

Bill No. CS for CS for CS for SB 1680

Amendment No. ____ Barcode 712374

CHAMBER ACTION

Senate

House

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Senator Saunders moved the following amendment:

Senate Amendment (with title amendment)

On page 327, line 13, through
page 345, line 11, delete those lines

and insert:

Section 172. Effective July 1, 2004, subsections (3)
and (4) of section 400.9905, Florida Statutes, are amended,
and subsections (5) and (6) are added to that section, to
read:

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 and
providing only health care services within the scope of
services authorized under their respective licenses granted

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1 under s. 383.30, chapter 390, chapter 394, chapter 395,
 2 chapter 397, this chapter ~~except part XIII~~, chapter 463,
 3 chapter 465, chapter 466, chapter 478, ~~part I of chapter 483~~
 4 ~~chapter 480~~, chapter 484, ~~or~~ chapter 651, end-stage renal
 5 disease providers authorized under 42 C.F.R. part 405, subpart
 6 U, or providers certified under 42 C.F.R. part 485, subpart B
 7 or H.

8 (b) Entities that own, directly or indirectly,
 9 entities licensed or registered by the state and providing
 10 only health care services within the scope of services
 11 authorized pursuant to their respective licenses granted under
 12 s. 383.30, chapter 390, chapter 394, chapter 395, chapter 397,
 13 this chapter ~~except part XIII~~, chapter 463, chapter 465,
 14 chapter 466, chapter 478, ~~part I of chapter 483~~ ~~chapter 480~~,
 15 chapter 484, ~~or~~ chapter 651, end-stage renal disease providers
 16 authorized under 42 C.F.R. part 405, subpart U, or providers
 17 certified under 42 C.F.R. part 485, subpart B or H.

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

28 (d) Entities that are under common ownership, directly
 29 or indirectly, with an entity licensed or registered by the
 30 state and providing only health care services within the scope
 31 of services authorized pursuant to their respective licenses

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1 granted under s. 383.30, 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 chapter 480, chapter 484, or chapter 651, end-stage renal
5 disease providers authorized under 42 C.F.R. part 405, subpart
6 U, or providers certified under 42 C.F.R. part 485, subpart B
7 or H.

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

13 (f) A sole proprietorship, group practice,
14 partnership, or corporation that provides health care services
15 by licensed health care practitioners under chapter 457,
16 chapter 458, chapter 459, chapter 460, chapter 461, chapter
17 462, ~~chapter 463, chapter 466,~~ chapter 467, chapter 480
18 ~~chapter 484,~~ chapter 486, chapter 490, chapter 491, or part I,
19 part III, part X, part XIII, or part XIV of chapter 468, or s.
20 464.012, which are wholly owned by one or more a licensed
21 health care practitioners set forth in this paragraph
22 ~~practitioner,~~ or the licensed health care practitioner and the
23 spouse, parent, or child of a licensed health care
24 practitioner, so long as one of the owners who is a licensed
25 health care practitioner is supervising the services performed
26 therein and is legally responsible for the entity's compliance
27 with all federal and state laws. However, a health care
28 practitioner may not supervise services beyond the scope of
29 the practitioner's license, except that, for the purposes of
30 this act, a clinic owned by a licensee specified in s.
31 456.053(3)(b) which provides only services authorized pursuant

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1 to s. 456.053(3)(b) may be supervised by a licensee specified
2 in s.456.053(3)(b).

3 (g) Clinical facilities affiliated with an accredited
4 medical school at which training is provided for medical
5 students, residents, or fellows.

6 (h) Entities that provide only oncology or radiation
7 therapy services by physicians licensed under chapter 458 or
8 459.

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

30 (5) "Mobile clinic" means a movable or detached
31 self-contained health care unit within or from which direct

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1 health care services are provided to individuals and which
2 otherwise meets the definition of a clinic in subsection (3).

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

9 Section 173. Effective July 1, 2004, subsections (1)
10 and (7) of section 400.991, Florida Statutes, are amended to
11 read:

12 400.991 License requirements; background screenings;
13 prohibitions.--

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

19 (b) Each mobile clinic ~~clinics~~ must obtain a separate
20 health care clinic license and must provide to the agency, at
21 least quarterly, their projected street locations to enable
22 the agency to locate and inspect such clinics. Portable
23 equipment providers must obtain a health care clinic license
24 for a single administrative office and are not required to
25 submit quarterly projected street locations.

