

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

Amendment No. \_\_\_\_ Barcode 713024

CHAMBER ACTION

Senate

House

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

WD/3R  
04/23/2004 11:43 AM

.  
. .  
. .  
. .  
. .  
. .

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 713024

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 713024

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 713024

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 oncology or radiation

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

Amendment No. \_\_\_\_ Barcode 713024

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 713024

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 chapter 456, 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 713024

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 713024

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 713024

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 713024

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.

27  
28

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 713024

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 713024

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.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31