

By the Committees on Health and Human Services Appropriations;  
Criminal Justice; and Banking and Insurance

603-2418-06

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; requiring  
16 a specialty clinic to file an audited report  
17 with the agency no less frequently than  
18 annually; requiring a specialty clinic to  
19 maintain compliance with part XIII of ch. 400,  
20 F.S.; requiring health care clinics and  
21 specialty clinics to display signs containing  
22 certain information relating to insurance  
23 fraud; authorizing compliance inspections by  
24 the Division of Insurance Fraud; requiring  
25 clinics to allow inspection access; amending s.  
26 400.994, F.S.; granting the agency authority to  
27 institute injunctive proceedings against a  
28 specialty clinic; amending s. 400.995, F.S.;  
29 granting the agency authority to impose  
30 administrative penalties against a specialty  
31 clinic; creating s. 400.996, F.S.; creating a

1 process whereby the agency receives, documents,  
2 and processes complaints about specialty  
3 clinics; requiring the agency to request that  
4 complaints regarding billing fraud by a  
5 specialty clinic be made by sworn affidavit;  
6 requiring the agency to refer to the Department  
7 of Financial Services, Office of Fiscal  
8 Integrity, any sworn affidavit asserting  
9 billing fraud by a specialty clinic; requiring  
10 the department to report findings regarding  
11 billing fraud by a specialty clinic to the  
12 agency; requiring the department to refer an  
13 investigation to prosecutorial authorities and  
14 provide investigative assistance under certain  
15 circumstances; providing that it is a  
16 first-degree misdemeanor to submit an affidavit  
17 asserting billing fraud by a specialty clinic  
18 which is without any factual basis; allowing  
19 the department to conduct unannounced reviews,  
20 investigations, analyses, and audits to  
21 investigate complaints of billing fraud by a  
22 specialty clinic; authorizing the department to  
23 enter upon the premises of a specialty clinic  
24 and immediately secure copies of certain  
25 documents; requiring a specialty clinic to  
26 allow full and immediate access to the premises  
27 and records of the clinic to a department  
28 officer or employee under s. 400.996, F.S.;  
29 providing that failure to provide such access  
30 is a ground for emergency suspension of the  
31 license of the specialty clinic; permitting the

1 agency to assess a fee against a specialty  
2 clinic equal to the cost of conducting a  
3 review, investigation, analysis, or audit  
4 performed by the agency or the department;  
5 providing that all investigators designated by  
6 the Chief Financial Officer to perform duties  
7 under part XIII of ch. 400, F.S., and certified  
8 under s. 943.1395, F.S., are law enforcement  
9 officers of the state; amending s. 456.072,  
10 F.S.; providing that intentionally placing  
11 false information in an application for a  
12 certificate of exemption from clinic licensure  
13 constitutes grounds for which disciplinary  
14 action may be taken; designating the Florida  
15 Center for Nursing as the "Florida Barbara B.  
16 Lumpkin Center for Nursing"; directing the  
17 Department of Health to erect suitable markers;  
18 providing an appropriation; providing an  
19 effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Section 400.990, Florida Statutes, is  
24 amended to read:

25 400.990 Short title; legislative findings.--

26 (1) This part, consisting of ss. 400.990-400.996 ~~ss.~~  
27 ~~400.990-400.995~~, may be cited as the "Health Care Clinic Act."

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

31

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

5           (4) The purpose of this part is to provide for the  
6 licensure, establishment, and enforcement of basic standards  
7 for health care clinics and to provide administrative  
8 oversight by the Agency for Health Care Administration.

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

12           400.9905 Definitions.--

13           (4) "Clinic" means an entity at which health care  
14 services are provided to individuals and which tenders charges  
15 for reimbursement for such services, including a mobile clinic  
16 and a portable equipment provider. For purposes of this part,  
17 the term does not include and the licensure requirements of  
18 this part do not apply to:

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

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

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

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

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

22 (f) A sole proprietorship, group practice,  
23 partnership, ~~or~~ corporation, or other legal entity that  
24 provides health care services by physicians and physician  
25 assistants licensed under chapter 458, chapter 460, chapter  
26 461, or chapter 466 ~~physicians covered by s. 627.419~~, that is  
27 directly supervised by one or more of such physician  
28 assistants or physicians, and that is wholly owned by one or  
29 more of those physician assistants or physicians or by a  
30 physician assistant or physician and the spouse, parent,  
31 child, or sibling of physician assistant or that physician.

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

24           (h) Clinical facilities affiliated with an accredited  
25 medical school at which training is provided for medical  
26 students, residents, or fellows.

27           (i) Entities that provide ~~only~~ oncology or radiation  
28 therapy services by physicians licensed under chapter 458 or  
29 chapter 459 which are owned by a corporation whose shares are  
30 publicly traded on a registered stock exchange.  
31



1           (j) Clinical facilities affiliated with a college of  
2 chiropractic accredited by the Council on Chiropractic  
3 Education at which training is provided for chiropractic  
4 students.

