

Bill No. CS for CS for CS for SB 2910

Amendment No. ____ Barcode 985708

CHAMBER ACTION

Senate

House

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04/26/2004 10:55 AM

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11 Senator Saunders moved the following amendment:

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Senate Amendment (with title amendment)

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On page 127, between lines 21 and 22

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16 insert:

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17 Section 51. 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)

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400.9905 Definitions.--

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(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:

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(a) Entities licensed or registered by the state under
27 chapter 395; or entities licensed or registered by the state
28 and providing only health care services within the scope of
29 services authorized under their respective licenses granted
30 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 52. 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 53. 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 54. 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 55. 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 56. 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 57. 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
24 (Redesignate subsequent sections.)

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26

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

28 And the title is amended as follows:

29 On page 1, line 13, after the second semicolon

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insert:

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1 amending s. 400.9905, F.S.; revising the
2 definitions of "clinic" and "medical director"
3 and defining "mobile clinic" and "portable
4 equipment provider" for purposes of the Health
5 Care Clinic Act; providing that certain
6 entities providing oncology or radiation
7 therapy services are exempt from the licensure
8 requirements of part XIII of ch. 400, F.S.;
9 providing legislative intent with respect to
10 such exemption; providing for retroactive
11 application; amending s. 400.991, F.S.;
12 requiring each mobile clinic to obtain a health
13 care clinic license; requiring a portable
14 equipment provider to obtain a health care
15 clinic license for a single office and
16 exempting such a provider from submitting
17 certain information to the Agency for Health
18 Care Administration; revising the date by which
19 an initial application for a health care clinic
20 license must be filed with the agency; revising
21 the definition of "applicant"; amending s.
22 400.9935, F.S.; providing that an exemption
23 from licensure is not transferable; providing
24 that the agency may charge a fee of applicants
25 for certificates of exemption; providing that
26 the agency may deny an application or revoke a
27 license under certain circumstances; amending
28 s. 400.995, F.S.; providing that the agency may
29 deny, revoke, or suspend specified licenses and
30 impose fines for certain violations; providing
31 that a temporary license expires after a notice

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1 of intent to deny an application is issued by
2 the agency; providing that persons or entities
3 made exempt under the act and which have paid
4 the clinic licensure fee to the agency are
5 entitled to a partial refund from the agency;
6 providing that certain persons or entities are
7 not in violation of part XIII of ch. 400, F.S.,
8 due to failure to apply for a clinic license by
9 a specified date; providing that certain
10 payments may not be denied to such persons or
11 entities for failure to apply for or obtain a
12 clinic license before a specified date;

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