

By the Committee on Banking and Insurance; and Senator Posey

597-2345-07

1 A bill to be entitled
 2 An act relating to the Health Care Clinic Act;
 3 amending s. 400.9905, F.S.; clarifying certain
 4 types of sole proprietorships, group practices,
 5 partnerships, corporations, and other legal
 6 entities that are not subject to the licensure
 7 requirements of the act; amending s. 400.991,
 8 F.S.; requiring certain persons having a
 9 financial interest in a clinic, or having
 10 control over certain activities relating to the
 11 operations of a clinic, to undergo background
 12 screening; authorizing the Agency for Health
 13 Care Administration to adopt rules; authorizing
 14 the agency to deny or revoke a license if an
 15 applicant, licensee, or person having an
 16 interest in a clinic has been excluded,
 17 suspended, or terminated from the Medicare or
 18 Medicaid programs or has committed certain
 19 offenses prohibited under level 2 screening
 20 standards; providing additional requirements
 21 for background screening with respect to
 22 offenses committed within the past 10 years;
 23 providing that failure to provide such
 24 information is a material omission; authorizing
 25 the agency to deny, revoke, or suspend a
 26 license or assess an administrative penalty if
 27 a person fails to comply with the requirements
 28 for background screening; authorizing the
 29 agency to declare a loss of exempt status under
 30 certain conditions; requiring an applicant that
 31 performs magnetic resonance imaging, static

1 radiographs, computed tomography, or positron
2 emission tomography to provide certain
3 information to the agency; providing that the
4 submission of fraudulent or misleading
5 information on an application for licensure is
6 a third-degree felony; amending s. 400.9935,
7 F.S.; specifying additional duties of a medical
8 director or clinic director; limiting the
9 number of clinics and employees for which a
10 medical or clinic director may be responsible;
11 requiring that multiple clinics under the
12 control of the same medical or clinic director
13 must be within a specified proximity;
14 authorizing the agency to waive such
15 limitations upon a showing of good cause;
16 requiring clinics that are exempt from
17 licensure and located within certain counties
18 to obtain a certificate of exemption; requiring
19 that the application be notarized and subject
20 to penalty for perjury; providing for an
21 application fee; providing requirements for
22 renewal of an exemption from licensure;
23 providing a penalty for submitting fraudulent
24 or misleading information in an application for
25 exemption; requiring that the agency issue an
26 emergency order of suspension upon a finding
27 that an applicant has provided false or
28 misleading information or omitted a material
29 fact from an application for a certificate of
30 exemption; amending s. 456.072, F.S.; providing
31 that intentionally providing false information

1 on an application for a certificate of
2 exemption from clinic licensure is grounds for
3 discipline under provisions regulating medical
4 professionals; providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

8 Section 1. Subsection (4) of section 400.9905, Florida
9 Statutes, is amended to read:

10 400.9905 Definitions.--

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

17 (a) Entities licensed or registered by the state under
18 chapter 395; or entities licensed or registered by the state
19 and providing only health care services within the scope of
20 services authorized under their respective licenses granted
21 under ss. 383.30-383.335, chapter 390, chapter 394, chapter
22 397, this chapter except part X, chapter 429, chapter 463,
23 chapter 465, chapter 466, chapter 478, part I of chapter 483,
24 chapter 484, or chapter 651; end-stage renal disease providers
25 authorized under 42 C.F.R. part 405, subpart U; or providers
26 certified under 42 C.F.R. part 485, subpart B or subpart H; or
27 any entity that provides neonatal or pediatric hospital-based
28 health care services by licensed practitioners solely within a
29 hospital licensed under chapter 395.

30 (b) Entities that own, directly or indirectly,
31 entities licensed or registered by the state pursuant to

1 | chapter 395; or entities that own, directly or indirectly,
2 | entities licensed or registered by the state and providing
3 | only health care services within the scope of services
4 | authorized pursuant to their respective licenses granted under
5 | ss. 383.30-383.335, chapter 390, chapter 394, chapter 397,
6 | this chapter except part X, chapter 429, chapter 463, chapter
7 | 465, chapter 466, chapter 478, part I of chapter 483, chapter
8 | 484, chapter 651; end-stage renal disease providers authorized
9 | under 42 C.F.R. part 405, subpart U; or providers certified
10 | under 42 C.F.R. part 485, subpart B or subpart H; or any
11 | entity that provides neonatal or pediatric hospital-based
12 | health care services by licensed practitioners solely within a
13 | hospital licensed under chapter 395.

