

By the Committees on Criminal Justice; and Banking and Insurance

591-2319-06

1 A bill to be entitled
2 An act relating to health care clinics;
3 amending s. 400.990, F.S.; providing additional
4 legislative findings; amending s. 400.9905,
5 F.S.; redefining the term "clinic" for purposes
6 of the Health Care Clinic Act to include
7 certain additional providers; excluding certain
8 facilities owned by publicly traded
9 corporations; defining the terms "specialty
10 clinic," "infusion therapy," and "fraud";
11 amending s. 400.991, F.S.; requiring specialty
12 clinics to be subject to licensure
13 requirements; requiring additional persons to
14 be subject to background screening; revising
15 certain requirements for applying for licensure
16 as a health care clinic; creating additional
17 requirements for applying for licensure as a
18 specialty clinic; providing additional grounds
19 under which an applicant may be denied
20 licensure due to a finding of guilt for
21 committing a felony; providing grounds for the
22 denial of specialty clinic licensure; amending
23 s. 400.9915, F.S.; including specialty clinics
24 within clinic inspection requirements; amending
25 s. 400.992, F.S.; including specialty clinics
26 within requirements for license renewal,
27 transfer of ownership, and provisional
28 licensure; amending s. 400.9925, F.S.;
29 providing the agency with rulemaking authority
30 regarding specialty clinics; stating that the
31 licensure fee for a specialty clinic is

1 nonrefundable and may not exceed \$2,000;
2 amending s. 400.993, F.S.; including specialty
3 clinics within provisions regarding unlicensed
4 clinics; providing penalties for unlicensed
5 operation of a specialty clinic; including
6 specialty clinics within provisions regarding
7 verification of licensure; amending s.
8 400.9935, F.S.; including specialty clinics
9 within provisions regarding clinic
10 responsibilities; revising the responsibilities
11 of the medical director and the clinical
12 director; requiring all persons providing
13 health care services to individuals in a clinic
14 to comply with the licensure laws and rules
15 under which that person is licensed; providing
16 for a certificate of exemption from licensure
17 as a clinic to expire within a specified
18 period; providing for renewal of the
19 certificate of exemption; revising the
20 application procedures for a certificate of
21 exemption; providing grounds for the denial,
22 withdrawal, or emergency suspension of a
23 certificate of exemption by the Agency for
24 Health Care Administration; providing that it
25 is a third-degree felony for an applicant to
26 submit fraudulent or material and misleading
27 information to the agency; requiring a
28 specialty clinic to file an audited report with
29 the agency no less frequently than annually;
30 requiring a specialty clinic to maintain
31 compliance with part XIII of ch. 400, F.S.;

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

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

28
29 Be It Enacted by the Legislature of the State of Florida:
30
31

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

3 400.990 Short title; legislative findings.--

4 (1) This part, consisting of ss. 400.990-400.996 ~~ss.~~
5 ~~400.990-400.995~~, may be cited as the "Health Care Clinic Act."

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

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

13 (4) The purpose of this part is to provide for the
14 licensure, establishment, and enforcement of basic standards
15 for health care clinics and to provide administrative
16 oversight by the Agency for Health Care Administration.

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

20 400.9905 Definitions.--

21 (4) "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

1 397, this chapter except part XIII, chapter 463, chapter 465,
2 chapter 466, chapter 478, part I of chapter 483, chapter 484,
3 or chapter 651; end-stage renal disease providers authorized
4 under 42 C.F.R. part 405, subpart U; or providers certified
5 under 42 C.F.R. part 485, subpart B or subpart H; or any
6 entity that provides neonatal or pediatric hospital-based
7 health care services by licensed practitioners solely within a
8 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 397,
16 this chapter except part XIII, chapter 463, chapter 465,
17 chapter 466, chapter 478, part I of chapter 483, chapter 484,
18 chapter 651; end-stage renal disease providers authorized
19 under 42 C.F.R. part 405, subpart U; or providers certified
20 under 42 C.F.R. part 485, subpart B or subpart H; or any
21 entity that provides neonatal or pediatric hospital-based
22 health care services by licensed practitioners solely within a
23 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 397, this chapter except part XIII, chapter 463,

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

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

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

29 (f) A sole proprietorship, group practice,
30 partnership, ~~or~~ corporation, or other legal entity that
31 provides health care services by licensed health care

1 practitioners licensed under chapter 458, chapter 459, chapter
2 460, chapter 461, or chapter 466 ~~physicians covered by s.~~
3 ~~627.419~~, that is directly supervised by one or more of such
4 physicians, and that is wholly owned by one or more of those
5 physicians or by a physician and the spouse, parent, child, or
6 sibling of that physician.

7 (g) A sole proprietorship, group practice,
8 partnership, ~~or~~ corporation, or other legal entity that
9 provides health care services by licensed health care
10 practitioners under chapter 457, ~~chapter 458, chapter 459,~~
11 ~~chapter 460, chapter 461,~~ chapter 462, chapter 463, ~~chapter~~
12 ~~466,~~ chapter 467, chapter 480, chapter 484, chapter 486,
13 chapter 490, chapter 491, or part I, part III, part X, part
14 XIII, or part XIV of chapter 468, or s. 464.012, which
15 entities are wholly owned by one or more licensed health care
16 practitioners, or the licensed health care practitioners set
17 forth in this paragraph and the spouse, parent, child, or
18 sibling of a licensed health care practitioner, so long as one
19 of the owners who is a licensed health care practitioner is
20 supervising the health care services ~~business activities~~ and
21 is legally responsible for the entity's compliance with all
22 federal and state laws. However, ~~a~~ health care services
23 provided may not exceed the scope of the licensed owner's
24 health care ~~practitioner may not supervise services beyond the~~
25 ~~scope of the practitioner's~~ license, except that, for the
26 purposes of this part, a clinic owned by a licensee in s.
27 456.053(3)(b) that provides only services authorized pursuant
28 to s. 456.053(3)(b) may be supervised by a licensee specified
29 in s. 456.053(3)(b).

