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LEGISLATIVE ACTION

Senate	.	House
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Senator Baker moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. The Legislature designates Miami-Dade County as a health care fraud crisis area for purposes of implementing increased scrutiny of home health agencies, home medical equipment providers, health care clinics, and other health care providers in Miami-Dade County in order to assist the state's efforts to prevent Medicaid fraud, waste, and abuse in the county and throughout the state.

Section 2. Subsection (3) of section 68.086, Florida Statutes, is amended to read:



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14 68.086 Expenses; attorney's fees and costs.-

15 (3) If the department does not proceed with an action under  
16 this act and the person bringing the action conducts the action  
17 defendant is the prevailing party, the court may shall award to  
18 the defendant its reasonable attorney's fees and costs if the  
19 defendant prevails in the action and the court finds that the  
20 claim of against the person bringing the action was clearly  
21 frivolous, clearly vexatious, or brought primarily for purposes  
22 of harassment.

23 Section 3. Section 2 of this act shall take effect upon  
24 becoming a law and applies to any pending or future action  
25 brought under the Florida False Claims Act or any action pending  
26 on appeal on or after July 1, 2009.

27 Section 4. Section 408.8065, Florida Statutes, is created  
28 to read:

29 408.8065 Additional licensure requirements for home health  
30 agencies, home medical equipment providers, and health care  
31 clinics.-

32 (1) An applicant for initial licensure, or initial  
33 licensure due to a change of ownership, as a home health agency,  
34 home medical equipment provider, or health care clinic shall:

35 (a) Demonstrate financial ability to operate, as required  
36 under s. 408.810(8) and this section. If the applicant's assets,  
37 credit, and projected revenues meet or exceed projected  
38 liabilities and expenses, and the applicant provides independent  
39 evidence that the funds necessary for startup costs, working  
40 capital costs, and contingency financing requirements exist and  
41 will be available as needed, the applicant has demonstrated the  
42 financial ability to operate.



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43           (b) Submit pro forma financial statements, including a  
44 balance sheet, income and expense statement, and a statement of  
45 cash flows for the first 2 years of operation which provide  
46 evidence that the applicant has sufficient assets, credit, and  
47 projected revenues to cover liabilities and expenses.

48           (c) Submit a statement of the applicant's estimated startup  
49 costs and sources of funds through the break-even point in  
50 operations demonstrating that the applicant has the ability to  
51 fund all startup costs, working capital costs, and contingency  
52 financing requirements. The statement must show that the  
53 applicant has at a minimum 3 months of average projected  
54 expenses to cover startup costs, working capital costs, and  
55 contingency financing requirements. The minimum amount for  
56 contingency funding may not be less than 1 month of average  
57 projected expenses.

58  
59 All documents required under this subsection must be prepared in  
60 accordance with generally accepted accounting principles and may  
61 be in a compilation form. The financial statements must be  
62 signed by a certified public accountant.

63           (2) For initial, renewal, or change of ownership licenses  
64 for a home health agency, a home medical equipment provider, or  
65 a health care clinic, applicants and controlling interests who  
66 are nonimmigrant aliens, as described in 8 U.S.C. s. 1101, must  
67 file a surety bond of at least \$500,000, payable to the agency,  
68 which guarantees that the home health agency, home medical  
69 equipment provider, or health care clinic will act in full  
70 conformity with all legal requirements for operation.

71           (3) In addition to the requirements of s. 408.812, any



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72 person who offers services that require licensure under part VII  
73 or part X of chapter 400, or who offers skilled services that  
74 require licensure under part III of chapter 400, without  
75 obtaining a valid license; any person who knowingly files a  
76 false or or misleading license or license renewal application or  
77 who submits false or misleading information related to such  
78 application, and any person who violates or conspires to violate  
79 this section, commits a felony of the third degree, punishable  
80 as provided in s. 775.082, s. 775.083, or s. 775.084.

81 Section 5. Subsection (10) is added to section 400.471,  
82 Florida Statutes, to read:

83 400.471 Application for license; fee.-

84 (10) (a) The agency may not issue an initial license to a  
85 home health agency under part II of chapter 408 or this part for  
86 the purpose of opening a new home health agency until July 1,  
87 2010, in any county that has at least one actively licensed home  
88 health agency and a population of persons 65 years of age or  
89 older, as indicated in the most recent population estimates  
90 published by the Executive Office of the Governor, of fewer than  
91 1,200 per home health agency. In such counties, for any  
92 application received by the agency before July 1, 2009, which  
93 has been deemed by the agency to be complete except for proof of  
94 accreditation, the agency may issue an initial ownership license  
95 only if the applicant has applied for accreditation before May  
96 1, 2009, from an accrediting organization that is recognized by  
97 the agency.

98 (b) Effective October 1, 2009, the agency may not issue a  
99 change of ownership license to a home health agency under part  
100 II of chapter 408 or this part until July 1, 2010, in any county



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101 that has at least one actively licensed home health agency and a  
102 population of persons 65 years of age or older, as indicated in  
103 the most recent population estimates published by the Executive  
104 Office of the Governor, of fewer than 1,200 per home health  
105 agency. In such counties, for any application received by the  
106 agency before October 1, 2009, which has been deemed by the  
107 agency to be complete except for proof of accreditation, the  
108 agency may issue a change of ownership license only if the  
109 applicant has applied for accreditation before August 1, 2009,  
110 from an accrediting organization that is recognized by the  
111 agency.

112 Section 6. Except as otherwise expressly provided in this  
113 act and except for this section, which shall take upon becoming  
114 a law, this act shall take effect July 1, 2009.

115  
116 ===== T I T L E A M E N D M E N T =====

117 And the title is amended as follows:

118 Delete everything before the enacting clause  
119 and insert:

120 A bill to be entitled  
121 An act relating to health care fraud prevention;  
122 designating Miami-Dade County as a health care fraud  
123 crisis area; amending s. 68.086, F.S.; authorizing  
124 rather than requiring a court to award attorney's fees  
125 and expenses to a prevailing defendant in an action  
126 brought under the Florida False Claims Act under  
127 certain circumstances; providing applicability;  
128 creating s. 408.8065, F.S.; providing additional  
129 licensure requirements for home health agencies, home



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130 medical equipment providers, and health care clinics;  
131 requiring the posting of a surety bond in a specified  
132 minimum amount under certain circumstances; imposing  
133 criminal penalties against a person who knowingly  
134 submits misleading information to the Agency for  
135 Health Care Administration in connection with  
136 applications for certain licenses; amending s.  
137 400.471, F.S.; providing limitations on the licensure  
138 of home health agencies in certain counties; providing  
139 an exception; providing effective dates.