

Bill No. CS for SB 2112

Barcode 941016

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Smith) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 400.990, Florida Statutes, is amended to read:

400.990 Short title; legislative findings.--

(1) This part, consisting of ss. 400.990-400.996 ~~ss. 400.990-400.995~~, may be cited as the "Health Care Clinic Act."

(2) The Legislature finds that the regulation of health care clinics must be strengthened to prevent significant cost and harm to consumers.

(3) The Legislature further finds the additional regulation of specialty health care clinics is necessary to prevent significant fraudulent practices in the provision of infusion therapy services in this state.

(4) The purpose of this part is to provide for the licensure, establishment, and enforcement of basic standards

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1 for health care clinics and to provide administrative
2 oversight by the Agency for Health Care Administration.

3 Section 2. Subsection (4) of section 400.9905, Florida
4 Statutes, is amended and subsections (8), (9), and (10) are
5 added to that section, to read:

6 400.9905 Definitions.--

7 (4) "Clinic" means an entity at which health care
8 services are provided to individuals and which tenders charges
9 for reimbursement for such services, including a mobile clinic
10 and a portable equipment provider. For purposes of this part,
11 the term does not include and the licensure requirements of
12 this part do not apply to:

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

26 (b) Entities that own, directly or indirectly,
27 entities licensed or registered by the state pursuant to
28 chapter 395; or entities that own, directly or indirectly,
29 entities licensed or registered by the state and providing
30 only health care services within the scope of services
31 authorized pursuant to their respective licenses granted under

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1 ss. 383.30-383.335, chapter 390, chapter 394, chapter 397,
 2 this chapter except part XIII, chapter 463, chapter 465,
 3 chapter 466, chapter 478, part I of chapter 483, chapter 484,
 4 chapter 651; end-stage renal disease providers authorized
 5 under 42 C.F.R. part 405, subpart U; or providers certified
 6 under 42 C.F.R. part 485, subpart B or subpart H; or any
 7 entity that provides neonatal or pediatric hospital-based
 8 health care services by licensed practitioners solely within a
 9 hospital licensed under chapter 395.

10 (c) Entities that are owned, directly or indirectly,
 11 by an entity licensed or registered by the state pursuant to
 12 chapter 395; or entities that are owned, directly or
 13 indirectly, by an entity licensed or registered by the state
 14 and providing only health care services within the scope of
 15 services authorized pursuant to their respective licenses
 16 granted under ss. 383.30-383.335, chapter 390, chapter 394,
 17 chapter 397, this chapter except part XIII, chapter 463,
 18 chapter 465, chapter 466, chapter 478, part I of chapter 483,
 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 subpart H; or
 22 any entity that provides neonatal or pediatric hospital-based
 23 health care services by licensed practitioners solely within a
 24 hospital under chapter 395.

25 (d) Entities that are under common ownership, directly
 26 or indirectly, with an entity licensed or registered by the
 27 state pursuant to chapter 395; or entities that are under
 28 common ownership, directly or indirectly, with an entity
 29 licensed or registered by the state and providing only health
 30 care services within the scope of services authorized pursuant
 31 to their respective licenses granted under ss. 383.30-383.335,

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1 chapter 390, chapter 394, chapter 397, this chapter except
 2 part XIII, chapter 463, chapter 465, chapter 466, chapter 478,
 3 part I of chapter 483, chapter 484, or chapter 651; end-stage
 4 renal disease providers authorized under 42 C.F.R. part 405,
 5 subpart U; or providers certified under 42 C.F.R. part 485,
 6 subpart B or subpart H; or any entity that provides neonatal
 7 or pediatric hospital-based health care services by licensed
 8 practitioners solely within a hospital licensed under chapter
 9 395.

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

15 (f) A sole proprietorship, group practice,
 16 partnership, ~~or~~ corporation, or other legal entity that
 17 provides health care services by licensed health care
 18 practitioners licensed under chapter 458, chapter 459, chapter
 19 460, chapter 461, or chapter 466 ~~physicians covered by s.~~
 20 ~~627.419~~, that is directly supervised by one or more of such
 21 physicians, and that is wholly owned by one or more of those
 22 physicians or by a physician and the spouse, parent, child, or
 23 sibling of that physician.

24 (g) A sole proprietorship, group practice,
 25 partnership, ~~or~~ corporation, or other legal entity that
 26 provides health care services by licensed health care
 27 practitioners under chapter 457, ~~chapter 458, chapter 459,~~
 28 ~~chapter 460, chapter 461,~~ chapter 462, chapter 463, ~~chapter~~
 29 ~~466,~~ chapter 467, chapter 480, chapter 484, chapter 486,
 30 chapter 490, chapter 491, or part I, part III, part X, part
 31 XIII, or part XIV of chapter 468, or s. 464.012, which

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1 entities are wholly owned by one or more licensed health care
2 practitioners, or the licensed health care practitioners set
3 forth in this paragraph and the spouse, parent, child, or
4 sibling of a licensed health care practitioner, so long as one
5 of the owners who is a licensed health care practitioner is
6 supervising the health care services ~~business activities~~ and
7 is legally responsible for the entity's compliance with all
8 federal and state laws. However, ~~a~~ health care services
9 provided may not exceed the scope of the licensed owner's
10 health care ~~practitioner may not supervise services beyond the~~
11 ~~scope of the practitioner's~~ license, except that, for the
12 purposes of this part, a clinic owned by a licensee in s.
13 456.053(3)(b) that provides only services authorized pursuant
14 to s. 456.053(3)(b) may be supervised by a licensee specified
15 in s. 456.053(3)(b).

16 (h) Clinical facilities affiliated with an accredited
17 medical school at which training is provided for medical
18 students, residents, or fellows.

19 (i) Entities that provide ~~only~~ oncology or radiation
20 therapy services by physicians licensed under chapter 458 or
21 chapter 459 which are owned by a corporation whose shares are
22 publicly traded on a registered stock exchange.

23 (j) Clinical facilities affiliated with a college of
24 chiropractic accredited by the Council on Chiropractic
25 Education at which training is provided for chiropractic
26 students.

27 (k) Clinical facilities that are wholly owned,
28 directly or indirectly, by a publicly traded corporation. As
29 used in this paragraph, a "publicly traded corporation" is a
30 corporation that issues securities traded on an exchange
31 registered with the United States Securities and Exchange

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1 Commission as a national securities exchange.