1 (h) Clinical facilities affiliated with an accredited
2 medical school at which training is provided for medical
3 students, residents, or fellows.

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

8 (j) Clinical facilities affiliated with a college of
9 chiropractic accredited by the Council on Chiropractic
10 Education at which training is provided for chiropractic
11 students.

12 (k) Clinical facilities that are wholly owned,
13 directly or indirectly, by a publicly traded corporation. As
14 used in this paragraph, a "publicly traded corporation" is a
15 corporation that issues securities traded on an exchange
16 registered with the United States Securities and Exchange
17 Commission as a national securities exchange.

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

23 (a) Entities licensed under part II, part III, or part
24 IV; or

25 (b) Entities licensed under chapter 395.

26 (9) "Infusion therapy" includes, but is not limited
27 to, the therapeutic infusion of substances into, or injection
28 of substances through, the venous peripheral system,
29 consisting of activity that includes: observing, initiating,
30 monitoring, discontinuing, maintaining, regulating, adjusting,
31 documenting, planning, intervening, and evaluating. This

1 definition embraces administration of nutrition, antibiotic
2 therapy, and fluid and electrolyte repletion.

3 (10) "Fraud" means deception or misrepresentation made
4 by a person or business entity with the intent that the
5 deception will likely result in an unauthorized benefit to
6 herself or himself or to another person. The term includes any
7 act that constitutes fraud under applicable federal or state
8 law.

9 Section 3. Section 400.991, Florida Statutes, is
10 amended to read:

11 400.991 License requirements; background screenings;
12 prohibitions.--

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

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

27 (c) A specialty clinic operating without a specialty
28 clinic license at the time of the effective date of this act
29 shall be given a reasonable time, not to exceed 6 months from
30 the effective date of this act, to obtain a specialty clinic
31 license.

1 (2) The initial clinic license application shall be
2 filed with the agency by all clinics, as defined in s.
3 400.9905, on or before July 1, 2004. A clinic license and
4 specialty clinic license must be renewed biennially.

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

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

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

1 (b) Any person or entity that has a pecuniary interest
2 in a clinic who may or may not own stock or an equivalent
3 interest in the clinic, but nonetheless has control over or
4 the authority to approve, directly or indirectly, clinic
5 billing, policy, business activities, or personnel decisions,
6 including, but not limited to, contracted or employed
7 third-party billing persons or entities, managers, and
8 management companies, and persons and entities, directly or
9 indirectly, which lend, give, or gift money of any
10 denomination or any thing of value exceeding an aggregate of
11 \$5,000, for clinic use, with or without an expectation of a
12 return of the money or thing of value, and regardless of
13 profit motive, are subject to background screening
14 requirements under this part.

15 (c) The agency may adopt rules to administer this
16 subsection.

17 (6) An application for a specialty clinic shall
18 contain, in addition to the information required in subsection
19 (5):

20 (a) The correct business name of each business entity
21 and full name of each individual holding any ownership
22 interest of 5 percent or more, or any pecuniary interest of
23 \$5,000 or more, in any legal entity that owns or operates any
24 specialty clinic seeking licensure, whether such ownership or
25 pecuniary interest arose out of a contract, loan, gift,
26 investment, inheritance, or any other source. Individual
27 possession of an ownership or pecuniary interest in any
28 subject specialty clinic includes, but is not limited to, a
29 direct or indirect interest in:

30 1. The business operation, equipment, or legend
31 pharmaceuticals used in the clinic;

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

3 3. Any legal entity that owns any such interest,
4 directly or indirectly, in the business operation of the
5 clinic; the equipment used in providing infusion therapy
6 services at the clinic; the legend pharmaceuticals used at the
7 clinic; or the premises in which the clinic provides its
8 services.

9 (b) In the case of an incorporated business entity
10 that holds any ownership interest of 5 percent or more, or any
11 pecuniary interest of \$5,000 or more, in the specialty clinic,
12 copies of the articles of incorporation and bylaws, and the
13 names and addresses of all officers and directors of the
14 corporation.

15 (c) On a form furnished by the agency, a sworn
16 notarized statement by each business entity and individual
17 that holds any ownership interest of 5 percent or more, or any
18 pecuniary interest of \$5,000 or more, in the subject specialty
19 clinic which discloses the nature and degree of each such
20 ownership or pecuniary interest, and that discloses the source
21 of funds which gave rise to each such ownership or pecuniary
22 interest.

23 (d) On a form furnished by the agency, a sworn
24 notarized statement by each individual and 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 subject specialty
27 clinic which discloses whether he or she has been an owner or
28 part owner, individually or through any business entity, of
29 any business entity whose health care license has been revoked
30 or suspended in any jurisdiction.