5           (k) Clinical facilities that are wholly owned,  
6 directly or indirectly, by a publicly traded corporation. As  
7 used in this paragraph, a "publicly traded corporation" is a  
8 corporation that issues securities traded on an exchange  
9 registered with the United States Securities and Exchange  
10 Commission as a national securities exchange.

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

16           (a) Entities licensed under part II, part III, or part  
17 IV; or

18           (b) Entities licensed under chapter 395.

19           (9) "Infusion therapy" includes, but is not limited  
20 to, the therapeutic infusion of substances into, or injection  
21 of substances through, the venous peripheral system,  
22 consisting of activity that includes: observing, initiating,  
23 monitoring, discontinuing, maintaining, regulating, adjusting,  
24 documenting, planning, intervening, and evaluating. This  
25 definition embraces administration of nutrition, antibiotic  
26 therapy, and fluid and electrolyte repletion.

27           (10) "Fraud" means deception or misrepresentation made  
28 by a person or business entity with the intent that the  
29 deception will likely result in an unauthorized benefit to  
30 herself or himself or to another person. The term includes any  
31

1 act that constitutes fraud under applicable federal or state  
2 law.

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

5 400.991 License requirements; background screenings;  
6 prohibitions.--

7 (1)(a) Each clinic and specialty clinic, as defined in  
8 s. 400.9905, must be licensed and shall at all times maintain  
9 a valid license with the agency. Each clinic and specialty  
10 clinic location shall be licensed separately regardless of  
11 whether the clinic or specialty clinic is operated under the  
12 same business name or management as another clinic.

13 (b) Each mobile clinic and specialty clinic must  
14 obtain a separate health care clinic license and must provide  
15 to the agency, at least quarterly, its projected street  
16 location to enable the agency to locate and inspect such  
17 clinic and specialty clinic. A portable equipment provider  
18 must obtain a health care clinic license for a single  
19 administrative office and is not required to submit quarterly  
20 projected street locations.

21 (c) A specialty clinic operating without a specialty  
22 clinic license at the time of the effective date of this act  
23 shall be given a reasonable time, not to exceed 6 months from  
24 the effective date of this act, to obtain a specialty clinic  
25 license.

26 (2) The initial clinic license application shall be  
27 filed with the agency by all clinics, as defined in s.  
28 400.9905, on or before July 1, 2004. A clinic license and  
29 specialty clinic license must be renewed biennially.

30 (3) Applicants that submit an application on or before  
31 July 1, 2004, which meets all requirements for initial

1 licensure as specified in this section shall receive a  
2 temporary license until the completion of an initial  
3 inspection verifying that the applicant meets all requirements  
4 in rules authorized in s. 400.9925. However, a clinic engaged  
5 in magnetic resonance imaging services may not receive a  
6 temporary license unless it presents evidence satisfactory to  
7 the agency that such clinic is making a good faith effort and  
8 substantial progress in seeking accreditation required under  
9 s. 400.9935.

10 (4) Application for an initial clinic or specialty  
11 clinic license or for renewal of an existing license shall be  
12 notarized on forms furnished by the agency and must be  
13 accompanied by the appropriate license fee as provided in s.  
14 400.9925. The agency shall take final action on an initial  
15 license application within 60 days after receipt of all  
16 required documentation.

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

26 (b) Any person or entity that has a pecuniary interest  
27 in a clinic who may or may not own stock or an equivalent  
28 interest in the clinic, but nonetheless has control over or  
29 the authority to approve, directly or indirectly, clinic  
30 billing, policy, business activities, or personnel decisions,  
31 including, but not limited to, contracted or employed

1 third-party billing persons or entities, managers, and  
2 management companies, and persons and entities, directly or  
3 indirectly, which lend, give, or gift money of any  
4 denomination or any thing of value exceeding an aggregate of  
5 \$5,000, for clinic use, with or without an expectation of a  
6 return of the money or thing of value, and regardless of  
7 profit motive, are subject to background screening  
8 requirements under this part.

9       (c) The agency may adopt rules to administer this  
10 subsection.

11       (6) An application for a specialty clinic shall  
12 contain, in addition to the information required in subsection  
13 (5):

14       (a) The correct business name of each business entity  
15 and full name of each individual holding any ownership  
16 interest of 5 percent or more, or any pecuniary interest of  
17 \$5,000 or more, in any legal entity that owns or operates any  
18 specialty clinic seeking licensure, whether such ownership or  
19 pecuniary interest arose out of a contract, loan, gift,  
20 investment, inheritance, or any other source. Individual  
21 possession of an ownership or pecuniary interest in any  
22 subject specialty clinic includes, but is not limited to, a  
23 direct or indirect interest in:

24           1. The business operation, equipment, or legend  
25 pharmaceuticals used in the clinic;

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

28           3. Any legal entity that owns any such interest,  
29 directly or indirectly, in the business operation of the  
30 clinic; the equipment used in providing infusion therapy  
31 services at the clinic; the legend pharmaceuticals used at the

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

3 (b) In the case of an incorporated business entity  
4 that holds any ownership interest of 5 percent or more, or any  
5 pecuniary interest of \$5,000 or more, in the specialty clinic,  
6 copies of the articles of incorporation and bylaws, and the  
7 names and addresses of all officers and directors of the  
8 corporation.