2 (8) "Specialty clinic" means a clinic not licensed as
3 a home health agency which provides infusion therapy services
4 either to outpatients who remain less than 24 hours at the
5 facility or to patients who receive such services where they
6 reside. The term does not include:

7 (a) Entities licensed under part II, part III, or part
8 IV; or

9 (b) Entities licensed under chapter 395.

10 (9) "Infusion therapy" includes, but is not limited
11 to, the therapeutic infusion of substances into, or injection
12 of substances through, the venous peripheral system,
13 consisting of activity that includes: observing, initiating,
14 monitoring, discontinuing, maintaining, regulating, adjusting,
15 documenting, planning, intervening, and evaluating. This
16 definition embraces administration of nutrition, antibiotic
17 therapy, and fluid and electrolyte repletion.

18 (10) "Fraud" means deception or misrepresentation made
19 by a person or business entity with the intent that the
20 deception will likely result in an unauthorized benefit to
21 herself or himself or to another person. The term includes any
22 act that constitutes fraud under applicable federal or state
23 law.

24 Section 3. Section 400.991, Florida Statutes, is
25 amended to read:

26 400.991 License requirements; background screenings;
27 prohibitions.--

28 (1)(a) Each clinic and specialty clinic, as defined in
29 s. 400.9905, must be licensed and shall at all times maintain
30 a valid license with the agency. Each clinic and specialty
31 clinic location shall be licensed separately regardless of

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1 whether the clinic or specialty clinic is operated under the
2 same business name or management as another clinic.

3 (b) Each mobile clinic and specialty clinic must
4 obtain a separate health care clinic license and must provide
5 to the agency, at least quarterly, its projected street
6 location to enable the agency to locate and inspect such
7 clinic and specialty clinic. A portable equipment provider
8 must obtain a health care clinic license for a single
9 administrative office and is not required to submit quarterly
10 projected street locations.

11 (c) A specialty clinic operating without a specialty
12 clinic license at the time of the effective date of this act
13 shall be given a reasonable time, not to exceed 6 months from
14 the effective date of this act, to obtain a specialty clinic
15 license.

16 (2) The initial clinic license application shall be
17 filed with the agency by all clinics, as defined in s.
18 400.9905, on or before July 1, 2004. A clinic license and
19 specialty clinic license must be renewed biennially.

20 (3) Applicants that submit an application on or before
21 July 1, 2004, which meets all requirements for initial
22 licensure as specified in this section shall receive a
23 temporary license until the completion of an initial
24 inspection verifying that the applicant meets all requirements
25 in rules authorized in s. 400.9925. However, a clinic engaged
26 in magnetic resonance imaging services may not receive a
27 temporary license unless it presents evidence satisfactory to
28 the agency that such clinic is making a good faith effort and
29 substantial progress in seeking accreditation required under
30 s. 400.9935.

31 (4) Application for an initial clinic or specialty

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1 clinic license or for renewal of an existing license shall be
 2 notarized on forms furnished by the agency and must be
 3 accompanied by the appropriate license fee as provided in s.
 4 400.9925. The agency shall take final action on an initial
 5 license application within 60 days after receipt of all
 6 required documentation.

7 (5)(a) The application shall contain information that
 8 includes, but need not be limited to, information pertaining
 9 to the name, residence and business address, phone number,
 10 social security number, and license number of the medical or
 11 clinic director, of the licensed medical providers employed or
 12 under contract with the clinic, and of each person who,
 13 directly or indirectly, owns or controls 5 percent or more of
 14 an interest in the clinic, or general partners in limited
 15 liability partnerships.

16 (b) Any person or entity that has a pecuniary interest
 17 in a clinic who may or may not own stock or an equivalent
 18 interest in the clinic, but nonetheless has control over or
 19 the authority to approve, directly or indirectly, clinic
 20 billing, policy, business activities, or personnel decisions,
 21 including, but not limited to, contracted or employed
 22 third-party billing persons or entities, managers, and
 23 management companies, and persons and entities, directly or
 24 indirectly, which lend, give, or gift money of any
 25 denomination or any thing of value exceeding an aggregate of
 26 \$5,000, for clinic use, with or without an expectation of a
 27 return of the money or thing of value, and regardless of
 28 profit motive, are subject to background screening
 29 requirements under this part.

30 (c) The agency may adopt rules to administer this
 31 subsection.

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1 (6) An application for a specialty clinic shall
2 contain, in addition to the information required in subsection
3 (5):

4 (a) The correct business name of each business entity
5 and full name of each individual holding any ownership
6 interest of 5 percent or more, or any pecuniary interest of
7 \$5,000 or more, in any legal entity that owns or operates any
8 specialty clinic seeking licensure, whether such ownership or
9 pecuniary interest arose out of a contract, loan, gift,
10 investment, inheritance, or any other source. Individual
11 possession of an ownership or pecuniary interest in any
12 subject specialty clinic includes, but is not limited to, a
13 direct or indirect interest in:

14 1. The business operation, equipment, or legend
15 pharmaceuticals used in the clinic;

16 2. The premises in which the clinic provides its
17 services; or

18 3. Any legal entity that owns any such interest,
19 directly or indirectly, in the business operation of the
20 clinic; the equipment used in providing infusion therapy
21 services at the clinic; the legend pharmaceuticals used at the
22 clinic; or the premises in which the clinic provides its
23 services.

24 (b) In the case of an incorporated business entity
25 that holds any ownership interest of 5 percent or more, or any
26 pecuniary interest of \$5,000 or more, in the specialty clinic,
27 copies of the articles of incorporation and bylaws, and the
28 names and addresses of all officers and directors of the
29 corporation.

30 (c) On a form furnished by the agency, a sworn
31 notarized statement by each business entity and individual

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1 that holds any ownership interest of 5 percent or more, or any
 2 pecuniary interest of \$5,000 or more, in the subject specialty
 3 clinic which discloses the nature and degree of each such
 4 ownership or pecuniary interest, and that discloses the source
 5 of funds which gave rise to each such ownership or pecuniary
 6 interest.

7 (d) On a form furnished by the agency, a sworn
 8 notarized statement by each individual and business entity
 9 that holds any ownership interest of 5 percent or more, or any
 10 pecuniary interest of \$5,000 or more, in the subject specialty
 11 clinic which discloses whether he or she has been an owner or
 12 part owner, individually or through any business entity, of
 13 any business entity whose health care license has been revoked
 14 or suspended in any jurisdiction.

