

By the Committee on Health, Aging and Long-Term Care; and
Senator Garcia

317-1822-01

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A bill to be entitled
An act relating to medical practice; creating
s. 456.0375, F.S.; defining the term "clinic";
imposing registration requirements for certain
clinics; providing for medical directors;
providing for enforcement; providing penalties;
providing an effective date.

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

Section 1. Section 456.0375, Florida Statutes, is
created to read:

456.0375 Registration of certain clinics;
requirements; discipline; exemptions.--

(1) As used in this section, the term "clinic" means a
business operating in a single structure or facility or group
of adjacent structures or facilities operating under the same
business name or management at which health care services are
provided to individuals and at which the clinic tenders
charges for reimbursement for such services, unless it is
otherwise licensed or registered by the state pursuant to
chapter 390, chapter 394, chapter 395, chapter 397, chapter
400, chapter 463, chapter 465, chapter 466, chapter 478,
chapter 480, or chapter 484 or is exempt from federal taxation
under 26 U.S.C. s. 501(c)(3). This section also does not apply
to a sole or group practice, partnership, or corporation that
provides health care services by licensed health care
practitioners as defined in s. 456.001(4), in accordance with
the applicable practice act, which is jointly owned by
licensed health care practitioners and the spouse, parent, or
child of a licensed health care practitioner, and at which the

1 licensed health care practitioners are legally responsible for
2 the clinic's compliance with all federal and state laws.

3 (2)(a) A clinic in which an entity or individual other
4 than those licensed under chapter 458, chapter 459, chapter
5 460, or chapter 461 or certified under s. 464.012 possesses an
6 ownership interest must register with the department. The
7 clinic must at all times maintain a valid registration. Each
8 clinic location must be registered separately even if operated
9 under a common business name or management. For purposes of
10 determining registration requirements under this paragraph, a
11 clinic owned by a physician licensed under chapter 458,
12 chapter 459, chapter 460, or chapter 461 also includes any
13 clinic owned jointly by the physician and the physician's
14 spouse, parent, or child if the licensed physician supervises
15 the services performed in the clinic and is legally
16 responsible for the clinic's compliance with all federal and
17 state laws.

18 (b) The department shall adopt rules necessary to
19 administer the registration program, including rules
20 establishing the specific registration procedures, forms, and
21 fees. Registration fees must be calculated to reasonably cover
22 the cost of registration and must be in such amount that the
23 total fees collected do not exceed the cost of administering
24 and enforcing compliance with this section. The registration
25 program must require:

26 1. The clinic to file the registration form with the
27 department within 60 days after the effective date of this
28 section or prior to the inception of operation. The
29 registration expires automatically 2 years after its date of
30 issuance and must be renewed biennially thereafter.

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1 2. The registration form to contain the name,
2 residence, and business address, phone number, and license
3 number of the medical director or clinical director for the
4 clinic.

5 3. The clinic to display the registration certificate
6 in a conspicuous location within the clinic which is readily
7 visible to all patients.

8 (3)(a) Each clinic owned by an individual other than a
9 fully licensed physician or owned by an entity other than a
10 professional corporation or limited liability company composed
11 only of fully licensed physicians must employ or contract with
12 a physician maintaining a full and unencumbered physician
13 license in accordance with chapter 458, chapter 459, chapter
14 460, or chapter 461 to serve as the medical director, or with
15 a licensed health care practitioner to serve as the clinical
16 director, who is responsible for activities in accordance with
17 her or his practice act.

18 (b) A medical director or clinical director must agree
19 in writing to accept responsibility for the following
20 activities on behalf of the clinic. The medical director or
21 the clinical director shall:

22 1. Have signs identifying the medical director or
23 clinical director posted in a conspicuous location within the
24 clinic which are readily visible to all patients.

25 2. Ensure that all practitioners providing health care
26 services or supplies to patients maintain a current active and
27 unencumbered Florida license.

28 3. Review any patient-referral contracts or agreements
29 executed by the clinic.

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1 4. Ensure that all health care practitioners at the
2 clinic have active appropriate certification or licensure for
3 the level of care being provided.

4 5. Serve as the clinic records owner as defined in s.
5 456.057.

