

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Farkas offered the following:

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3 **Amendment to Amendment (964733) (with title amendment)**

4 Between lines 544 and 545 insert:

5 Section 12. Subsections (3) and (4) of section 400.9905,
6 Florida Statutes, are renumbered as subsections (4) and (5),
7 respectively, and amended, and new subsections (3), (6), and (7)
8 are added to said section, to read:

9 400.9905 Definitions.--

10 (3) "Chief financial officer" means an individual who has
11 a bachelor's degree from an accredited university in accounting
12 or finance, or a related field, and who is the person
13 responsible for the preparation of a clinic's billing.

14 (~~4~~)(3) "Clinic" means an entity at which health care
15 services are provided to individuals and which tenders charges
16 for reimbursement for such services, including a mobile clinic

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17 | and a portable equipment provider. For purposes of this part,
18 | the term does not include and the licensure requirements of this
19 | part do not apply to:

20 | (a) Entities licensed or registered by the state under
21 | chapter 395; or entities licensed or registered by the state and
22 | providing only health care services within the scope of services
23 | authorized under their respective licenses granted under s.
24 | 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter
25 | 397, this chapter except part XIII, chapter 463, chapter 465,
26 | chapter 466, chapter 478, part I of chapter 483 ~~chapter 480~~,
27 | chapter 484, or chapter 651; end-stage renal disease providers
28 | authorized under 42 C.F.R. part 405, subpart U; or providers
29 | certified under 42 C.F.R. part 485, subpart B or subpart H, or
30 | any entity that provides neonatal or pediatric hospital-based
31 | healthcare services by licensed practitioners solely within a
32 | hospital licensed under chapter 395.

33 | (b) Entities that own, directly or indirectly, entities
34 | licensed or registered by the state pursuant to chapter 395; or
35 | entities that own, directly or indirectly, entities licensed or
36 | registered by the state and providing only health care services
37 | within the scope of services authorized pursuant to their
38 | respective licenses granted under s. 383.30-383.335, chapter
39 | 390, chapter 394, chapter 395, chapter 397, this chapter except
40 | part XIII, chapter 463, chapter 465, chapter 466, chapter 478,
41 | part I of chapter 483 ~~chapter 480~~, chapter 484, ~~or~~ chapter 651,
42 | end-stage renal disease providers authorized under 42 C.F.R.
43 | part 405, subpart U, or providers certified under 42 C.F.R. part
44 | 485, subpart B or subpart H, or any entity that provides

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45 neonatal or pediatric hospital-based healthcare services by
46 licensed practitioners solely within a hospital licensed under
47 chapter 395.

48 (c) Entities that are owned, directly or indirectly, by an
49 entity licensed or registered by the state pursuant to chapter
50 395; or entities that are owned, directly or indirectly, by an
51 entity licensed or registered by the state and providing only
52 health care services within the scope of services authorized
53 pursuant to their respective licenses granted under s. 383.30-
54 383.335, chapter 390, chapter 394, ~~chapter 395,~~ chapter 397,
55 this chapter ~~except part XIII,~~ chapter 463, chapter 465, chapter
56 466, chapter 478, part I of chapter 483 ~~chapter 480,~~ chapter
57 484, or chapter 651; end-stage renal disease providers
58 authorized under 42 C.F.R. part 405, subpart U; or providers
59 certified under 42 C.F.R. part 485, subpart B or subpart H, or
60 any entity that provides neonatal or pediatric hospital-based
61 healthcare services by licensed practitioners solely within a
62 hospital under chapter 395.

63 (d) Entities that are under common ownership, directly or
64 indirectly, with an entity licensed or registered by the state
65 pursuant to chapter 395; or entities that are under common
66 ownership, directly or indirectly, with an entity licensed or
67 registered by the state and providing only health care services
68 within the scope of services authorized pursuant to their
69 respective licenses granted under s. 383.30-383.335, chapter
70 390, chapter 394, ~~chapter 395,~~ chapter 397, this chapter except
71 part XIII, chapter 463, chapter 465, chapter 466, chapter 478,
72 part I of chapter 483 ~~480,~~ chapter 484, ~~or~~ chapter 651; end-

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73 stage renal disease providers authorized under 42 C.F.R. part
74 405, subpart U; or providers certified under 42 C.F.R. part 485,
75 subpart B or subpart H or any entity that provides neonatal or
76 pediatric hospital-based healthcare services by licensed
77 practitioners solely within a hospital licensed under chapter
78 395.

