

1 A bill to be entitled
 2 An act relating to referral of patients by health care
 3 providers; amending s. 456.053, F.S.; deleting the
 4 definitions of the terms "direct supervision" and
 5 "present in the office suite"; revising the definition
 6 of the term "referral" to remove direct physician
 7 supervision and to require compliance with certain
 8 Medicare payments and rules; amending s. 641.316,
 9 F.S.; conforming cross-references; providing an
 10 effective date.

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

13
 14 Section 1. Paragraphs (f) through (n) and (p) through (r)
 15 of subsection (3) of section 456.053, Florida Statutes, are
 16 redesignated as paragraphs (e) through (m) and (n) through (p),
 17 respectively, and paragraph (e) and present paragraphs (o) and
 18 (p) of that subsection are amended, to read:

19 456.053 Financial arrangements between referring health
 20 care providers and providers of health care services.—

21 (3) DEFINITIONS.—For the purpose of this section, the
 22 word, phrase, or term:

23 ~~(e) "Direct supervision" means supervision by a physician~~
 24 ~~who is present in the office suite and immediately available to~~
 25 ~~provide assistance and direction throughout the time services~~

26 | ~~are being performed.~~

27 | ~~(o) "Present in the office suite" means that the physician~~
 28 | ~~is actually physically present; provided, however, that the~~
 29 | ~~health care provider is considered physically present during~~
 30 | ~~brief unexpected absences as well as during routine absences of~~
 31 | ~~a short duration if the absences occur during time periods in~~
 32 | ~~which the health care provider is otherwise scheduled and~~
 33 | ~~ordinarily expected to be present and the absences do not~~
 34 | ~~conflict with any other requirement in the Medicare program for~~
 35 | ~~a particular level of health care provider supervision.~~

36 | (n)~~(p)~~ "Referral" means any referral of a patient by a
 37 | health care provider for health care services, including,
 38 | without limitation:

39 | 1. The forwarding of a patient by a health care provider
 40 | to another health care provider or to an entity which provides
 41 | or supplies designated health services or any other health care
 42 | item or service; or

43 | 2. The request or establishment of a plan of care by a
 44 | health care provider, which includes the provision of designated
 45 | health services or other health care item or service.

46 | 3. The following orders, recommendations, or plans of care
 47 | shall not constitute a referral by a health care provider:

48 | a. By a radiologist for diagnostic-imaging services.

49 | b. By a physician specializing in the provision of
 50 | radiation therapy services for such services.

51 c. By a medical oncologist for drugs and solutions to be
52 prepared and administered intravenously to such oncologist's
53 patient, as well as for the supplies and equipment used in
54 connection therewith to treat such patient for cancer and the
55 complications thereof.

56 d. By a cardiologist for cardiac catheterization services.

57 e. By a pathologist for diagnostic clinical laboratory
58 tests and pathological examination services, if furnished by or
59 under the supervision of such pathologist pursuant to a
60 consultation requested by another physician.

61 f. By a health care provider who is the sole provider or
62 member of a group practice for designated health services or
63 other health care items or services that are prescribed or
64 provided solely for such referring health care provider's or
65 group practice's own patients, and that are provided or
66 performed by or under the ~~direct~~ supervision of such referring
67 health care provider or group practice if such supervision
68 complies with all applicable Medicare payment and coverage rules
69 for services; provided, however, a physician licensed pursuant
70 to chapter 458, chapter 459, chapter 460, or chapter 461 or an
71 advanced practice registered nurse registered under s. 464.0123
72 may refer a patient to a sole provider or group practice for
73 diagnostic imaging services, excluding radiation therapy
74 services, for which the sole provider or group practice billed
75 both the technical and the professional fee for or on behalf of