31

1 (e) On a form furnished by the agency, an estimate of
2 the costs for establishing the specialty clinic and the source
3 of funds for payment of those costs and for sustaining the
4 operation of the clinic until its operation produces a
5 positive cash flow.

6
7 For purposes of this subsection, the term "ownership or
8 pecuniary interest" does not include any individual whose
9 interest in a specialty clinic arises only out of his or her
10 interest in a lending company, insurance company, or banking
11 institution licensed by this state or any other state of the
12 United States; a company regularly trading on a national stock
13 exchange of the United States; or a governmental entity in the
14 United States.

15 ~~(7)(6)~~ The applicant must file with the application
16 satisfactory proof that the clinic or specialty clinic is in
17 compliance with this part and applicable rules, including:

18 (a) A listing of services to be provided either
19 directly by the applicant or through contractual arrangements
20 with existing providers;

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

23 (c) Proof of financial ability to operate. An
24 applicant must demonstrate financial ability to operate a
25 clinic or specialty clinic by submitting a balance sheet and
26 an income and expense statement for the first year of
27 operation which provide evidence of the applicant's having
28 sufficient assets, credit, and projected revenues to cover
29 liabilities and expenses. The applicant shall have
30 demonstrated financial ability to operate if the applicant's
31 assets, credit, and projected revenues meet or exceed

1 | projected liabilities and expenses. All documents required
2 | under this subsection must be prepared in accordance with
3 | generally accepted accounting principles, may be in a
4 | compilation form, and the financial statement must be signed
5 | by a certified public accountant. As an alternative to
6 | submitting a balance sheet and an income and expense statement
7 | for the first year of operation, the applicant may file a
8 | surety bond of at least \$500,000 which guarantees that the
9 | clinic will act in full conformity with all legal requirements
10 | for operating a clinic, payable to the agency. The agency may
11 | adopt rules to specify related requirements for such surety
12 | bond.

13 | ~~(8)(7)~~ Each applicant for licensure shall comply with
14 | the following requirements:

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

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

1 care clinic licensure requirements of this ~~part~~ ~~state~~ is
2 acceptable in fulfillment of this paragraph. Applicants who
3 own less than 10 percent of a health care clinic are not
4 required to submit fingerprints under this section.

5 (c) Each applicant must submit to the agency, with the
6 application, a description and explanation of any exclusions,
7 permanent suspensions, or terminations of an applicant from
8 the Medicare or Medicaid programs. Proof of compliance with
9 the requirements for disclosure of ownership and control
10 interest under the Medicaid or Medicare programs may be
11 accepted in lieu of this submission. The description and
12 explanation may indicate whether such exclusions, suspensions,
13 or terminations were voluntary or not voluntary on the part of
14 the applicant. The agency may deny or revoke licensure based
15 on information received under this paragraph.

16 (d) A license may not be granted to a clinic if the
17 applicant, or a person or entity identified in paragraph
18 (5)(b), has been found guilty of, regardless of adjudication,
19 or has entered a plea of nolo contendere or guilty to, any
20 offense prohibited under the level 2 standards for screening
21 set forth in chapter 435; any felony under chapter 400,
22 chapter 408, chapter 409, chapter 440, chapter 624, chapter
23 626, chapter 627, chapter 812, chapter 817, chapter 831,
24 chapter 837, chapter 838, chapter 895, or chapter 896; or any
25 substantially comparable offense or crime of another state or
26 of the United States, if a felony in that jurisdiction, within
27 the past 10 years. Each person required to provide background
28 screening shall disclose to the agency any arrest for any
29 crime for which any court disposition other than dismissal has
30 been made within the past 10 years. Failure to provide such
31 information shall be considered a material omission in the

1 ~~application process., or a violation of insurance fraud under~~
2 ~~s. 817.234, within the past 5 years. If the applicant has been~~
3 ~~convicted of an offense prohibited under the level 2 standards~~
4 ~~or insurance fraud in any jurisdiction, the applicant must~~
5 ~~show that his or her civil rights have been restored prior to~~
6 ~~submitting an application.~~

7 (e) The agency may deny or revoke licensure or
8 exemption if the applicant has falsely represented any
9 material fact or omitted any material fact from the
10 application which is permitted or required by this part.

11 (f) Each applicant that performs the technical
12 component of magnetic resonance imaging, static radiographs,
13 computed tomography, or positron emission tomography, and also
14 provides the professional components of such services through
15 an employee or independent contractor must provide to the
16 agency on a form provided by the agency, the name and address
17 of the clinic, the serial or operating number of each magnetic
18 resonance imaging, static radiograph, computed tomography, and
19 positron emission tomography machine, the name of the
20 manufacturer of the machine, and such other information as
21 required by the agency to identify the machine. The
22 information must be provided to the agency upon renewal of the
23 clinic's licensure and within 30 days after a clinic begins
24 using a machine for which it has not provided the information
25 to the agency.

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

31

1 (h) The agency shall deny a specialty clinic license
2 application when any business entity or individual possessing
3 an ownership or pecuniary interest in the specialty clinic
4 also possessed an ownership or pecuniary interest,
5 individually or through any business entity, in any health
6 care facility whose license was revoked in any jurisdiction
7 during the pendency of that interest.