79 (e) An entity that is exempt from federal taxation under
80 26 U.S.C. s. 501(c)(3) or s. 501(c)(4) and any community college
81 or university clinic, and any entity owned or operated by
82 federal or state government, including agencies, subdivisions,
83 or municipalities thereof.

84 (f) A sole proprietorship, group practice, partnership, or
85 corporation that provides health care services by physicians
86 covered by s. 627.419, that is directly supervised by one or
87 more of such physicians, and that is wholly owned by one or more
88 of those physicians or by a physician and the spouse, child, or
89 sibling of that physician.

90 ~~(g)~~(f) A sole proprietorship, group practice, partnership,
91 or corporation that provides health care services by licensed
92 health care practitioners under chapter 457, chapter 458,
93 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
94 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
95 chapter 490, chapter 491, or part I, part III, part X, part
96 XIII, or part XIV of chapter 468, or s. 464.012, which are
97 wholly owned by one or more a licensed health care practitioners
98 ~~practitioner~~, or the licensed health care practitioners set
99 forth in this paragraph ~~practitioner~~ and the spouse, parent, ~~or~~
100 child, or sibling of a licensed health care practitioner, so

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101 long as one of the owners who is a licensed health care
102 practitioner is supervising the business activities ~~services~~
103 ~~performed therein~~ and is legally responsible for the entity's
104 compliance with all federal and state laws. However, a health
105 care practitioner may not supervise services beyond the scope of
106 the practitioner's license, except that, for the purposes of
107 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
108 provides only services authorized pursuant to s. 456.053(3)(b)
109 may be supervised by a licensee specified in s. 456.053(3)(b).

110 (h)(g) Clinical facilities affiliated with an accredited
111 medical school at which training is provided for medical
112 students, residents, or fellows.

113 (i) Entities that provide only oncology or radiation
114 therapy services by physicians licensed under chapter 458 or
115 chapter 459.

116 (5)(4) "Medical director" means a physician who is
117 employed or under contract with a clinic and who maintains a
118 full and unencumbered physician license in accordance with
119 chapter 458, chapter 459, chapter 460, or chapter 461. However,
120 if the clinic does not provide services pursuant to the
121 respective physician practices acts listed in this subsection,
122 it is limited to providing health care services pursuant to
123 chapter 457, chapter 484, chapter 486, chapter 490, or chapter
124 491 or part I, part III, part X, part XIII, or part XIV of
125 chapter 468, the clinic may appoint a Florida-licensed health
126 care practitioner who does not provide services pursuant to the
127 respective physician practices acts listed in this subsection
128 licensed under that chapter to serve as a clinic director who is

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129 responsible for the clinic's activities. A health care
130 practitioner may not serve as the clinic director if the
131 services provided at the clinic are beyond the scope of that
132 practitioner's license, except that a licensee specified in s.
133 456.053(3)(b) who provides only services authorized pursuant to
134 s. 456.053(3)(b) may serve as clinic director of an entity
135 providing services as specified in s. 456.053(3)(b).

136 (6) "Mobile clinic" means a movable or detached self-
137 contained health care unit within or from which direct health
138 care services are provided to individuals and which otherwise
139 meets the definition of a clinic in subsection (4).

140 (7) "Portable equipment provider" means an entity that
141 contracts with or employs persons to provide portable equipment
142 to multiple locations performing treatment or diagnostic testing
143 of individuals, that bills third-party payors for those
144 services, and that otherwise meets the definition of a clinic in
145 subsection (4).

146 Section 13. The creation of s. 400.9905(4)(i), Florida
147 Statutes, by this act is intended to clarify the legislative
148 intent of this provision as it existed at the time the
149 provisions initially took effect as ss. 456.0375(1)(b) and
150 400.9905(4)(i), Florida Statutes, as created by this act, shall
151 operate retroactively to October 1, 2001. Nothing in this
152 section shall be construed as amending, modifying, limiting, or
153 otherwise affecting in any way the legislative intent, scope,
154 terms, prohibition, or requirements of s. 456.053, Florida
155 Statutes.