76 | the patient, if the referring physician or advanced practice
 77 | registered nurse registered under s. 464.0123 has no investment
 78 | interest in the practice. The diagnostic imaging service
 79 | referred to a group practice or sole provider must be a
 80 | diagnostic imaging service normally provided within the scope of
 81 | practice to the patients of the group practice or sole provider.
 82 | The group practice or sole provider may accept no more than 15
 83 | percent of their patients receiving diagnostic imaging services
 84 | from outside referrals, excluding radiation therapy services.
 85 | However, the 15 percent limitation of this sub-subparagraph and
 86 | the requirements of subparagraph (4)(a)2. do not apply to a
 87 | group practice entity that owns an accountable care organization
 88 | or an entity operating under an advanced alternative payment
 89 | model according to federal regulations if such entity provides
 90 | diagnostic imaging services and has more than 30,000 patients
 91 | enrolled per year.

92 | g. By a health care provider for services provided by an
 93 | ambulatory surgical center licensed under chapter 395.

94 | h. By a urologist for lithotripsy services.

95 | i. By a dentist for dental services performed by an
 96 | employee of or health care provider who is an independent
 97 | contractor with the dentist or group practice of which the
 98 | dentist is a member.

99 | j. By a physician for infusion therapy services to a
 100 | patient of that physician or a member of that physician's group

101 | practice.

102 | k. By a nephrologist for renal dialysis services and
103 | supplies, except laboratory services.

104 | l. By a health care provider whose principal professional
105 | practice consists of treating patients in their private
106 | residences for services to be rendered in such private
107 | residences, except for services rendered by a home health agency
108 | licensed under chapter 400. For purposes of this sub-
109 | subparagraph, the term "private residences" includes patients'
110 | private homes, independent living centers, and assisted living
111 | facilities, but does not include skilled nursing facilities.

112 | m. By a health care provider for sleep-related testing.

113 | Section 2. Paragraph (b) of subsection (2) and subsection
114 | (6) of section 641.316, Florida Statutes, are amended to read:

115 | 641.316 Fiscal intermediary services.—

116 | (2)

117 | (b) The term "fiscal intermediary services organization"
118 | means a person or entity that performs fiduciary or fiscal
119 | intermediary services to health care professionals who contract
120 | with health maintenance organizations other than a hospital
121 | licensed under chapter 395, an insurer licensed under chapter
122 | 624, a third-party administrator licensed under chapter 626, a
123 | prepaid limited health service organization licensed under
124 | chapter 636, a health maintenance organization licensed under
125 | this chapter, or a physician group practice as defined in s.

126 456.053(3) ~~s. 456.053(3)(h)~~ which provides services under the
127 scope of licenses of the members of the group practice.

128 (6) Any fiscal intermediary services organization, other
129 than a hospital licensed under chapter 395, an insurer licensed
130 under chapter 624, a third-party administrator licensed under
131 chapter 626, a prepaid limited health service organization
132 licensed under chapter 636, a health maintenance organization
133 licensed under this chapter, a not-for-profit corporation that
134 provides health care services directly to patients through
135 employed, salaried physicians and that is affiliated with an
136 accredited hospital licensed in this state, or a physician group
137 practice as defined in s. 456.053(3) ~~s. 456.053(3)(h)~~ which
138 provides services under the scope of licenses of the members of
139 the group practice, must register with the office and meet the
140 requirements of this section. In order to register as a fiscal
141 intermediary services organization, the organization must comply
142 with ss. 641.21(1)(c), (d), and (j), 641.22(6), and 641.27. The
143 fiscal intermediary services organization must also comply with
144 the provisions of ss. 641.3155, 641.3156, and 641.51(4). Should
145 the office determine that the fiscal intermediary services
146 organization does not meet the requirements of this section, the
147 registration shall be denied. If the registrant fails to
148 maintain compliance with this section, the office may revoke or
149 suspend the registration. In lieu of revocation or suspension of
150 the registration, the office may levy an administrative penalty

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151 | in accordance with s. 641.25.

152 | Section 3. This act shall take effect July 1, 2023.