15 (e) On a form furnished by the agency, an estimate of
 16 the costs for establishing the specialty clinic and the source
 17 of funds for payment of those costs and for sustaining the
 18 operation of the clinic until its operation produces a
 19 positive cash flow.

20
 21 For purposes of this subsection, the term "ownership or
 22 pecuniary interest" does not include any individual whose
 23 interest in a specialty clinic arises only out of his or her
 24 interest in a lending company, insurance company, or banking
 25 institution licensed by this state or any other state of the
 26 United States; a company regularly trading on a national stock
 27 exchange of the United States; or a governmental entity in the
 28 United States.

29 ~~(7)(6)~~ The applicant must file with the application
 30 satisfactory proof that the clinic or specialty clinic is in
 31 compliance with this part and applicable rules, including:

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1 (a) A listing of services to be provided either
2 directly by the applicant or through contractual arrangements
3 with existing providers;

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

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

27 ~~(8)(7)~~ Each applicant for licensure shall comply with
28 the following requirements:

29 (a) As used in this subsection, the term "applicant"
30 means either an individual ~~individuals~~ owning or controlling,
31 directly or indirectly, 5 percent or more of an interest in a

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1 clinic or an individual owning or controlling, directly or
 2 indirectly, any interest in a specialty clinic; the medical or
 3 clinic director, or a similarly titled person who is
 4 responsible for the day-to-day operation of the licensed
 5 clinic; the financial officer or similarly titled individual
 6 who is responsible for the financial operation of the clinic;
 7 and licensed health care practitioners at the clinic.

8 (b) Upon receipt of a completed, signed, and dated
 9 application, the agency shall require background screening of
 10 the applicant, in accordance with the level 2 standards for
 11 screening set forth in paragraph (d) ~~chapter 435~~. Proof of
 12 compliance with the level 2 background screening requirements
 13 of paragraph (d) ~~chapter 435~~ which has been submitted within
 14 the previous 5 years in compliance with the ~~any other~~ health
 15 care clinic licensure requirements of this part ~~state~~ is
 16 acceptable in fulfillment of this paragraph. Applicants who
 17 own less than 10 percent of a health care clinic are not
 18 required to submit fingerprints under this section.

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

30 (d) A license may not be granted to a clinic if the
 31 applicant, or a person or entity identified in paragraph

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1 (5)(b), has been found guilty of, regardless of adjudication,
2 or has entered a plea of nolo contendere or guilty to, any
3 offense prohibited under the level 2 standards for screening
4 set forth in chapter 435; any felony under chapter 400,
5 chapter 408, chapter 409, chapter 440, chapter 624, chapter
6 626, chapter 627, chapter 812, chapter 817, chapter 831,
7 chapter 837, chapter 838, chapter 895, or chapter 896; or any
8 substantially comparable offense or crime of another state or
9 of the United States, if a felony in that jurisdiction, within
10 the past 10 years. Each person required to provide background
11 screening shall disclose to the agency any arrest for any
12 crime for which any court disposition other than dismissal has
13 been made within the past 10 years. Failure to provide such
14 information shall be considered a material omission in the
15 application process., or a violation of insurance fraud under
16 ~~s. 817.234, within the past 5 years. If the applicant has been~~
17 ~~convicted of an offense prohibited under the level 2 standards~~
18 ~~or insurance fraud in any jurisdiction, the applicant must~~
19 ~~show that his or her civil rights have been restored prior to~~
20 ~~submitting an application.~~

21 (e) The agency may deny or revoke licensure or
22 exemption if the applicant has falsely represented any
23 material fact or omitted any material fact from the
24 application which is permitted or required by this part.

25 (f) Each applicant that performs the technical
26 component of magnetic resonance imaging, static radiographs,
27 computed tomography, or positron emission tomography, and also
28 provides the professional components of such services through
29 an employee or independent contractor must provide to the
30 agency on a form provided by the agency, the name and address
31 of the clinic, the serial or operating number of each magnetic

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1 resonance imaging, static radiograph, computed tomography, and
 2 positron emission tomography machine, the name of the
 3 manufacturer of the machine, and such other information as
 4 required by the agency to identify the machine. The
 5 information must be provided to the agency upon renewal of the
 6 clinic's licensure and within 30 days after a clinic begins
 7 using a machine for which it has not provided the information
 8 to the agency.

9 (g) The agency shall deny or revoke a specialty clinic
 10 license if an applicant has been found guilty of, regardless
 11 of adjudication, or entered a plea of nolo contendere or
 12 guilty to, any felony involving dishonesty or making a false
 13 statement in any jurisdiction within the preceding 10 years.

14 (h) The agency shall deny a specialty clinic license
 15 application when any business entity or individual possessing
 16 an ownership or pecuniary interest in the specialty clinic
 17 also possessed an ownership or pecuniary interest,
 18 individually or through any business entity, in any health
 19 care facility whose license was revoked in any jurisdiction
 20 during the pendency of that interest.

21 (i) The agency may not issue a specialty clinic
 22 license to any applicant to whom the agency has sent notice
 23 that there is a pending question as to whether one or more of
 24 the individuals with an ownership of 5 percent or more or with
 25 a pecuniary interest of \$5,000 or more in the clinic has a
 26 disqualifying criminal record. The agency notice shall request
 27 the applicant to submit any additional information necessary
 28 to resolve the pending criminal background question within 21
 29 days after receipt of the notice. The agency shall deny a
 30 specialty clinic license application when the applicant has
 31 failed to resolve a criminal background screening issue

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1 pertaining to an individual who is required to meet criminal
2 background screening requirements of this part and the agency
3 raised such background screening issue by notice as set forth
4 in this part.

5 ~~(9)(8)~~ Requested information omitted from an
6 application for licensure, license renewal, or transfer of
7 ownership must be filed with the agency within 21 days after
8 receipt of the agency's request for omitted information, or
9 the application shall be deemed incomplete and shall be
10 withdrawn from further consideration.

11 ~~(10)(9)~~ The failure to file a timely renewal
12 application shall result in a late fee charged to the facility
13 in an amount equal to 50 percent of the current license fee.