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156 Section 14. Effective upon this act becoming a law and
157 applicable retroactively to March 1, 2004, subsections (1), (2),
158 and (3) and paragraphs (a) and (b) of subsection (7) of section
159 400.991, Florida Statutes, are amended to read:

160 400.991 License requirements; background screenings;
161 prohibitions.--

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

167 (b) Each mobile clinic must obtain a separate health care
168 clinic license and clinics must provide to the agency, at least
169 quarterly, its ~~their~~ projected street location ~~locations~~ to
170 enable the agency to locate and inspect such clinic clinics. A
171 portable equipment provider must obtain a health care clinic
172 license for a single administrative office and is not required
173 to submit quarterly projected street locations.

174 (2) The initial clinic license application shall be filed
175 with the agency by all clinics, as defined in s. 400.9905, on or
176 before July ~~March~~ 1, 2004. A clinic license must be renewed
177 biennially.

178 (3) Applicants that submit an application on or before
179 July ~~March~~ 1, 2004, which meets all requirements for initial
180 licensure as specified in this section shall receive a temporary
181 license until the completion of an initial inspection verifying
182 that the applicant meets all requirements in rules authorized in
183 s. 400.9925. However, a clinic engaged in magnetic resonance

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184 imaging services may not receive a temporary license unless it
185 presents evidence satisfactory to the agency that such clinic is
186 making a good faith effort and substantial progress in seeking
187 accreditation required under s. 400.9935.

188 (7) Each applicant for licensure shall comply with the
189 following requirements:

190 (a) As used in this subsection, the term "applicant" means
191 individuals owning or controlling, directly or indirectly, 5
192 percent or more of an interest in a clinic; the medical or
193 clinic director, or a similarly titled person who is responsible
194 for the day-to-day operation of the licensed clinic; the
195 financial officer or similarly titled individual who is
196 responsible for the financial operation of the clinic; and
197 licensed health care practitioners ~~medical providers~~ at the
198 clinic.

199 (b) Upon receipt of a completed, signed, and dated
200 application, the agency shall require background screening of
201 the applicant, in accordance with the level 2 standards for
202 screening set forth in chapter 435. Proof of compliance with the
203 level 2 background screening requirements of chapter 435 which
204 has been submitted within the previous 5 years in compliance
205 with any other health care licensure requirements of this state
206 is acceptable in fulfillment of this paragraph. Applicants who
207 own less than 10 percent of a health care clinic are not
208 required to submit fingerprints under this section.

209 Section 15. Paragraph (g) of subsection (1), subsection
210 (9), and paragraph (b) of subsection (11) of section 400.9935,
211 Florida Statutes, are amended to read:

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212 400.9935 Clinic responsibilities.--

213 (1) Each clinic shall appoint a medical director or clinic
214 director who shall agree in writing to accept legal
215 responsibility for the following activities on behalf of the
216 clinic. The medical director or the clinic director shall:

217 (g) Conduct systematic reviews of clinic billings to
218 ensure that the billings are not fraudulent or unlawful. Upon
219 discovery of an unlawful charge, the medical director or clinic
220 director shall take immediate corrective action. If the clinic
221 performs only the technical component of magnetic resonance
222 imaging, static radiographs, computed tomography, or positron
223 emission tomography and provides the professional interpretation
224 of such services, in a fixed facility that is accredited by the
225 Joint Commission on Accreditation of Healthcare Organizations or
226 the Accreditation Association for Ambulatory Health Care and the
227 American College of Radiology, and if, in the preceding quarter,
228 the percentage of scans performed by that clinic that were
229 billed to a personal injury protection insurance carrier was
230 less than 15 percent, the chief financial officer of the clinic
231 may, in a written acknowledgment provided to the agency, assume
232 the responsibility for the conduct of the systematic reviews of
233 clinic billings to ensure that the billings are not fraudulent
234 or unlawful.

