

Bill No. CS for SB 1062

Amendment No. ____ Barcode 803732

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

Senate Amendment (with title amendment)

On page 13, lines 15 and 16, delete those lines

and insert:

Section 10. Section 400.9905, Florida Statutes, is amended to read:

400.9905 Definitions.--

(1) "Agency" means the Agency for Health Care Administration.

~~(2) "Applicant" means an individual owner, corporation, partnership, firm, business, association, or other entity that owns or controls, directly or indirectly, 5 percent or more of an interest in the clinic and that applies for a clinic license.~~

(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

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1 this part do not apply to:

2 (a) Entities licensed or registered by the state and
3 providing only health care services within the scope of
4 services authorized under their respective licenses granted
5 under s. 383.30, chapter 390, chapter 394, chapter 395,
6 chapter 397, this chapter ~~except part XIII~~, chapter 463,
7 chapter 465, chapter 466, chapter 478, ~~part I of chapter 483~~
8 ~~chapter 480~~, chapter 484, ~~or~~ chapter 651, end-stage renal
9 disease providers authorized under 42 C.F.R. part 405, subpart
10 U, or providers certified under 42 C.F.R. part 485, subpart B
11 or H.

12 (b) 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 s. 383.30, chapter 390, chapter 394, chapter 395, chapter 397,
17 this chapter ~~except part XIII~~, chapter 463, chapter 465,
18 chapter 466, chapter 478, ~~part I of chapter 483~~ ~~chapter 480~~,
19 chapter 484, ~~or~~ chapter 651, end-stage renal disease providers
20 authorized under 42 C.F.R. part 405, subpart U, or providers
21 certified under 42 C.F.R. part 485, subpart B or H.

22 (c) Entities that are owned, directly or indirectly,
23 by an entity licensed or registered by the state and providing
24 only health care services within the scope of services
25 authorized pursuant to their respective licenses granted under
26 s. 383.30, chapter 390, chapter 394, chapter 395, chapter 397,
27 this chapter ~~except part XIII~~, chapter 463, chapter 465,
28 chapter 466, chapter 478, ~~part I of chapter 483~~ ~~chapter 480~~,
29 chapter 484, ~~or~~ chapter 651, end-stage renal disease providers
30 authorized under 42 C.F.R. part 405, subpart U, or providers
31 certified under 42 C.F.R. part 485, subpart B or H.

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1 (d) Entities that are under common ownership, directly
2 or indirectly, with an entity licensed or registered by the
3 state and providing only health care services within the scope
4 of services authorized pursuant to their respective licenses
5 granted under s. 383.30, chapter 390, chapter 394, chapter
6 395, chapter 397, this chapter ~~except part XIII~~, chapter 463,
7 chapter 465, chapter 466, chapter 478, ~~part I of chapter 483~~
8 ~~chapter 480~~, chapter 484, ~~or~~ chapter 651, end-stage renal
9 disease providers authorized under 42 C.F.R. part 405, subpart
10 U, or providers certified under 42 C.F.R. part 485, subpart B
11 or H.

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

17 (f) A sole proprietorship, group practice,
18 partnership, or corporation that provides health care services
19 by licensed health care practitioners under chapter 457,
20 chapter 458, chapter 459, chapter 460, chapter 461, chapter
21 462, ~~chapter 463, chapter 466~~, chapter 467, chapter 480
22 ~~chapter 484~~, chapter 486, chapter 490, chapter 491, or part I,
23 part III, part X, part XIII, or part XIV of chapter 468, or s.
24 464.012, which are wholly owned by one or more a licensed
25 health care practitioners set forth in this paragraph
26 practitioner, or the licensed health care practitioner and the
27 spouse, parent, or child of a licensed health care
28 practitioner, so long as one of the owners who is a licensed
29 health care practitioner is supervising the business
30 activities ~~services performed therein~~ and is legally
31 responsible for the entity's compliance with all federal and

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1 | state laws. ~~However, a health care practitioner may not~~
2 | ~~supervise services beyond the scope of the practitioner's~~
3 | ~~license. The violation of a state or federal law by an~~
4 | ~~employee, owner, partner, or shareholder who provides health~~
5 | ~~care services at the entity constitutes a violation of s.~~
6 | ~~456.072(1)(k) by the licensee who commits the violation and by~~
7 | ~~the supervising owner.~~

8 | (g) Clinical facilities affiliated with an accredited
9 | medical school at which training is provided for medical
10 | students, residents, or fellows.

