

Bill No. CS for SB 1062, 1st Eng.

Amendment No. ____ Barcode 254186

CHAMBER ACTION

Senate

House

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Senator Alexander moved the following amendment:

Senate Amendment (with title amendment)

On page 25, line 5, through
page 26, line 11, delete those lines

and insert:

Section 17. Subsections (3) and (4) of section
400.9905, Florida Statutes, are amended, and subsections (5)
and (6) are added to that section, to read: (attached)

400.9905 Definitions.--

(3) "Clinic" means an entity at which health care
services are provided to individuals and which tenders charges
for reimbursement for such services, including a mobile clinic
and a portable equipment provider. For purposes of this part,
the term does not include and the licensure requirements of
this part do not apply to:

(a) Entities licensed or registered by the state under
chapter 395; or entities licensed or registered by the state
and providing only health care services within the scope of
services authorized under their respective licenses granted

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter~~
2 ~~395~~, chapter 397, this chapter except part XIII, chapter 463,
3 chapter 465, chapter 466, chapter 478, part I of chapter 483
4 ~~480~~, chapter 484, or chapter 651, end-stage renal disease
5 providers authorized under 42 C.F.R. part 405, subpart U, or
6 providers certified under 42 C.F.R. part 485, subpart B or
7 subpart H, or any entity that provides neonatal or pediatric
8 hospital-based healthcare services by licensed practitioners
9 solely within a hospital licensed under chapter 395.

10 (b) Entities that own, directly or indirectly,
11 entities licensed or registered by the state pursuant to
12 chapter 395; or entities that own, directly or indirectly,
13 entities licensed or registered by the state and providing
14 only health care services within the scope of services
15 authorized pursuant to their respective licenses granted under
16 ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~,
17 chapter 397, this chapter except part XIII, chapter 463,
18 chapter 465, chapter 466, chapter 478, part I of chapter 483
19 ~~480~~, chapter 484, or chapter 651, end-stage renal disease
20 providers authorized under 42 C.F.R. part 405, subpart U, or
21 providers certified under 42 C.F.R. part 485, subpart B or
22 subpart H, or any entity that provides neonatal or pediatric
23 hospital-based healthcare services by licensed practitioners
24 solely within a hospital licensed under chapter 395.

25 (c) Entities that are owned, directly or indirectly,
26 by an entity licensed or registered by the state pursuant to
27 chapter 395; or entities that are owned, directly or
28 indirectly, by an entity licensed or registered by the state
29 and providing only health care services within the scope of
30 services authorized pursuant to their respective licenses
31 granted under ss. 383.30-383.335, chapter 390, chapter 394,

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 ~~chapter 395~~, chapter 397, this chapter except part XIII,
2 chapter 463, chapter 465, chapter 466, chapter 478, part I of
3 chapter ~~483 480~~, chapter 484, or chapter 651, end-stage renal
4 disease providers authorized under 42 C.F.R. part 405, subpart
5 U, or providers certified under 42 C.F.R. part 485, subpart B
6 or subpart H, or any entity that provides neonatal or
7 pediatric hospital-based healthcare services by licensed
8 practitioners solely within a hospital licensed under chapter
9 395.

10 (d) Entities that are under common ownership, directly
11 or indirectly, with an entity licensed or registered by the
12 state pursuant to chapter 395; or entities that are under
13 common ownership, directly or indirectly, with an entity
14 licensed or registered by the state and providing only health
15 care services within the scope of services authorized pursuant
16 to its respective license granted under ss. 383.30-383.335,
17 chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this
18 chapter except part XIII, chapter 463, chapter 465, chapter
19 466, chapter 478, part I of chapter ~~483 480~~, chapter 484, or
20 chapter 651, end-stage renal disease providers authorized
21 under 42 C.F.R. part 405, subpart U, or providers certified
22 under 42 C.F.R. part 485, subpart B or subpart H, or any
23 entity that provides neonatal or pediatric hospital-based
24 services by licensed practitioners solely within a hospital
25 licensed under chapter 395.

26 (e) An entity that is exempt from federal taxation
27 under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), and any
28 community college or university clinic, and any entity owned
29 or operated by federal or state government, including
30 agencies, subdivisions, or municipalities thereof.

