

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 term "specialty  
10          clinic"; including certain facilities owned by  
11          publicly traded corporations excluded by the  
12          definition of the term "clinic"; defining the  
13          terms "infusion therapy" and "fraud"; amending  
14          s. 400.991, F.S.; requiring specialty clinics  
15          to be subject to licensure requirements;  
16          requiring additional persons to be subject to  
17          background screening; revising certain  
18          requirements for applying for licensure as a  
19          health care clinic; creating additional  
20          requirements for applying for licensure as a  
21          specialty clinic; providing additional grounds  
22          under which an applicant may be denied  
23          licensure due to a finding of guilt for  
24          committing a felony; providing grounds for the  
25          denial of specialty clinic licensure; amending  
26          s. 400.9915, F.S.; including specialty clinics  
27          within clinic inspection requirements; amending  
28          s. 400.992, F.S.; including specialty clinics  
29          within requirements for license renewal,  
30          transfer of ownership, and provisional  
31          licensure; amending s. 400.9925, F.S.;

1 providing the agency with rulemaking authority  
2 regarding specialty clinics; stating that the  
3 licensure fee for a specialty clinic is  
4 nonrefundable and may not exceed \$2,000;  
5 amending s. 400.993, F.S.; including specialty  
6 clinics within provisions regarding unlicensed  
7 clinics; providing penalties for unlicensed  
8 operation of a specialty clinic; including  
9 specialty clinics within provisions regarding  
10 verification of licensure; amending s.  
11 400.9935, F.S.; including specialty clinics  
12 within provisions regarding clinic  
13 responsibilities; revising the responsibilities  
14 of the medical director and the clinical  
15 director; requiring all persons providing  
16 health care services to individuals in a clinic  
17 to comply with the licensure laws and rules  
18 under which that person is licensed; providing  
19 for a certificate of exemption from licensure  
20 as a clinic to expire within a specified  
21 period; providing for renewal of the  
22 certificate of exemption; revising the  
23 application procedures for a certificate of  
24 exemption; providing grounds for the denial,  
25 withdrawal, or emergency suspension of a  
26 certificate of exemption by the Agency for  
27 Health Care Administration; providing that it  
28 is a third-degree felony for an applicant to  
29 submit fraudulent or material and misleading  
30 information to the agency; requiring a  
31 specialty clinic to file an audited report with

1 the agency no less frequently than annually;  
2 requiring a specialty clinic to maintain  
3 compliance with part XIII of ch. 400, F.S.;  
4 requiring health care clinics and specialty  
5 clinics to display signs containing certain  
6 information relating to insurance fraud;  
7 authorizing compliance inspections by the  
8 Division of Insurance Fraud; requiring clinics  
9 to allow inspection access; amending s.  
10 400.994, F.S.; granting the agency authority to  
11 institute injunctive proceedings against a  
12 specialty clinic; amending s. 400.995, F.S.;  
13 granting the agency authority to impose  
14 administrative penalties against a specialty  
15 clinic; creating s. 400.996, F.S.; creating a  
16 process whereby the agency receives, documents,  
17 and processes complaints about specialty  
18 clinics; requiring the agency to request that  
19 complaints regarding billing fraud by a  
20 specialty clinic be made by sworn affidavit;  
21 requiring the agency to refer to the Department  
22 of Financial Services, Office of Fiscal  
23 Integrity, any sworn affidavit asserting  
24 billing fraud by a specialty clinic; requiring  
25 the department to report findings regarding  
26 billing fraud by a specialty clinic to the  
27 agency; requiring the department to refer an  
28 investigation to prosecutorial authorities and  
29 provide investigative assistance under certain  
30 circumstances; providing that it is a  
31 first-degree misdemeanor to submit an affidavit

