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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO HEALTH AND SAFETY

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 26, 2015

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

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

4

CHAPTER 94

5

UNLICENSED HOME HEALTH CARE AGENCIES

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23-94-1. Definitions. -- The following terms have the following meanings in accordance
7 with this chapter:

8

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

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

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(3) "Unlicensed home health care agency" means any organization that is providing home
13 health care services and has not been issued a certificate of need as defined in chapter 15 of title
14 23.

15

23-94-2. Accountability and authority. -- The department of health shall maintain and
16 keep current a file of all licensed home care, home nursing care, and hospice agencies. This
17 information shall be made available to the public and updated on a quarterly basis. The
18 department of health shall maintain and keep current a file containing the reports and complaints
19 filed against unlicensed home health care agencies within the director's jurisdiction. Each

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

- 12 (1) Under investigation in accordance with this chapter; and
- 13 (2) Shall immediately cease providing services on behalf of the unlicensed home health
14 agency; and
- 15 (3) Shall immediately cease providing services to all patients; and
- 16 (4) Shall be referred to the appropriate board of professional licensure for investigation
17 for professional misconduct and disciplinary action.

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

- 21 (i) Under investigation in accordance with this chapter; and
- 22 (ii) Shall be referred to the Rhode Island Partnership for Home Care for an appropriate
23 referral for home health care services by a licensed home care, home nursing care, or hospice
24 agency in order to provide continuity of care.

25 **23-94-3. Disciplinary actions. --** When the director finds that an unlicensed home health
26 care agency is operating within the jurisdiction, the director may take one or more of the
27 following actions:

- 28 (1) Suspend operations of the unlicensed home health care agency until a proper hearing
29 is requested by the chief executive within thirty (30) days. If the chief executive does not request
30 a hearing within thirty (30) days, the agency shall be closed indefinitely;
- 31 (2) Suspend the right to practice for any or all the unlicensed home health care agency
32 employees with an individual practitioner professional license;
- 33 (3) Revoke the right to practice for all management-level employees of the unlicensed
34 home health care agency with an individual practitioner professional license;

1 (4) Equally assess against the unlicensed home health care agency chief executive and
2 owners all of the administrative costs of the investigation and proceedings instituted against the
3 unlicensed home health care agency and each employee;

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

12 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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