14 Section 4. Section 400.9915, Florida Statutes, is
15 amended to read:

16 400.9915 Clinic inspections; emergency suspension;
17 costs.--

18 (1) Any authorized officer or employee of the agency
19 shall make inspections of the clinic or specialty clinic as
20 part of the initial license application or renewal
21 application. The application for a clinic or specialty clinic
22 license issued under this part or for a renewal license
23 constitutes permission for an appropriate agency inspection to
24 verify the information submitted on or in connection with the
25 application or renewal.

26 (2) An authorized officer or employee of the agency
27 may make unannounced inspections of clinics and specialty
28 clinics licensed pursuant to this part as are necessary to
29 determine that the clinic or specialty clinic is in compliance
30 with this part and with applicable rules. A licensed clinic or
31 specialty clinic shall allow full and complete access to the

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1 premises and to billing records or information to any
2 representative of the agency who makes an inspection to
3 determine compliance with this part and with applicable rules.

4 (3) Failure by a clinic or specialty clinic licensed
5 under this part to allow full and complete access to the
6 premises and to billing records or information to any
7 representative of the agency who makes a request to inspect
8 the clinic or specialty clinic to determine compliance with
9 this part or failure by a clinic or specialty clinic to employ
10 a qualified medical director or clinic director constitutes a
11 ground for emergency suspension of the license by the agency
12 pursuant to s. 120.60(6).

13 (4) In addition to any administrative fines imposed,
14 the agency may assess a fee equal to the cost of conducting a
15 complaint investigation.

16 Section 5. Section 400.992, Florida Statutes, is
17 amended to read:

18 400.992 License renewal; transfer of ownership;
19 provisional license.--

20 (1) An application for license renewal must contain
21 information as required by the agency.

22 (2) Ninety days before the expiration date, an
23 application for renewal must be submitted to the agency.

24 (3) The clinic or specialty clinic must file with the
25 renewal application satisfactory proof that it is in
26 compliance with this part and applicable rules. If there is
27 evidence of financial instability, the clinic or specialty
28 clinic must submit satisfactory proof of its financial ability
29 to comply with the requirements of this part.

30 (4) When transferring the ownership of a clinic or
31 specialty clinic, the transferee must submit an application

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1 for a license at least 60 days before the effective date of
 2 the transfer. An application for change of ownership of a
 3 clinic or specialty clinic is required only when 45 percent or
 4 more of the ownership, voting shares, or controlling interest
 5 of a clinic or specialty clinic is transferred or assigned,
 6 including the final transfer or assignment of multiple
 7 transfers or assignments over a 2-year period that
 8 cumulatively total 45 percent or greater.

9 (5) The license may not be sold, leased, assigned, or
 10 otherwise transferred, voluntarily or involuntarily, and is
 11 valid only for the clinic or specialty clinic owners and
 12 location for which originally issued.

13 (6) A clinic or specialty clinic against whom a
 14 revocation or suspension proceeding is pending at the time of
 15 license renewal may be issued a provisional license effective
 16 until final disposition by the agency of such proceedings. If
 17 judicial relief is sought from the final disposition, the
 18 agency that has jurisdiction may issue a temporary permit for
 19 the duration of the judicial proceeding.

20 Section 6. Section 400.9925, Florida Statutes, is
 21 amended to read:

22 400.9925 Rulemaking authority; license fees.--

23 (1) The agency shall adopt rules necessary to
 24 administer the clinic and specialty clinic administration,
 25 regulation, and licensure program, including rules
 26 establishing the specific licensure requirements, procedures,
 27 forms, and fees. It shall adopt rules establishing a procedure
 28 for the biennial renewal of licenses. The agency may issue
 29 initial licenses for less than the full 2-year period by
 30 charging a prorated licensure fee and specifying a different
 31 renewal date than would otherwise be required for biennial

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1 licensure. The rules shall specify the expiration dates of
2 licenses, the process of tracking compliance with financial
3 responsibility requirements, and any other conditions of
4 renewal required by law or rule.

5 (2) The agency shall adopt rules specifying
6 limitations on the number of licensed clinics and specialty
7 clinics and licensees for which a medical director or a clinic
8 director may assume responsibility for purposes of this part.
9 In determining the quality of supervision a medical director
10 or a clinic director can provide, the agency shall consider
11 the number of clinic or specialty clinic employees, the clinic
12 or specialty clinic location, and the health care services
13 provided by the clinic or specialty clinic.

14 (3) License application and renewal fees must be
15 reasonably calculated by the agency to cover its costs in
16 carrying out its responsibilities under this part, including
17 the cost of licensure, inspection, and regulation of clinics
18 and specialty clinics, and must be of such amount that the
19 total fees collected do not exceed the cost of administering
20 and enforcing compliance with this part. Clinic and specialty
21 clinic licensure fees are nonrefundable and may not exceed
22 \$2,000. The agency shall adjust the license fee annually by
23 not more than the change in the Consumer Price Index based on
24 the 12 months immediately preceding the increase. All fees
25 collected under this part must be deposited in the Health Care
26 Trust Fund for the administration of this part.

27 Section 7. Section 400.993, Florida Statutes, is
28 amended to read:

29 400.993 Unlicensed clinics; penalties; fines;
30 verification of licensure status.--

31 (1) It is unlawful to own, operate, or maintain a

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1 clinic or specialty clinic without obtaining a license under
2 this part.

3 (2) Any person who owns, operates, or maintains an
4 unlicensed clinic or specialty clinic commits a felony of the
5 third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084. Each day of continued operation is a
7 separate offense.

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

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

22 (5) Any clinic or specialty clinic that fails to cease
23 operation after agency notification may be fined for each day
24 of noncompliance pursuant to this part.

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

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1 (7) Any person aware of the operation of an unlicensed
2 clinic or specialty clinic must report that facility to the
3 agency.

4 (8) Any health care provider who is aware of the
5 operation of an unlicensed clinic or specialty clinic shall
6 report that facility to the agency. Failure to report a clinic
7 or specialty clinic that the provider knows or has reasonable
8 cause to suspect is unlicensed shall be reported to the
9 provider's licensing board.

10 (9) The agency may not issue a license to a clinic or
11 specialty clinic that has any unpaid fines assessed under this
12 part.

