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HOUSE FLOOR AMENDMENTS

2016 First Extraordinary Session

Amendments proposed by Representative Mike Johnson to Engrossed House Bill No. 89 by Representative Stokes

1 AMENDMENT NO. 1

- On page 1, line 2, after "reenact" and before "and to" delete "R.S. 46:440.1(E)(4)," and insert
 in lieu thereof the following:
- 4 "R.S. 46:437.14(A)(introductory paragraph) and (12) and 440.1(E)(4),"
- 5 AMENDMENT NO. 2
- 6 On page 1, delete line 3 in its entirety and insert in lieu thereof the following:

"46:437.3(31), 437.14(A)(13), (C), and (D), and 440.1(E)(5) and (F), relative to the Medical
Assistance Programs Integrity Law; to provide for applicability of such law to contracts of
certain health care providers with the Department of Health and Hospitals; to provide
grounds for denial or revocation of health care provider enrollment in the medical assistance
program of this state known commonly as Medicaid; to provide relative to the Medical

12 Assistance Programs Fraud Detection"

13 AMENDMENT NO. 3

On page 1, line 16, after "Section 2." and before "hereby" delete "R.S. 46:440.1(E)(4) is" and
 insert in lieu thereof the following:

- 16 "R.S. 46:437.14(A)(introductory paragraph) and (12) and 440.1(E)(4) are"
- 17 <u>AMENDMENT NO. 4</u>
- 18 On page 1, delete line 17 in its entirety and insert in lieu thereof the following:
- "46:437.3(31), 437.14(A)(13), (C), and (D), and 440.1(E)(5) and (F) are hereby enacted to
 read as follows:"

21 <u>AMENDMENT NO. 5</u>

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- 22 On page 1, between lines 17 and 18, insert the following:
- 23 "§437.3. Definitions
 - As used in this Part the following terms shall have the following meanings:
- 25 * * * *
 26 (31) "Affiliate" means an entity that has with another entity a legal
 27 relationship created or governed by at least one written instrument that demonstrates
 28 any of the following:
 29 (a) Common ownership, management, or control.
 30 (b) A franchise agreement.

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1	(c) The granting or extension of a license or other agreement that authorizes
1 2	an entity to use the other entity's brand name, trademark, service mark, or other
3	registered identification mark.
4	* * *
5	§437.14. Grounds for denial or revocation of enrollment
6	A. The department may deny or revoke enrollment in the medical assistance
7	programs to a health care provider if any of the following are found to be applicable
8	to the health care provider, his agent, a managing employee, provider-in-fact,
9	affiliate, or any person having an ownership interest equal to five percent or greater
10	in the health care provider:
11	* * *
12	(12)(a) Being found in violation of or entering into a settlement agreement
13	under the provisions of this Part, the Federal False Claims Act, the Federal Civil
14	Monetary Penalties Act, or any other similar civil statutes pertaining to fraud in this
15	state, in any other state, the United States, or a United States territory.
16	(b) If a False Claims Act action or other similar civil action is brought by a
17	qui tam plaintiff or relator, no violation of this Paragraph has occurred until the
18	defendant has been found liable in the action, either by final judgment or by entering
19 20	into a settlement agreement which requires the defendant to pay any sum as damages
20 21	to the relator in the qui tam action and to the federal government or any state government who contends in the settlement agreement that the defendant submitted
21	false claims or made false statements in connection with claims submitted under any
22	of the following programs:
23	(i) The medical assistance program provided for in Title XIX of the Social
25	Security Act or any other publicly funded medical assistance program.
26	(ii) Any federal block grant program.
27	(c) No violation of this Paragraph has occurred if, at minimum, five years
28	have passed from the time a person is found liable or entered a settlement agreement
29	under the False Claims Act, or other similar civil statute, and the conditions of the
30	judgment or settlement have been satisfactorily fulfilled.
31	(13) Failure to meet any condition of enrollment.
32	* * *
33	C. The secretary shall promulgate emergency rules requiring an immediate
34	review of all active provider agreements to require all health care providers enrolled
35	in a medical assistance program to disclose any and all documentation pertaining to
36	the grounds provided in Subsection (A) of this Section, based on conduct by the
37	health care provider, his agent, a managing employee, provider-in-fact, affiliate, or
38	any person having an ownership interest equal to five percent or greater in the health
39	care provider. The emergency rules required by this Subsection shall further require
40	any and all documentation relevant to the grounds listed in Subsection (A) of this
41	Section upon initial application for enrollment, as well as upon renewal, or at any
42	time requested by the department.
43	D.(1) To protect the interests of this state relative to fiscal integrity and the
44	prevention of fraud in its medical assistance programs, any health care provider that
45	seeks a license to operate in a facility that is maintained, owned, or operated by its
46	affiliate health care provider enrolled in a medical assistance program shall first
47	disclose to the department whether the enrolled provider to which it is an affiliate is
48	subject to being held in violation of the provisions of Paragraph (6), (11), or (12) of
49	Subsection (A) of this Section pertaining to fraud or false claims submitted by the
50	enrolled provider under a state or federal medical assistance program.
51	(2) If an applicant provided for in Paragraph (1) of this Subsection discloses
52 52	to the department that the applicant provider, his agent, a managing employee,
53	provider-in-fact, affiliate, or any person having an ownership interest equal to five
54	percent or greater in the health care provider is subject to being considered in

violation of the provisions of Paragraph (6), (11), or (12) of Subsection (A) of this
Section pertaining to fraud or false claims submitted by the enrolled provider under
the medical assistance program provided for in Title XIX of the Social Security Act,
any other publicly funded medical assistance program, or any federal block grant
program, then the applicant provider shall be considered ineligible to file an
application with the department to obtain a license to establish or operate a health
care facility in this state.

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(3) The ineligibility of a health care provider to apply for a license pursuant to this Section does not depend on imposition by the department of prior or future sanctions on the health care provider, his agent, a managing employee, provider-in-fact, affiliate, or any person having an ownership interest equal to five percent or greater in the health care provider.

13(4) If at least five years have passed from the time a provider initially14became subject to being considered in violation of the provisions of Paragraph (6),15(11), or (12) of Subsection (A) of this Section the provider shall be eligible to apply16for a license under this Section."