

90 2. A member of the physician's office staff; or

91 3. An immediate family member of the physician,

92  
93 if the home health agency has received a patient referral in the  
94 preceding 12 months from that physician or physician's office  
95 staff.

96 (j) ~~(k)~~ Fails to provide to the agency, upon request, copies  
97 of all contracts with a medical director which were executed  
98 within 5 years before the request.

99 (k) ~~(l)~~ Demonstrates a pattern of billing the Medicaid  
100 program for services to Medicaid recipients which are medically  
101 unnecessary as determined by a final order. A pattern may be  
102 demonstrated by a showing of at least two such medically  
103 unnecessary services within one Medicaid program integrity audit  
104 period.

105  
106 Nothing in paragraph (e) or paragraph (i) ~~(j)~~ shall be  
107 interpreted as applying to or precluding any discount,  
108 compensation, waiver of payment, or payment practice permitted  
109 by 42 U.S.C. s. 1320a-7(b) or regulations adopted thereunder,  
110 including 42 C.F.R. s. 1001.952 or s. 1395nn or regulations  
111 adopted thereunder.

112 Section 2. This act shall take effect July 1, 2013.