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

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

5 (6) "Portable equipment provider" means an entity that
6 contracts with or employs persons to provide portable
7 equipment to multiple locations performing treatment or
8 diagnostic testing of individuals, that bills third-party
9 payers for those services, and that otherwise meets the
10 definition of a clinic in subsection (3).

11 Section 11. Effective upon becoming a law and applying
12 retroactively to March 1, 2004, section 400.991, Florida
13 Statutes, is amended to read:

14 400.991 License requirements; background screenings;
15 prohibitions.--

16 (1)(a) The requirements of part II of chapter 408
17 apply to the provision of services that necessitate licensure
18 pursuant to this part and part II of chapter 408 and to
19 entities licensed by or applying for such licensure from the
20 Agency for Health Care Administration pursuant to this part;
21 however, an applicant for licensure is exempt from s.
22 408.810(6), (7), and (10).

23 (b) Each clinic, as defined in s. 400.9905, must be
24 licensed and shall at all times maintain a valid license with
25 the agency. Each clinic location shall be licensed separately
26 regardless of whether the clinic is operated under the same
27 business name or management as another clinic.

28 (c) Each mobile clinic ~~clinics~~ must obtain a separate
29 health care clinic license and must provide to the agency, at
30 least quarterly, their projected street locations to enable
31 the agency to locate and inspect such clinics. Portable

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1 equipment providers must obtain a health care clinic license
2 for a single administrative office and are not required to
3 submit quarterly projected street locations.

4 (2) The initial clinic license application shall be
5 filed with the agency by all clinics, as defined in s.
6 400.9905, on or before July 1, 2004 ~~March 1, 2004~~. ~~A clinic~~
7 ~~license must be renewed biennially.~~

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

19 ~~(4) Application for an initial clinic license or for~~
20 ~~renewal of an existing license shall be notarized on forms~~
21 ~~furnished by the agency and must be accompanied by the~~
22 ~~appropriate license fee as provided in s. 400.9925. The agency~~
23 ~~shall take final action on an initial license application~~
24 ~~within 60 days after receipt of all required documentation.~~

25 ~~(4)(5)~~ The application shall contain information that
26 includes, but need not be limited to, information pertaining
27 to the name, residence and business address, phone number,
28 social security number, and license number of the medical or
29 clinic director, of the licensed medical providers employed or
30 under contract with the clinic, ~~and of each person who,~~
31 ~~directly or indirectly, owns or controls 5 percent or more of~~

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1 ~~an interest in the clinic, or general partners in limited~~
2 ~~liability partnerships.~~

3 ~~(5)(6)~~ The applicant must file with the application
4 satisfactory proof that the clinic is in compliance with this
5 part and applicable rules, including:

6 (a) A listing of services to be provided either
7 directly by the applicant or through contractual arrangements
8 with existing providers;

9 (b) The number and discipline of each professional
10 staff member to be employed; and

11 (c) Proof of financial ability to operate. An
12 applicant must demonstrate financial ability to operate a
13 clinic by submitting a balance sheet and an income and expense
14 statement for the first year of operation which provide
15 evidence of the applicant's having sufficient assets, credit,
16 and projected revenues to cover liabilities and expenses. The
17 applicant shall have demonstrated financial ability to operate
18 if the applicant's assets, credit, and projected revenues meet
19 or exceed projected liabilities and expenses. All documents
20 required under this subsection must be prepared in accordance
21 with generally accepted accounting principles, may be in a
22 compilation form, and the financial statement must be signed
23 by a certified public accountant. As an alternative to
24 submitting a balance sheet and an income and expense statement
25 for the first year of operation, the applicant may file a
26 surety bond of at least \$500,000 which guarantees that the
27 clinic will act in full conformity with all legal requirements
28 for operating a clinic, payable to the agency. The agency may
29 adopt rules to specify related requirements for such surety
30 bond.

