

597-1592C-06

1 A bill to be entitled
2 An act relating to health care clinics;
3 amending s. 400.9905, F.S.; redefining the term
4 "clinic" for purposes of the Health Care Clinic
5 Act to include certain additional providers;
6 amending s. 400.991, F.S.; revising certain
7 requirements for applying for licensure as a
8 health care clinic; providing additional
9 grounds under which an applicant may be denied
10 licensure due to a finding of guilt for
11 committing a felony; amending s. 400.9935,
12 F.S.; requiring a person who is not a clinic
13 and who seeks reimbursement for personal injury
14 protection benefits to apply for a certificate
15 of exemption from licensure as a clinic;
16 providing for a certificate of exemption from
17 licensure as a clinic to expire within a
18 specified period; providing for renewal of the
19 certificate of exemption; revising the
20 application procedures for a certificate of
21 exemption; providing grounds for the denial,
22 withdrawal, or emergency suspension of a
23 certificate of exemption by the Agency for
24 Health Care Administration; providing that it
25 is a third-degree felony for an applicant to
26 submit fraudulent or material and misleading
27 information to the agency; providing an
28 effective date.

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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (4) of section 400.9905, Florida
2 Statutes, is amended to read:

3 400.9905 Definitions.--

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

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

23 (b) Entities that own, directly or indirectly,
24 entities licensed or registered by the state pursuant to
25 chapter 395; or entities that own, directly or indirectly,
26 entities licensed or registered by the state and providing
27 only health care services within the scope of services
28 authorized pursuant to their respective licenses granted under
29 ss. 383.30-383.335, chapter 390, chapter 394, chapter 397,
30 this chapter except part XIII, chapter 463, chapter 465,
31 chapter 466, chapter 478, part I of chapter 483, chapter 484,

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

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

22 (d) Entities that are under common ownership, directly
23 or indirectly, with an entity licensed or registered by the
24 state pursuant to chapter 395; or entities that are under
25 common ownership, directly or indirectly, with an entity
26 licensed or registered by the state and providing only health
27 care services within the scope of services authorized pursuant
28 to their respective licenses granted under ss. 383.30-383.335,
29 chapter 390, chapter 394, chapter 397, this chapter except
30 part XIII, chapter 463, chapter 465, chapter 466, chapter 478,
31 part I of chapter 483, chapter 484, or chapter 651; end-stage

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

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

12 (f) A sole proprietorship, group practice,
13 partnership, ~~or~~ corporation, or other legal entity that
14 provides health care services by physicians licensed under
15 chapter 458, chapter 459, chapter 460, or chapter 461 ~~covered~~
16 ~~by s. 627.419~~, that is directly supervised by one or more of
17 such physicians, and that is wholly owned by one or more of
18 those physicians or owned in conjunction with a health care
19 practitioner who is exempt under paragraph (g), or by a
20 physician and the spouse, parent, child, or sibling of that
21 physician.

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

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

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

17 | (i) Entities that provide only oncology or radiation
18 | therapy services by physicians licensed under chapter 458 or
19 | chapter 459.

20 | (j) Clinical facilities affiliated with a college of
21 | chiropractic accredited by the Council on Chiropractic
22 | Education at which training is provided for chiropractic
23 | students.

24 | Section 2. Subsection (7) of section 400.991, Florida
25 | Statutes, is amended to read:

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

28 | (7) Each applicant for licensure shall comply with the
29 | following requirements:

30 | (a) As used in this subsection, the term "applicant"
31 | means individuals owning or controlling, directly or

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

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

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

28 (d) A license may not be granted to a clinic if the
29 applicant has been found guilty of, regardless of
30 adjudication, or has entered a plea of nolo contendere or
31 guilty to, any offense prohibited under the level 2 standards

1 for screening set forth in chapter 435; any felony under
2 chapter 400, chapter 408, chapter 409, chapter 440, chapter
3 624, chapter 626, chapter 627, chapter 812, chapter 817,
4 chapter 831, chapter 837, chapter 838, chapter 895, chapter
5 896; or any substantially comparable offense or crime of
6 another state or of the United States, if a felony in that
7 jurisdiction, within the past 10 years. Each person required
8 to provide background screening shall disclose to the agency
9 any arrest for any crime for which any court disposition other
10 than dismissal has been made within the past 10 years. Failure
11 to provide such information shall be considered a material
12 omission in the application process., or a violation of
13 ~~insurance fraud under s. 817.234, within the past 5 years. If~~
14 ~~the applicant has been convicted of an offense prohibited~~
15 ~~under the level 2 standards or insurance fraud in any~~
16 ~~jurisdiction, the applicant must show that his or her civil~~
17 ~~rights have been restored prior to 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 Section 3. Subsection (9) of section 400.9935, Florida
23 Statutes, is amended to read:

24 400.9935 Clinic responsibilities.--

25 (9) Any person or entity providing health care
26 services which is not a clinic, as defined under s. 400.9905,
27 may voluntarily apply for a certificate of exemption from
28 licensure under its exempt status. However, if such person or
29 entity provides health care services for which reimbursement
30 is sought from an insurer for personal injury protection
31 benefits under s. 627.736, the person or entity shall apply

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

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

24 (b) The agency shall charge an applicant for a
25 certificate of exemption a fee of \$200 to cover the cost of
26 processing the certificate or the actual cost of processing
27 the certificate, whichever is less.

28 (c) An application for the renewal of a certificate of
29 exemption must be submitted to the agency prior to the
30 expiration of the certificate of exemption. The agency may
31 investigate any applicant, person, or entity claiming an

1 exemption for purposes of determining compliance when a
2 certificate of exemption is sought. Authorized personnel of
3 the agency shall have access to the premises of any clinic for
4 the sole purpose of determining compliance with an exemption
5 under this part or for determining that the otherwise exempt
6 clinic is a threshold provider within the meaning of s.
7 627.736(5). The agency shall have access to all billings and
8 records indicated in s. 400.9915(2) and agency rules. The
9 agency may deny or withdraw a certificate of exemption when a
10 person or entity does not qualify under this part.

11 (d) A certificate of exemption is considered withdrawn
12 when the agency determines that an exempt status cannot be
13 confirmed. The provisions applicable to the unlicensed
14 operation of a health care clinic apply to any health care
15 provider that self-determines or claims an exemption or that
16 is issued a certificate of exemption if, in fact, such clinic
17 does not meet the exemption claimed.

18 (e) Any person or entity that submits an application
19 for a certificate of exemption which contains fraudulent or
20 material and misleading information commits a felony of the
21 third degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

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

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

29 (h) A person or entity that qualifies as a health care
30 clinic and has been denied a certificate of exemption must
31

1 file an initial application and pay the fee. A certificate of
2 exemption is valid only when issued and current.

3 (i) The agency shall issue an emergency order of
4 suspension of a certificate of exemption when the agency finds
5 that the applicant has provided false or misleading material
6 information or omitted any material fact from the application
7 for a certificate of exemption which is permitted or required
8 by this part, or has submitted false or misleading information
9 to the agency when self-determining an exempt status and
10 materially misleading the agency as to such status.

11 Section 4. This act shall take effect January 1, 2007.

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14 SENATE SUMMARY

15 Revises various provisions governing clinics providing
16 services under the Health Care Clinic Act. Revises
17 licensure provisions. Provides for a certificate of
18 exemption from licensure to expire in 2 years. Provides
19 additional grounds under which the Agency for Health Care
Administration may deny, withdraw, or suspend a
certificate of exemption. Provides requirements for
insurers paying personal injury protection benefits. (See
bill for details.)