

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. 400.141, F.S.;
14 requiring the disclosure of certain
15 information; amending s. 397.405, F.S.;
16 correcting a cross reference; providing an
17 effective date.

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

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

25 400.021 Definitions.--When used in this part, unless
26 the context otherwise requires, the term:

27 (5) "Controlling person" for purposes of this part,
28 means:

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

1 (b) Any person who serves as an officer, is on the
2 board of directors, or has a 5% or more ownership interest in
3 the applicant. Controlling person does not mean a director of
4 a not-for-profit corporation or organization if the director
5 serves solely in a voluntary capacity for the corporation or
6 organization, does not regularly take part in the day-to-day
7 operational decisions of the corporation or organization,
8 receives no remuneration for his or her services on the
9 corporation's or organization's board of directors, and has no
10 financial interest in the corporation or organization. The
11 application must include a statement from the director and the
12 not-for-profit corporation or organization affirming that the
13 director's relationship to the corporation or organization
14 satisfies the requirements of this paragraph.

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

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 has closed voluntarily or
23 involuntarily and the reason for the closure; has filed
24 bankruptcy; has had a receiver appointed or a license denied,
25 suspended, or revoked; or has had an injunction issued against
26 it which was initiated by a regulatory agency.

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

29 ~~(g)~~(f) Information relating to the number, experience,
30 and training of the employees of the facility and of the moral
31 character of the applicant and employees which the agency

1 requires by rule, including the name and address of any
 2 nursing home with which the applicant or employees have been
 3 affiliated through ownership or employment within 5 years of
 4 the date of the application for a license and the record of
 5 any criminal convictions involving the applicant and any
 6 criminal convictions involving an employee if known by the
 7 applicant after inquiring of the employee. The applicant must
 8 demonstrate that sufficient numbers of qualified staff, by
 9 training or experience, will be employed to properly care for
 10 the type and number of residents who will reside in the
 11 facility.

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

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

25 400.121 Denial, suspension, revocation of license;
 26 moratorium on admissions; administrative fines; procedure;
 27 order to increase staffing.--

28 (7) The Agency may deny an application for an initial
 29 or change-of-ownership license based upon the disclosure of
 30 information as required in section 400.071(2)(e) if such
 31 information demonstrates financial or care-related instability

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

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

23 397.405 Exemptions from licensure.--The following are
24 exempt from the licensing provisions of this chapter:

25 (2) A nursing home facility as defined in s.
26 400.021~~(11)~~.

27 Section 5. Subsection (14) is added to section
28 400.141, Florida Statutes, to read:

29 400.141 Administration and management of nursing home
30 facilities.--Every licensed facility shall comply with all
31 applicable standards and rules of the agency and shall:

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

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