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

17 (d) On a form furnished by the agency, a sworn  
18 notarized statement by each individual and business entity  
19 that holds any ownership interest of 5 percent or more, or any  
20 pecuniary interest of \$5,000 or more, in the subject specialty  
21 clinic which discloses whether he or she has been an owner or  
22 part owner, individually or through any business entity, of  
23 any business entity whose health care license has been revoked  
24 or suspended in any jurisdiction.

25 (e) On a form furnished by the agency, an estimate of  
26 the costs for establishing the specialty clinic and the source  
27 of funds for payment of those costs and for sustaining the  
28 operation of the clinic until its operation produces a  
29 positive cash flow.

30  
31

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

9       ~~(7)~~(6) The applicant must file with the application  
10 satisfactory proof that the clinic or specialty clinic is in  
11 compliance with this part and applicable rules, including:

12           (a) A listing of services to be provided either  
13 directly by the applicant or through contractual arrangements  
14 with existing providers;

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

17           (c) Proof of financial ability to operate. An  
18 applicant must demonstrate financial ability to operate a  
19 clinic or specialty clinic by submitting a balance sheet and  
20 an income and expense statement for the first year of  
21 operation which provide evidence of the applicant's having  
22 sufficient assets, credit, and projected revenues to cover  
23 liabilities and expenses. The applicant shall have  
24 demonstrated financial ability to operate if the applicant's  
25 assets, credit, and projected revenues meet or exceed  
26 projected liabilities and expenses. All documents required  
27 under this subsection must be prepared in accordance with  
28 generally accepted accounting principles, may be in a  
29 compilation form, and the financial statement must be signed  
30 by a certified public accountant. As an alternative to  
31 submitting a balance sheet and an income and expense statement

1 for the first year of operation, the applicant may file a  
2 surety bond of at least \$500,000 which guarantees that the  
3 clinic will act in full conformity with all legal requirements  
4 for operating a clinic, payable to the agency. The agency may  
5 adopt rules to specify related requirements for such surety  
6 bond.

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

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

19 (b) Upon receipt of a completed, signed, and dated  
20 application, the agency shall require background screening of  
21 the applicant, in accordance with the level 2 standards for  
22 screening set forth in paragraph (d) ~~chapter 435~~. Proof of  
23 compliance with the level 2 background screening requirements  
24 of paragraph (d) ~~chapter 435~~ which has been submitted within  
25 the previous 5 years in compliance with the ~~any other~~ health  
26 care clinic licensure requirements of this part ~~state~~ is  
27 acceptable in fulfillment of this paragraph. Applicants who  
28 own less than 10 percent of a health care clinic are not  
29 required to submit fingerprints under this section.

30 (c) Each applicant must submit to the agency, with the  
31 application, a description and explanation of any exclusions,

1 permanent suspensions, or terminations of an applicant from  
2 the Medicare or Medicaid programs. Proof of compliance with  
3 the requirements for disclosure of ownership and control  
4 interest under the Medicaid or Medicare programs may be  
5 accepted in lieu of this submission. The description and  
6 explanation may indicate whether such exclusions, suspensions,  
7 or terminations were voluntary or not voluntary on the part of  
8 the applicant. The agency may deny or revoke licensure based  
9 on information received under this paragraph.

10 (d) A license may not be granted to a clinic if the  
11 applicant, or a person or entity identified in paragraph  
12 (5)(b), has been found guilty of, regardless of adjudication,  
13 or has entered a plea of nolo contendere or guilty to, any  
14 offense prohibited under the level 2 standards for screening  
15 set forth in chapter 435; any felony under chapter 400,  
16 chapter 408, chapter 409, chapter 440, chapter 624, chapter  
17 626, chapter 627, chapter 812, chapter 817, chapter 831,  
18 chapter 837, chapter 838, chapter 895, or chapter 896; or any  
19 substantially comparable offense or crime of another state or  
20 of the United States, if a felony in that jurisdiction, within  
21 the past 10 years. Each person required to provide background  
22 screening shall disclose to the agency any arrest for any  
23 crime for which any court disposition other than dismissal has  
24 been made within the past 10 years. Failure to provide such  
25 information shall be considered a material omission in the  
26 application process., or a violation of insurance fraud under  
27 s. 817.234, within the past 5 years. If the applicant has been  
28 convicted of an offense prohibited under the level 2 standards  
29 or insurance fraud in any jurisdiction, the applicant must  
30 show that his or her civil rights have been restored prior to  
31 submitting an application.