31 ~~(6)(7)~~ Each health care practitioner at the clinic is

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1 ~~subject to the background screening requirements of s.~~
 2 ~~408.809. Each applicant for licensure shall comply with the~~
 3 ~~following requirements:~~

4 ~~(a) As used in this subsection, the term "applicant"~~
 5 ~~means individuals owning or controlling, directly or~~
 6 ~~indirectly, 5 percent or more of an interest in a clinic; the~~
 7 ~~medical or clinic director, or a similarly titled person who~~
 8 ~~is responsible for the day-to-day operation of the licensed~~
 9 ~~clinic; the financial officer or similarly titled individual~~
 10 ~~who is responsible for the financial operation of the clinic;~~
 11 ~~and licensed medical providers at the clinic.~~

12 ~~(b) Upon receipt of a completed, signed, and dated~~
 13 ~~application, the agency shall require background screening of~~
 14 ~~the applicant, in accordance with the level 2 standards for~~
 15 ~~screening set forth in chapter 435. Proof of compliance with~~
 16 ~~the level 2 background screening requirements of chapter 435~~
 17 ~~which has been submitted within the previous 5 years in~~
 18 ~~compliance with any other health care licensure requirements~~
 19 ~~of this state is acceptable in fulfillment of this paragraph.~~

20 ~~(c) Each applicant must submit to the agency, with the~~
 21 ~~application, a description and explanation of any exclusions,~~
 22 ~~permanent suspensions, or terminations of an applicant from~~
 23 ~~the Medicare or Medicaid programs. Proof of compliance with~~
 24 ~~the requirements for disclosure of ownership and control~~
 25 ~~interest under the Medicaid or Medicare programs may be~~
 26 ~~accepted in lieu of this submission. The description and~~
 27 ~~explanation may indicate whether such exclusions, suspensions,~~
 28 ~~or terminations were voluntary or not voluntary on the part of~~
 29 ~~the applicant.~~

30 ~~(a)(d)~~ A license may not be granted to a clinic if the
 31 applicant has been found guilty of, regardless of

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1 adjudication, or has entered a plea of nolo contendere or
 2 guilty to, any offense prohibited under the level 2 standards
 3 for screening set forth in chapter 435, or a violation of
 4 insurance fraud under s. 817.234, within the past 5 years. If
 5 the applicant has been convicted of an offense prohibited
 6 under the level 2 standards or insurance fraud in any
 7 jurisdiction, the applicant must show that his or her civil
 8 rights have been restored prior to submitting an application.

9 ~~(e) The agency may deny or revoke licensure if the~~
 10 ~~applicant has falsely represented any material fact or omitted~~
 11 ~~any material fact from the application required by this part.~~

12 ~~(8) Requested information omitted from an application~~
 13 ~~for licensure, license renewal, or transfer of ownership must~~
 14 ~~be filed with the agency within 21 days after receipt of the~~
 15 ~~agency's request for omitted information, or the application~~
 16 ~~shall be deemed incomplete and shall be withdrawn from further~~
 17 ~~consideration.~~

18 ~~(9) The failure to file a timely renewal application~~
 19 ~~shall result in a late fee charged to the facility in an~~
 20 ~~amount equal to 50 percent of the current license fee.~~

21 Section 12. Section 400.9915, Florida Statutes, is
 22 amended to read:

23 400.9915 Clinic inspections; ~~emergency suspension;~~
 24 costs.--

25 ~~(1) Any authorized officer or employee of the agency~~
 26 ~~shall make inspections of the clinic as part of the initial~~
 27 ~~license application or renewal application. The application~~
 28 ~~for a clinic license issued under this part or for a renewal~~
 29 ~~license constitutes permission for an appropriate agency~~
 30 ~~inspection to verify the information submitted on or in~~
 31 ~~connection with the application or renewal.~~