8 (i) The agency may not issue a specialty clinic
9 license to any applicant to whom the agency has sent notice
10 that there is a pending question as to whether one or more of
11 the individuals with an ownership of 5 percent or more or with
12 a pecuniary interest of \$5,000 or more in the clinic has a
13 disqualifying criminal record. The agency notice shall request
14 the applicant to submit any additional information necessary
15 to resolve the pending criminal background question within 21
16 days after receipt of the notice. The agency shall deny a
17 specialty clinic license application when the applicant has
18 failed to resolve a criminal background screening issue
19 pertaining to an individual who is required to meet criminal
20 background screening requirements of this part and the agency
21 raised such background screening issue by notice as set forth
22 in this part.

23 ~~(9)(8)~~ Requested information omitted from an
24 application for licensure, license renewal, or transfer of
25 ownership must be filed with the agency within 21 days after
26 receipt of the agency's request for omitted information, or
27 the application shall be deemed incomplete and shall be
28 withdrawn from further consideration.

29 ~~(10)(9)~~ The failure to file a timely renewal
30 application shall result in a late fee charged to the facility
31 in an amount equal to 50 percent of the current license fee.

1 Section 4. Section 400.9915, Florida Statutes, is
2 amended to read:

3 400.9915 Clinic inspections; emergency suspension;
4 costs.--

5 (1) Any authorized officer or employee of the agency
6 shall make inspections of the clinic or specialty clinic as
7 part of the initial license application or renewal
8 application. The application for a clinic or specialty clinic
9 license issued under this part or for a renewal license
10 constitutes permission for an appropriate agency inspection to
11 verify the information submitted on or in connection with the
12 application or renewal.

13 (2) An authorized officer or employee of the agency
14 may make unannounced inspections of clinics and specialty
15 clinics licensed pursuant to this part as are necessary to
16 determine that the clinic or specialty clinic is in compliance
17 with this part and with applicable rules. A licensed clinic or
18 specialty clinic shall allow full and complete access to the
19 premises and to billing records or information to any
20 representative of the agency who makes an inspection to
21 determine compliance with this part and with applicable rules.

22 (3) Failure by a clinic or specialty clinic licensed
23 under this part to allow full and complete access to the
24 premises and to billing records or information to any
25 representative of the agency who makes a request to inspect
26 the clinic or specialty clinic to determine compliance with
27 this part or failure by a clinic or specialty clinic to employ
28 a qualified medical director or clinic director constitutes a
29 ground for emergency suspension of the license by the agency
30 pursuant to s. 120.60(6).

31

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

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

6 400.992 License renewal; transfer of ownership;
7 provisional license.--

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

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

12 (3) The clinic or specialty clinic must file with the
13 renewal application satisfactory proof that it is in
14 compliance with this part and applicable rules. If there is
15 evidence of financial instability, the clinic or specialty
16 clinic must submit satisfactory proof of its financial ability
17 to comply with the requirements of this part.

18 (4) When transferring the ownership of a clinic or
19 specialty clinic, the transferee must submit an application
20 for a license at least 60 days before the effective date of
21 the transfer. An application for change of ownership of a
22 clinic or specialty clinic is required only when 45 percent or
23 more of the ownership, voting shares, or controlling interest
24 of a clinic or specialty clinic is transferred or assigned,
25 including the final transfer or assignment of multiple
26 transfers or assignments over a 2-year period that
27 cumulatively total 45 percent or greater.

28 (5) The license may not be sold, leased, assigned, or
29 otherwise transferred, voluntarily or involuntarily, and is
30 valid only for the clinic or specialty clinic owners and
31 location for which originally issued.

1 (6) A clinic or specialty clinic against whom a
2 revocation or suspension proceeding is pending at the time of
3 license renewal may be issued a provisional license effective
4 until final disposition by the agency of such proceedings. If
5 judicial relief is sought from the final disposition, the
6 agency that has jurisdiction may issue a temporary permit for
7 the duration of the judicial proceeding.

8 Section 6. Section 400.9925, Florida Statutes, is
9 amended to read:

10 400.9925 Rulemaking authority; license fees.--

11 (1) The agency shall adopt rules necessary to
12 administer the clinic and specialty clinic administration,
13 regulation, and licensure program, including rules
14 establishing the specific licensure requirements, procedures,
15 forms, and fees. It shall adopt rules establishing a procedure
16 for the biennial renewal of licenses. The agency may issue
17 initial licenses for less than the full 2-year period by
18 charging a prorated licensure fee and specifying a different
19 renewal date than would otherwise be required for biennial
20 licensure. The rules shall specify the expiration dates of
21 licenses, the process of tracking compliance with financial
22 responsibility requirements, and any other conditions of
23 renewal required by law or rule.

24 (2) The agency shall adopt rules specifying
25 limitations on the number of licensed clinics and specialty
26 clinics and licensees for which a medical director or a clinic
27 director may assume responsibility for purposes of this part.
28 In determining the quality of supervision a medical director
29 or a clinic director can provide, the agency shall consider
30 the number of clinic or specialty clinic employees, the clinic
31

1 or specialty clinic location, and the health care services
2 provided by the clinic or specialty clinic.

3 (3) License application and renewal fees must be
4 reasonably calculated by the agency to cover its costs in
5 carrying out its responsibilities under this part, including
6 the cost of licensure, inspection, and regulation of clinics
7 and specialty clinics, and must be of such amount that the
8 total fees collected do not exceed the cost of administering
9 and enforcing compliance with this part. Clinic and specialty
10 clinic licensure fees are nonrefundable and may not exceed
11 \$2,000. The agency shall adjust the license fee annually by
12 not more than the change in the Consumer Price Index based on
13 the 12 months immediately preceding the increase. All fees
14 collected under this part must be deposited in the Health Care
15 Trust Fund for the administration of this part.

