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2 An act relating to home health agencies; amending s.
3 400.474, F.S.; revising the requirements for the
4 quarterly reporting by a home health agency of certain
5 data submitted to the Agency for Health Care
6 Administration; imposing a fine for failure to timely
7 submit the quarterly report; providing an exemption to
8 the submission of the report and imposition of the
9 fine; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Present subsection (7) of section 400.474,
14 Florida Statutes, is renumbered as subsection (8), a new
15 subsection (7) is added to that section, and subsection (6) of
16 that section is amended, to read:

17 400.474 Administrative penalties.—

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

21 (a) Gives remuneration for staffing services to:

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

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

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27 unless the home health agency has activated its comprehensive
28 emergency management plan in accordance with s. 400.492. This
29 paragraph does not apply to a Medicare-certified home health

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30 agency that provides fair market value remuneration for staffing
31 services to a non-Medicare-certified home health agency that is
32 part of a continuing care facility licensed under chapter 651
33 for providing services to its own residents if each resident
34 receiving home health services pursuant to this arrangement
35 attests in writing that he or she made a decision without
36 influence from staff of the facility to select, from a list of
37 Medicare-certified home health agencies provided by the
38 facility, that Medicare-certified home health agency to provide
39 the services.

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

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

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

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

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

58 ~~1. The number of insulin-dependent diabetic patients~~

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59 ~~receiving insulin injection services from the home health~~
60 ~~agency;~~

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

63 ~~3. The number of patients receiving home health services~~
64 ~~from that home health agency; and~~

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

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

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

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

79 1. Be in writing and signed by both parties;

80 2. Provide for remuneration that is at fair market value
81 for an hourly rate, which must be supported by invoices
82 submitted by the medical director describing the work performed,
83 the dates on which that work was performed, and the duration of
84 that work; and

85 3. Be for a term of at least 1 year.

86
87 The hourly rate specified in the contract may not be increased

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88 during the term of the contract. The home health agency may not
89 execute a subsequent contract with that physician which has an
90 increased hourly rate and covers any portion of the term that
91 was in the original contract.

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

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

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

96 3. An immediate family member of the physician,
97

98 if the home health agency has received a patient referral in the
99 preceding 12 months from that physician or physician's office
100 staff.

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

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

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

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117 (7) A home health agency shall submit to the agency, within
118 15 days after the end of each calendar quarter, a written report
119 that includes the following data as they existed on the last day
120 of the quarter:

121 (a) The number of insulin-dependent diabetic patients who
122 receive insulin-injection services from the home health agency.

123 (b) The number of patients who receive both home health
124 services from the home health agency and hospice services.

125 (c) The number of patients who receive home health services
126 from the home health agency.

127 (d) The name and license number of each nurse whose primary
128 job responsibility is to provide home health services to
129 patients and who received remuneration from the home health
130 agency in excess of \$25,000 during the calendar quarter.

131
132 If the home health agency fails to submit the written quarterly
133 report within 15 days after the end of each calendar quarter,
134 the Agency for Health Care Administration shall impose a fine
135 against the home health agency in the amount of \$200 per day
136 until the Agency for Health Care Administration receives the
137 report, except that the total fine imposed pursuant to this
138 subsection may not exceed \$5,000 per quarter. A home health
139 agency is exempt from submission of the report and the
140 imposition of the fine if it is not a Medicaid or Medicare
141 provider or if it does not share a controlling interest with a
142 licensee, as defined in s. 408.803, which bills the Florida
143 Medicaid program or the Medicare program.

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