

HB 1487

2009

1 A bill to be entitled
2 An act relating to licensure of home health agencies, home
3 medical equipment providers, and health care clinics;
4 designating Miami-Dade County as a health care fraud area
5 of special concern for certain purposes; creating s.
6 408.8065, F.S.; providing requirements for licensure of
7 home health agencies, home medical equipment providers,
8 and health care clinics; requiring the posting of a surety
9 bond in a specified minimum amount under certain
10 circumstances; requiring demonstration of financial
11 viability; providing limitations on licensing of home
12 health agencies in certain counties; providing an
13 exception for certain established home health agencies;
14 providing penalties; authorizing the Agency for Health
15 Care Administration to adopt rules; providing for
16 construction; providing an effective date.

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18 WHEREAS, the Legislature finds that the standards for
19 licensure of home health agencies, home medical equipment
20 providers, and health care clinics need to be strengthened and
21 enhanced, and

22 WHEREAS, the Legislature recognizes that immediate and
23 proactive measures are necessary to prevent, reduce, and
24 mitigate health care fraud, waste, and abuse and are essential
25 to maintaining the integrity and financial viability of health
26 care delivery systems, including those funded in whole or in
27 part by Medicare and Medicaid trust funds, and

28 WHEREAS, without such measures, health care delivery
 29 systems will be depleted of necessary funds to deliver patient
 30 care, taxpayer dollars will be undervalued and not used for
 31 their intended purposes, and the impact of those dollars will be
 32 reduced, and

33 WHEREAS, Miami-Dade County experiences an extremely high
 34 rate of health care fraud, waste, and abuse compared to the rest
 35 of the state, and

36 WHEREAS, Miami-Dade County is considered and found to be a
 37 locality posing an inordinately high risk for Medicare and
 38 Medicaid fraud, waste, and abuse and is commonly known
 39 throughout the United States for its high incidence of health
 40 care fraud and abuse and related criminal activities perpetuated
 41 by entities operating under the guise of legitimate health care
 42 providers, and

43 WHEREAS, the Legislature finds that there is sufficient
 44 justification for increased regulation and oversight of home
 45 health agencies, home medical equipment providers, and health
 46 care clinics throughout the State of Florida and, in particular,
 47 in Miami-Dade County, and

48 WHEREAS, the Legislature further finds it to be in the
 49 best interest of the state to deter and identify patterns of
 50 fraudulent or abusive Medicare and Medicaid activity early,
 51 especially in high-risk localities such as Miami-Dade County, to
 52 prevent health care fraud and harm to the citizens of the state,
 53 NOW, THEREFORE,

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 55 Be It Enacted by the Legislature of the State of Florida:

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57 Section 1. The Legislature hereby designates Miami-Dade
58 County as a health care fraud area of special concern for
59 purposes of implementing increased scrutiny of home health
60 agencies, home medical equipment providers, and health care
61 clinics in Miami-Dade County in order to assist the state's
62 efforts to prevent Medicaid fraud, waste, and abuse in the
63 county and throughout the state.

64 Section 2. Section 408.8065, Florida Statutes, is created
65 to read:

66 408.8065 Licensure requirements for home health agencies,
67 home medical equipment providers, and health care clinics.--

68 (1) As used in this section, the term "agency" means the
69 Agency for Health Care Administration.

70 (2) An applicant for licensure as a home health agency,
71 home medical equipment provider, or health care clinic shall
72 comply with the following requirements:

73 (a) To be an applicant or controlling interest in a home
74 health agency, a home medical equipment provider, or a health
75 care clinic licensed under this section, an applicant must have
76 been a legal resident of the United States for at least 5 years,
77 unless the applicant files a surety bond of at least \$500,000,
78 payable to the agency, which guarantees that the home health
79 agency, home medical equipment provider, or health care clinic
80 will act in full conformity with all legal requirements for
81 operation. The agency may adopt rules to specify related
82 requirements for such surety bond.

83 (b) An applicant must demonstrate financial ability to
84 operate, as required under s. 408.810(8), and submit a financial
85 statement, including a balance sheet and an income and expense
86 statement, for the first year of operation that provides
87 evidence that the applicant has sufficient assets, credit, and
88 projected revenues to cover liabilities and expenses. The
89 applicant must demonstrate the financial ability to operate if
90 the applicant's assets, credit, and projected revenues do not
91 meet or exceed projected liabilities and expenses. The applicant
92 must also prove it has the ability to fund all startup costs
93 through the break-even point in operations by submitting a
94 statement of estimated provider startup costs and sources of
95 funds. The statement shall disclose, at a minimum, reasonable
96 anticipated startup costs, including operating funds needed to
97 reach the break-even point when operating receipts equal or
98 exceed expenditures. At a minimum, operating funds to reach the
99 break-even point must equal 2 months of average expenses to
100 cover working capital and contingencies. The applicant must
101 provide documented proof that these funds will be available as
102 needed. All documents required under this subsection must be
103 prepared in accordance with generally accepted accounting
104 principles and may be in a compilation form. The financial
105 statement must be signed by a certified public accountant.

106 (3) The agency may not issue a license to a home health
107 agency under part III of chapter 400 or this part for the
108 purpose of opening a new home health agency until July 1, 2012,
109 in any county where the ratio of persons 65 years of age or
110 older, as indicated in the most recent United States Census, to

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111 the number of home health agencies is 1,500:1 or less. For the
112 purposes of this subsection, the agency may continue to process
113 and issue a license to a home health agency only if the home
114 health agency has received full accreditation before May 1,
115 2009.

116 (4) In addition to the requirements of s. 408.812, any
117 person establishing, operating, or managing an unlicensed
118 facility otherwise required to be licensed under this part or
119 part III, part VII, or part X of chapter 400; any person who
120 knowingly files a false or misleading license application or
121 license renewal application or who submits false or misleading
122 information related to such application or agency rule; or any
123 person who violates or conspires to violate this section commits
124 a felony of the third degree, punishable as provided in s.
125 775.082, s. 775.083, or s. 775.084.

126 (5) The agency may adopt rules pursuant to ss. 120.536(1)
127 and 120.54 to implement this section.

128 (6) A provision of this section controls over any
129 conflicting provision of part III, part VII, or part X of
130 chapter 400.

131 Section 3. This act shall take effect July 1, 2009.