13 Section 8. Section 400.9935, Florida Statutes, is
14 amended to read:

15 400.9935 Clinic responsibilities.--

16 (1) Each clinic and specialty clinic shall appoint a
17 medical director or clinic director who shall agree in writing
18 to accept legal responsibility for the following activities on
19 behalf of the clinic. The medical director or the clinic
20 director shall:

21 (a) Have signs identifying the medical director or
22 clinic director posted in a conspicuous location within the
23 clinic readily visible to all patients.

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

27 (c) Review any patient referral contracts or
28 agreements executed by the clinic.

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

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1 (e) Ensure that all health care practitioners at the
2 clinic provide health care services in accordance with the
3 requirements of subsection (6).

4 ~~(f)(e)~~ Serve as the clinic records owner as defined in
5 s. 456.057.

6 ~~(g)(f)~~ Ensure compliance with the recordkeeping,
7 office surgery, and adverse incident reporting requirements of
8 chapter 456, the respective practice acts, and rules adopted
9 under this part.

10 ~~(h)(g)~~ Conduct systematic reviews of clinic billings
11 to ensure that the billings are not fraudulent or unlawful.
12 Upon discovery of an unlawful charge, the medical director or
13 clinic director shall take immediate corrective action. If the
14 clinic performs only the technical component of magnetic
15 resonance imaging, static radiographs, computed tomography, or
16 positron emission tomography, and provides the professional
17 interpretation of such services, in a fixed facility that is
18 accredited by the Joint Commission on Accreditation of
19 Healthcare Organizations or the Accreditation Association for
20 Ambulatory Health Care, and the American College of Radiology;
21 and if, in the preceding quarter, the percentage of scans
22 performed by that clinic which was billed to all personal
23 injury protection insurance carriers was less than 15 percent,
24 the chief financial officer of the clinic may, in a written
25 acknowledgment provided to the agency, assume the
26 responsibility for the conduct of the systematic reviews of
27 clinic billings to ensure that the billings are not fraudulent
28 or unlawful.

29 (i) Serve in that capacity for no more than a maximum
30 of five health care clinics that have a cumulative total of no
31 more than 200 employees and persons under contract with the

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1 health care clinic at a given time. A medical or clinic
 2 director may not supervise a health care clinic more than 200
 3 miles away from any other health care clinic supervised by the
 4 same medical or clinic director. The agency may allow for
 5 waivers to the limitations of this paragraph upon a showing of
 6 good cause and a determination by the agency that the medical
 7 director will be able to adequately perform the requirements
 8 of this subsection.

9 (2) Any business that becomes a clinic or specialty
 10 clinic after commencing operations must, within 5 days after
 11 becoming a clinic or specialty clinic, file a license
 12 application under this part and shall be subject to all
 13 provisions of this part applicable to a clinic or specialty
 14 clinic.

15 (3) Any contract to serve as a medical director or a
 16 clinic director entered into or renewed by a physician or a
 17 licensed health care practitioner in violation of this part is
 18 void as contrary to public policy. This subsection shall apply
 19 to contracts entered into or renewed on or after March 1,
 20 2004.

21 (4) All charges or reimbursement claims made by or on
 22 behalf of a clinic or specialty clinic that is required to be
 23 licensed under this part, but that is not so licensed, or that
 24 is otherwise operating in violation of this part, are unlawful
 25 charges, and therefore are noncompensable and unenforceable.

26 (5) Any person establishing, operating, or managing an
 27 unlicensed clinic or specialty clinic otherwise required to be
 28 licensed under this part, or any person who knowingly files a
 29 false or misleading license application or license renewal
 30 application, or false or misleading information related to
 31 such application or department rule, commits a felony of the

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1 third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 (6) All persons providing health care services to
4 individuals must comply with the licensure laws and rules
5 under which that person is licensed to provide such services
6 or as otherwise provided by law.

7 ~~(7)(6)~~ Any licensed health care provider who violates
8 this part is subject to discipline in accordance with this
9 chapter and his or her respective practice act.

10 ~~(8)(7)~~ The agency may fine, or suspend or revoke the
11 license of, any clinic or specialty clinic licensed under this
12 part for operating in violation of the requirements of this
13 part or the rules adopted by the agency.

14 ~~(9)(8)~~ The agency shall investigate allegations of
15 noncompliance with this part and the rules adopted under this
16 part.

17 ~~(10)(9)~~ Any person or entity providing health care
18 services which is not a clinic or specialty clinic, as defined
19 under s. 400.9905, may voluntarily apply for a certificate of
20 exemption from licensure under its exempt status. Certificates
21 of exemption shall expire in 2 years and may be renewed. ~~with~~
22 ~~the agency on a form that sets forth its name or names and~~
23 ~~addresses, a statement of the reasons why it cannot be defined~~
24 ~~as a clinic, and other information deemed necessary by the~~
25 ~~agency. An exemption is not transferable. The agency may~~
26 ~~charge an applicant for a certificate of exemption in an~~
27 ~~amount equal to \$100 or the actual cost of processing the~~
28 ~~certificate, whichever is less.~~

29 (a) The agency shall provide a form that requires the
30 name or names and addresses, a statement of the reasons why
31 the applicant is exempt from licensure as a health care clinic

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1 or specialty clinic, and other information deemed necessary by
 2 the agency. The signature on an application for a certificate
 3 of exemption must be notarized and signed by persons having
 4 knowledge of the truth of its contents. An exemption is not
 5 transferable and is valid only for the reasons, location,
 6 persons, and entity set forth on the application form. A
 7 person or entity claiming an exemption under this part or
 8 issued a current certificate of exemption must be exempt from
 9 the licensing provisions of this part at all times, or such
 10 claim or certificate shall be invalid from the date that such
 11 person or entity is not exempt.

12 (b) The agency shall charge an applicant for a
 13 certificate of exemption a fee of \$100 to cover the cost of
 14 processing the certificate or the actual cost of processing
 15 the certificate, whichever is less.

16 (c) An application for the renewal of a certificate of
 17 exemption must be submitted to the agency prior to the
 18 expiration of the certificate of exemption. The agency may
 19 investigate any applicant, person, or entity claiming an
 20 exemption for purposes of determining compliance when a
 21 certificate of exemption is sought. Authorized personnel of
 22 the agency shall have access to the premises of any
 23 certificateholder, applicant, or specialty clinic for the sole
 24 purpose of determining compliance with an exemption under this
 25 part. The agency shall have access to all billings and records
 26 indicated in s. 400.9915(2) and agency rules. The agency may
 27 deny or withdraw a certificate of exemption when a person or
 28 entity does not qualify under this part.

