

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 925 Health Care Services Clinics
SPONSOR(S): Robaina, Co-Sponsor Bullard, Llorente, Planas, Rivera, Zapata
TIED BILLS: **IDEN./SIM. BILLS:** SB 2762

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (sub)		Cheek	Schulte
2) Insurance			
3) Health Care			
4) Commerce&Local Affairs Appropriations (sub)			
5) Appropriations			

SUMMARY ANALYSIS

The 2001 legislation on motor vehicle insurance fraud created a requirement that clinics not wholly owned by health care practitioners must register with the Department of Health.

Approximately 2,400 clinics have registered with the department and employ a medical or clinical director (director) who is a licensee of and subject to department regulation. Licensees are subject to discipline for failure to comply with specific obligations. These obligations include, but are not limited to: reviewing patient referral contracts/agreements, serving as medical records holder, ensuring compliance with records keeping requirements, and reviewing records to ensure the billings are not fraudulent. The department is authorized to require that the director be registered and to limit the number of clinics for which a director is responsible.

This proposal amends the health care services clinic registration program. It removes certain requirements from the medical director, a licensee regulated by the department, and places those responsibilities on a designated clinic administrator, and, further, requires a level 1 criminal background screening of the administrator.

The bill appears to have a non-recurring and recurring fiscal impact of \$92,683 for the first year on state government. The bill does not appear to have a fiscal impact on local government.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0925.in.doc
DATE: April 4, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

According to the department of Health, two additional FTE's, Regulatory Specialist I (RS1), will be required to implement the proposed changes, maintain the additional requirements for administrators, handle the criminal background checks, update clinic records with changes in administrators, and administering the biennial renewal of clinics. Since the effective date of this bill is July 1, 2003, two OPS employees will be required until the two RSI's can be hired.

B. EFFECT OF PROPOSED CHANGES:

Background

Clinics

The term "clinic" means a facility operating under a business name at which health care services are provided and which tenders charges for reimbursement. Such a clinic must register with the Department of Health (DOH), unless otherwise licensed under chapters 390 (abortion), 394 (mental health), 395 (hospitals), 400 (nursing homes), 463 (optometry), 465 (pharmacy), 466 (dental), 478 (electrolysis), 480 (massage), or 484 (optical), or are exempt from federal taxation under the Tax Code. A clinic in which an entity or individual possesses an ownership interest, other than a physician licensed under chapters 458, 459, 460, or 461, and each clinic location, must register with the Department of Health. These clinics are required to employ or contract with a physician to be medical director. Clinics owned jointly by physicians and their spouses, parents, or children, would not be required to register as long as the physician supervises the services performed at the clinic and is legally responsible.

Registration requirements include filing a registration form, which would include the name of the medical director, with the Department of Health and displaying a registration certificate within the clinic. Registration fees cover the cost of registration and could not exceed the cost to administer and enforce compliance. Registration is required to be renewed biennially.

Clinics not owned by licensed physicians would be required to hire a physician with a full and unencumbered license as medical director. Responsibilities of the medical director include having signs identifying the medical director posted in the clinic which are readily visible to all patients; ensuring all practitioners maintain a current active and unencumbered Florida license; reviewing any patient referral contracts or agreements executed by the clinic; ensuring all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided; serving as the clinic records owner as defined under s. 456.057, F.S.; complying with medical record keeping, office surgery, and adverse incident reporting requirements; and conducting systematic reviews of clinic billings to ensure billings are not fraudulent or unlawful.

Changes to Current Law

HB 925 amends sections 456.0375, (3)(b), and (4), F.S. ,by doing the following:

- First, for every registered clinic, it creates a second set of responsibilities, agreed upon in writing by an administrator. Although not specified, it appears that the written agreements must be accounted for and maintained by the department.
- Second, it requires that clinics pay for level 1 background checks on administrators, without specifying with whom the responsibility for conducting and clearing the screens lies. If the responsibility belongs to the department, the effect of the proposal is to create additional workload.

C. SECTION DIRECTORY:

Section 1: Amends s. 456.0375, F.S. – *Registration of certain clinic; requirements; disciplines; exemption.*

Section 2: Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill impacts the Department of Health by adding the requirement for an additional position in a registered clinic, an administrator, who has met level 1 screening standards specified in s. 435.03, F.S., and agrees, in writing to accept certain legal responsibilities; and removing the department's authority to discipline administrators for failure to comply with their responsibilities if they are not licensed health care practitioners.

The bill requires the department to administer changes to over 2,400 clinics registrations prior to July 1, 2003. The changes will require noticing all registered clinics and responding to telephone calls and letters regarding these changes. According to the Department of Health, the existing clinic registration forms must be amended through the rulemaking process. New forms must be made available on the web and sent to clinics. Rulemaking will be required to establish procedures to implement proposed changes and fees to cover the costs for administering and enforcing the changes.

According to the department of Health, two additional FTE's, Regulatory Specialist I (RS1), will be required to implement the proposed changes, maintain the additional requirements for administrators, handle the criminal background checks, update clinic records with changes in administrators, and administering the biennial renewal of clinics. Since the effective date of this bill is July 1, 2003, two OPS employees will be required until the two RSI's can be hired.

Non-Recurring and First-Year Start-Up Effects:

	<u>Amount</u> <u>Year 1</u>	<u>Amount</u> <u>Year 2</u>
EXPENSE:		
Standard expense package – 2 RSI	\$5,206	
Total Expense	\$5,206	
OCO:		
Standard OCO Package – 2 RSI	\$4,000	
Total OCO	\$4,000	

OPS:		
2 OPS employees	\$9,301	
Total OPS	\$9,301	
Total Non-Recurring	\$18,507	
Recurring and Annualized Continuation Effects:		
Salaries/Benefits:		
2 Regulatory Specialist I Positions-Pay Band 03	63,344	84,459
EXPENSES:		
Total Recurring Costs	\$10,832	\$10,832
Total of Estimated Non-recurring and Recurring Expenses	\$92,683	\$95,291

According to the Department of Health, salary and benefits for the two Regulatory Specialist I were computed based on the annual midpoint range for pay bank 3 plus 28.6%. Non-recurring costs are also required for two OPS employees for twelve weeks at \$9.00 per hour.

2. Expenditures:
Please see above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may create cost savings for clinics by allowing certain functions to be performed by persons other than health care practitioners. It may increase cost by requiring clinic to pay for background checks.

D. FISCAL COMMENTS:

Please see "Fiscal Impact on State Government" section of this analysis.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
None.
2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Health, the effective date of July 1, 2003, does not provide adequate time to do the necessary rulemaking, provide notice to clinics and obtain additional staff and resources necessary to implement the bill. Presently, the statute specifically provides that the identity of the director be included on the registration form.

According to the Department of Health, the bill does not require similar information be provided for the administrator. The department states that it is unclear whether the intent of the bill is to provide that the administrator position will have the same registration requirements and other limitations as currently required of directors performing tasks transferred to administrators.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.