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

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

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

25           (h) The agency shall deny a specialty clinic license  
26 application when any business entity or individual possessing  
27 an ownership or pecuniary interest in the specialty clinic  
28 also possessed an ownership or pecuniary interest,  
29 individually or through any business entity, in any health  
30 care facility whose license was revoked in any jurisdiction  
31 during the pendency of that interest.

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

16           ~~(9)(8)~~ Requested information omitted from an  
17 application for licensure, license renewal, or transfer of  
18 ownership must be filed with the agency within 21 days after  
19 receipt of the agency's request for omitted information, or  
20 the application shall be deemed incomplete and shall be  
21 withdrawn from further consideration.

22           ~~(10)(9)~~ The failure to file a timely renewal  
23 application shall result in a late fee charged to the facility  
24 in an amount equal to 50 percent of the current license fee.

25           Section 4. Section 400.9915, Florida Statutes, is  
26 amended to read:

27           400.9915 Clinic inspections; emergency suspension;  
28 costs.--

29           (1) Any authorized officer or employee of the agency  
30 shall make inspections of the clinic or specialty clinic as  
31 part of the initial license application or renewal

1 application. The application for a clinic or specialty clinic  
2 license issued under this part or for a renewal license  
3 constitutes permission for an appropriate agency inspection to  
4 verify the information submitted on or in connection with the  
5 application or renewal.

6 (2) An authorized officer or employee of the agency  
7 may make unannounced inspections of clinics and specialty  
8 clinics licensed pursuant to this part as are necessary to  
9 determine that the clinic or specialty clinic is in compliance  
10 with this part and with applicable rules. A licensed clinic or  
11 specialty clinic shall allow full and complete access to the  
12 premises and to billing records or information to any  
13 representative of the agency who makes an inspection to  
14 determine compliance with this part and with applicable rules.

15 (3) Failure by a clinic or specialty clinic licensed  
16 under this part to allow full and complete access to the  
17 premises and to billing records or information to any  
18 representative of the agency who makes a request to inspect  
19 the clinic or specialty clinic to determine compliance with  
20 this part or failure by a clinic or specialty clinic to employ  
21 a qualified medical director or clinic director constitutes a  
22 ground for emergency suspension of the license by the agency  
23 pursuant to s. 120.60(6).

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

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

29 400.992 License renewal; transfer of ownership;  
30 provisional license.--  
31

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

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

5 (3) The clinic or specialty clinic must file with the  
6 renewal application satisfactory proof that it is in  
7 compliance with this part and applicable rules. If there is  
8 evidence of financial instability, the clinic or specialty  
9 clinic must submit satisfactory proof of its financial ability  
10 to comply with the requirements of this part.

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

21 (5) The license may not be sold, leased, assigned, or  
22 otherwise transferred, voluntarily or involuntarily, and is  
23 valid only for the clinic or specialty clinic owners and  
24 location for which originally issued.

25 (6) A clinic or specialty clinic against whom a  
26 revocation or suspension proceeding is pending at the time of  
27 license renewal may be issued a provisional license effective  
28 until final disposition by the agency of such proceedings. If  
29 judicial relief is sought from the final disposition, the  
30 agency that has jurisdiction may issue a temporary permit for  
31 the duration of the judicial proceeding.

1           Section 6. Section 400.9925, Florida Statutes, is  
2 amended to read:

3           400.9925 Rulemaking authority; license fees.--

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

17           (2) The agency shall adopt rules specifying  
18 limitations on the number of licensed clinics and specialty  
19 clinics and licensees for which a medical director or a clinic  
20 director may assume responsibility for purposes of this part.  
21 In determining the quality of supervision a medical director  
22 or a clinic director can provide, the agency shall consider  
23 the number of clinic or specialty clinic employees, the clinic  
24 or specialty clinic location, and the health care services  
25 provided by the clinic or specialty clinic.

26           (3) License application and renewal fees must be  
27 reasonably calculated by the agency to cover its costs in  
28 carrying out its responsibilities under this part, including  
29 the cost of licensure, inspection, and regulation of clinics  
30 and specialty clinics, and must be of such amount that the  
31 total fees collected do not exceed the cost of administering

1 and enforcing compliance with this part. Clinic and specialty  
2 clinic licensure fees are nonrefundable and may not exceed  
3 \$2,000. The agency shall adjust the license fee annually by  
4 not more than the change in the Consumer Price Index based on  
5 the 12 months immediately preceding the increase. All fees  
6 collected under this part must be deposited in the Health Care  
7 Trust Fund for the administration of this part.

8 Section 7. Section 400.993, Florida Statutes, is  
9 amended to read:

10 400.993 Unlicensed clinics; penalties; fines;  
11 verification of licensure status.--

12 (1) It is unlawful to own, operate, or maintain a  
13 clinic or specialty clinic without obtaining a license under  
14 this part.