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1 ~~(2) An authorized officer or employee of the agency~~
2 ~~may make unannounced inspections of clinics licensed pursuant~~
3 ~~to this part as are necessary to determine that the clinic is~~
4 ~~in compliance with this part and with applicable rules. A~~
5 ~~licensed clinic shall allow full and complete access to the~~
6 ~~premises and to billing records or information to any~~
7 ~~representative of the agency who makes an inspection to~~
8 ~~determine compliance with this part and with applicable rules.~~

9 ~~(1)(3)~~ Failure by a clinic licensed under this part to
10 allow full and complete access to the premises and to billing
11 records or information to any representative of the agency who
12 makes a request to inspect the clinic to determine compliance
13 with this part or failure by a clinic to employ a qualified
14 medical director or clinic director constitutes a ground for
15 an action under s. 408.814 ~~emergency suspension of the license~~
16 ~~by the agency pursuant to s. 120.60(6).~~

17 ~~(2)(4)~~ In addition to any administrative fines
18 imposed, the agency may assess a fee equal to the cost of
19 conducting a complaint investigation.

20 Section 13. Section 400.992, Florida Statutes, is
21 repealed.

22 Section 14. Subsections (1) and (3) of section
23 400.9925, Florida Statutes, are amended to read:

24 400.9925 Rulemaking authority; license fees.--

25 (1) The agency shall adopt rules necessary to
26 administer the clinic administration, regulation, and
27 licensure program, including rules pursuant to part II of
28 chapter 408 establishing the specific licensure requirements,
29 procedures, forms, and fees. It shall adopt rules establishing
30 a procedure for the biennial renewal of licenses. The agency
31 may issue initial licenses for less than the full 2-year

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1 period by charging a prorated licensure fee and specifying a
 2 different renewal date than would otherwise be required for
 3 biennial licensure. The rules shall specify the expiration
 4 dates of licenses, the process of tracking compliance with
 5 financial responsibility requirements, and any other
 6 conditions of renewal required by law or rule.

7 (3) In accordance with s. 408.805, an applicant or
 8 licensee shall pay a fee for each license application
 9 submitted under this part and part II of chapter 408. The
 10 amount of the fee shall be established by rule and may not
 11 exceed \$2,000 per biennium. ~~License application and renewal~~
 12 ~~fees must be reasonably calculated by the agency to cover its~~
 13 ~~costs in carrying out its responsibilities under this part,~~
 14 ~~including the cost of licensure, inspection, and regulation of~~
 15 ~~clinics, and must be of such amount that the total fees~~
 16 ~~collected do not exceed the cost of administering and~~
 17 ~~enforcing compliance with this part. Clinic licensure fees are~~
 18 ~~nonrefundable and may not exceed \$2,000. The agency shall~~
 19 ~~adjust the license fee annually by not more than the change in~~
 20 ~~the Consumer Price Index based on the 12 months immediately~~
 21 ~~preceding the increase. All fees collected under this part~~
 22 ~~must be deposited in the Health Care Trust Fund for the~~
 23 ~~administration of this part.~~

24 Section 15. Section 400.993, Florida Statutes, is
 25 amended to read:

26 400.993 Reporting of unlicensed clinics; penalties;
 27 ~~finis; verification of licensure status.--~~

28 (1) ~~It is unlawful to own, operate, or maintain a~~
 29 ~~clinic without obtaining a license under this part.~~

30 (2) ~~Any person who owns, operates, or maintains an~~
 31 ~~unlicensed clinic commits a felony of the third degree,~~

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1 ~~punishable as provided in s. 775.082, s. 775.083, or s.~~
2 ~~775.084. Each day of continued operation is a separate~~
3 ~~offense.~~

