

Bill No. CS for CS for SB 2170

Amendment No. \_\_\_\_ Barcode 212382

CHAMBER ACTION

Senate

House

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04/23/2004 04:45 PM

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11 Senator Alexander moved the following amendment:

13 **Senate Amendment (with title amendment)**

14 On page 134, line 22, delete that line

16 and insert:

17 Section 102. Subsections (3) and (4) of section  
18 400.9905, Florida Statutes, are amended, and subsections (5)  
19 and (6) are added to that section, to read: (attached)

20 400.9905 Definitions.--

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

27 (a) Entities licensed or registered by the state under  
28 chapter 395; or entities licensed or registered by the state  
29 and providing only health care services within the scope of  
30 services authorized under their respective licenses granted  
31 under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter~~

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

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

24 (c) Entities that are owned, directly or indirectly,  
25 by an entity licensed or registered by the state pursuant to  
26 chapter 395; or entities that are owned, directly or  
27 indirectly, by an entity licensed or registered by the state  
28 and providing only health care services within the scope of  
29 services authorized pursuant to their respective licenses  
30 granted under ss. 383.30-383.335, chapter 390, chapter 394,  
31 ~~chapter 395,~~ chapter 397, this chapter except part XIII,

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

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

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

30 (f) A sole proprietorship, group practice,  
31 partnership, or corporation that provides health care services

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

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

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

30       (i) Entities that provide only oncology or radiation  
31 therapy services by physicians licensed under chapter 458 or

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1 459.

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

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

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

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1 definition of a clinic in subsection (3).

2           Section 103. The creation of paragraph 400.9905(3)(i),  
 3 Florida Statutes, by this act is intended to clarify the  
 4 legislative intent of this provision as it existed at the time  
 5 the provision initially took effect as section 456.0375(1)(b),  
 6 Florida Statutes, and paragraph 400.9905(3)(i), Florida  
 7 Statutes, as created by this act, shall operate retroactively  
 8 to October 1, 2001. Nothing in this section shall be construed  
 9 as amending, modifying, limiting, or otherwise affecting in  
 10 any way the legislative intent, scope, terms, prohibition, or  
 11 requirements of section 456.053, Florida Statutes.

12           Section 104. Subsections (1), (2), and (3) and  
 13 paragraphs (a) and (b) of subsection (7) of section 400.991,  
 14 Florida Statutes, are amended to read:

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

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

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

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

31 400.9905, on or before ~~July~~ ~~March~~ 1, 2004. A clinic license

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1 must be renewed biennially.

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

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

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

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

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1 Applicants who own less than 10 percent of a health care  
2 clinic are not required to submit fingerprints under this  
3 section.

4 Section 105. Subsections (9) and (11) of section  
5 400.9935, Florida Statutes, are amended to read:

6 400.9935 Clinic responsibilities.--

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

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

29 (b) The agency may deny ~~disallow~~ the application or  
30 revoke the license of any entity formed for the purpose of  
31 avoiding compliance with the accreditation provisions of this



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

6 Section 106. Subsections (1) and (3) of section  
7 400.995, Florida Statutes, are amended, and subsection (10) is  
8 added to said section, to read:

9 400.995 Agency administrative penalties.--

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

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

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

24 (c) Any previous violations.

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

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

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1 clinic's license when a clinic medical director or clinic  
2 director ~~knowingly fraudulently~~ misrepresents actions taken to  
3 correct a violation.

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

10 Section 107. The agency shall refund 90 percent of the  
11 license application fee to applicants that submitted their  
12 health care clinic licensure fees and applications but were  
13 subsequently exempted from licensure by this act.

14 Section 108. Any person or entity defined as a clinic  
15 under s. 400.9905, Florida Statutes, shall not be in violation  
16 of part XIII of chapter 400, Florida Statutes, due to failure  
17 to apply for a clinic license by March 1, 2004, as previously  
18 required by s. 400.991, Florida Statutes. Payment to any such  
19 person or entity by an insurer or other person liable for  
20 payment to such person or entity may not be denied on the  
21 grounds that the person or entity failed to apply for or  
22 obtain a clinic license before March 1, 2004.

23 Section 109. Except for this section and sections  
24 102-108, which shall take effect upon becoming a law, and  
25 except that section 103 shall apply retroactively to march 1,  
26 2004, this act shall take effect July 1, 2004.

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

30 And the title is amended as follows:

31 On page 10, line 28, delete that line

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1 and insert:

2 examination fees; amending s. 400.9905, F.S.;

3 revising the definitions of "clinic" and

4 "medical director" and defining "mobile clinic"

5 and "portable equipment provider" for purposes

6 of the Health Care Clinic Act; providing that

7 certain entities providing oncology or

8 radiation therapy services are exempt from the

9 licensure requirements of part XIII of ch. 400,

10 F.S.; providing legislative intent with respect

11 to 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

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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 effective dates.

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