16 Section 7. Section 400.993, Florida Statutes, is
17 amended to read:

18 400.993 Unlicensed clinics; penalties; fines;
19 verification of licensure status.--

20 (1) It is unlawful to own, operate, or maintain a
21 clinic or specialty clinic without obtaining a license under
22 this part.

23 (2) Any person who owns, operates, or maintains an
24 unlicensed clinic or specialty clinic commits a felony of the
25 third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084. Each day of continued operation is a
27 separate offense.

28 (3) Any person found guilty of violating subsection
29 (2) a second or subsequent time commits a felony of the second
30 degree, punishable as provided under s. 775.082, s. 775.083,
31

1 or s. 775.084. Each day of continued operation is a separate
2 offense.

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

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

15 (6) When a person has an interest in more than one
16 clinic or specialty clinic, and fails to obtain a license for
17 any one of these clinics, the agency may revoke the license,
18 impose a moratorium, or impose a fine pursuant to this part on
19 any or all of the licensed clinics or specialty clinics until
20 such time as the unlicensed clinic or specialty clinic is
21 licensed or ceases operation.

22 (7) Any person aware of the operation of an unlicensed
23 clinic or specialty clinic must report that facility to the
24 agency.

25 (8) Any health care provider who is aware of the
26 operation of an unlicensed clinic or specialty clinic shall
27 report that facility to the agency. Failure to report a clinic
28 or specialty clinic that the provider knows or has reasonable
29 cause to suspect is unlicensed shall be reported to the
30 provider's licensing board.

31

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

4 Section 8. Section 400.9935, Florida Statutes, is
5 amended to read:

6 400.9935 Clinic responsibilities.--

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

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

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

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

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

23 (e) Ensure that all health care practitioners at the
24 clinic provide health care services in accordance with the
25 requirements of subsection (6).

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

28 ~~(g)(f)~~ Ensure compliance with the recordkeeping,
29 office surgery, and adverse incident reporting requirements of
30 chapter 456, the respective practice acts, and rules adopted
31 under this part.

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

20 (i) Serve in that capacity for no more than a maximum
21 of five health care clinics that have a cumulative total of no
22 more than 200 employees and persons under contract with the
23 health care clinic at a given time. A medical or clinic
24 director may not supervise a health care clinic more than 200
25 miles away from any other health care clinic supervised by the
26 same medical or clinic director. The agency may allow for
27 waivers to the limitations of this paragraph upon a showing of
28 good cause and a determination by the agency that the medical
29 director will be able to adequately perform the requirements
30 of this subsection.

31

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

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

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

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

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

1 ~~(7)(6)~~ Any licensed health care provider who violates
2 this part is subject to discipline in accordance with this
3 chapter and his or her respective practice act.

4 ~~(8)(7)~~ The agency may fine, or suspend or revoke the
5 license of, any clinic or specialty clinic licensed under this
6 part for operating in violation of the requirements of this
7 part or the rules adopted by the agency.

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

11 ~~(10)(9)~~ Any person or entity providing health care
12 services which is not a clinic or specialty clinic, as defined
13 under s. 400.9905, may voluntarily apply for a certificate of
14 exemption from licensure under its exempt status. Certificates
15 of exemption shall expire in 2 years and may be renewed. ~~with~~
16 ~~the agency on a form that sets forth its name or names and~~
17 ~~addresses, a statement of the reasons why it cannot be defined~~
18 ~~as a clinic, and other information deemed necessary by the~~
19 ~~agency. An exemption is not transferable. The agency may~~
20 ~~charge an applicant for a certificate of exemption in an~~
21 ~~amount equal to \$100 or the actual cost of processing the~~
22 ~~certificate, whichever is less.~~

23 (a) The agency shall provide a form that requires the
24 name or names and addresses, a statement of the reasons why
25 the applicant is exempt from licensure as a health care clinic
26 or specialty clinic, and other information deemed necessary by
27 the agency. The signature on an application for a certificate
28 of exemption must be notarized and signed by persons having
29 knowledge of the truth of its contents. An exemption is not
30 transferable and is valid only for the reasons, location,
31 persons, and entity set forth on the application form. A

1 person or entity claiming an exemption under this part or
2 issued a current certificate of exemption must be exempt from
3 the licensing provisions of this part at all times, or such
4 claim or certificate shall be invalid from the date that such
5 person or entity is not exempt.

6 (b) The agency shall charge an applicant for a
7 certificate of exemption a fee of \$100 to cover the cost of
8 processing the certificate or the actual cost of processing
9 the certificate, whichever is less.

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

23 (d) A certificate of exemption is considered withdrawn
24 when the agency determines that an exempt status cannot be
25 confirmed. The provisions applicable to the unlicensed
26 operation of a health care clinic or specialty clinic apply to
27 any health care provider that self-determines or claims an
28 exemption or that is issued a certificate of exemption if, in
29 fact, such clinic does not meet the exemption claimed.

30 (e) Any person or entity that submits an application
31 for a certificate of exemption which contains fraudulent or

1 material and misleading information commits a felony of the
2 third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084.

