

By the Committee on Elder Affairs & Long-Term Care and
Representatives Rubio, Fasano and Lacasa

1 A bill to be entitled
2 An act relating to nursing homes; amending s.
3 400.021, F.S.; defining "controlling person";
4 amending s. 400.071, F.S.; providing additional
5 license application requirements relating to
6 certain financial or ownership interests of the
7 applicant and specified others, including a
8 controlling person; providing use of such
9 information; amending s. 400.121, F.S.;
10 authorizing denial of a license application
11 based on disclosure of information
12 demonstrating financial or care-related
13 instability; amending s. 397.405, F.S.;
14 correcting a cross reference; providing an
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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

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

25 (5) "Controlling person" means:

26 (a) A management company or other entity that directs
27 the overall operation of an institution.

28 (b) Any person who serves as an officer of, is on the
29 board of directors of, or has 5 percent or more ownership
30 interest in a management company or other entity that operates
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1 an institution or that contracts with another person for the
2 operation of an institution.
3 (c) The applicant, including any person who serves as
4 an officer, is on the board of directors or has 5 percent or
5 more ownership interest in the applicant, or has 10 percent or
6 more ownership interest in the facility. "Controlling person"
7 does not mean a director of a not-for-profit corporation or
8 organization if the director serves solely in a voluntary
9 capacity for the corporation or organization, does not
10 regularly take part in the day-to-day operational decisions of
11 the corporation or organization, receives no remuneration for
12 his or her services on the corporation's or organization's
13 board of directors, and has no financial interest in the
14 corporation or organization, provided that the director and
15 the not-for-profit corporation or organization include in the
16 application a statement affirming that the director's
17 relationship to the corporation or organization satisfies the
18 requirements of this paragraph.

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

21 400.071 Application for license.--

22 (2) The application shall be under oath and shall
23 contain the following:

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

3 (b) The name of any person whose name is required on
4 the application under the provisions of paragraph (a) and who
5 owns at least a 10 percent interest in any professional
6 service, firm, association, partnership, or corporation
7 providing goods, leases, or services to the facility for which
8 the application is made, and the name and address of the
9 professional service, firm, association, partnership, or
10 corporation in which such interest is held.

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

14 (d) The name of the person or persons under whose
15 management or supervision the facility will be conducted,
16 including any controlling person, and the name of its licensed
17 administrator.

18 (e) A signed affidavit disclosing any financial or
19 ownership interest that the applicant, or any person listed in
20 paragraph (d), has held within the last 5 years in any entity
21 licensed by this state or any other state to provide health or
22 residential care, which entity closed voluntarily or
23 involuntarily due to financial problems; has filed bankruptcy;
24 has had a judgement filed against it for unpaid debt; has had
25 a receiver appointed or a license denied, suspended, or
26 revoked; or has had an injunction issued against it which was
27 initiated by a regulatory agency. In conjunction with an
28 application for license renewal, this information may be used
29 by the agency as the basis for additional monitoring by the
30 agency of the licensed facility as specified in s. 400.118, if
31 the information demonstrates financial or care-related

1 instability. In conjunction with an application for initial or
2 change-of-ownership licensure, this information may be
3 considered by the agency in the decision to approve or deny
4 the request for licensure if the information demonstrates
5 financial or care-related instability.

6 (f)~~(e)~~ The total number of beds and the total number
7 of Medicare and Medicaid certified beds.

8 (g)~~(f)~~ Information relating to the number, experience,
9 and training of the employees of the facility and of the moral
10 character of the applicant and employees which the agency
11 requires by rule, including the name and address of any
12 nursing home with which the applicant or employees have been
13 affiliated through ownership or employment within 5 years of
14 the date of the application for a license and the record of
15 any criminal convictions involving the applicant and any
16 criminal convictions involving an employee if known by the
17 applicant after inquiring of the employee. The applicant must
18 demonstrate that sufficient numbers of qualified staff, by
19 training or experience, will be employed to properly care for
20 the type and number of residents who will reside in the
21 facility.

22 (h)~~(g)~~ Copies of any civil verdict or judgment
23 involving the applicant rendered within the 10 years preceding
24 the application, relating to medical negligence, violation of
25 residents' rights, or wrongful death. As a condition of
26 licensure, the licensee agrees to provide to the agency copies
27 of any new verdict or judgment involving the applicant,
28 relating to such matters, within 30 days after filing with the
29 clerk of the court. The information required in this
30 paragraph shall be maintained in the facility's licensure file
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1 and in an agency database which is available as a public
2 record.

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

5 400.121 Denial, suspension, revocation of license;
6 moratorium on admissions; administrative fines; procedure;
7 order to increase staffing.--

8 (7) The agency may deny an application for an initial
9 or change-of-ownership license based upon the disclosure of
10 information as required in s. 400.071(2)(e) and (f) if such
11 information demonstrates financial or care-related
12 instability.

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

15 397.405 Exemptions from licensure.--The following are
16 exempt from the licensing provisions of this chapter:

17 (2) A nursing home facility as defined in s.
18 400.021~~(11)~~.

19 Section 5. This act shall take effect July 1, 2000.
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