1        asserting billing fraud by a specialty clinic  
2        which is without any factual basis; allowing  
3        the department to conduct unannounced reviews,  
4        investigations, analyses, and audits to  
5        investigate complaints of billing fraud by a  
6        specialty clinic; authorizing the department to  
7        enter upon the premises of a specialty clinic  
8        and immediately secure copies of certain  
9        documents; requiring a specialty clinic to  
10       allow full and immediate access to the premises  
11       and records of the clinic to a department  
12       officer or employee under s. 400.996, F.S.;  
13       providing that failure to provide such access  
14       is a ground for emergency suspension of the  
15       license of the specialty clinic; permitting the  
16       agency to assess a fee against a specialty  
17       clinic equal to the cost of conducting a  
18       review, investigation, analysis, or audit  
19       performed by the agency or the department;  
20       providing that all investigators designated by  
21       the Chief Financial Officer to perform duties  
22       under part XIII of ch. 400, F.S., and certified  
23       under s. 943.1395, F.S., are law enforcement  
24       officers of the state; amending s. 456.072,  
25       F.S.; providing that intentionally placing  
26       false information in an application for a  
27       certificate of exemption from clinic licensure  
28       constitutes grounds for which disciplinary  
29       action may be taken; designating the Florida  
30       Center for Nursing as the "Florida Barbara B.  
31       Lumpkin Center for Nursing"; directing the

1 Department of Health to erect suitable markers;  
 2 providing an appropriation; providing an  
 3 effective date.

4  
 5 Be It Enacted by the Legislature of the State of Florida:  
 6

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

9 400.990 Short title; legislative findings.--

10 (1) This part, consisting of ss. 400.990-400.996 ~~ss.~~  
 11 ~~400.990-400.995~~, may be cited as the "Health Care Clinic Act."

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

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

19 (4) The purpose of this part is to provide for the  
 20 licensure, establishment, and enforcement of basic standards  
 21 for health care clinics and to provide administrative  
 22 oversight by the Agency for Health Care Administration.

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

26 400.9905 Definitions.--

27 (4) "Clinic" means an entity at which health care  
 28 services are provided to individuals and which tenders charges  
 29 for reimbursement for such services, including a mobile clinic  
 30 and a portable equipment provider. For purposes of this part,  
 31

1 the term does not include and the licensure requirements of  
2 this part do not apply to:

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

31

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

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

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

6 (f) A sole proprietorship, group practice,  
 7 partnership, ~~or~~ corporation, or other legal entity that  
 8 provides health care services by physicians and physician  
 9 assistants licensed under chapter 458, chapter 459, chapter  
 10 460, chapter 461, or chapter 466 ~~physicians covered by s.~~  
 11 ~~627.419~~, that is directly supervised by one or more of such  
 12 physician assistants or physicians, and that is wholly owned  
 13 by one or more of those physician assistants or physicians or  
 14 by a physician assistant or physician and the spouse, parent,  
 15 child, or sibling of physician assistant or that physician.

16 (g) A sole proprietorship, group practice,  
 17 partnership, ~~or~~ corporation, or other legal entity that  
 18 provides health care services by licensed health care  
 19 practitioners under chapter 457, ~~chapter 458, chapter 459,~~  
 20 ~~chapter 460, chapter 461,~~ chapter 462, chapter 463, ~~chapter~~  
 21 ~~466,~~ chapter 467, chapter 480, chapter 484, chapter 486,  
 22 chapter 490, chapter 491, or part I, part III, part X, part  
 23 XIII, or part XIV of chapter 468, or s. 464.012, which  
 24 entities are wholly owned by one or more licensed health care  
 25 practitioners, or the licensed health care practitioners set  
 26 forth in this paragraph and the spouse, parent, child, or  
 27 sibling of a licensed health care practitioner, so long as one  
 28 of the owners who is a licensed health care practitioner is  
 29 supervising the health care services ~~business activities~~ and  
 30 is legally responsible for the entity's compliance with all  
 31 federal and state laws. However, ~~a~~ health care services



1 provided may not exceed the scope of the licensed owner's  
2 health care practitioner may not supervise services beyond the  
3 ~~scope of the practitioner's~~ license, except that, for the  
4 purposes of this part, a clinic owned by a licensee in s.  
5 456.053(3)(b) that provides only services authorized pursuant  
6 to s. 456.053(3)(b) may be supervised by a licensee specified  
7 in s. 456.053(3)(b).

8 (h) Clinical facilities affiliated with an accredited  
9 medical school at which training is provided for medical  
10 students, residents, or fellows.