31 (f) A sole proprietorship, group practice,

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 partnership, or corporation that provides health care services
 2 by physicians covered by s. 627.419, that is directly
 3 supervised by one or more of such physicians, and that is
 4 wholly owned by one or more of those physicians or by a
 5 physician and the spouse, parent, child, or sibling of that
 6 physician.

7 ~~(g)(f)~~ A sole proprietorship, group practice,
 8 partnership, or corporation that provides health care services
 9 by licensed health care practitioners under chapter 457,
 10 chapter 458, chapter 459, chapter 460, chapter 461, chapter
 11 462, chapter 463, chapter 466, chapter 467, chapter 480,
 12 chapter 484, chapter 486, chapter 490, chapter 491, or part I,
 13 part III, part X, part XIII, or part XIV of chapter 468, or s.
 14 464.012, which are wholly owned by one or more ~~a~~ licensed
 15 health care ~~practitioners~~ practitioner, or the licensed health
 16 care practitioners set forth in this paragraph ~~practitioner~~
 17 and the spouse, parent, ~~or~~ child, or sibling of a licensed
 18 health care practitioner, so long as one of the owners who is
 19 a licensed health care practitioner is supervising the
 20 services performed therein and is legally responsible for the
 21 entity's compliance with all federal and state laws. However,
 22 a health care practitioner may not supervise services beyond
 23 the scope of the practitioner's license, except that, for the
 24 purposes of this part, a clinic owned by a licensee in s.
 25 456.053(3)(b) that provides only services authorized pursuant
 26 to s. 456.053(3)(b) may be supervised by a licensee specified
 27 in s. 456.053(3)(b).

28 ~~(h)(g)~~ Clinical facilities affiliated with an
 29 accredited medical school at which training is provided for
 30 medical students, residents, or fellows.

31 ~~(i)~~ Entities that provide only oncology or radiation

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 therapy services by physicians licensed under chapter 458 or
2 459.

3 (4) "Medical director" means a physician who is
4 employed or under contract with a clinic and who maintains a
5 full and unencumbered physician license in accordance with
6 chapter 458, chapter 459, chapter 460, or chapter 461.
7 However, if the clinic does not provide services pursuant to
8 the respective physician practice acts listed in this
9 subsection, it is limited to providing health care services
10 pursuant to chapter 457, chapter 484, chapter 486, chapter
11 490, or chapter 491 or part I, part III, part X, part XIII, or
12 part XIV of chapter 468, the clinic may appoint a
13 Florida-licensed health care practitioner who does not provide
14 services pursuant to the respective physician practice acts
15 listed in this subsection licensed under that chapter to serve
16 as a clinic director who is responsible for the clinic's
17 activities. A health care practitioner may not serve as the
18 clinic director if the services provided at the clinic are
19 beyond the scope of that practitioner's license, except that a
20 licensee specified in s. 456.053(3)(b) that provides only
21 services authorized pursuant to s. 456.053(3)(b) may serve as
22 clinic director of an entity providing services as specified
23 in s. 456.053(3)(b).

24 (5) "Mobile clinic" means a movable or detached
25 self-contained health care unit within or from which direct
26 health care services are provided to individuals and that
27 otherwise meets the definition of a clinic in subsection (3).

28 (6) "Portable equipment provider" means an entity that
29 contracts with or employs persons to provide portable
30 equipment to multiple locations performing treatment or
31 diagnostic testing of individuals, that bills third-party

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 payors for those services, and that otherwise meets the
 2 definition of a clinic in subsection (3).

3 Section 18. The creation of paragraph 400.9905(3)(i),
 4 Florida Statutes, by this act is intended to clarify the
 5 legislative intent of this provision as it existed at the time
 6 the provision initially took effect as section 456.0375(1)(b),
 7 Florida Statutes, and paragraph 400.9905(3)(i), Florida
 8 Statutes, as created by this act, shall operate retroactively
 9 to October 1, 2001. Nothing in this section shall be construed
 10 as amending, modifying, limiting, or otherwise affecting in
 11 any way the legislative intent, scope, terms, prohibition, or
 12 requirements of section 456.053, Florida Statutes.

13 Section 19. Subsections (1), (2), and (3) and
 14 paragraphs (a) and (b) of subsection (7) of section 400.991,
 15 Florida Statutes, are amended to read:

16 400.991 License requirements; background screenings;
 17 prohibitions.--

18 (1)(a) Each clinic, as defined in s. 400.9905, must be
 19 licensed and shall at all times maintain a valid license with
 20 the agency. Each clinic location shall be licensed separately
 21 regardless of whether the clinic is operated under the same
 22 business name or management as another clinic.

