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SENATE BILL 1986

(rev. 6/18/2009)

Senate Bill 1986 (2009) signed into law on June 15, 2009, to become effective on **July 1, 2009**, titled "An Act Relating to Health Care," includes:

- designating Miami-Dade County as a health care fraud area of concern;
- amending s. 68.085, F.S., allocating certain funds recovered under the Florida False Claims Act to fund rewards for persons who report and provide information relating to Medicaid fraud;
- requiring the Agency for Health Care Administration to monitor patterns of overutilization of Medicaid services;
- requiring the agency to deny payment or require repayment for Medicaid services under certain circumstances;
- requiring the Agency for Health Care Administration to immediately terminate a Medicaid provider's participation in the Medicaid program as a result of certain adjudications against the provider or certain affiliated persons;
- requiring the Agency for Health Care Administration to suspend or terminate a Medicaid provider's participation in the Medicaid program if the provider or certain affiliated persons participating in the Medicaid program have been suspended or terminated by the Federal Government or another state;
- amending s. 456.041, F.S., requiring the Department of Health to include a statement in the practitioner profile if a practitioner has been terminated from participating in the Medicaid program, as follows:

456.041 Practitioner profile; creation.— (6) The Department of Health shall provide in each practitioner profile for every physician or advanced registered

nurse practitioner terminated for cause from participating in the Medicaid program, pursuant to s. 409.913, or sanctioned by the Medicaid program a statement that the practitioner has been terminated from participating in the Florida Medicaid program or sanctioned by the Medicaid program.

-creating s. 456.0635, F.S., prohibiting Medicaid fraud in the practice of health care professions;

-requiring the Department of Health or boards within the department to refuse to admit any candidate to sit for any examination and to deny licenses, permits, or certificates (INCLUDING RENEWALS) to certain persons who have engaged in certain acts, as follows:

(a) Convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, chapter 893, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent period of probation for such conviction or pleas ended more than fifteen (15) years prior to the date of the application [note: Chapter 409, F.S., is the Medicaid Act; Chapter 817, F.S., is the Florida criminal statute on fraudulent practices, credit card fraud, false pretenses, etc.; Chapter 893, F.S., is the Drug Abuse Prevention and Control Act];

(b) Terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the applicant has been in good standing with the Florida Medicaid program for the most recent five (5) years;

(c) Terminated for cause, pursuant to the appeals procedures established by the state or Federal Government, from any other state Medicaid program or the federal Medicare program, unless the applicant has been in good standing with a state Medicaid program or the federal Medicare program for the most recent five (5) years and the termination occurred at least twenty (20) years prior to the date of the application.

(3) Licensed health care practitioners shall report allegations of Medicaid fraud to the department, regardless of the practice setting in which the alleged Medicaid fraud occurred.

(4) The acceptance by a licensing authority of a candidate's relinquishment of a license which is offered in response to or anticipation of the filing of administrative charges alleging Medicaid fraud or similar charges constitutes

the permanent revocation of the license.

(Emphasis added.)

-amending s. 456.072, F.S., creating additional grounds for the Department of Health to take disciplinary action against applicants or licensees for misconduct relating to a Medicaid program or to health care fraud, as follows:

(ii) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.

(jj) Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement.

(kk) Being terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored.

(ll) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.

(Emphasis added.)

-amending s. 456.074, F.S., requiring the Department of Health to issue an emergency suspension order (ESO) suspending the license of a person who engages in certain criminal conduct relating to the Medicaid program, as follows:

. . . any person who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, to:

* * *

(b) A misdemeanor or felony under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.