14 | (c) Entities that are owned, directly or indirectly,
15 | by an entity licensed or registered by the state pursuant to
16 | chapter 395; or entities that are owned, directly or
17 | indirectly, by an entity licensed or registered by the state
18 | and providing only health care services within the scope of
19 | services authorized pursuant to their respective licenses
20 | granted under ss. 383.30-383.335, chapter 390, chapter 394,
21 | chapter 397, this chapter except part X, chapter 429, chapter
22 | 463, chapter 465, chapter 466, chapter 478, part I of chapter
23 | 483, chapter 484, or chapter 651; end-stage renal disease
24 | providers authorized under 42 C.F.R. part 405, subpart U; or
25 | providers certified under 42 C.F.R. part 485, subpart B or
26 | subpart H; or any entity that provides neonatal or pediatric
27 | hospital-based health care services by licensed practitioners
28 | solely within a hospital under chapter 395.

29 | (d) Entities that are under common ownership, directly
30 | or indirectly, with an entity licensed or registered by the
31 | state pursuant to chapter 395; or entities that are under

1 common ownership, directly or indirectly, with an entity
2 licensed or registered by the state and providing only health
3 care services within the scope of services authorized pursuant
4 to their respective licenses granted under ss. 383.30-383.335,
5 chapter 390, chapter 394, chapter 397, this chapter except
6 part X, chapter 429, chapter 463, chapter 465, chapter 466,
7 chapter 478, part I of chapter 483, chapter 484, or chapter
8 651; end-stage renal disease providers authorized under 42
9 C.F.R. part 405, subpart U; or providers certified under 42
10 C.F.R. part 485, subpart B or subpart H; or any entity that
11 provides neonatal or pediatric hospital-based health care
12 services by licensed practitioners solely within a hospital
13 licensed under chapter 395.

14 (e) An entity that is exempt from federal taxation
15 under 26 U.S.C. s. 501(c)(3) or (4), an employee stock
16 ownership plan under 26 U.S.C. s. 409 that has a board of
17 trustees not less than two-thirds of which are
18 Florida-licensed health care practitioners and provides only
19 physical therapy services under physician orders, any
20 community college or university clinic, and any entity owned
21 or operated by the federal or state government, including
22 agencies, subdivisions, or municipalities thereof.

23 (f) A sole proprietorship, group practice,
24 partnership, ~~or~~ corporation, or other legal entity that
25 provides health care services by physicians licensed under
26 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
27 466 covered by s. 627.419, that is directly supervised by one
28 or more of such physicians, and that is wholly owned by one or
29 more of those physicians or by a physician and the spouse,
30 parent, child, or sibling of that physician.

31

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

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

28 (i) Entities that provide only oncology or radiation
29 therapy services by physicians licensed under chapter 458 or
30 chapter 459 or entities that provide oncology or radiation
31 therapy services by physicians licensed under chapter 458 or

1 chapter 459 which are owned by a corporation whose shares are
2 publicly traded on a recognized stock exchange.

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

7 (k) Entities that provide licensed practitioners to
8 staff emergency departments or to deliver anesthesia services
9 in facilities licensed under chapter 395 and that derive at
10 least 90 percent of their gross annual revenues from the
11 provision of such services. Entities claiming an exemption
12 from licensure under this paragraph must provide documentation
13 demonstrating compliance.

14 Section 2. Section 400.991, Florida Statutes, is
15 amended to read:

16 400.991 License requirements; background screenings;
17 prohibitions.--

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

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

30 (2) The initial clinic license application shall be
31 filed with the agency by all clinics, as defined in s.

1 400.9905, on or before July 1, 2004. A clinic license must be
2 renewed biennially.

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

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

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

29 (b) Any person having a financial interest in a
30 clinic, directly or indirectly, as set forth in this paragraph
31 is subject to background screening requirements under this

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

13 (c) The agency may adopt rules to administer this
14 subsection.

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

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

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

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

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

12 (7) Each applicant for licensure shall comply with the
13 following requirements:

14 (a) As used in this subsection, the term "applicant"
15 means an individual ~~individuals~~ owning or controlling,
16 directly or indirectly, 5 percent or more of an interest in a
17 clinic; the medical or clinic director, or a similarly titled
18 person who is responsible for the day-to-day operation of the
19 licensed clinic; the financial officer or similarly titled
20 individual who is responsible for the financial operation of
21 the clinic; ~~and~~ licensed health care practitioners at the
22 clinic; and any person who has a controlling interest as
23 defined in s. 408.803(7).