15 (2) Any person who owns, operates, or maintains an  
16 unlicensed clinic or specialty clinic commits a felony of the  
17 third degree, punishable as provided in s. 775.082, s.  
18 775.083, or s. 775.084. Each day of continued operation is a  
19 separate offense.

20 (3) Any person found guilty of violating subsection  
21 (2) a second or subsequent time commits a felony of the second  
22 degree, punishable as provided under s. 775.082, s. 775.083,  
23 or s. 775.084. Each day of continued operation is a separate  
24 offense.

25 (4) Any person who owns, operates, or maintains an  
26 unlicensed clinic or specialty clinic due to a change in this  
27 part or a modification in agency rules within 6 months after  
28 the effective date of such change or modification and who,  
29 within 10 working days after receiving notification from the  
30 agency, fails to cease operation or apply for a license under  
31 this part commits a felony of the third degree, punishable as

1 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
2 continued operation is a separate offense.

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

6 (6) When a person has an interest in more than one  
7 clinic or specialty clinic, and fails to obtain a license for  
8 any one of these clinics, the agency may revoke the license,  
9 impose a moratorium, or impose a fine pursuant to this part on  
10 any or all of the licensed clinics or specialty clinics until  
11 such time as the unlicensed clinic or specialty clinic is  
12 licensed or ceases operation.

13 (7) Any person aware of the operation of an unlicensed  
14 clinic or specialty clinic must report that facility to the  
15 agency.

16 (8) Any health care provider who is aware of the  
17 operation of an unlicensed clinic or specialty clinic shall  
18 report that facility to the agency. Failure to report a clinic  
19 or specialty clinic that the provider knows or has reasonable  
20 cause to suspect is unlicensed shall be reported to the  
21 provider's licensing board.

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

25 Section 8. Section 400.9935, Florida Statutes, is  
26 amended to read:

27 400.9935 Clinic responsibilities.--

28 (1) Each clinic and specialty clinic shall appoint a  
29 medical director or clinic director who shall agree in writing  
30 to accept legal responsibility for the following activities on  
31

1 | behalf of the clinic. The medical director or the clinic  
2 | director shall:

3 |       (a) Have signs identifying the medical director or  
4 | clinic director posted in a conspicuous location within the  
5 | clinic readily visible to all patients.

6 |       (b) Ensure that all practitioners providing health  
7 | care services or supplies to patients maintain a current  
8 | active and unencumbered Florida license.

9 |       (c) Review any patient referral contracts or  
10 | agreements executed by the clinic.

11 |       (d) Ensure that all health care practitioners at the  
12 | clinic have active appropriate certification or licensure for  
13 | the level of care being provided.

14 |       (e) Ensure that all health care practitioners at the  
15 | clinic provide health care services in accordance with the  
16 | requirements of subsection (6).

17 |       ~~(f)(e)~~ Serve as the clinic records owner as defined in  
18 | s. 456.057.

19 |       ~~(g)(f)~~ Ensure compliance with the recordkeeping,  
20 | office surgery, and adverse incident reporting requirements of  
21 | chapter 456, the respective practice acts, and rules adopted  
22 | under this part.

23 |       ~~(h)(g)~~ Conduct systematic reviews of clinic billings  
24 | to ensure that the billings are not fraudulent or unlawful.  
25 | Upon discovery of an unlawful charge, the medical director or  
26 | clinic director shall take immediate corrective action. If the  
27 | clinic performs only the technical component of magnetic  
28 | resonance imaging, static radiographs, computed tomography, or  
29 | positron emission tomography, and provides the professional  
30 | interpretation of such services, in a fixed facility that is  
31 | accredited by the Joint Commission on Accreditation of



1 Healthcare Organizations or the Accreditation Association for  
2 Ambulatory Health Care, and the American College of Radiology;  
3 and if, in the preceding quarter, the percentage of scans  
4 performed by that clinic which was billed to all personal  
5 injury protection insurance carriers was less than 15 percent,  
6 the chief financial officer of the clinic may, in a written  
7 acknowledgment provided to the agency, assume the  
8 responsibility for the conduct of the systematic reviews of  
9 clinic billings to ensure that the billings are not fraudulent  
10 or unlawful.

11 (i) Serve in that capacity for no more than a maximum  
12 of five health care clinics that have a cumulative total of no  
13 more than 200 employees and persons under contract with the  
14 health care clinic at a given time. A medical or clinic  
15 director may not supervise a health care clinic more than 200  
16 miles away from any other health care clinic supervised by the  
17 same medical or clinic director. The agency may allow for  
18 waivers to the limitations of this paragraph upon a showing of  
19 good cause and a determination by the agency that the medical  
20 director will be able to adequately perform the requirements  
21 of this subsection.