29 (d) A certificate of exemption is considered withdrawn
 30 when the agency determines that an exempt status cannot be
 31 confirmed. The provisions applicable to the unlicensed

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1 operation of a health care clinic or specialty clinic apply to
2 any health care provider that self-determines or claims an
3 exemption or that is issued a certificate of exemption if, in
4 fact, such clinic does not meet the exemption claimed.

5 (e) Any person or entity that submits an application
6 for a certificate of exemption which contains fraudulent or
7 material and misleading information commits a felony of the
8 third degree, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084.

10 (f) A response to a request in writing for additional
11 information or clarification must be filed with the agency no
12 later than 21 days after receipt of the request or the
13 application shall be denied.

14 (g) The agency shall grant or deny an application for
15 a certificate of exemption in accordance with s. 120.60(1).

16 (h) A person or entity that qualifies as a health care
17 clinic or specialty clinic and has been denied a certificate
18 of exemption must file an initial application and pay the fee.
19 A certificate of exemption is valid only when issued and
20 current.

21 (i) The agency shall issue an emergency order of
22 suspension of a certificate of exemption when the agency finds
23 that the applicant has provided false or misleading material
24 information or omitted any material fact from the application
25 for a certificate of exemption which is permitted or required
26 by this part, or has submitted false or misleading information
27 to the agency when self-determining an exempt status and
28 materially misleading the agency as to such status.

29 (11)(10) The clinic or specialty clinic shall display
30 its license in a conspicuous location within the clinic
31 readily visible to all patients.

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1 ~~(12)(11)~~(a) Each clinic engaged in magnetic resonance
 2 imaging services must be accredited by the Joint Commission on
 3 Accreditation of Healthcare Organizations, the American
 4 College of Radiology, or the Accreditation Association for
 5 Ambulatory Health Care, within 1 year after licensure.
 6 However, a clinic may request a single, 6-month extension if
 7 it provides evidence to the agency establishing that, for good
 8 cause shown, such clinic can not be accredited within 1 year
 9 after licensure, and that such accreditation will be completed
 10 within the 6-month extension. After obtaining accreditation as
 11 required by this subsection, each such clinic must maintain
 12 accreditation as a condition of renewal of its license.

13 (b) The agency may deny the application or revoke the
 14 license of any entity formed for the purpose of avoiding
 15 compliance with the accreditation provisions of this
 16 subsection and whose principals were previously principals of
 17 an entity that was unable to meet the accreditation
 18 requirements within the specified timeframes. The agency may
 19 adopt rules as to the accreditation of magnetic resonance
 20 imaging clinics.

21 ~~(13)(12)~~ The agency shall give full faith and credit
 22 pertaining to any past variance and waiver granted to a
 23 magnetic resonance imaging clinic from rule 64-2002, Florida
 24 Administrative Code, by the Department of Health, until
 25 September 2004. After that date, such clinic must request a
 26 variance and waiver from the agency under s. 120.542.

27 (14) Every licensed specialty clinic shall file with
 28 the agency no less frequently than annually, including
 29 concurrently with the filing of any change of ownership
 30 application, upon forms to be furnished by the agency, an
 31 audited report showing the following information:

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1 (a) The number of patients served by the specialty
2 clinic during the previous 12-month period, which report may
3 exclude any partial month for the month when the report was
4 prepared;

5 (b) Total specialty clinic operating expenses;

6 (c) Gross patient charges by payor category, including
7 Medicare, Medicaid, county indigent programs, any other
8 governmental programs, private insurance, self-paying
9 patients, nonpaying patients and other payees;

10 (d) The cost of operation of the specialty clinic
11 during the previous 12-month period, excluding any partial
12 month during which time the report was prepared;

13 (e) Unless the specialty clinic can demonstrate that
14 the clinic already has furnished the required information
15 regarding a particular subject individual, the full name of
16 any individual who became an owner or became possessed of any
17 pecuniary interest in the subject clinic since the last report
18 to the agency, along with the disclosure of the information
19 required by s. 400.9961(2) as to such individual; and

20 (f) A current statement of the source of funds for
21 payment of the costs of establishing the specialty clinic and
22 for sustaining the operation of the specialty clinic until its
23 operation produces a positive cash flow.

24 (15) Every licensee of a specialty clinic has a
25 continuing obligation to comply with this part and to report
26 to the agency any change of circumstance related to the
27 clinic's continuing compliance with this part. Such change of
28 circumstance includes, but is not limited to, any change in
29 the ownership of the specialty clinic, the addition of any
30 individual or business entity possessing a pecuniary interest
31 in the specialty clinic, the employment of any individual as a

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1 member of the specialty clinic's staff who would be required
 2 to undergo a criminal background screening if such individual
 3 had been an employee at the time of the initial licensure, and
 4 any change in the medical or clinic director. The clinic shall
 5 furnish the information required about and of such individuals
 6 under this part and s. 400.991 within 30 days of the
 7 occurrence of such change of circumstance.

8 (16) The clinic or specialty clinic shall display a
 9 sign in a conspicuous location within the clinic readily
 10 visible to all patients indicating that, pursuant to s.
 11 626.9892, the Department of Financial Services may pay rewards
 12 of up to \$25,000 to persons providing information leading to
 13 the arrest and conviction of persons committing crimes
 14 investigated by the Division of Insurance Fraud arising from
 15 violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989,
 16 or s. 817.234. An authorized employee of the Division of
 17 Insurance Fraud may make unannounced inspections of a clinic
 18 or specialty clinic licensed under this part as necessary to
 19 determine whether the clinic is in compliance with this
 20 subsection. A licensed clinic or specialty clinic shall allow
 21 full and complete access to the premises to such authorized
 22 employee of the division who makes an inspection to determine
 23 compliance with this subsection.

24 Section 9. Section 400.994, Florida Statutes, is
 25 amended to read:

26 400.994 Injunctions.--

27 (1) The agency may institute injunctive proceedings in
 28 a court of competent jurisdiction in order to:

29 (a) Enforce ~~the provisions of~~ this part or any minimum
 30 standard, rule, or order issued or entered into pursuant to
 31 this part if the attempt by the agency to correct a violation

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1 through administrative fines has failed; if the violation
2 materially affects the health, safety, or welfare of clinic or
3 specialty clinic patients; or if the violation involves any
4 operation of an unlicensed clinic or specialty clinic.