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

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

10 (h) A person or entity that qualifies as a health care
11 clinic or specialty clinic and has been denied a certificate
12 of exemption must file an initial application and pay the fee.
13 A certificate of exemption is valid only when issued and
14 current.

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

23 ~~(11)(10)~~ The clinic or specialty clinic shall display
24 its license in a conspicuous location within the clinic
25 readily visible to all patients.

26 ~~(12)(11)(a)~~ Each clinic engaged in magnetic resonance
27 imaging services must be accredited by the Joint Commission on
28 Accreditation of Healthcare Organizations, the American
29 College of Radiology, or the Accreditation Association for
30 Ambulatory Health Care, within 1 year after licensure.

31 However, a clinic may request a single, 6-month extension if

1 | it provides evidence to the agency establishing that, for good
2 | cause shown, such clinic can not be accredited within 1 year
3 | after licensure, and that such accreditation will be completed
4 | within the 6-month extension. After obtaining accreditation as
5 | required by this subsection, each such clinic must maintain
6 | accreditation as a condition of renewal of its license.

7 | (b) The agency may deny the application or revoke the
8 | license of any entity formed for the purpose of avoiding
9 | compliance with the accreditation provisions of this
10 | subsection and whose principals were previously principals of
11 | an entity that was unable to meet the accreditation
12 | requirements within the specified timeframes. The agency may
13 | adopt rules as to the accreditation of magnetic resonance
14 | imaging clinics.

15 | ~~(13)(12)~~ The agency shall give full faith and credit
16 | pertaining to any past variance and waiver granted to a
17 | magnetic resonance imaging clinic from rule 64-2002, Florida
18 | Administrative Code, by the Department of Health, until
19 | September 2004. After that date, such clinic must request a
20 | variance and waiver from the agency under s. 120.542.

21 | (14) Every licensed specialty clinic shall file with
22 | the agency no less frequently than annually, including
23 | concurrently with the filing of any change of ownership
24 | application, upon forms to be furnished by the agency, an
25 | audited report showing the following information:

26 | (a) The number of patients served by the specialty
27 | clinic during the previous 12-month period, which report may
28 | exclude any partial month for the month when the report was
29 | prepared;

30 | (b) Total specialty clinic operating expenses;
31 |

1 (c) Gross patient charges by payor category, including
2 Medicare, Medicaid, county indigent programs, any other
3 governmental programs, private insurance, self-paying
4 patients, nonpaying patients and other payees;

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

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

15 (f) A current statement of the source of funds for
16 payment of the costs of establishing the specialty clinic and
17 for sustaining the operation of the specialty clinic until its
18 operation produces a positive cash flow.

19 (15) Every licensee of a specialty clinic has a
20 continuing obligation to comply with this part and to report
21 to the agency any change of circumstance related to the
22 clinic's continuing compliance with this part. Such change of
23 circumstance includes, but is not limited to, any change in
24 the ownership of the specialty clinic, the addition of any
25 individual or business entity possessing a pecuniary interest
26 in the specialty clinic, the employment of any individual as a
27 member of the specialty clinic's staff who would be required
28 to undergo a criminal background screening if such individual
29 had been an employee at the time of the initial licensure, and
30 any change in the medical or clinic director. The clinic shall
31 furnish the information required about and of such individuals

1 under this part and s. 400.991 within 30 days of the
2 occurrence of such change of circumstance.

3 (16) The clinic or specialty clinic shall display a
4 sign in a conspicuous location within the clinic readily
5 visible to all patients indicating that, pursuant to s.
6 626.9892, the Department of Financial Services may pay rewards
7 of up to \$25,000 to persons providing information leading to
8 the arrest and conviction of persons committing crimes
9 investigated by the Division of Insurance Fraud arising from
10 violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989,
11 or s. 817.234. An authorized employee of the Division of
12 Insurance Fraud may make unannounced inspections of a clinic
13 or specialty clinic licensed under this part as necessary to
14 determine whether the clinic is in compliance with this
15 subsection. A licensed clinic or specialty clinic shall allow
16 full and complete access to the premises to such authorized
17 employee of the division who makes an inspection to determine
18 compliance with this subsection.

19 Section 9. Section 400.994, Florida Statutes, is
20 amended to read:

21 400.994 Injunctions.--

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

24 (a) ~~Enforce the provisions of~~ this part or any minimum
25 standard, rule, or order issued or entered into pursuant to
26 this part if the attempt by the agency to correct a violation
27 through administrative fines has failed; if the violation
28 materially affects the health, safety, or welfare of clinic or
29 specialty clinic patients; or if the violation involves any
30 operation of an unlicensed clinic or specialty clinic.

31

1 (b) Terminate the operation of a clinic or specialty
2 clinic if a violation of any provision of this part, or any
3 rule adopted pursuant to this part, materially affects the
4 health, safety, or welfare of clinic or specialty clinic
5 patients.

6 (2) Such injunctive relief may be temporary or
7 permanent.

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

16 Section 10. Section 400.995, Florida Statutes, is
17 amended to read:

18 400.995 Agency administrative penalties.--

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

26 (a) The gravity of the violation, including the
27 probability that death or serious physical or emotional harm
28 to a patient will result or has resulted, the severity of the
29 action or potential harm, and the extent to which ~~the~~
30 ~~provisions of~~ the applicable laws or rules were violated.
31

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

3 (c) Any previous violations.