22 (2) Any business that becomes a clinic or specialty  
23 clinic after commencing operations must, within 5 days after  
24 becoming a clinic or specialty clinic, file a license  
25 application under this part and shall be subject to all  
26 provisions of this part applicable to a clinic or specialty  
27 clinic.

28 (3) Any contract to serve as a medical director or a  
29 clinic director entered into or renewed by a physician or a  
30 licensed health care practitioner in violation of this part is  
31 void as contrary to public policy. This subsection shall apply

1 to contracts entered into or renewed on or after March 1,  
2 2004.

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

8 (5) Any person establishing, operating, or managing an  
9 unlicensed clinic or specialty clinic otherwise required to be  
10 licensed under this part, or any person who knowingly files a  
11 false or misleading license application or license renewal  
12 application, or false or misleading information related to  
13 such application or department rule, commits a felony of the  
14 third degree, punishable as provided in s. 775.082, s.  
15 775.083, or s. 775.084.

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

20 ~~(7)(6)~~ Any licensed health care provider who violates  
21 this part is subject to discipline in accordance with this  
22 chapter and his or her respective practice act.

23 ~~(8)(7)~~ The agency may fine, or suspend or revoke the  
24 license of, any clinic or specialty clinic licensed under this  
25 part for operating in violation of the requirements of this  
26 part or the rules adopted by the agency.

27 ~~(9)(8)~~ The agency shall investigate allegations of  
28 noncompliance with this part and the rules adopted under this  
29 part.

30 ~~(10)(9)~~ Any person or entity providing health care  
31 services which is not a clinic or specialty clinic, as defined

1 | under s. 400.9905, may voluntarily apply for a certificate of  
2 | exemption from licensure under its exempt status with the  
3 | agency on a form that sets forth its name or names and  
4 | addresses, a statement of the reasons why it cannot be defined  
5 | as a clinic, and other information deemed necessary by the  
6 | agency. An exemption is not transferable. The agency may  
7 | charge an applicant for a certificate of exemption in an  
8 | amount equal to \$100 or the actual cost of processing the  
9 | certificate, whichever is less.

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

13 |       ~~(12)~~~~(11)~~(a) Each clinic engaged in magnetic resonance  
14 | imaging services must be accredited by the Joint Commission on  
15 | Accreditation of Healthcare Organizations, the American  
16 | College of Radiology, or the Accreditation Association for  
17 | Ambulatory Health Care, within 1 year after licensure.  
18 | However, a clinic may request a single, 6-month extension if  
19 | it provides evidence to the agency establishing that, for good  
20 | cause shown, such clinic can not be accredited within 1 year  
21 | after licensure, and that such accreditation will be completed  
22 | within the 6-month extension. After obtaining accreditation as  
23 | required by this subsection, each such clinic must maintain  
24 | accreditation as a condition of renewal of its license.

25 |       (b) The agency may deny the application or revoke the  
26 | license of any entity formed for the purpose of avoiding  
27 | compliance with the accreditation provisions of this  
28 | subsection and whose principals were previously principals of  
29 | an entity that was unable to meet the accreditation  
30 | requirements within the specified timeframes. The agency may  
31 |

1 adopt rules as to the accreditation of magnetic resonance  
2 imaging clinics.

3 ~~(13)~~~~(12)~~ The agency shall give full faith and credit  
4 pertaining to any past variance and waiver granted to a  
5 magnetic resonance imaging clinic from rule 64-2002, Florida  
6 Administrative Code, by the Department of Health, until  
7 September 2004. After that date, such clinic must request a  
8 variance and waiver from the agency under s. 120.542.

9 (14) Every licensed specialty clinic shall file with  
10 the agency no less frequently than annually, including  
11 concurrently with the filing of any change of ownership  
12 application, upon forms to be furnished by the agency, an  
13 audited report showing the following information:

14 (a) The number of patients served by the specialty  
15 clinic during the previous 12-month period, which report may  
16 exclude any partial month for the month when the report was  
17 prepared;

18 (b) Total specialty clinic operating expenses;

19 (c) Gross patient charges by payor category, including  
20 Medicare, Medicaid, county indigent programs, any other  
21 governmental programs, private insurance, self-paying  
22 patients, nonpaying patients and other payees;

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

26 (e) Unless the specialty clinic can demonstrate that  
27 the clinic already has furnished the required information  
28 regarding a particular subject individual, the full name of  
29 any individual who became an owner or became possessed of any  
30 pecuniary interest in the subject clinic since the last report  
31

1 to the agency, along with the disclosure of the information  
2 required by s. 400.9961(2) as to such individual; and

3 (f) A current statement of the source of funds for  
4 payment of the costs of establishing the specialty clinic and  
5 for sustaining the operation of the specialty clinic until its  
6 operation produces a positive cash flow.