5 (b) Terminate the operation of a clinic or specialty
6 clinic if a violation of any provision of this part, or any
7 rule adopted pursuant to this part, materially affects the
8 health, safety, or welfare of clinic or specialty clinic
9 patients.

10 (2) Such injunctive relief may be temporary or
11 permanent.

12 (3) If action is necessary to protect clinic or
13 specialty clinic patients from life-threatening situations,
14 the court may allow a temporary injunction without bond upon
15 proper proof being made. If it appears by competent evidence
16 or a sworn, substantiated affidavit that a temporary
17 injunction should issue, the court, pending the determination
18 on final hearing, shall enjoin operation of the clinic or
19 specialty clinic.

20 Section 10. Section 400.995, Florida Statutes, is
21 amended to read:

22 400.995 Agency administrative penalties.--

23 (1) The agency may deny the application for a license
24 renewal, revoke or suspend the license, and impose
25 administrative fines of up to \$5,000 per violation for
26 violations of ~~the requirements~~ of this part or rules of the
27 agency. In determining if a penalty is to be imposed and in
28 fixing the amount of the fine, the agency shall consider the
29 following factors:

30 (a) The gravity of the violation, including the
31 probability that death or serious physical or emotional harm

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1 to a patient will result or has resulted, the severity of the
2 action or potential harm, and the extent to which ~~the~~
3 ~~provisions of~~ the applicable laws or rules were violated.

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

6 (c) Any previous violations.

7 (d) The financial benefit to the clinic or specialty
8 clinic of committing or continuing the violation.

9 (2) Each day of continuing violation after the date
10 fixed for termination of the violation, as ordered by the
11 agency, constitutes an additional, separate, and distinct
12 violation.

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

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

25 (5) Any unlicensed clinic or specialty clinic that
26 continues to operate after agency notification is subject to a
27 \$1,000 fine per day.

28 (6) Any licensed clinic or specialty clinic whose
29 owner, medical director, or clinic director concurrently
30 operates an unlicensed clinic or specialty clinic shall be
31 subject to an administrative fine of \$5,000 per day.

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1 (7) Any clinic or specialty clinic whose owner fails
 2 to apply for a change-of-ownership license in accordance with
 3 s. 400.992 and operates the clinic or specialty clinic under
 4 the new ownership is subject to a fine of \$5,000.

5 (8) The agency, as an alternative to or in conjunction
 6 with an administrative action against a clinic or specialty
 7 clinic for violations of this part and adopted rules, shall
 8 make a reasonable attempt to discuss each violation and
 9 recommended corrective action with the owner, medical
 10 director, or clinic director of the clinic or specialty
 11 clinic, prior to written notification. The agency, instead of
 12 fixing a period within which the clinic or specialty clinic
 13 shall enter into compliance with standards, may request a plan
 14 of corrective action from the clinic or specialty clinic which
 15 demonstrates a good faith effort to remedy each violation by a
 16 specific date, subject to the approval of the agency.

17 (9) Administrative fines paid by any clinic or
 18 specialty clinic under this section shall be deposited into
 19 the Health Care Trust Fund.

20 (10) If the agency issues a notice of intent to deny a
 21 license application after a temporary license has been issued
 22 pursuant to s. 400.991(3), the temporary license shall expire
 23 on the date of the notice and may not be extended during any
 24 proceeding for administrative or judicial review pursuant to
 25 chapter 120.

26 Section 11. Section 400.996, Florida Statutes, is
 27 created to read:

28 400.996 Specialty clinics; complaints; audits;
 29 referrals.--

30 (1) The agency shall receive, document, and process
 31 complaints about specialty clinics. Upon receipt of any

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1 complaint that asserts the existence of facts evidencing
 2 possible billing fraud by a specialty clinic or by any
 3 employee of a specialty clinic, the agency shall request the
 4 complainant to make such assertions by sworn affidavit.

5 (2) Upon receipt of any sworn affidavit that asserts
 6 the existence of facts evidencing possible billing fraud by a
 7 specialty clinic or any of its employees, the agency shall
 8 refer the complaint to the Department of Financial Services,
 9 Office of Fiscal Integrity.

10 (3) The Department of Financial Services shall report
 11 findings to the agency for any appropriate licensure action.
 12 Such report shall include a statement of facts as determined
 13 by the Department of Financial Services to exist, specifically
 14 with regard to the possible violations of licensure
 15 requirements. If during an investigation the department has
 16 reason to believe that any criminal law of this state has or
 17 may have been violated, the department shall refer such
 18 investigation to appropriate prosecutorial agencies and shall
 19 provide investigative assistance to those agencies as
 20 required.

21 (4) The investigating authority and the agency shall
 22 cooperate with each other with respect to preparing a record
 23 and sharing information from which the agency may determine if
 24 any action for sanctions under this part by the agency is
 25 warranted.

26 (5) Any person submitting a sworn complaint that
 27 initiates a complaint investigation pursuant to this section,
 28 which sworn complaint is determined to be totally without any
 29 factual basis to support the assertions made in the complaint
 30 that facts existed evidencing possible fraudulent practices by
 31 a specialty clinic or any of its employees, shall be guilty of

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1 a misdemeanor of the first degree, punishable as provided in
2 s. 775.082 or s. 775.083.

3 (6) The Department of Financial Services, Office of
4 Fiscal Integrity, shall conduct unannounced reviews,
5 investigations, analyses, and audits to investigate complaints
6 and, as necessary, to determine whether specialty clinic
7 billings are fraudulent or unlawful. The Department of
8 Financial Services is expressly authorized to enter upon the
9 premises of the clinic during regular business hours and
10 demand and immediately secure copies of billing and other
11 records of the clinic that will enable the Department of
12 Financial Services to investigate complaints or determine
13 whether specialty clinic billings are fraudulent or unlawful.

14 (7) A licensed specialty clinic shall allow full,
15 complete, and immediate access to the premises and to billing
16 records or information to any such officer or employee who
17 conducts a review, investigation, analysis, or audit to
18 determine compliance with this part and with applicable rules.
19 Failure to allow full, complete, and immediate access to the
20 premises and to billing records or information to any
21 representative of the agency or Department of Financial
22 Services who attempts to conduct a review, investigation,
23 analysis, or audit to determine compliance with this part
24 constitutes a ground for emergency suspension of the license
25 by the agency pursuant to s. 120.60(6).