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

15 (j) Clinical facilities affiliated with a college of  
16 chiropractic accredited by the Council on Chiropractic  
17 Education at which training is provided for chiropractic  
18 students.

19 (k) Clinical facilities that are wholly owned,  
20 directly or indirectly, by a publicly traded corporation. As  
21 used in this paragraph, a "publicly traded corporation" is a  
22 corporation that issues securities traded on an exchange  
23 registered with the United States Securities and Exchange  
24 Commission as a national securities exchange.

25 (8) "Specialty clinic" means a clinic, as defined in  
26 subsection (4) and including those entities exempt under that  
27 subsection, not licensed as a home health agency which  
28 provides infusion therapy services to treat conditions caused  
29 by or related to HIV or AIDS to outpatients who remain less  
30 than 24 hours at the facility or to patients who receive such  
31 services where they reside. The term does not include:

- 1           (a) Entities licensed under part II or part III;
- 2           (b) Entities licensed under part IV which provide
- 3 infusion therapy to patients only in the home or residence of
- 4 the patient; or
- 5           (c) Entities licensed under chapter 395.
- 6           (9) "Infusion therapy" includes, but is not limited
- 7 to, the therapeutic infusion of substances into, or injection
- 8 of substances through, the venous peripheral system,
- 9 consisting of activity that includes: observing, initiating,
- 10 monitoring, discontinuing, maintaining, regulating, adjusting,
- 11 documenting, planning, intervening, and evaluating. This
- 12 definition embraces administration of nutrition, antibiotic
- 13 therapy, and fluid and electrolyte repletion.
- 14           (10) "Fraud" means deception or misrepresentation made
- 15 by a person or business entity with the intent that the
- 16 deception will likely result in an unauthorized benefit to
- 17 herself or himself or to another person. The term includes any
- 18 act that constitutes fraud under applicable federal or state
- 19 law.

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

22           400.991 License requirements; background screenings;  
 23 prohibitions.--

24           (1)(a) Each clinic and specialty clinic, as defined in  
 25 s. 400.9905, must be licensed and shall at all times maintain  
 26 a valid license with the agency. Each clinic and specialty  
 27 clinic location shall be licensed separately regardless of  
 28 whether the clinic or specialty clinic is operated under the  
 29 same business name or management as another clinic.

30           (b) Each mobile clinic and specialty clinic must  
 31 obtain a separate health care clinic license and must provide

1 to the agency, at least quarterly, its projected street  
2 location to enable the agency to locate and inspect such  
3 clinic and specialty clinic. A portable equipment provider  
4 must obtain a health care clinic license for a single  
5 administrative office and is not required to submit quarterly  
6 projected street locations.

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

12 (2) The initial clinic license application shall be  
13 filed with the agency by all clinics, as defined in s.  
14 400.9905, on or before July 1, 2004. A clinic license and  
15 specialty clinic license must be renewed biennially.

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

27 (4) Application for an initial clinic or specialty  
28 clinic license or for renewal of an existing license shall be  
29 notarized on forms furnished by the agency and must be  
30 accompanied by the appropriate license fee as provided in s.  
31 400.9925. The agency shall take final action on an initial

1 license application within 60 days after receipt of all  
2 required documentation.

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

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

26       (c) The agency may adopt rules to administer this  
27 subsection.

28       (6) An application for a specialty clinic shall  
29 contain, in addition to the information required in subsection  
30 (5):

31

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

11           1. The business operation, equipment, or legend  
12 pharmaceuticals used in the clinic;

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

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

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

27       (c) On a form furnished by the agency, a sworn  
28 notarized statement by each business entity and individual  
29 that holds any ownership interest of 5 percent or more, or any  
30 pecuniary interest of \$5,000 or more, in the subject specialty  
31 clinic which discloses the nature and degree of each such

1 ownership or pecuniary interest, and that discloses the source  
2 of funds which gave rise to each such ownership or pecuniary  
3 interest.

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

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

17  
18 For purposes of this subsection, the term "ownership or  
19 pecuniary interest" does not include any individual whose  
20 interest in a specialty clinic arises only out of his or her  
21 interest in a lending company, insurance company, or banking  
22 institution licensed by this state or any other state of the  
23 United States; a company regularly trading on a national stock  
24 exchange of the United States; or a governmental entity in the  
25 United States.