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

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

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

18 (d) A license may not be granted to a clinic if the
19 applicant, or a person or entity identified in paragraph
20 (5)(b), has been found guilty of, regardless of adjudication,
21 or has entered a plea of nolo contendere or guilty to, any
22 offense prohibited under the level 2 standards for screening
23 set forth in chapter 435 or this section. In addition to the
24 process and procedures set forth in s. 408.809 which are
25 specifically required, all persons who must meet level 2
26 standards of chapter 435 must also undergo level 2 background
27 screening for any felony committed within the past 10 years
28 under chapter 400, chapter 408, chapter 409, chapter 440,
29 chapter 456, chapter 624, chapter 626, chapter 627, chapter
30 812, chapter 817, chapter 831, chapter 837, chapter 838,
31 chapter 895, or chapter 896, or any substantially comparable

1 offense or crime of another state or of the United States if
2 such offense is a felony in that jurisdiction. The agency may
3 require each person who must undergo background screening to
4 disclose, on forms provided by the agency, his or her name,
5 address, social security number, and date of birth and any
6 arrest for any crime for which any court disposition other
7 than dismissal has been rendered within the past 10 years
8 prior to an affiliation with an applicant or licensee under
9 this part. Failure to provide such information may be
10 considered by the agency as a material omission in the
11 application or licensure process. Notwithstanding the time
12 provisions of chapter 120 for granting or denying an
13 application for a license, the agency may not approve an
14 initial, renewal, or change-of-ownership application for any
15 applicant whose background screening process is not complete
16 and all persons required to undergo such screening demonstrate
17 compliance with this paragraph. The agency shall deny a
18 pending application or revoke or suspend a license and assess
19 an administrative penalty in accordance with s. 400.995(1)
20 against a licensee if the agency substantiates that a person
21 who is required to meet background screening standards has
22 failed or refused to submit to background screening as set
23 forth in this part or does not meet the minimum requirements
24 of such screening after the timely submission of fingerprint
25 cards to the agency., or a violation of insurance fraud under
26 ~~s. 817.234, within the past 5 years. If the applicant has been~~
27 ~~convicted of an offense prohibited under the level 2 standards~~
28 ~~or insurance fraud in any jurisdiction, the applicant must~~
29 ~~show that his or her civil rights have been restored prior to~~
30 ~~submitting an application.~~
31

1 (e) The agency may deny or revoke licensure or declare
2 loss of an exempt status, effective on the date that the
3 requirements for exempt status are not met, if the applicant
4 has falsely represented any material fact or omitted any
5 material fact from the application required by this part or by
6 agency rule. An exempt status under this part ceases to exist
7 on the date that a business fails to qualify for an exemption
8 under this part or the Health Care Licensing Procedures Act.

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

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

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

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

9 Section 3. Section 400.9935, Florida Statutes, is
10 amended to read:

11 400.9935 Clinic responsibilities.--

12 (1) Each clinic shall appoint a medical director or
13 clinic director who shall agree in writing to accept legal
14 responsibility for the following activities on behalf of the
15 clinic. The medical director or the clinic director shall:

16 (a) Have signs identifying the medical director or
17 clinic director posted in a conspicuous location within the
18 clinic readily visible to all patients.

19 (b) Ensure that all practitioners providing health
20 care services or supplies to patients maintain a current
21 active and unencumbered Florida license and do not provide
22 health care services or supplies outside the scope of that
23 license or as otherwise prohibited by law.

24 (c) Review any patient referral contracts or
25 agreements executed by the clinic.

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

29 (e) Serve as the clinic records owner as defined in s.
30 456.057.

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1 (f) Ensure compliance with the recordkeeping, office
2 surgery, and adverse incident reporting requirements of
3 chapter 456, the respective practice acts, and rules adopted
4 under this part.

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

24 (h) Not refer a patient to the clinic if the clinic
25 performs magnetic resonance imaging, static radiographs,
26 computed tomography, or positron emission tomography. The term
27 "refer a patient" means the referral of one or more patients
28 of the medical or clinical director or a member of the medical
29 or clinical director's group practice to the clinic for
30 magnetic resonance imaging, static radiographs, computed
31 tomography, or positron emission tomography. A medical

1 director who is found to violate this paragraph commits a
2 felony of the third degree, punishable as provided in s.
3 775.082, s. 775.083, or s. 775.084.

4 (i) Serve in that capacity for no more than a maximum
5 of three health care clinics that have a cumulative total of
6 no more than 100 employees and persons under contract with the
7 health care clinic at a given time. A medical or clinic
8 director may not supervise a health care clinic more than 200
9 miles away from any other health care clinic supervised by the
10 same medical or clinic director. The agency may allow for
11 waivers to the limitations of this paragraph upon a showing of
12 good cause and a determination by the agency that the medical
13 director will be able to adequately perform the requirements
14 of this subsection.

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

20 (3) Any contract to serve as a medical director or a
21 clinic director entered into or renewed by a physician or a
22 licensed health care practitioner in violation of this part is
23 void as contrary to public policy. This subsection shall apply
24 to contracts entered into or renewed on or after March 1,
25 2004.

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

31

1 (5) Any person establishing, operating, or managing an
2 unlicensed clinic otherwise required to be licensed under this
3 part, or any person who knowingly files a false or misleading
4 license application or license renewal application, or false
5 or misleading information related to such application or
6 department rule, commits a felony of the third degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084.

