

By Senator Martin

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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 reference to direct
 7 physician supervision and to require compliance with
 8 certain Medicare payment and coverage rules; amending
 9 s. 641.316, F.S.; conforming cross-references;
 10 providing an effective date.

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

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 14 Section 1. Paragraphs (e) and (o) and present paragraph (p)
 15 of subsection (3) of section 456.053, Florida Statutes, are
 16 amended to read:

17 456.053 Financial arrangements between referring health
 18 care providers and providers of health care services.—

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

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

25 ~~(o) "Present in the office suite" means that the physician~~
 26 ~~is actually physically present; provided, however, that the~~
 27 ~~health care provider is considered physically present during~~
 28 ~~brief unexpected absences as well as during routine absences of~~
 29 ~~a short duration if the absences occur during time periods in~~

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30 ~~which the health care provider is otherwise scheduled and~~
31 ~~ordinarily expected to be present and the absences do not~~
32 ~~conflict with any other requirement in the Medicare program for~~
33 ~~a particular level of health care provider supervision.~~

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

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

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

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

46 a. By a radiologist for diagnostic-imaging services.

47 b. By a physician specializing in the provision of
48 radiation therapy services for such services.

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

54 d. By a cardiologist for cardiac catheterization services.

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

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59 f. By a health care provider who is the sole provider or
60 member of a group practice for designated health services or
61 other health care items or services that are prescribed or
62 provided solely for such referring health care provider's or
63 group practice's own patients, and that are provided or
64 performed by or under the ~~direct~~ supervision of such referring
65 health care provider or group practice if such supervision
66 complies with all applicable Medicare payment and coverage rules
67 for services; provided, however, a physician licensed pursuant
68 to chapter 458, chapter 459, chapter 460, or chapter 461 or an
69 advanced practice registered nurse registered under s. 464.0123
70 may refer a patient to a sole provider or group practice for
71 diagnostic imaging services, excluding radiation therapy
72 services, for which the sole provider or group practice billed
73 both the technical and the professional fee for or on behalf of
74 the patient, if the referring physician or advanced practice
75 registered nurse registered under s. 464.0123 has no investment
76 interest in the practice. The diagnostic imaging service
77 referred to a group practice or sole provider must be a
78 diagnostic imaging service normally provided within the scope of
79 practice to the patients of the group practice or sole provider.
80 The group practice or sole provider may accept no more than 15
81 percent of their patients receiving diagnostic imaging services
82 from outside referrals, excluding radiation therapy services.
83 However, the 15 percent limitation of this sub-subparagraph and
84 the requirements of subparagraph (4)(a)2. do not apply to a
85 group practice entity that owns an accountable care organization
86 or an entity operating under an advanced alternative payment
87 model according to federal regulations if such entity provides

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88 diagnostic imaging services and has more than 30,000 patients
89 enrolled per year.

90 g. By a health care provider for services provided by an
91 ambulatory surgical center licensed under chapter 395.

92 h. By a urologist for lithotripsy services.

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

97 j. By a physician for infusion therapy services to a
98 patient of that physician or a member of that physician's group
99 practice.

100 k. By a nephrologist for renal dialysis services and
101 supplies, except laboratory services.

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

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

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

113 641.316 Fiscal intermediary services.-

114 (2)

115 (b) The term "fiscal intermediary services organization"
116 means a person or entity that performs fiduciary or fiscal

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117 intermediary services to health care professionals who contract
118 with health maintenance organizations other than a hospital
119 licensed under chapter 395, an insurer licensed under chapter
120 624, a third-party administrator licensed under chapter 626, a
121 prepaid limited health service organization licensed under
122 chapter 636, a health maintenance organization licensed under
123 this chapter, or a physician group practice as defined in s.
124 456.053(3) ~~s. 456.053(3)(h)~~ which provides services under the
125 scope of licenses of the members of the group practice.

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

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146 maintain compliance with this section, the office may revoke or
147 suspend the registration. In lieu of revocation or suspension of
148 the registration, the office may levy an administrative penalty
149 in accordance with s. 641.25.

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