7 (15) Every licensee of a specialty clinic has a  
8 continuing obligation to comply with this part and to report  
9 to the agency any change of circumstance related to the  
10 clinic's continuing compliance with this part. Such change of  
11 circumstance includes, but is not limited to, any change in  
12 the ownership of the specialty clinic, the addition of any  
13 individual or business entity possessing a pecuniary interest  
14 in the specialty clinic, the employment of any individual as a  
15 member of the specialty clinic's staff who would be required  
16 to undergo a criminal background screening if such individual  
17 had been an employee at the time of the initial licensure, and  
18 any change in the medical or clinic director. The clinic shall  
19 furnish the information required about and of such individuals  
20 under this part and s. 400.991 within 30 days of the  
21 occurrence of such change of circumstance.

22 (16) The clinic or specialty clinic shall display a  
23 sign in a conspicuous location within the clinic readily  
24 visible to all patients indicating that, pursuant to s.  
25 626.9892, the Department of Financial Services may pay rewards  
26 of up to \$25,000 to persons providing information leading to  
27 the arrest and conviction of persons committing crimes  
28 investigated by the Division of Insurance Fraud arising from  
29 violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989,  
30 or s. 817.234. An authorized employee of the Division of  
31 Insurance Fraud may make unannounced inspections of a clinic

1 or specialty clinic licensed under this part as necessary to  
2 determine whether the clinic is in compliance with this  
3 subsection. A licensed clinic or specialty clinic shall allow  
4 full and complete access to the premises to such authorized  
5 employee of the division who makes an inspection to determine  
6 compliance with this subsection.

7 Section 9. Section 400.994, Florida Statutes, is  
8 amended to read:

9 400.994 Injunctions.--

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

12 (a) Enforce ~~the provisions of~~ this part or any minimum  
13 standard, rule, or order issued or entered into pursuant to  
14 this part if the attempt by the agency to correct a violation  
15 through administrative fines has failed; if the violation  
16 materially affects the health, safety, or welfare of clinic or  
17 specialty clinic patients; or if the violation involves any  
18 operation of an unlicensed clinic or specialty clinic.

19 (b) Terminate the operation of a clinic or specialty  
20 clinic if a violation of any provision of this part, or any  
21 rule adopted pursuant to this part, materially affects the  
22 health, safety, or welfare of clinic or specialty clinic  
23 patients.

24 (2) Such injunctive relief may be temporary or  
25 permanent.

26 (3) If action is necessary to protect clinic or  
27 specialty clinic patients from life-threatening situations,  
28 the court may allow a temporary injunction without bond upon  
29 proper proof being made. If it appears by competent evidence  
30 or a sworn, substantiated affidavit that a temporary  
31 injunction should issue, the court, pending the determination

1 on final hearing, shall enjoin operation of the clinic or  
2 specialty clinic.

3 Section 10. Section 400.995, Florida Statutes, is  
4 amended to read:

5 400.995 Agency administrative penalties.--

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

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

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

20 (c) Any previous violations.

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

23 (2) Each day of continuing violation after the date  
24 fixed for termination of the violation, as ordered by the  
25 agency, constitutes an additional, separate, and distinct  
26 violation.

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

1 specialty clinic, revoke or deny a clinic's license when a  
2 clinic medical director or clinic director knowingly  
3 misrepresents actions taken to correct a violation.

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

8 (5) Any unlicensed clinic or specialty clinic that  
9 continues to operate after agency notification is subject to a  
10 \$1,000 fine per day.

11 (6) Any licensed clinic or specialty clinic whose  
12 owner, medical director, or clinic director concurrently  
13 operates an unlicensed clinic or specialty clinic shall be  
14 subject to an administrative fine of \$5,000 per day.

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

19 (8) The agency, as an alternative to or in conjunction  
20 with an administrative action against a clinic or specialty  
21 clinic for violations of this part and adopted rules, shall  
22 make a reasonable attempt to discuss each violation and  
23 recommended corrective action with the owner, medical  
24 director, or clinic director of the clinic or specialty  
25 clinic, prior to written notification. The agency, instead of  
26 fixing a period within which the clinic or specialty clinic  
27 shall enter into compliance with standards, may request a plan  
28 of corrective action from the clinic or specialty clinic which  
29 demonstrates a good faith effort to remedy each violation by a  
30 specific date, subject to the approval of the agency.

31



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

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

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

12           400.996 Specialty clinics; complaints; audits;  
13 referrals.--

14           (1) The agency shall receive, document, and process  
15 complaints about specialty clinics. Upon receipt of any  
16 complaint that asserts the existence of facts evidencing  
17 possible billing fraud by a specialty clinic or by any  
18 employee of a specialty clinic, the agency shall request the  
19 complainant to make such assertions by sworn affidavit.

20           (2) Upon receipt of any sworn affidavit that asserts  
21 the existence of facts evidencing possible billing fraud by a  
22 specialty clinic or any of its employees, the agency shall  
23 refer the complaint to the Office of Fiscal Integrity within  
24 the Department of Financial Services.