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

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

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

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

22 (5) Any unlicensed clinic or specialty clinic that
23 continues to operate after agency notification is subject to a
24 \$1,000 fine per day.

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

29 (7) Any clinic or specialty clinic whose owner fails
30 to apply for a change-of-ownership license in accordance with
31

1 s. 400.992 and operates the clinic or specialty clinic under
2 the new ownership is subject to a fine of \$5,000.

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

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

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

24 Section 11. Section 400.996, Florida Statutes, is
25 created to read:

26 400.996 Specialty clinics; complaints; audits;
27 referrals.--

28 (1) The agency shall receive, document, and process
29 complaints about specialty clinics. Upon receipt of any
30 complaint that asserts the existence of facts evidencing
31 possible billing fraud by a specialty clinic or by any

1 employee of a specialty clinic, the agency shall request the
2 complainant to make such assertions by sworn affidavit.

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

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

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

24 (5) Any person submitting a sworn complaint that
25 initiates a complaint investigation pursuant to this section,
26 which sworn complaint is determined to be totally without any
27 factual basis to support the assertions made in the complaint
28 that facts existed evidencing possible fraudulent practices by
29 a specialty clinic or any of its employees, shall be guilty of
30 a misdemeanor of the first degree, punishable as provided in
31 s. 775.082 or s. 775.083.

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

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

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

28 (9) All investigators designated by the Chief
29 Financial Officer to perform duties under this part and who
30 are certified under s. 943.1395 are law enforcement officers
31 of the state. Such investigators have the authority to conduct

1 criminal investigations, bear arms, make arrests, and apply
2 for, serve, and execute search warrants, arrest warrants,
3 capias, and other process throughout the state pertaining to
4 fraud investigations under this section.

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

7 456.072 Grounds for discipline; penalties;
8 enforcement.--

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

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

15 Section 13. This act shall take effect January 1,
16 2007.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 2112

- 4 - Provides for a legislative finding regarding additional
5 regulation of specialty health care clinics, and defines
6 the terms "specialty clinic," "infusion therapy," and
7 "fraud."
8 - Requires that each specialty clinic be licensed and
9 maintain a valid license with the Agency for Health Care
10 Administration (AHCA or agency), that the clinic location
11 be licensed separately regardless of whether the clinic
12 is operated under the same business name or management as
13 another clinic, and that the clinic obtain a separate
14 health care clinic license and provide to the AHCA, at
15 least quarterly, its projected street location.
16 - Provides that a specialty clinic operating without a
17 specialty clinic license at the time of the effective
18 date of the bill must be given a reasonable time to
19 obtain this license.
20 - Requires biannual renewal of a specialty clinic license.
21 - Requires notarization of an application for a specialty
22 clinic license or for renewal of an existing license on
23 forms furnished by the AHCA and must be accompanied by a
24 specified license fee, and also specifies information
25 that must be included in the application in addition to
26 information currently required under the Health Care
27 Clinic Act.
28 - Provides that the requirements for an applicant for
29 clinic licensure, including the background screening of
30 the applicant, pertain to an individual owning or
31 controlling, directly or indirectly, any interest in a
specialty clinic.
- Requires the AHCA to deny or revoke a specialty clinic
license if: an applicant has been found guilty of,
regardless of adjudication, or entered a plea of nolo
contendere or guilty to, a specified offense; or any
business entity or individual possessing an ownership or
pecuniary interest in the specialty clinic also possessed
an ownership or pecuniary interest, individually or
through any business entity, in any health care facility
whose license was revoked in any jurisdiction during the
pendency of that interest.
- Provides that the AHCA may not issue a specialty clinic
license to any applicant to whom the agency has sent
notice that there is a pending question as to whether one
or more of the individuals with an ownership of 5 percent
or more or with a pecuniary interest of \$5,000 or more in
the clinic has a disqualifying criminal record.
- Requires the AHCA to deny a specialty clinic license
application when the applicant has failed to resolve a
criminal background screening issue.

- 1 - Provides that specialty clinics will be subject to
2 requirements applicable to health care clinics regarding
3 AHCA inspections as part of the initial license
4 application or renewal application and unannounced AHCA
5 inspections to determine compliance with licensure laws
6 and rules, and provides for emergency suspension of the
7 clinic's license when it does not allow the AHCA access
8 to the clinic premises and billing or other specified
9 records as part of an inspection or the clinic fails to
10 employ a qualified medical director.
- 11 - Provides that specialty clinics are also subject to
12 provisions requiring the filing of satisfactory proof of
13 compliance with licensure laws and rules and financial
14 ability to comply; specifying what is necessary for an
15 application for transfer or change of ownership;
16 restricting the selling, leasing, assignment, or
17 otherwise, transfer of a license and limiting its
18 validity to the clinic owners and location for which
19 originally issued; and directing when a provisional
20 license or temporary permit may be issued.
- 21 - Authorizing the AHCA to enact rules relevant to: the
22 administration of the clinic administration, regulation,
23 and licensure program, including specific licensure
24 requirements, procedures, forms, and fees; limitations on
25 the number of licensed clinics and licensees; and other
26 matters.
- 27 - Provides that it is a third degree felony for any person
28 to own, operate, or maintain a specialty clinic without
29 obtaining a license, and a second or subsequent violation
30 is a second degree felony, and also provides for other
31 third degree felony penalties relating to unlawful acts
involving a specialty clinic and fines, revocations of
licenses, and other sanctions regarding non-compliance
with certain requirements relating to specialty clinics.
- Requires the medical or clinic director of a specialty
clinic to ensure that all health care practitioners at
the clinic provide health care services in accordance
with law.
- Requires any business that becomes a specialty clinic
after commencing operations, within 5 days after becoming
a specialty clinic, to file a license application, and
provide the clinic is subject to all provisions of law
applicable to a specialty clinic.
- Provides that all charges or reimbursement claims made by
or on behalf of a specialty clinic that is required to be
licensed, but that is not so licensed, or that is
otherwise operating in violation of the law, are unlawful
charges, and therefore are noncompensable and
unenforceable.
- Provides that any person establishing, operating, or
managing an unlicensed specialty clinic otherwise
required to be licensed, or any person who knowingly
files a false or misleading license application or
license renewal application, or false or misleading
information relating to such application or department