26 (7) Each applicant for licensure shall comply with the
27 following requirements:

28 (a) As used in this subsection, the term "applicant"
29 means individuals owning or controlling, directly or
30 indirectly, 5 percent or more of an interest in a clinic; the
31 medical or clinic director, or a similarly titled person who

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1 is responsible for the day-to-day operation of the licensed
2 clinic; the financial officer or similarly titled individual
3 who is responsible for the financial operation of the clinic;
4 and licensed health care practitioners ~~medical providers~~ at
5 the clinic.

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

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

24 (d) A license may not be granted to a clinic if the
25 applicant has been found guilty of, regardless of
26 adjudication, or has entered a plea of nolo contendere or
27 guilty to, any offense prohibited under the level 2 standards
28 for screening set forth in chapter 435, or a violation of
29 insurance fraud under s. 817.234, within the past 5 years. If
30 the applicant has been convicted of an offense prohibited
31 under the level 2 standards or insurance fraud in any

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1 jurisdiction, the applicant must show that his or her civil
2 rights have been restored prior to submitting an application.

3 (e) The agency may deny or revoke licensure if the
4 applicant has falsely represented any material fact or omitted
5 any material fact from the application required by this part.

6 Section 174. Effective July 1, 2004, subsections (9)
7 and (11) of section 400.9935, Florida Statutes, are amended to
8 read:

9 400.9935 Clinic responsibilities.--

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

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

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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 175. Effective July 1, 2004, subsections (1)
8 and (3) of section 400.995, Florida Statutes, are amended, and
9 subsection (10) is added to that 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,

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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 176. Effective July 1, 2004, any person or
12 entity made exempt from the definition of "clinic" under
13 section 400.9905, Florida Statutes, by the amendment made to
14 that section by this act and which person or entity has paid
15 the clinic licensure fee to the Agency for Health Care
16 Administration is entitled to a full refund of the fee from
17 the agency.

18 Section 177. Effective July 1, 2004, any person or
19 entity defined as a "clinic" under section 400.9905, Florida
20 Statutes, shall not be in violation of part XIII of chapter
21 400, Florida Statutes, due to failure to apply for a clinic
22 license by March 1, 2004, as previously required by section
23 400.991, Florida Statutes. Payment to any such person or
24 entity by an insurer or other person liable for payment to
25 such person or entity may not be denied on the grounds that
26 the person or entity failed to apply for or obtain a clinic
27 license before July 1, 2004. This section is contingent upon
28 Senate Bill 2380 or similar legislation becoming law.

29 Section 178. The amendment made by this act to section
30 400.9905(3), Florida Statutes, is intended to clarify the
31 legislative intent of this provision as it existed at the time

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1 the provision initially took effect as section 456.0375(1)(b),
2 Florida Statutes, and section 400.9905(3)(h), Florida
3 Statutes, as created by this act, shall operate retroactively
4 to October 1, 2001.

5
6 (Redesignate subsequent sections.)

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

10 And the title is amended as follows:

11 On page 10, lines 2 through 8, delete those lines

12

13 and insert:

14 clinics; amending s. 400.9905, F.S.; redefining
15 the terms "clinic" and "medical director" for
16 purposes of the Health Care Clinic Act;
17 defining the terms "mobile clinic" and portable
18 equipment provider; amending s. 400.991, F.S.;
19 providing that each mobile clinic must obtain a
20 clinic license; requiring that a portable
21 equipment provider obtain a clinic license for
22 a single office; redefining the term
23 "applicant"; amending s. 400.9935, F.S.;
24 providing that an exemption is not
25 transferable; providing that the agency may
26 deny an application or revoke a license under
27 certain circumstances; amending s. 400.995,
28 F.S.; clarifying that the agency may deny,
29 revoke, or suspend specified licenses and
30 impose fines; providing that a temporary
31 license expires after a notice of intent to

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1 deny an application is issued by the agency;
2 providing that persons or entities made exempt
3 under the act and which have paid the clinic
4 licensure fee to the agency are entitled to a
5 refund from the agency; specifying that persons
6 or entities defined as a "clinic" are not in
7 violation of the law due to failure to apply
8 for a clinic license by a specified date and
9 that insurers and other persons may not deny
10 payment to such persons or entities for failure
11 to apply for or obtain a clinic license before
12 a specified date; providing that such
13 provisions are contingent upon specified
14 legislation becoming law; amending s. 408.036,
15 F.S.; revising the

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