26 (8) In addition to any administrative fines imposed,
27 the agency may assess a fee equal to the cost of conducting
28 any review, investigation, analysis, or audit performed by the
29 agency or the department.

30 (9) All investigators designated by the Chief
31 Financial Officer to perform duties under this part and who

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1 are certified under s. 943.1395 are law enforcement officers
 2 of the state. Such investigators have the authority to conduct
 3 criminal investigations, bear arms, make arrests, and apply
 4 for, serve, and execute search warrants, arrest warrants,
 5 capias, and other process throughout the state pertaining to
 6 fraud investigations under this section.

7 Section 12. Paragraph (hh) is added to subsection (1)
 8 of section 456.072, Florida Statutes, to read:

9 456.072 Grounds for discipline; penalties;
 10 enforcement.--

11 (1) The following acts shall constitute grounds for
 12 which the disciplinary actions specified in subsection (2) may
 13 be taken:

14 (hh) Intentionally providing false information on an
 15 application for a certificate of exemption from clinic
 16 licensure under part XIII of chapter 400.

17 Section 13. This act shall take effect January 1,
 18 2007.

19
 20

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

22 And the title is amended as follows:

23 Delete everything before the enacting clause

24

25 and insert:

26 A bill to be entitled
 27 An act relating to health care clinics;
 28 amending s. 400.990, F.S.; providing additional
 29 legislative findings; amending s. 400.9905,
 30 F.S.; redefining the term "clinic" for purposes
 31 of the Health Care Clinic Act to include

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1 certain additional providers; excluding certain
2 facilities owned by publicly traded
3 corporations; defining the terms "specialty
4 clinic," "infusion therapy," and "fraud";
5 amending s. 400.991, F.S.; requiring specialty
6 clinics to be subject to licensure
7 requirements; requiring additional persons to
8 be subject to background screening; revising
9 certain requirements for applying for licensure
10 as a health care clinic; creating additional
11 requirements for applying for licensure as a
12 specialty clinic; providing additional grounds
13 under which an applicant may be denied
14 licensure due to a finding of guilt for
15 committing a felony; providing grounds for the
16 denial of specialty clinic licensure; amending
17 s. 400.9915, F.S.; including specialty clinics
18 within clinic inspection requirements; amending
19 s. 400.992, F.S.; including specialty clinics
20 within requirements for license renewal,
21 transfer of ownership, and provisional
22 licensure; amending s. 400.9925, F.S.;
23 providing the agency with rulemaking authority
24 regarding specialty clinics; stating that the
25 licensure fee for a specialty clinic is
26 nonrefundable and may not exceed \$2,000;
27 amending s. 400.993, F.S.; including specialty
28 clinics within provisions regarding unlicensed
29 clinics; providing penalties for unlicensed
30 operation of a specialty clinic; including
31 specialty clinics within provisions regarding

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1 verification of licensure; amending s.
2 400.9935, F.S.; including specialty clinics
3 within provisions regarding clinic
4 responsibilities; revising the responsibilities
5 of the medical director and the clinical
6 director; requiring all persons providing
7 health care services to individuals in a clinic
8 to comply with the licensure laws and rules
9 under which that person is licensed; providing
10 for a certificate of exemption from licensure
11 as a clinic to expire within a specified
12 period; providing for renewal of the
13 certificate of exemption; revising the
14 application procedures for a certificate of
15 exemption; providing grounds for the denial,
16 withdrawal, or emergency suspension of a
17 certificate of exemption by the Agency for
18 Health Care Administration; providing that it
19 is a third-degree felony for an applicant to
20 submit fraudulent or material and misleading
21 information to the agency; requiring a
22 specialty clinic to file an audited report with
23 the agency no less frequently than annually;
24 requiring a specialty clinic to maintain
25 compliance with part XIII of chapter 400, F.S.;
26 requiring health care clinics and specialty
27 clinics to display signs containing certain
28 information relating to insurance fraud;
29 authorizing compliance inspections by the
30 Division of Insurance Fraud; requiring clinics
31 to allow inspection access; amending s.

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1 400.994, F.S.; granting the agency authority to
2 institute injunctive proceedings against a
3 specialty clinic; amending s. 400.995, F.S.;
4 granting the agency authority to impose
5 administrative penalties against a specialty
6 clinic; creating s. 400.996, F.S.; creating a
7 process whereby the agency receives, documents,
8 and processes complaints about specialty
9 clinics; requiring the agency to request that
10 complaints regarding billing fraud by a
11 specialty clinic be made by sworn affidavit;
12 requiring the agency to refer to the Department
13 of Financial Services, Office of Fiscal
14 Integrity, any sworn affidavit asserting
15 billing fraud by a specialty clinic; requiring
16 the department to report findings regarding
17 billing fraud by a specialty clinic to the
18 agency; requiring the department to refer an
19 investigation to prosecutorial authorities and
20 provide investigative assistance under certain
21 circumstances; providing that it is a
22 first-degree misdemeanor to submit an affidavit
23 asserting billing fraud by a specialty clinic
24 which is without any factual basis; allowing
25 the department to conduct unannounced reviews,
26 investigations, analyses, and audits to
27 investigate complaints of billing fraud by a
28 specialty clinic; authorizing the department to
29 enter upon the premises of a specialty clinic
30 and immediately secure copies of certain
31 documents; requiring a specialty clinic to

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1 allow full and immediate access to the premises
2 and records of the clinic to a department
3 officer or employee under s. 400.996, F.S.;
4 providing that failure to provide such access
5 is a ground for emergency suspension of the
6 license of the specialty clinic; permitting the
7 agency to assess a fee against a specialty
8 clinic equal to the cost of conducting a
9 review, investigation, analysis, or audit
10 performed by the agency or the department;
11 providing that all investigators designated by
12 the Chief Financial Officer to perform duties
13 under part XIII of chapter 400, F.S., and
14 certified under s. 943.1395, F.S., are law
15 enforcement officers of the state; amending s.
16 456.072, F.S.; providing that intentionally
17 placing false information in an application for
18 a certificate of exemption from clinic
19 licensure constitutes grounds for which
20 disciplinary action may be taken; providing an
21 effective date.

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