

2014 -- S 2559

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO HEALTH AND SAFETY

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 27, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 93

4 UNLICENSED HOME HEALTH CARE AGENCIES

5 **23-93-1. Definitions. --** The following terms have the following meanings in accordance
6 with this chapter:

7 (1) "Director" means the director of the department of health or designee;

8 (2) "Patient" means an individual client or patient who receives health care services from
9 a health care organization that would otherwise be required by law to be licensed as a home care,
10 home nursing care, or hospice agency by the department of health; and

11 (3) "Unlicensed home health care agency" means any organization that is providing home
12 health care services and has not been issued a Certificate of Need as defined in chapter 23-15.

13 **23-93-2. Accountability and authority. --** The department of health shall maintain and
14 keep current a file of all licensed home care, home nursing care, and hospice agencies. This
15 information shall be made available to the public and updated on a quarterly basis. The
16 department of health shall maintain and keep current a file containing the reports and complaints
17 filed against unlicensed home health care agencies within the director's jurisdiction. Each
18 complaint filed within the department must be investigated within five (5) business days. Upon
19 the director's initial findings that an unlicensed home health care agency is operating within the

1 department's jurisdiction, the director shall have the authority to have the department immediately
2 cease the operations of the unlicensed home health care agency. The director shall obtain a
3 warrant by a magistrate or district court to access all necessary documents, patient medical
4 records, electronic information, billing records, executed and pending contracts, and other
5 evidentiary materials to further investigate the unlicensed home health care agency and pursue the
6 process of providing continuity of care for patients impacted by the investigation. Each employee
7 and contractor of an unlicensed home health care agency being investigated shall receive written
8 notice by the department within three (3) days following the initial five (5) business days
9 designated that the agency in which they are employed or contracted is:

10 (1) Under investigation in accordance with this chapter; and

11 (2) Shall immediately cease providing services on behalf of the unlicensed home health
12 agency; and

13 (3) Shall immediately cease providing services to all patients; and

14 (4) Shall be referred to the appropriate board of professional licensure for investigation
15 for professional misconduct and disciplinary action.

16 Each patient of an unlicensed home health care agency being investigated shall receive
17 notice within three (3) days following the initial five (5) business days designated that the agency
18 in which they utilize health care services is:

19 (i) Under investigation in accordance with this chapter; and

20 (ii) Shall be referred to the Rhode Island Partnership for Home Care for an appropriate
21 referral for home health care services by a licensed home care, home nursing care, or hospice
22 agency in order to provide continuity of care.

23 **23-93-3. Disciplinary actions. --** When the director finds that an unlicensed home health
24 care agency is operating within the jurisdiction, the director may take one or more of the
25 following actions:

26 (1) Suspend operations of the unlicensed home health care agency until a proper hearing
27 is requested by the chief executive within thirty (30) days. If the chief executive does not request
28 a hearing within thirty (30) days, the agency shall be closed indefinitely;

29 (2) Suspend the right to practice for any or all the unlicensed home health care agency
30 employees with an individual practitioner professional license;

31 (3) Revoke the right to practice for all management-level employees of the unlicensed
32 home health care agency with an individual practitioner professional license;

33 (4) Equally assess against the unlicensed home health care agency chief executive and
34 owners all of the administrative costs of the investigation and proceedings instituted against the

1 unlicensed home health care agency and each employee:
2 (5) Equally assess against the unlicensed home health care agency chief executive and
3 owners all of the administrative costs assumed by the department and by the Rhode Island
4 Partnership for Home Care for continuity of care transition for each patient served by the
5 unlicensed home health care agency at the time of suspension of operations. The director shall
6 provide all information discovered in its investigation and hearings to the attorney general within
7 thirty (30) days after the suspension of operations of the unlicensed home health care agency for
8 case review of any criminal activity compromising patient care or operating without proper
9 licensure as applicable under state law.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY

1 This act would establish guidelines and would clarify jurisdiction for the department of
2 health to suspend operations of an unlicensed home health care agency operating without proper
3 authority. This act would also define how continuity of care would be provided for patients
4 receiving health care services from an unlicensed home health care agency operating without
5 proper authority.

6 This act would take effect upon passage.

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