26 (7)(6) The applicant must file with the application  
27 satisfactory proof that the clinic or specialty clinic is in  
28 compliance with this part and applicable rules, including:

29 (a) A listing of services to be provided either  
30 directly by the applicant or through contractual arrangements  
31 with existing providers;

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

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

24 ~~(8)(7)~~ Each applicant for licensure shall comply with  
25 the following requirements:

26 (a) As used in this subsection, the term "applicant"  
27 means an individual ~~individuals~~ owning or controlling,  
28 directly or indirectly, 5 percent or more of an interest in a  
29 clinic or an individual owning or controlling, directly or  
30 indirectly, any interest in a specialty clinic; the medical or  
31 clinic director, or a similarly titled person who is

1 responsible for the day-to-day operation of the licensed  
2 clinic; the financial officer or similarly titled individual  
3 who is responsible for the financial operation of the clinic;  
4 and licensed health care practitioners at the clinic.

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

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

27 (d) A license may not be granted to a clinic if the  
28 applicant, or a person or entity identified in paragraph  
29 (5)(b), has been found guilty of, regardless of adjudication,  
30 or has entered a plea of nolo contendere or guilty to, any  
31 offense prohibited under the level 2 standards for screening



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

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

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

1 required by the agency to identify the machine. The  
2 information must be provided to the agency upon renewal of the  
3 clinic's licensure and within 30 days after a clinic begins  
4 using a machine for which it has not provided the information  
5 to the agency.

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

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

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

1 raised such background screening issue by notice as set forth  
2 in this part.

3 ~~(9)(8)~~ Requested information omitted from an  
4 application for licensure, license renewal, or transfer of  
5 ownership must be filed with the agency within 21 days after  
6 receipt of the agency's request for omitted information, or  
7 the application shall be deemed incomplete and shall be  
8 withdrawn from further consideration.

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

12 Section 4. Section 400.9915, Florida Statutes, is  
13 amended to read:

14 400.9915 Clinic inspections; emergency suspension;  
15 costs.--

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

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

1 representative of the agency who makes an inspection to  
2 determine compliance with this part and with applicable rules.

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

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

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

17 400.992 License renewal; transfer of ownership;  
18 provisional license.--

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

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

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

29 (4) When transferring the ownership of a clinic or  
30 specialty clinic, the transferee must submit an application  
31 for a license at least 60 days before the effective date of

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

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

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

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

21 400.9925 Rulemaking authority; license fees.--

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

1 licenses, the process of tracking compliance with financial  
2 responsibility requirements, and any other conditions of  
3 renewal required by law or rule.

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

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

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

28 400.993 Unlicensed clinics; penalties; fines;  
29 verification of licensure status.--  
30  
31

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

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

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

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

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

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

1 such time as the unlicensed clinic or specialty clinic is  
2 licensed or ceases operation.

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

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

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

15 Section 8. Section 400.9935, Florida Statutes, is  
16 amended to read:

17 400.9935 Clinic responsibilities.--

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

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

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

29 (c) Review any patient referral contracts or  
30 agreements executed by the clinic.

31



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

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

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

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

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

1           (i) Serve in that capacity for no more than a maximum  
2 of five health care clinics that have a cumulative total of no  
3 more than 200 employees and persons under contract with the  
4 health care clinic at a given time. A medical or clinic  
5 director may not supervise a health care clinic more than 200  
6 miles away from any other health care clinic supervised by the  
7 same medical or clinic director. The agency may allow for  
8 waivers to the limitations of this paragraph upon a showing of  
9 good cause and a determination by the agency that the medical  
10 director will be able to adequately perform the requirements  
11 of this subsection.

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

18           (3) Any contract to serve as a medical director or a  
19 clinic director entered into or renewed by a physician or a  
20 licensed health care practitioner in violation of this part is  
21 void as contrary to public policy. This subsection shall apply  
22 to contracts entered into or renewed on or after March 1,  
23 2004.