4 ~~(3) Any person found guilty of violating subsection~~
5 ~~(2) a second or subsequent time commits a felony of the second~~
6 ~~degree, punishable as provided under s. 775.082, s. 775.083,~~
7 ~~or s. 775.084. Each day of continued operation is a separate~~
8 ~~offense.~~

9 ~~(4) Any person who owns, operates, or maintains an~~
10 ~~unlicensed clinic due to a change in this part or a~~
11 ~~modification in agency rules within 6 months after the~~
12 ~~effective date of such change or modification and who, within~~
13 ~~10 working days after receiving notification from the agency,~~
14 ~~fails to cease operation or apply for a license under this~~
15 ~~part commits a felony of the third degree, punishable as~~
16 ~~provided in s. 775.082, s. 775.083, or s. 775.084. Each day of~~
17 ~~continued operation is a separate offense.~~

18 ~~(5) Any clinic that fails to cease operation after~~
19 ~~agency notification may be fined for each day of noncompliance~~
20 ~~pursuant to this part.~~

21 ~~(6) When a person has an interest in more than one~~
22 ~~clinic, and fails to obtain a license for any one of these~~
23 ~~clinics, the agency may revoke the license, impose a~~
24 ~~moratorium, or impose a fine pursuant to this part on any or~~
25 ~~all of the licensed clinics until such time as the unlicensed~~
26 ~~clinic is licensed or ceases operation.~~

27 ~~(7) Any person aware of the operation of an unlicensed~~
28 ~~clinic must report that facility to the agency.~~

29 ~~(8) In addition to the requirements of part II of~~
30 ~~chapter 408, any health care provider who is aware of the~~
31 ~~operation of an unlicensed clinic shall report that facility~~

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1 to the agency. Failure to report a clinic that the provider
2 knows or has reasonable cause to suspect is unlicensed shall
3 be reported to the provider's licensing board.

4 ~~(9) The agency may not issue a license to a clinic~~
5 ~~that has any unpaid fines assessed under this part.~~

6 Section 16. Section 400.9935, Florida Statutes, is
7 amended to read:

8 400.9935 Clinic responsibilities.--

9 (1) Each clinic shall appoint a medical director or
10 clinic director who shall agree in writing to accept legal
11 responsibility for the following activities on behalf of the
12 clinic. The medical director or the clinic director shall:

13 (a) Have signs identifying the medical director or
14 clinic director posted in a conspicuous location within the
15 clinic readily visible to all patients.

16 (b) Ensure that all practitioners providing health
17 care services or supplies to patients maintain a current
18 active and unencumbered Florida license.

19 (c) Review any patient referral contracts or
20 agreements executed by the clinic.

21 (d) Ensure that all health care practitioners at the
22 clinic have active appropriate certification or licensure for
23 the level of care being provided.

24 (e) Serve as the clinic records owner as defined in s.
25 456.057.

26 (f) Ensure compliance with the recordkeeping, office
27 surgery, and adverse incident reporting requirements of
28 chapter 456, the respective practice acts, and rules adopted
29 under this part and part II of chapter 408.

30 (g) Conduct systematic reviews of clinic billings to
31 ensure that the billings are not fraudulent or unlawful. Upon

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1 | discovery of an unlawful charge, the medical director or
 2 | clinic director shall take immediate corrective action.

3 | ~~(2) Any business that becomes a clinic after~~
 4 | ~~commencing operations must, within 5 days after becoming a~~
 5 | ~~clinic, file a license application under this part and shall~~
 6 | ~~be subject to all provisions of this part applicable to a~~
 7 | ~~clinic.~~

8 | (2)(3) Any contract to serve as a medical director or
 9 | a clinic director entered into or renewed by a physician or a
 10 | licensed health care practitioner in violation of this part is
 11 | void as contrary to public policy. This subsection shall apply
 12 | to contracts entered into or renewed on or after March 1,
 13 | 2004.

14 | (3)(4) All charges or reimbursement claims made by or
 15 | on behalf of a clinic that is required to be licensed under
 16 | this part, but that is not so licensed, or that is otherwise
 17 | operating in violation of this part, are unlawful charges, and
 18 | therefore are noncompensable and unenforceable.