235 (9) Any person or entity providing health care services
236 which is not a clinic, as defined under s. 400.9905, may
237 voluntarily apply for a certificate of exemption from licensure
238 under its exempt status with the agency on a form that sets
239 forth its name or names and addresses, a statement of the

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240 reasons why it cannot be defined as a clinic, and other
241 information deemed necessary by the agency. An exemption is not
242 transferable. The agency may charge an applicant for a
243 certificate of exemption in an amount equal to \$100 or the
244 actual cost of processing the certificate, whichever is less.

245 (11)

246 (b) The agency may deny ~~disallow~~ the application or revoke
247 the license of any entity formed for the purpose of avoiding
248 compliance with the accreditation provisions of this subsection
249 and whose principals were previously principals of an entity
250 that was unable to meet the accreditation requirements within
251 the specified timeframes. The agency may adopt rules as to the
252 accreditation of magnetic resonance imaging clinics.

253 Section 16. Subsections (1) and (3) of section 400.995,
254 Florida Statutes, are amended, and a new subsection (10) is
255 added to said section, to read:

256 400.995 Agency administrative penalties.--

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

264 (a) The gravity of the violation, including the
265 probability that death or serious physical or emotional harm to
266 a patient will result or has resulted, the severity of the

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267 | action or potential harm, and the extent to which the provisions
268 | of the applicable laws or rules were violated.

269 | (b) Actions taken by the owner, medical director, or
270 | clinic director to correct violations.

271 | (c) Any previous violations.

272 | (d) The financial benefit to the clinic of committing or
273 | continuing the violation.

274 | (3) Any action taken to correct a violation shall be
275 | documented in writing by the owner, medical director, or clinic
276 | director of the clinic and verified through followup visits by
277 | agency personnel. The agency may impose a fine and, in the case
278 | of an owner-operated clinic, revoke or deny a clinic's license
279 | when a clinic medical director or clinic director knowingly
280 | ~~fraudulently~~ misrepresents actions taken to correct a violation.

281 | (10) If the agency issues a notice of intent to deny a
282 | license application after a temporary license has been issued
283 | pursuant to s. 400.991(3), the temporary license shall expire on
284 | the date of the notice and may not be extended during any
285 | proceeding for administrative or judicial review pursuant to
286 | chapter 120.

287 | Section 17. The Agency for Health Care Administration is
288 | directed to make refunds to applicants that submitted their
289 | health care clinic licensure fees and applications but were
290 | subsequently exempted from licensure by this act as follows:

291 | (1) Seventy-five percent of the application fee if the
292 | temporary license has not been issued;

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293 (2) Fifty percent of the application fee if the temporary
294 license has been issued but the inspection has not been
295 completed; or

296 (3) No refund if the inspection has been completed.

297 Section 18. Any person or entity defined as a clinic under
298 s. 400.9905, Florida Statutes, shall not be in violation of part
299 XIII of chapter 400, Florida Statutes, due to failure to apply
300 for a clinic license by March 1, 2004, as previously required by
301 s. 400.991, Florida Statutes. Payment to any such person or
302 entity by an insurer or other person liable for payment to such
303 person or entity may not be denied on the grounds that the
304 person or entity failed to apply for or obtain a clinic license
305 before March 1, 2004.

306
307 ===== T I T L E A M E N D M E N T =====

308 Remove line 600 and insert:
309 facility; amending s. 400.9905, F.S.; revising and providing
310 definitions; amending s. 400.991, F.S.; revising health care
311 clinic licensing requirements; requiring separate licenses for
312 each mobile clinic; providing licensing requirements for
313 portable equipment providers; providing for retroactive effect;
314 amending s. 400.9935, F.S.; providing that a chief financial
315 officer may assume responsibility for clinic billings under
316 certain circumstances; providing that an exemption is not
317 transferable; authorizing a fee for a certificate of exemption;
318 allowing the agency to deny or revoke a license; amending s.
319 400.995, F.S.; allowing the agency to deny the renewal of a
320 license or to revoke or suspend a license; prohibiting extension

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321 of a temporary license under certain circumstances; requiring
322 the Agency for Health Care Administration to refund certain
323 application fees; providing exceptions for certain late filed
324 applications; providing an effective date.

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