

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.

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 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,

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 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
 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~~
 50 ~~the end of each calendar quarter, a written report that includes~~
 51 ~~the following data based on data as it existed on the last day~~
 52 ~~of 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~~
 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:

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,
 97 | copies of all contracts with a medical director which were
 98 | executed 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.