- 1 rule, commits a third degree felony.
- 2 - Provides that the AHCA may fine, or suspend or revoke the
3 license of, any licensed specialty clinic for operating
in violation of the law.
- 4 - Provides that any person or entity providing health care
5 services which is not a specialty clinic may apply for a
6 certificate of exemption from licensure under its exempt
status, and that a certificate of exemption expires in 2
years and may be renewed.
- 7 - Requires the AHCA to provide a form and require certain
8 information of an applicant for exemption from licensure
as a specialty clinic, and requires a person or entity
9 that qualifies as a specialty clinic and has been denied
a certificate of exemption to file an initial application
and pay a fee.
- 10 - Requires a specialty clinic to display its license in a
11 conspicuous location within the clinic readily visible to
all patients, and also display an antifraud sign as
12 specified.
- 13 - Requires each licensed specialty clinic to file with the
AHCA an audited report showing specified information.
- 14 - Authorizes the AHCA to institute injunctive proceedings
15 in a court of competent jurisdiction if a violation of
the provisions of the Health Care Clinic Act or any
16 minimum standard, rule, or order issued or entered into
pursuant to the Act materially affects the health,
17 safety, or welfare of specialty clinic patients or if the
violation involves any operation of an unlicensed
18 specialty clinic, and also to terminate the operation of
a specialty clinic based on such violation.
- 19 - Provides that if action is necessary to protect specialty
20 clinic patients from life-threatening situations, the
court may allow a temporary injunction without bond upon
21 proper proof being made.
- 22 - Provides, in regard to administrative penalties the AHCA
23 is authorized to impose for a violation, that the AHCA
must consider the financial benefit to the specialty
24 clinic of committing or continuing the violation.
- 25 - Provides that an action taken to correct a violation must
be documented in writing by the owner, medical director,
26 or clinic director of the specialty clinic and verified
through follow-up visits by AHCA personnel.
- 27 - Authorizes the AHCA to impose a fine and, in the case of
28 an owner-operated specialty clinic, revoke or deny a
clinic's license, when a clinic medical director or
29 clinic director knowingly misrepresents actions taken to
correct a violation, and also impose an administrative
30 fine on an unlicensed specialty clinic that continues to
operate after AHCA notification and on any specialty
31 clinic whose owner fails to apply for a
change-of-ownership license and operates the clinic under
the new ownership.

- 1 - Provides that the AHCA, as an alternative to or in
2 conjunction with an administrative action against a
3 specialty clinic for violations, must make a reasonable
4 attempt to discuss each violation and recommended
5 corrective action with the owner, medical director, or
6 clinic director of the specialty clinic, prior to written
7 notification, and that the AHCA may request a plan of
8 corrective action as specified.
- 9 - Provides that certain administrative fines imposed on a
10 specialty clinic be deposited into the Health Care Trust
11 Fund.
- 12 - Requires the AHCA to receive, document, and process
13 complaints about specialty clinics and complaints to the
14 Office of Fiscal Integrity (OIF) of the Division of
15 Insurance Fraud (DIF) upon receipt of any sworn affidavit
16 that asserts the existence of facts evidencing possible
17 billing fraud, and requires the DIF to report findings to
18 the AHCA for any appropriate licensure action and refer
19 possible criminal law violations to appropriate
20 prosecutorial agencies and provide investigative
21 assistance to those agencies as required.
- 22 - Provides that any person submitting a sworn complaint
23 that is determined to be totally without factual basis
24 commits a first degree misdemeanor.
- 25 - Requires the OIF to conduct unannounced reviews,
26 investigations, analyses, and audits to investigate
27 complaints and to determine whether specialty clinic
28 billings are fraudulent or unlawful, and authorizes the
29 DIF to enter upon the premises of the clinic during
30 regular business hours and demand and immediately secure
31 copies of billing and other records of the clinic that
will enable it to investigate complaints or determine
fraud or unlawful actions.
- Provides that a licensed specialty clinic must allow
access to the premises and to billing records or other
information to determine compliance with laws, and
provides sanctions for failure to allow such access.
- Provides that all investigators who are designated by the
Chief Financial Officer to perform duties under the
Health Care Clinic Act and who are certified law
enforcement officers are law enforcement officers of the
state authorized to conduct criminal investigations, bear
arms, make arrests, and apply for, serve, and execute
search warrants, arrest warrants, capias, and other
process throughout the state pertaining to fraud
investigations as provided.