

By Senator Baker

20-01724A-09

20092658

1 A bill to be entitled
2 An act relating to Medicare and Medicaid fraud;
3 providing legislative findings; providing a purpose;
4 requiring that an applicant applying for the licensure
5 of, or acquiring a controlling interest in, a health
6 care clinic, home health agency, or home medical
7 equipment provider be a legal resident of the United
8 States for a specified period and demonstrate proof of
9 financial ability to operate; prohibiting the Agency
10 for Health Care Administration from issuing a license
11 to a home health agency under certain circumstances;
12 providing criminal penalties; authorizing the agency
13 to adopt rules; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. (1) The Legislature finds that:

18 (a) Immediate and proactive measures are necessary to
19 prevent, reduce, and mitigate health care fraud, waste, and
20 abuse and are essential to maintaining the integrity and
21 financial viability of health care delivery systems, including
22 those funded in whole or in part by the Medicare and Medicaid
23 trust funds. Without these measures, health care delivery
24 systems in this state will be depleted of necessary funds to
25 deliver patient care, and taxpayers' dollars will be minimized,
26 under-valued, and not used for their intended purposes.

27 (b) There is sufficient justification for increased
28 regulation and oversight of health care clinics, home health
29 agencies, and providers of home medical equipment throughout the

20-01724A-09

20092658

30 state, and in particular, in Miami-Dade County.

31 (c) It is in the state's best interest to deter and
32 identify patterns of fraudulent or abusive Medicare and Medicaid
33 activity early, especially in high-risk localities, such as
34 Miami-Dade County, in order to prevent health care fraud and
35 harm to the state's residents.

36 (d) It is necessary to declare certain counties in this
37 state, such as Miami-Dade County, as a special area of concern
38 for health care fraud for purposes of implementing increased
39 scrutiny of health care clinics, home health agencies, and
40 providers of home medical equipment in order to assist the
41 state's efforts in combating health care fraud, waste, and
42 abuse.

43 (2) The purpose of this section is to strengthen and
44 enhance the licensure process for health care clinics, home
45 health agencies, and providers of home medical equipment by
46 increasing standards for licensure in this state.

47 (3) Each applicant for licensure of a health care clinic,
48 home health agency, or as a provider of home medical equipment
49 must:

50 (a) Be a legal resident of the United States for at least 5
51 years before becoming an applicant for or procuring a
52 controlling interest in a health care clinic, home health
53 agency, or provider of home medical equipment, unless a surety
54 bond of \$500,000 is provided. As used in this section, the term
55 "controlling interest" has the same meaning as provided in s.
56 408.803(7), Florida Statutes.

57 (b) Demonstrate proof of financial ability to operate under
58 this section by:

20-01724A-09

20092658

59 1. Submitting a balance sheet, a financial statement, and
60 an income and expense statement for the first year of operation,
61 which provide evidence of the applicant's having sufficient
62 assets, credit, and projected revenues to meet and exceed
63 liabilities and expenses;

64 2. Providing documented proof that the applicant has the
65 ability to fund all startup costs through the point of break-
66 even in operational costs by submitting a statement of estimated
67 startup costs and any sources of funds. This statement must
68 disclose, at a minimum, reasonable anticipated startup costs,
69 including operating funds needed to reach the break-even point
70 where operating receipts equal or exceed expenditures. At a
71 minimum, operating funds to reach a break-even amount must equal
72 2 months worth of average expenses to cover working capital
73 costs and contingencies; and

74 3. Providing documented proof that the operating funds
75 described in subparagraph 2. will be available as needed.

76
77 All documents required under this subsection must be prepared in
78 accordance with generally accepted accounting principles and may
79 be in a compilation form. The financial statement must be signed
80 by a certified public accountant.

81 (4) The Agency for Health Care Administration may not issue
82 a license to a home health agency for the purpose of opening a
83 new home health agency until July 1, 2012, in any county where
84 the ratio of persons 65 years of age and older, as indicated in
85 the most recent United States Census, to the number of home
86 health agencies is 1,500-to-1 or less. For purposes of this
87 subsection, the Agency for Health Care Administration may

20-01724A-09

20092658

88 continue to process and issue a license to a home health agency
89 only if the home health agency has received full accreditation
90 before May 1, 2009.

91 (5) In addition to the requirements of s. 408.812, Florida
92 Statutes, any person who:

93 (a) Establishes, operates, or manages an unlicensed
94 facility that is required to be licensed under this section or
95 part II of chapter 408, Florida Statutes;

96 (b) Knowingly files a false or misleading license
97 application or license renewal application, or provides false or
98 misleading information related to the application or agency
99 rule; or

100 (c) Violates or conspires to violate this section,
101
102 commits a felony of the third degree, punishable as provided in
103 s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

104 (6) The Agency for Health Care Administration may adopt
105 rules to administer this section.

106 Section 2. This act shall take effect July 1, 2009.