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

29           (5) Any person establishing, operating, or managing an  
30 unlicensed clinic or specialty clinic otherwise required to be  
31 licensed under this part, or any person who knowingly files a

1 false or misleading license application or license renewal  
2 application, or false or misleading information related to  
3 such application or department rule, commits a felony of the  
4 third degree, punishable as provided in s. 775.082, s.  
5 775.083, or s. 775.084.

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

10 ~~(7)(6)~~ Any licensed health care provider who violates  
11 this part is subject to discipline in accordance with this  
12 chapter and his or her respective practice act.

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

17 ~~(9)(8)~~ The agency shall investigate allegations of  
18 noncompliance with this part and the rules adopted under this  
19 part.

20 ~~(10)(9)~~ Any person or entity providing health care  
21 services which is not a clinic or specialty clinic, as defined  
22 under s. 400.9905, may voluntarily apply for a certificate of  
23 exemption from licensure under its exempt status. Other than  
24 certificates of exemptions granted pursuant to an exemption  
25 under s. 400.9905(4)(f), certificates of exemption shall  
26 expire in 2 years and may be renewed. ~~with the agency on a~~  
27 ~~form that sets forth its name or names and addresses, a~~  
28 ~~statement of the reasons why it cannot be defined as a clinic,~~  
29 ~~and other information deemed necessary by the agency. An~~  
30 ~~exemption is not transferable. The agency may charge an~~  
31 ~~applicant for a certificate of exemption in an amount equal to~~

1 ~~\$100 or the actual cost of processing the certificate,~~  
2 ~~whichever is less.~~

3       (a) The agency shall provide a form that requires the  
4 name or names and addresses, a statement of the reasons why  
5 the applicant is exempt from licensure as a health care clinic  
6 or specialty clinic, and other information deemed necessary by  
7 the agency. The signature on an application for a certificate  
8 of exemption must be notarized and signed by persons having  
9 knowledge of the truth of its contents. An exemption is not  
10 transferable and is valid only for the reasons, location,  
11 persons, and entity set forth on the application form. A  
12 person or entity claiming an exemption under this part or  
13 issued a current certificate of exemption must be exempt from  
14 the licensing provisions of this part at all times, or such  
15 claim or certificate shall be invalid from the date that such  
16 person or entity is not exempt.

17       (b) The agency shall charge an applicant for a  
18 certificate of exemption a fee of \$100 to cover the cost of  
19 processing the certificate or the actual cost of processing  
20 the certificate, whichever is less.

21       (c) An application for the renewal of a certificate of  
22 exemption must be submitted to the agency prior to the  
23 expiration of the certificate of exemption. The agency may  
24 investigate any applicant, person, or entity claiming an  
25 exemption for purposes of determining compliance when a  
26 certificate of exemption is sought. Authorized personnel of  
27 the agency shall have access to the premises of any  
28 certificateholder, applicant, or specialty clinic, other than  
29 a person or entity who is exempt pursuant to s.  
30 400.9905(4)(f), for the sole purpose of determining compliance  
31 with an exemption under this part. The agency shall have

1 access to all billings and records indicated in s. 400.9915(2)  
2 and agency rules. The agency may deny or withdraw a  
3 certificate of exemption when a person or entity does not  
4 qualify under this part.

5 (d) A certificate of exemption is considered withdrawn  
6 when the agency determines that an exempt status cannot be  
7 confirmed. The provisions applicable to the unlicensed  
8 operation of a health care clinic or specialty clinic apply to  
9 any health care provider that self-determines or claims an  
10 exemption or that is issued a certificate of exemption if, in  
11 fact, such clinic does not meet the exemption claimed.

12 (e) Any person or entity that submits an application  
13 for a certificate of exemption which contains fraudulent or  
14 material and misleading information commits a felony of the  
15 third degree, punishable as provided in s. 775.082, s.  
16 775.083, or s. 775.084.

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

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

23 (h) A person or entity that qualifies as a health care  
24 clinic or specialty clinic and has been denied a certificate  
25 of exemption must file an initial application and pay the fee.  
26 A certificate of exemption is valid only when issued and  
27 current.