25           (3) The Department of Financial Services shall report  
26 findings to the agency for any appropriate licensure action.  
27 Such report shall include a statement of facts as determined  
28 by the Department of Financial Services to exist, specifically  
29 with regard to the possible violations of licensure  
30 requirements. If during an investigation the department has  
31 reason to believe that any criminal law of this state has or

1 may have been violated, the department shall refer such  
2 investigation to appropriate prosecutorial agencies and shall  
3 provide investigative assistance to those agencies as  
4 required.

5 (4) The investigating authority and the agency shall  
6 cooperate with each other with respect to preparing a record  
7 and sharing information from which the agency may determine if  
8 any action for sanctions under this part by the agency is  
9 warranted.

10 (5) Any person submitting a sworn complaint that  
11 initiates a complaint investigation pursuant to this section,  
12 which sworn complaint is determined to be totally without any  
13 factual basis to support the assertions made in the complaint  
14 that facts existed evidencing possible fraudulent practices by  
15 a specialty clinic or any of its employees, shall be guilty of  
16 a misdemeanor of the first degree, punishable as provided in  
17 s. 775.082 or s. 775.083.

18 (6) The Office of Fiscal Integrity within the  
19 Department of Financial Services shall conduct unannounced  
20 reviews, investigations, analyses, and audits to investigate  
21 complaints and, as necessary, to determine whether specialty  
22 clinic billings are fraudulent or unlawful. The Department of  
23 Financial Services is expressly authorized to enter upon the  
24 premises of the clinic during regular business hours and  
25 demand and immediately secure copies of billing and other  
26 records of the clinic that will enable the Department of  
27 Financial Services to investigate complaints or determine  
28 whether specialty clinic billings are fraudulent or unlawful.

29 (7) A licensed specialty clinic shall allow full,  
30 complete, and immediate access to the premises and to billing  
31 records or information to any such officer or employee who

1 conducts a review, investigation, analysis, or audit to  
2 determine compliance with this part and with applicable rules.  
3 Failure to allow full, complete, and immediate access to the  
4 premises and to billing records or information to any  
5 representative of the agency or Department of Financial  
6 Services who attempts to conduct a review, investigation,  
7 analysis, or audit to determine compliance with this part  
8 constitutes a ground for emergency suspension of the license  
9 by the agency pursuant to s. 120.60(6).

10 (8) In addition to any administrative fines imposed,  
11 the agency may assess a fee equal to the cost of conducting  
12 any review, investigation, analysis, or audit performed by the  
13 agency or the department.

14 (9) All investigators designated by the Chief  
15 Financial Officer to perform duties under this part and who  
16 are certified under s. 943.1395 are law enforcement officers  
17 of the state. Such investigators have the authority to conduct  
18 criminal investigations, bear arms, make arrests, and apply  
19 for, serve, and execute search warrants, arrest warrants,  
20 capias, and other process throughout the state pertaining to  
21 fraud investigations under this section.

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

24 456.072 Grounds for discipline; penalties;  
25 enforcement.--

26 (1) The following acts shall constitute grounds for  
27 which the disciplinary actions specified in subsection (2) may  
28 be taken:

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

1           Section 13. Florida Barbara B. Lumpkin Center for  
2 Nursing designated; Department of Health to erect suitable  
3 markers.--

4           (1) The Florida Center for Nursing, created by s.  
5 464.0195, Florida Statutes, and located in Orlando is  
6 designated as the "Florida Barbara B. Lumpkin Center for  
7 Nursing."

8           (2) The Department of Health is directed to erect  
9 suitable markers designating the Florida Barbara B. Lumpkin  
10 Center for Nursing as described in subsection (1).

11           Section 14. The sums of \$212,528 in recurring funds  
12 from the Health Care Trust Fund, and \$25,347 in nonrecurring  
13 funds from the Health Care Trust Fund are appropriated to the  
14 Agency for Health Care Administration and 4 full time  
15 equivalent positions and associated salary rate of 134,455 are  
16 authorized, for the 2006-2007 fiscal year for the purpose of  
17 implementing the provisions of this act.

18           Section 15. This act shall take effect January 1,  
19 2007.

20  
21                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
22                           COMMITTEE SUBSTITUTE FOR  
23                           CS for CS for SB 2112

24 Exempts clinics wholly owned by physicians and physician  
25 assistants licensed under chapter 458, chapter 460, chapter  
26 461, or chapter 466, that provide health care services that  
are supervised by one or more physician assistants or  
physicians from the Health Care Clinic Act.

27 Replaces existing language allowing clinics and specialty  
28 clinics to voluntarily apply for a certificate of exemption  
29 from licensure under its exempt status on forms containing  
information as specified by the agency.

30 Requires the Department of Health to erect markers designating  
the Florida Barbara B. Lumpkin Center for Nursing.

31 Provides an appropriation.