

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 The Committee on Health Care Licensing & Regulation offered  
12 the following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause  
16  
17 and insert in lieu thereof:

18 Section 1. Subsections (5) through (17) of section  
19 400.021, Florida Statutes, are renumbered as subsections (6)  
20 through (18), respectively, and a new subsection (5) is added  
21 to said section to read:

22 400.021 Definitions.--When used in this part, unless  
23 the context otherwise requires, the term:

24 (5) "Controlling person" for purposes of this part,  
25 means:

26 (a) The licensee applicant and any management company  
27 or other entity, related or unrelated, that the applicant may  
28 contract with to operate the institution.

29 (b) Any person who serves as an officer, is on the  
30 board of directors, or has a 5% or more ownership interest in  
31 the applicant. Controlling person does not mean a director of

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1 a not-for-profit corporation or organization if the director  
2 serves solely in a voluntary capacity for the corporation or  
3 organization, does not regularly take part in the day-to-day  
4 operational decisions of the corporation or organization,  
5 receives no remuneration for his or her services on the  
6 corporation's or organization's board of directors, and has no  
7 financial interest in the corporation or organization. The  
8 application must include a statement from the director and the  
9 not-for-profit corporation or organization affirming that the  
10 director's relationship to the corporation or organization  
11 satisfies the requirements of this paragraph.

12 (c) Any person who serves as an officer, is on the  
13 board of directors, or has a 5% or more ownership interest in  
14 the management company or other entity that the applicant may  
15 contract with to operate the institution.

16 Section 2. Subsection (2) of section 400.071, Florida  
17 Statutes, is amended to read:

18 400.071 Application for license.--

19 (2) The application shall be under oath and shall  
20 contain the following:

21 (a) The name, address, and social security number of  
22 the applicant if an individual; if the applicant is a firm,  
23 partnership, or association, its name, address, and employer  
24 identification number (EIN), and the name and address of every  
25 member; if the applicant is a corporation, its name, address,  
26 and employer identification number (EIN), and the name and  
27 address of its director and officers and of each person having  
28 at least a 5 percent interest in the corporation; and the name  
29 by which the facility is to be known.

30 (b) The name of any person whose name is required on  
31 the application under the provisions of paragraph (a) and who

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1 owns at least a 10 percent interest in any professional  
2 service, firm, association, partnership, or corporation  
3 providing goods, leases, or services to the facility for which  
4 the application is made, and the name and address of the  
5 professional service, firm, association, partnership, or  
6 corporation in which such interest is held.

7 (c) The location of the facility for which a license  
8 is sought and an indication, as in the original application,  
9 that such location conforms to the local zoning ordinances.

10 (d) The name of the person or persons under whose  
11 management or supervision the facility will be conducted,  
12 including any controlling person, and the name of its licensed  
13 administrator.

14 (e) A signed affidavit disclosing any financial or  
15 ownership interest that the applicant, or any person listed in  
16 paragraph (d), has held within the last 5 years in any entity  
17 licensed by this state or any other state to provide health or  
18 residential care, which entity has closed voluntarily or  
19 involuntarily and the reason for the closure; has filed  
20 bankruptcy; has had a receiver appointed or a license denied,  
21 suspended, or revoked; or has had an injunction issued against  
22 it which was initiated by a regulatory agency.

23 ~~(f)~~ The total number of beds and the total number  
24 of Medicare and Medicaid certified beds.

25 ~~(g)~~ Information relating to the number, experience,  
26 and training of the employees of the facility and of the moral  
27 character of the applicant and employees which the agency  
28 requires by rule, including the name and address of any  
29 nursing home with which the applicant or employees have been  
30 affiliated through ownership or employment within 5 years of  
31 the date of the application for a license and the record of

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1 any criminal convictions involving the applicant and any  
2 criminal convictions involving an employee if known by the  
3 applicant after inquiring of the employee. The applicant must  
4 demonstrate that sufficient numbers of qualified staff, by  
5 training or experience, will be employed to properly care for  
6 the type and number of residents who will reside in the  
7 facility.

8 (h)~~(g)~~ Copies of any civil verdict or judgment  
9 involving the applicant rendered within the 10 years preceding  
10 the application, relating to medical negligence, violation of  
11 residents' rights, or wrongful death. As a condition of  
12 licensure, the licensee agrees to provide to the agency copies  
13 of any new verdict or judgment involving the applicant,  
14 relating to such matters, within 30 days after filing with the  
15 clerk of the court. The information required in this  
16 paragraph shall be maintained in the facility's licensure file  
17 and in an agency database which is available as a public  
18 record.

19 Section 3. Subsection (7) is added to section 400.121,  
20 Florida Statutes, to read:

21 400.121 Denial, suspension, revocation of license;  
22 moratorium on admissions; administrative fines; procedure;  
23 order to increase staffing.--

24 (7) The Agency may deny an application for an initial  
25 or change-of-ownership license based upon the disclosure of  
26 information as required in section 400.071(2)(e) if such  
27 information demonstrates financial or care-related instability  
28 of the applicant or any controlling person except as provided  
29 in this subsection. If such information demonstrates  
30 financial or care-related instability of the management  
31 company only, that would result in an initial or change of

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1 ownership license denial, then the applicant shall be given 30  
2 days to remedy the instability or the application will be  
3 denied. If such information demonstrates financial  
4 instability of the management company only, in conjunction  
5 with either an initial or change-of-ownership application, and  
6 the management contract does not require the management  
7 company to provide working capital or other financial support  
8 to the applicant, then the information may not be used to deny  
9 the licensure of the applicant, but may be used as a basis for  
10 additional monitoring by the agency of the licensed facility  
11 as specified in s. 400.118, F.S. If such information  
12 demonstrates financial or care-related instability of the  
13 applicant or any controlling person, in conjunction with an  
14 application for license renewal, then such information may be  
15 used as a basis for additional monitoring by the agency of the  
16 licensed facility as specified in s. 400.118, F.S.

17 Section 4. Subsection (2) of section 397.405, Florida  
18 Statutes, is amended to read:

19 397.405 Exemptions from licensure.--The following are  
20 exempt from the licensing provisions of this chapter:

21 (2) A nursing home facility as defined in s.  
22 400.021~~(11)~~.

23 Section 5. Subsection (14) is added to section  
24 400.141, Florida Statutes, to read:

25 400.141 Administration and management of nursing home  
26 facilities.--Every licensed facility shall comply with all  
27 applicable standards and rules of the agency and shall:

28 (14) Provide to the agency information specified in  
29 section 400.071(e) for a management company within thirty days  
30 of the start of the management agreement.

31 Section 6. This act shall take effect July 1, 2000.

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(Renumber subsequent sections)

===== T I T L E    A M E N D M E N T =====

And the title is amended as follows:

On page 1, line 13, after "instability;"

insert:

amending s. 400.141, F.S.; requiring the  
disclosure of certain information;