

**PIP Anti-Fraud Concepts**  
**By,**  
**The Florida Chiropractic Association**

## **I. Clinic Licensure Loop Hole Amendment**

This amendment closes the loophole in the clinic licensure statute and prohibits physician's employment by "non-physician" health care providers in practices exempt from clinic licensure.

Paragraphs (f) and (g) of subsection (4) of section 400.9905, Florida Statutes, are amended to read:

400.9905 Definitions.—

(4) "Clinic" means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(f) A sole proprietorship, group practice, partnership, or corporation, or other legal entity that provides health care services by physicians licensed under chapter 458, chapter 459, chapter 461, chapter 466, or chapter 460 and subject to the limitations of s. 460.4167 ~~physicians covered by s. 627.419,~~ that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician. A certificate of exemption is valid only for the entity, persons, and location for which it was originally issued.

(g) A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, ~~chapter 460, chapter 461,~~ chapter 462, chapter 463, chapter 466, chapter 467, chapter 480, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part 51 XIII, or part XIV of chapter 468, or s. 464.012, which are wholly owned by one or more licensed health care practitioners, or the licensed health care practitioners set forth in this paragraph and the spouse, parent, child, or sibling of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is directly supervising health care services ~~the business activities~~ and is legally responsible for the entity's

compliance with all federal and state laws. However, a health care practitioner who is a supervising owner may not supervise services beyond the scope of the practitioner's license, except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b). A certificate of exemption is valid only for the entity, persons, and location for which it was originally issued.

## **II. Fraudulent Application for Clinic Licensure Amendment**

The first amendment authorizes the Department of Health to discipline licenses of health care providers who file fraudulent applications for certificates of exemption from clinic licensure. The second amendment authorizes the Department of Health to issue an immediate suspension of a health care practitioner's license that files a fraudulent application for a certificate of exemption from clinic licensure.

Paragraphs (mm) and (nn) of subsection (1) of section 456.072 are created to read:

### **456.072 Grounds for discipline; penalties; enforcement.\_**

(1) The following act shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(mm) Filing an application for a certificate of exemption from licensure authorized by subsection 400.9935(6) that is fraudulent.

(nn) Filing an application for a certificate of exemption from licensure authorized by subsection 400.9935(6) that falsely states that the applicant is the sole owner of the health care practice for which the certificate of exemption from licensure is sought.

Subsection (5) of section 456.074 is created to read:

### **456.074 Certain health care practitioners; immediate suspension of license.\_**

(5) Upon receipt of information that a Florida-licensed health care practitioner has filed, an application for a certificate of exemption from

licensure authorized by subsection 400.9935(6) that is fraudulent or an application for a certificate of exemption from licensure authorized by subsection 400.9935(6) that falsely states that the applicant is the sole owner of the health care practice for which the certificate of exemption from licensure is sought, the department shall notify the licensee by certified mail that he or she shall be subject to immediate suspension of license unless, within 45 days after the date of mailing, the licensee provides proof that health care practice is wholly owned by the licensee filing the application for certificate of exemption from licensure. The department shall issue an emergency order suspending the license of any licensee who, after 45 days following the date of mailing from the department, has failed to provide such proof. Production of such proof shall not prohibit the department from proceeding with disciplinary action against the licensee pursuant to s. 456.073.

### **III. Civil Immunity for Reporting by a Physician or Other person any Act of Patient Brokering or Offer to Engage in Patient Brokering**

The first amendment grants a qualified civil immunity to any person or witness reporting patient brokering or offer to engage in patient brokering. The second amendment grants a qualified civil immunity to any health care provider reporting patient brokering or offer to engage in patient brokering by a patient or prospective patient.

Subsections (8) and (9) of section 817.505 are created to read:

#### **817.505 Patient Brokering Prohibited; exceptions; penalties.\_**

(8) Civil immunity is hereby granted to any health care provider or person or any witness with regard to information reported or furnished to any law enforcement agency about alleged violation of or offer to engage in violation of subsection (1) of this section, unless the person reporting or furnishing the information acted in bad faith or with malice in providing such information.

(9) Civil immunity is hereby granted to any health care provider with regard to information reported or furnished to any law enforcement agency about alleged violation of or offer to engage in violation of subsection (1) of

this section by a patient or prospective patient, unless the health care provider reporting or furnishing the information acted in bad faith or with malice in providing such information.

## **IV. Department of Health Dedicated Unit on PIP Fraud**

It is proposed that a unit in the Department of Health be created composed of investigators and prosecutors trained in PIP fraud. The unit would be knowledgeable in processing complaints relating to all aspects of PIP fraud. Violations of existing statutes and those proposed herein could then be used to discipline health care providers licensed by the department.

## **V. Reporting Fraudulent Practices by PIP Insurers to Division of Fraud**

It is proposed that Report Suspected Fraud form on the CFO website be amended at the part entitled “Describe the Nature of Suspected Fraudulent Activity” to include: 1. A pattern of fee schedule reductions; 2. A pattern of claim denials; and 3. Making false statements or supplying false or misleading data to the state officials.

This amendment to the form allows health care providers to report patterns of practices experienced to the Division of Fraud. Patterns of practice may be easily recorded and tracked for appropriate action by the OIR.

For further information contact:

Jack Hebert: 727 560-3223  
Guy Spearman 850 222-7718  
Paul Lambert 850 224-9393  
Kim Driggers 850 222-2000  
Representing the Florida Chiropractic Association

**Draft 10/4/11**