23 (b) Each mobile clinic must obtain a separate health
 24 care clinic license and ~~clinics~~ must provide to the agency, at
 25 least quarterly, ~~its their~~ projected street location ~~locations~~
 26 to enable the agency to locate and inspect such clinic
 27 ~~clinics~~. A portable equipment provider must obtain a health
 28 care clinic license for a single administrative office and is
 29 not required to submit quarterly projected street locations.

30 (2) The initial clinic license application shall be
 31 filed with the agency by all clinics, as defined in s.

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 400.9905, on or before ~~July~~ March 1, 2004. A clinic license
2 must be renewed biennially.

3 (3) Applicants that submit an application on or before
4 July ~~March~~ 1, 2004, which meets all requirements for initial
5 licensure as specified in this section shall receive a
6 temporary license until the completion of an initial
7 inspection verifying that the applicant meets all requirements
8 in rules authorized by s. 400.9925. However, a clinic engaged
9 in magnetic resonance imaging services may not receive a
10 temporary license unless it presents evidence satisfactory to
11 the agency that such clinic is making a good faith effort and
12 substantial progress in seeking accreditation required under
13 s. 400.9935.

14 (7) Each applicant for licensure shall comply with the
15 following requirements:

16 (a) As used in this subsection, the term "applicant"
17 means individuals owning or controlling, directly or
18 indirectly, 5 percent or more of an interest in a clinic; the
19 medical or clinic director, or a similarly titled person who
20 is responsible for the day-to-day operation of the licensed
21 clinic; the financial officer or similarly titled individual
22 who is responsible for the financial operation of the clinic;
23 and licensed health care practitioners ~~medical providers~~ at
24 the clinic.

25 (b) Upon receipt of a completed, signed, and dated
26 application, the agency shall require background screening of
27 the applicant, in accordance with the level 2 standards for
28 screening set forth in chapter 435. Proof of compliance with
29 the level 2 background screening requirements of chapter 435
30 which has been submitted within the previous 5 years in
31 compliance with any other health care licensure requirements

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 of this state is acceptable in fulfillment of this paragraph.
2 Applicants who own less than 10 percent of a health care
3 clinic are not required to submit fingerprints under this
4 section.

5 Section 20. Subsections (9) and (11) of section
6 400.9935, Florida Statutes, are amended to read:

7 400.9935 Clinic responsibilities.--

8 (9) Any person or entity providing health care
9 services which is not a clinic, as defined under s. 400.9905,
10 may voluntarily apply for a certificate of exemption from
11 licensure under its exempt status with the agency on a form
12 that sets forth its name or names and addresses, a statement
13 of the reasons why it cannot be defined as a clinic, and other
14 information deemed necessary by the agency. An exemption is
15 not transferable. The agency may charge an applicant for a
16 certificate of exemption \$100 or the actual cost, whichever is
17 less, for processing the certificate.

18 (11)(a) Each clinic engaged in magnetic resonance
19 imaging services must be accredited by the Joint Commission on
20 Accreditation of Healthcare Organizations, the American
21 College of Radiology, or the Accreditation Association for
22 Ambulatory Health Care, within 1 year after licensure.
23 However, a clinic may request a single, 6-month extension if
24 it provides evidence to the agency establishing that, for good
25 cause shown, such clinic can not be accredited within 1 year
26 after licensure, and that such accreditation will be completed
27 within the 6-month extension. After obtaining accreditation as
28 required by this subsection, each such clinic must maintain
29 accreditation as a condition of renewal of its license.

30 (b) The agency may ~~deny~~ ~~disallow~~ the application or
31 revoke the license of any entity formed for the purpose of

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 avoiding compliance with the accreditation provisions of this
2 subsection and whose principals were previously principals of
3 an entity that was unable to meet the accreditation
4 requirements within the specified timeframes. The agency may
5 adopt rules as to the accreditation of magnetic resonance
6 imaging clinics.