28 (i) The agency shall issue an emergency order of  
29 suspension of a certificate of exemption when the agency finds  
30 that the applicant has provided false or misleading material  
31 information or omitted any material fact from the application

1 for a certificate of exemption which is permitted or required  
2 by this part, or has submitted false or misleading information  
3 to the agency when self-determining an exempt status and  
4 materially misleading the agency as to such status.

5 ~~(11)~~~~(10)~~ The clinic or specialty clinic shall display  
6 its license in a conspicuous location within the clinic  
7 readily visible to all patients.

8 ~~(12)~~~~(11)~~(a) Each clinic engaged in magnetic resonance  
9 imaging services must be accredited by the Joint Commission on  
10 Accreditation of Healthcare Organizations, the American  
11 College of Radiology, or the Accreditation Association for  
12 Ambulatory Health Care, within 1 year after licensure.

13 However, a clinic may request a single, 6-month extension if  
14 it provides evidence to the agency establishing that, for good  
15 cause shown, such clinic can not be accredited within 1 year  
16 after licensure, and that such accreditation will be completed  
17 within the 6-month extension. After obtaining accreditation as  
18 required by this subsection, each such clinic must maintain  
19 accreditation as a condition of renewal of its license.

20 (b) The agency may deny the application or revoke the  
21 license of any entity formed for the purpose of avoiding  
22 compliance with the accreditation provisions of this  
23 subsection and whose principals were previously principals of  
24 an entity that was unable to meet the accreditation  
25 requirements within the specified timeframes. The agency may  
26 adopt rules as to the accreditation of magnetic resonance  
27 imaging clinics.

28 ~~(13)~~~~(12)~~ The agency shall give full faith and credit  
29 pertaining to any past variance and waiver granted to a  
30 magnetic resonance imaging clinic from rule 64-2002, Florida  
31 Administrative Code, by the Department of Health, until

1 September 2004. After that date, such clinic must request a  
2 variance and waiver from the agency under s. 120.542.

3 (14) Every licensed specialty clinic shall file with  
4 the agency no less frequently than annually, including  
5 concurrently with the filing of any change of ownership  
6 application, upon forms to be furnished by the agency, an  
7 audited report showing the following information:

8 (a) The number of patients served by the specialty  
9 clinic during the previous 12-month period, which report may  
10 exclude any partial month for the month when the report was  
11 prepared;

12 (b) Total specialty clinic operating expenses;

13 (c) Gross patient charges by payor category, including  
14 Medicare, Medicaid, county indigent programs, any other  
15 governmental programs, private insurance, self-paying  
16 patients, nonpaying patients and other payees;

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

20 (e) Unless the specialty clinic can demonstrate that  
21 the clinic already has furnished the required information  
22 regarding a particular subject individual, the full name of  
23 any individual who became an owner or became possessed of any  
24 pecuniary interest in the subject clinic since the last report  
25 to the agency, along with the disclosure of the information  
26 required by s. 400.9961(2) as to such individual; and

27 (f) A current statement of the source of funds for  
28 payment of the costs of establishing the specialty clinic and  
29 for sustaining the operation of the specialty clinic until its  
30 operation produces a positive cash flow.

31

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

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



1           Section 9. Section 400.994, Florida Statutes, is  
2 amended to read:

3           400.994 Injunctions.--

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

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

13           (b) Terminate the operation of a clinic or specialty  
14 clinic if a violation of any provision of this part, or any  
15 rule adopted pursuant to this part, materially affects the  
16 health, safety, or welfare of clinic or specialty clinic  
17 patients.

18           (2) Such injunctive relief may be temporary or  
19 permanent.

20           (3) If action is necessary to protect clinic or  
21 specialty clinic patients from life-threatening situations,  
22 the court may allow a temporary injunction without bond upon  
23 proper proof being made. If it appears by competent evidence  
24 or a sworn, substantiated affidavit that a temporary  
25 injunction should issue, the court, pending the determination  
26 on final hearing, shall enjoin operation of the clinic or  
27 specialty clinic.

28           Section 10. Section 400.995, Florida Statutes, is  
29 amended to read:

30           400.995 Agency administrative penalties.--

31

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

8           (a) The gravity of the violation, including the  
9 probability that death or serious physical or emotional harm  
10 to a patient will result or has resulted, the severity of the  
11 action or potential harm, and the extent to which ~~the~~  
12 ~~provisions of~~ the applicable laws or rules were violated.