19 | (4)(5) Any person establishing, operating, or managing
 20 | an unlicensed clinic otherwise required to be licensed under
 21 | this part, or any person who knowingly files a false or
 22 | misleading license application or license renewal application,
 23 | or false or misleading information related to such application
 24 | or department rule, commits a felony of the third degree,
 25 | punishable as provided in s. 775.082, s. 775.083, or s.
 26 | 775.084.

27 | (5)(6) Any licensed health care provider who violates
 28 | this part is subject to discipline in accordance with this
 29 | chapter and his or her respective practice act.

30 | ~~(7) The agency may fine, or suspend or revoke the~~
 31 | ~~license of, any clinic licensed under this part for operating~~

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1 ~~in violation of the requirements of this part or the rules~~
 2 ~~adopted by the agency.~~

3 ~~(8) The agency shall investigate allegations of~~
 4 ~~noncompliance with this part and the rules adopted under this~~
 5 ~~part.~~

6 ~~(6)(9)~~ Any person or entity providing health care
 7 services which is not a clinic, as defined under s. 400.9905,
 8 may voluntarily apply for a certificate of exemption from
 9 licensure under its exempt status with the agency on a form
 10 that sets forth its name or names and addresses, a statement
 11 of the reasons why it cannot be defined as a clinic, and other
 12 information deemed necessary by the agency. An exemption is
 13 not transferable. The agency may charge each applicant for a
 14 certificate of exemption \$100, or actual cost, whichever is
 15 less, for processing the certificate.

16 ~~(10) The clinic shall display its license in a~~
 17 ~~conspicuous location within the clinic readily visible to all~~
 18 ~~patients.~~

19 ~~(7)(11)~~(a) Each clinic engaged in magnetic resonance
 20 imaging services must be accredited by the Joint Commission on
 21 Accreditation of Healthcare Organizations, the American
 22 College of Radiology, or the Accreditation Association for
 23 Ambulatory Health Care, within 1 year after licensure.
 24 However, a clinic may request a single, 6-month extension if
 25 it provides evidence to the agency establishing that, for good
 26 cause shown, such clinic can not be accredited within 1 year
 27 after licensure, and that such accreditation will be completed
 28 within the 6-month extension. After obtaining accreditation as
 29 required by this subsection, each such clinic must maintain
 30 accreditation as a condition of renewal of its license.

31 (b) The agency may deny ~~disallow~~ the application or

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

8 ~~(8)(12)~~ The agency shall give full faith and credit
 9 pertaining to any past variance and waiver granted to a
 10 magnetic resonance imaging clinic from rule 64-2002, Florida
 11 Administrative Code, by the Department of Health, until
 12 September 2004. After that date, such clinic must request a
 13 variance and waiver from the agency under s. 120.542.

14 Section 17. Sections 400.994 and 400.9945, Florida
 15 Statutes, are repealed.

16 Section 18. Section 400.995, Florida Statutes, is
 17 amended to read:

18 400.995 ~~Agency Administrative finer penalties~~--

19 (1) The agency may deny the application for a license
 20 renewal or revoke or suspend the license and impose
 21 administrative finer penalties against clinics of up to \$5,000
 22 per violation for violations of the requirements of this part
 23 or agency rules. In determining if a penalty is to be imposed
 24 and in fixing the amount of the fine, the agency shall
 25 consider the following factors:

26 (a) The gravity of the violation, including the
 27 probability that death or serious physical or emotional harm
 28 to a patient will result or has resulted, the severity of the
 29 action or potential harm, and the extent to which the
 30 provisions of the applicable laws or rules were violated.

31 (b) Actions taken by the owner, medical director, or

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1 clinic director to correct violations.

2 (c) Any previous violations.

3 (d) The financial benefit to the clinic of committing
4 or continuing the violation.