7 Section 21. Subsections (1) and (3) of section
8 400.995, Florida Statutes, are amended, and subsection (10) is
9 added to said section, to read:

10 400.995 Agency administrative penalties.--

11 (1) The agency may deny the application for a license
12 renewal, revoke or suspend the license, and impose
13 administrative fines ~~penalties against clinics~~ of up to \$5,000
14 per violation for violations of the requirements of this part
15 or rules of the agency. In determining if a penalty is to be
16 imposed and in fixing the amount of the fine, the agency shall
17 consider the following factors:

18 (a) The gravity of the violation, including the
19 probability that death or serious physical or emotional harm
20 to a patient will result or has resulted, the severity of the
21 action or potential harm, and the extent to which the
22 provisions of the applicable laws or rules were violated.

23 (b) Actions taken by the owner, medical director, or
24 clinic director to correct violations.

25 (c) Any previous violations.

26 (d) The financial benefit to the clinic of committing
27 or continuing the violation.

28 (3) Any action taken to correct a violation shall be
29 documented in writing by the owner, medical director, or
30 clinic director of the clinic and verified through followup
31 visits by agency personnel. The agency may impose a fine and,

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 in the case of an owner-operated clinic, revoke or deny a
2 clinic's license when a clinic medical director or clinic
3 director knowingly fraudulently misrepresents actions taken to
4 correct a violation.

5 (10) If the agency issues a notice of intent to deny a
6 license application after a temporary license has been issued
7 pursuant to s. 400.991(3), the temporary license shall expire
8 on the date of the notice and may not be extended during any
9 proceeding for administrative or judicial review pursuant to
10 chapter 120.

11 Section 22. The agency shall refund 90 percent of the
12 license application fee to applicants that submitted their
13 health care clinic licensure fees and applications but were
14 subsequently exempted from licensure by this act.

15 Section 23. Any person or entity defined as a clinic
16 under s. 400.9905, Florida Statutes, shall not be in violation
17 of part XIII of chapter 400, Florida Statutes, due to failure
18 to apply for a clinic license by March 1, 2004, as previously
19 required by s. 400.991, Florida Statutes. Payment to any such
20 person or entity by an insurer or other person liable for
21 payment to such person or entity may not be denied on the
22 grounds that the person or entity failed to apply for or
23 obtain a clinic license before March 1, 2004.

24 Section 24. This act shall take effect upon becoming a
25 law, and section 19 shall apply retroactively to March 1,
26 2004.

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

30 And the title is amended as follows:

31 On page 3, lines 15-23, delete those lines

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 and insert:

2 amending s. 400.9905, F.S.; revising the
3 definitions of "clinic" and "medical director"
4 and defining "mobile clinic" and "portable
5 equipment provider" for purposes of the Health
6 Care Clinic Act; providing that certain
7 entities providing oncology or radiation
8 therapy services are exempt from the licensure
9 requirements of part XIII of ch. 400, F.S.;
10 providing legislative intent with respect to
11 such exemption; providing for retroactive
12 application; amending s. 400.991, F.S.;
13 requiring each mobile clinic to obtain a health
14 care clinic license; requiring a portable
15 equipment provider to obtain a health care
16 clinic license for a single office and
17 exempting such a provider from submitting
18 certain information to the Agency for Health
19 Care Administration; revising the date by which
20 an initial application for a health care clinic
21 license must be filed with the agency; revising
22 the definition of "applicant"; amending s.
23 400.9935, F.S.; providing that an exemption
24 from licensure is not transferable; providing
25 that the agency may charge a fee of applicants
26 for certificates of exemption; providing that
27 the agency may deny an application or revoke a
28 license under certain circumstances; amending
29 s. 400.995, F.S.; providing that the agency may
30 deny, revoke, or suspend specified licenses and
31 impose fines for certain violations; providing

Bill No. CS for SB 1062, 1st Enq.

Amendment No. ____ Barcode 254186

1 that a temporary license expires after a notice
2 of intent to deny an application is issued by
3 the agency; providing that persons or entities
4 made exempt under the act and which have paid
5 the clinic licensure fee to the agency are
6 entitled to a partial refund from the agency;
7 providing that certain persons or entities are
8 not in violation of part XIII of ch. 400, F.S.,
9 due to failure to apply for a clinic license by
10 a specified date; providing that certain
11 payments may not be denied to such persons or
12 entities for failure to apply for or obtain a
13 clinic license before a specified date;
14 providing an effective date.

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