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

15           (c) Any previous violations.

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

18           (2) Each day of continuing violation after the date  
19 fixed for termination of the violation, as ordered by the  
20 agency, constitutes an additional, separate, and distinct  
21 violation.

22           (3) Any action taken to correct a violation shall be  
23 documented in writing by the owner, medical director, or  
24 clinic director of the clinic or specialty clinic and verified  
25 through followup visits by agency personnel. The agency may  
26 impose a fine and, in the case of an owner-operated clinic or  
27 specialty clinic, revoke or deny a clinic's license when a  
28 clinic medical director or clinic director knowingly  
29 misrepresents actions taken to correct a violation.

30           (4) For fines that are upheld following administrative  
31 or judicial review, the violator shall pay the fine, plus

1 interest at the rate as specified in s. 55.03, for each day  
2 beyond the date set by the agency for payment of the fine.

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

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

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

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

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

29 (10) If the agency issues a notice of intent to deny a  
30 license application after a temporary license has been issued  
31 pursuant to s. 400.991(3), the temporary license shall expire

1 on the date of the notice and may not be extended during any  
2 proceeding for administrative or judicial review pursuant to  
3 chapter 120.

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

6 400.996 Specialty clinics; complaints; audits;  
7 referrals.--

8 (1) The agency shall receive, document, and process  
9 complaints about specialty clinics. Upon receipt of any  
10 complaint that asserts the existence of facts evidencing  
11 possible billing fraud by a specialty clinic or by any  
12 employee of a specialty clinic, the agency shall request the  
13 complainant to make such assertions by sworn affidavit.

14 (2) Upon receipt of any sworn affidavit that asserts  
15 the existence of facts evidencing possible billing fraud by a  
16 specialty clinic or any of its employees, the agency shall  
17 refer the complaint to the Office of Fiscal Integrity within  
18 the Department of Financial Services.

19 (3) The Department of Financial Services shall report  
20 findings to the agency for any appropriate licensure action.  
21 Such report shall include a statement of facts as determined  
22 by the Department of Financial Services to exist, specifically  
23 with regard to the possible violations of licensure  
24 requirements. If during an investigation the department has  
25 reason to believe that any criminal law of this state has or  
26 may have been violated, the department shall refer such  
27 investigation to appropriate prosecutorial agencies and shall  
28 provide investigative assistance to those agencies as  
29 required.

30 (4) The investigating authority and the agency shall  
31 cooperate with each other with respect to preparing a record

1 and sharing information from which the agency may determine if  
2 any action for sanctions under this part by the agency is  
3 warranted.

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

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

23 (7) A licensed specialty clinic shall allow full,  
24 complete, and immediate access to the premises and to billing  
25 records or information to any such officer or employee who  
26 conducts a review, investigation, analysis, or audit to  
27 determine compliance with this part and with applicable rules.  
28 Failure to allow full, complete, and immediate access to the  
29 premises and to billing records or information to any  
30 representative of the agency or Department of Financial  
31 Services who attempts to conduct a review, investigation,

1 analysis, or audit to determine compliance with this part  
2 constitutes a ground for emergency suspension of the license  
3 by the agency pursuant to s. 120.60(6).

4 (8) In addition to any administrative fines imposed,  
5 the agency may assess a fee equal to the cost of conducting  
6 any review, investigation, analysis, or audit performed by the  
7 agency or the department.

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

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

18 456.072 Grounds for discipline; penalties;  
19 enforcement.--

20 (1) The following acts shall constitute grounds for  
21 which the disciplinary actions specified in subsection (2) may  
22 be taken:

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

26 Section 13. Florida Barbara B. Lumpkin Center for  
27 Nursing designated; Department of Health to erect suitable  
28 markers.--

29 (1) The Florida Center for Nursing, created by s.  
30 464.0195, Florida Statutes, and located in Orlando is  
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1 designated as the "Florida Barbara B. Lumpkin Center for  
2 Nursing."

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

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

13 Section 15. This act shall take effect January 1,  
14 2007.

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