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

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

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

19 (9)(a) Any person or entity providing health care
20 services which is not a clinic, as defined under s. 400.9905,
21 may voluntarily apply for a certificate of exemption from
22 licensure under its exempt status. A certificate of exemption
23 is valid for 2 years and may be renewed.

24 (b) However, an entity that is exempt from licensure
25 as a clinic pursuant to s. 400.9905(4)(f) or (g) and that
26 provides health care services for which payment is made
27 pursuant to s. 627.736 must apply for a certificate of
28 exemption from licensure under its exempt status if the entity
29 is located in any of the three counties certified by the
30 Division of Insurance Fraud as having the greatest number of
31 arrests by the division during the previous 2 years. However,

1 a health care provider listed in s. 400.9905(4)(f) or (g) need
2 not apply for a certificate of exemption if the health care
3 provider's practice act prohibits an individual who is not
4 similarly licensed from owning or operating the health care
5 provider's practice and prohibits individuals not similarly
6 licensed from interfering with the health care provider's
7 clinical judgment. An entity that is required to apply for a
8 certificate of exemption must renew its certificate every 2
9 years as a condition of maintaining an exemption from
10 licensure.

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

25 (d) The agency shall charge an applicant for a
26 certificate of exemption a fee of \$100 to cover the cost of
27 processing the certificate or the actual cost of processing
28 the certificate, whichever is less.

29 (e) An application for the renewal of a certificate of
30 exemption must be submitted to the agency 60 days prior to the
31 expiration of the certificate of exemption. The agency may

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

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

29 (j) A person or entity that qualifies as a health care
30 clinic and has been denied a certificate of exemption must
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1 file an initial application and pay the fee. A certificate of
2 exemption is valid only when issued and current.

3 (k) The agency shall issue an emergency order of
4 suspension of a certificate of exemption if 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. ~~with the~~
11 ~~agency on a form that sets forth its name or names and~~
12 ~~addresses, a statement of the reasons why it cannot be defined~~
13 ~~as a clinic, and other information deemed necessary by the~~
14 ~~agency. An exemption is not transferable. The agency may~~
15 ~~charge an applicant for a certificate of exemption in an~~
16 ~~amount equal to \$100 or the actual cost of processing the~~
17 ~~certificate, whichever is less.~~

18 (10) The clinic shall display its license in a
19 conspicuous location within the clinic readily visible to all
20 patients.

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

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

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

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

1 Section 4. Paragraph (ii) is added to subsection (1)
2 of section 456.072, Florida Statutes, to read:

3 456.072 Grounds for discipline; penalties;
4 enforcement.--

5 (1) The following acts shall constitute grounds for
6 which the disciplinary actions specified in subsection (2) may
7 be taken:

8 (ii) Intentionally providing false information on an
9 application for a certificate of exemption from clinic
10 licensure under part XIII of chapter 400.

11 Section 5. This act shall take effect October 1, 2007.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1882

4 The committee substitute provides the following changes:

- 5 1. Redefines the criteria under which certain health care
6 providers and practitioners are held to be exempt from
7 licensure under the Health Care Clinic Act
8 (ss.400.990-400.995, F.S.).
- 9 2. Limits a clinic or medical director to being the medical
10 or clinic director of a maximum of three clinics with a
11 cumulative total of no more than 100 employees and
12 persons under contract at a given time.
- 13 3. Expands the scope of background screening requirements
14 pursuant to clinic licensure and states that a license
15 may not be granted to a health care clinic if the
16 applicant or party subject to background screening
17 related to the clinic has been found guilty or,
18 regardless of adjudication, or has entered a plea of nolo
19 contendere or has been found guilty of any offense under
20 the level 2 standards for screening in ch. 435, F.S., and
21 other specified offenses.
- 22 4. Requires applicants for clinic licensure to provide the
23 Agency for Health Care Administration (AHCA) with the
24 serial or operating numbers of each magnetic resonance
25 imaging (MRI), static radiograph (static X-ray), computed
26 tomography, or positron emission tomography machine used
27 by the clinic if the clinic performs the technical
28 component (the scan itself) and interprets the scan
29 itself or uses an independent contractor to interpret the
30 scan.
- 31 5. Places a 2-year expiration date on each certificate of
exemption. Certain provider-owned entities that are
currently exempt must apply for and maintain a valid
certificate of exemption if they provide personal injury
protection (PIP) related health care services and are
located in any of the three counties that the Division of
Insurance fraud certifies as experiencing the greatest
number of arrests by the division during the prior two
years.
6. Authorizes AHCA to investigate any applicant claiming an
exemption for purposes of compliance, and provides it
with access to the premises of a certificate holder or
applicant and all specified billings and records to
determine compliance.
7. Makes internationally providing false information on an
application for a certificate of exemption from clinic
licensure grounds for disciplinary action pursuant to
s.456.072, F.S.