6 6. Ensure compliance with the medical recordkeeping,
7 office-surgery, and adverse-incident-reporting requirements of
8 chapter 456, the respective practice acts, and the rules
9 adopted thereunder.

10 7. Conduct systematic reviews of clinic billings to
11 ensure that the billings are not fraudulent or unlawful. Upon
12 discovery of an unlawful charge, the medical director or
13 clinical director must take immediate corrective action.

14 (c) Any contract to serve as a medical director or
15 clinical director entered into or renewed by a physician or
16 licensed health care practitioner in violation of this section
17 is void as contrary to public policy. This section applies to
18 contracts entered into or renewed on or after October 1, 2001.

19 (d) The department, in consultation with the boards,
20 shall adopt rules specifying limitations on the number of
21 registered clinics and licensees for which a medical director
22 or clinical director may assume responsibility for purposes of
23 this section. In determining the quality of supervision a
24 medical director or clinical director can provide, the
25 department shall consider the number of clinic employees, the
26 clinic location, and the services provided by the clinic.

27 (4)(a) All charges or reimbursement claims made by or
28 on behalf of a clinic that is required to be registered under
29 this section but that is not so registered are unlawful
30 charges and therefore are noncompensable and unenforceable.
31 Any person knowingly operating or managing an unregistered

1 clinic otherwise required to be registered under this section
2 commits a felony of the third degree, punishable as provided
3 in s. 775.082, s. 775.083, or s. 775.084.

4 (b) Any licensed health care practitioner who violates
5 this section is subject to discipline in accordance with
6 chapter 456 and the respective practice act.

7 (c) The department shall revoke the registration of
8 any clinic registered under this section for operating in
9 violation of the requirements of this section.

10 Section 2. This act shall take effect October 1, 2001.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1910

4 The bill requires individuals or entities who are not
5 Florida-licensed allopathic or osteopathic physicians,
6 chiropractic physicians, podiatric physicians, physician
7 assistants, or advanced registered nurse practitioners, who
8 possess an ownership interest in a clinic to register with the
9 Department of Health within 60 days after October 1, 2001.
10 Clinics that are not exempt must comply with the bill's
11 requirements to employ or contract with a medical director who
12 is a Florida-licensed physician or with a clinical director
13 who is a Florida-licensed health care practitioner.

14 A clinic licensed or registered under chapter 390 (abortion),
15 394 (mental health), 395 (hospitals), 397 (substance abuse
16 services), 400 (nursing homes), 463 (optometry), 465
17 (pharmacy), 466 (dental), 478 (electrolysis), 480 (massage),
18 or 484 (optical/hearing aid specialist), Florida Statutes, or
19 that is exempt from federal taxation under the Tax Code is
20 exempt from the bill's requirements. The bill exempts a sole
21 or group practice, partnership, or corporation that provides
22 health care services by licensed health care practitioners as
23 defined in s. 456.001(4), F.S., in accordance with their
24 practice act, only if the following conditions are met: the
25 clinic must be jointly owned by licensed health care
26 practitioners and the spouse, parent, or child of a licensed
27 health care practitioner, and the licensed health care
28 practitioners are legally responsible for the clinic's
29 compliance with all federal and state laws.

30 The bill requires all clinics that are not otherwise exempt to
31 register with the Department of Health. The Department of
Health must adopt rules to implement a registration program,
including rules prescribing registration fees. The fees must
not exceed an amount that will provide sufficient revenue to
administer the registration program.

The bill requires a medical director or clinical director to
be responsible for activities on behalf of the clinic and
specifies the duties of the medical director or clinical
director of such clinic.

Any person knowingly operating or managing an unregistered
clinic commits a third degree felony. A third degree felony
carries a maximum prison sentence of 5 years and a maximum
fine of \$5,000. The Department of Health must revoke the
registration of clinics found to be in violation of the bill.
Also, a violation of the bill by a licensed health care
practitioner would be grounds for discipline under ch. 456,
F.S., and the practice act of that practitioner. All charges
or any reimbursement claims made by or on behalf of
unregistered clinics would be considered to be unlawful
charges and therefore be noncompensable and unenforceable. The
bill makes any contract to serve as a medical director or
clinical director entered into or renewed by a physician or
licensed health care practitioner after October 1, 2001, that
violates the provisions of the bill void.