5 ~~(2) Each day of continuing violation after the date~~
6 ~~fixed for termination of the violation, as ordered by the~~
7 ~~agency, constitutes an additional, separate, and distinct~~
8 ~~violation.~~

9 ~~(2)(3)~~ Any action taken to correct a violation shall
10 be documented in writing by the owner, medical director, or
11 clinic director of the clinic and verified through followup
12 visits by agency personnel. The agency may impose a fine and,
13 in the case of an owner-operated clinic, revoke or deny a
14 clinic's license when a clinic medical director or clinic
15 director knowingly fraudulently misrepresents actions taken to
16 correct a violation.

17 ~~(4) For fines that are upheld following administrative~~
18 ~~or judicial review, the violator shall pay the fine, plus~~
19 ~~interest at the rate as specified in s. 55.03, for each day~~
20 ~~beyond the date set by the agency for payment of the fine.~~

21 ~~(5) Any unlicensed clinic that continues to operate~~
22 ~~after agency notification is subject to a \$1,000 fine per day.~~

23 ~~(3)(6)~~ Any licensed clinic whose owner, medical
24 director, or clinic director concurrently operates an
25 unlicensed clinic shall be subject to an administrative fine
26 of \$5,000 per day.

27 ~~(7) Any clinic whose owner fails to apply for a~~
28 ~~change of ownership license in accordance with s. 400.992 and~~
29 ~~operates the clinic under the new ownership is subject to a~~
30 ~~fine of \$5,000.~~

31 ~~(4)(8)~~ The agency, as an alternative to or in

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1 conjunction with an administrative action against a clinic for
2 violations of this part, part II of chapter 408, and adopted
3 rules, shall make a reasonable attempt to discuss each
4 violation and recommended corrective action with the owner,
5 medical director, or clinic director of the clinic, prior to
6 written notification. The agency, instead of fixing a period
7 within which the clinic shall enter into compliance with
8 standards, may request a plan of corrective action from the
9 clinic which demonstrates a good faith effort to remedy each
10 violation by a specific date, subject to the approval of the
11 agency.

12 ~~(9) Administrative fines paid by any clinic under this~~
13 ~~section shall be deposited into the Health Care Trust Fund.~~

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

20 Section 19. The agency shall make refunds to
21 applicants that submitted their health care clinic licensure
22 fees and applications but were subsequently exempted from
23 licensure by this act as follows:

24 (1) Seventy-five percent of the application fee if the
25 temporary license has not been issued;

26 (2) Fifty percent of the application fee if the
27 temporary license has been issued but the inspection has not
28 been completed; and

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

30 Section 20. Any person or entity defined as a "clinic"
31 under section 400.9905, Florida Statutes, shall not be in

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1 violation of part XIII of chapter 400, Florida Statutes, due
2 to failure to apply for a clinic license by March 1, 2004, as
3 previously required by section 400.991, Florida Statutes.
4 Payment to any such person or entity by an insurer or other
5 person liable for payment to such person or entity may not be
6 denied on the grounds that the person or entity failed to
7 apply for or obtain a clinic license before July 1, 2004. This
8 section is contingent upon Senate Bill 2380 or similar
9 legislation becoming law.

10 Section 21. Except as otherwise expressly provided in
11 this act, this act shall take effect upon becoming a law.

12
13

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

15 And the title is amended as follows:

16 On page 2, line 19, after the semicolon,

17
18 insert:

19 conforming provisions with the requirements of
20 part II of ch. 408, F.S.; amending ss. 400.991,
21 400.9915, 400.992, 400.9925, 400.993, 400.9935,
22 and 400.995, F.S., and repealing ss.
23 400.9905(2), 400.994, and 400.9945, F.S.,
24 relating to health care clinics; requiring
25 health care clinics to be in compliance with
26 part II of ch. 408, F.S.; providing for
27 licensure fees; authorizing the agency to adopt
28 rules; providing for administrative fines;
29 conforming provisions with the requirements of
30 part II of ch. 408, F.S.; providing for
31 retroactive application;