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LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/2R

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04/30/2009 09:19 AM

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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



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13 Statutes, is amended to read:

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 law and shall apply 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, and contingency financing exist and will be available
41 as needed, the applicant has demonstrated the financial ability



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42 to operate.

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, and contingency
52 financing. The statement must show that the applicant has at a
53 minimum 3 months of average projected expenses to cover startup
54 costs, working capital, and contingency financing. The minimum
55 amount for contingency funding may not be less than 1 month of
56 average projected expenses.

57
58 All documents required under this subsection must be prepared in
59 accordance with generally accepted accounting principles and may
60 be in a compilation form. The financial statements must be
61 signed by a certified public accountant.

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

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



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

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

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

96 Section 6. Except as otherwise provided in this act, this
97 act shall take effect July 1, 2009.

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99 ===== T I T L E A M E N D M E N T =====



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100 And the title is amended as follows:

101 Delete everything before the enacting clause
102 and insert:

103 An act relating to health care fraud prevention; designating
104 Miami-Dade County as a health care fraud crisis area; amending
105 s. 68.086, F.S.; authorizing rather than requiring a court to
106 award attorney's fees and expenses to a prevailing defendant in
107 an action brought under the Florida False Claims Act under
108 certain circumstances; providing applicability; creating s.
109 408.8065, F.S.; providing additional licensure requirements for
110 home health agencies, home medical equipment providers, and
111 health care clinics; requiring the posting of a surety bond in a
112 specified minimum amount under certain circumstances; imposing
113 criminal penalties against a person who knowingly submits
114 misleading information to the Agency for Health Care
115 Administration in connection with applications for certain
116 licenses; amending s. 400.471; providing limitations on the
117 licensure of home health agencies in certain counties; providing
118 an exception; providing an effective date.