

By Senator Baker

20-01724A-09

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1                   A bill to be entitled  
2           An act relating to Medicare and Medicaid fraud;  
3           providing legislative findings; providing a purpose;  
4           requiring that an applicant applying for the licensure  
5           of, or acquiring a controlling interest in, a health  
6           care clinic, home health agency, or home medical  
7           equipment provider be a legal resident of the United  
8           States for a specified period and demonstrate proof of  
9           financial ability to operate; prohibiting the Agency  
10          for Health Care Administration from issuing a license  
11          to a home health agency under certain circumstances;  
12          providing criminal penalties; authorizing the agency  
13          to adopt rules; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. (1) The Legislature finds that:

18           (a) Immediate and proactive measures are necessary to  
19 prevent, reduce, and mitigate health care fraud, waste, and  
20 abuse and are essential to maintaining the integrity and  
21 financial viability of health care delivery systems, including  
22 those funded in whole or in part by the Medicare and Medicaid  
23 trust funds. Without these measures, health care delivery  
24 systems in this state will be depleted of necessary funds to  
25 deliver patient care, and taxpayers' dollars will be minimized,  
26 under-valued, and not used for their intended purposes.

27           (b) There is sufficient justification for increased  
28 regulation and oversight of health care clinics, home health  
29 agencies, and providers of home medical equipment throughout the

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30 state, and in particular, in Miami-Dade County.

31 (c) It is in the state's best interest to deter and  
32 identify patterns of fraudulent or abusive Medicare and Medicaid  
33 activity early, especially in high-risk localities, such as  
34 Miami-Dade County, in order to prevent health care fraud and  
35 harm to the state's residents.

36 (d) It is necessary to declare certain counties in this  
37 state, such as Miami-Dade County, as a special area of concern  
38 for health care fraud for purposes of implementing increased  
39 scrutiny of health care clinics, home health agencies, and  
40 providers of home medical equipment in order to assist the  
41 state's efforts in combating health care fraud, waste, and  
42 abuse.

43 (2) The purpose of this section is to strengthen and  
44 enhance the licensure process for health care clinics, home  
45 health agencies, and providers of home medical equipment by  
46 increasing standards for licensure in this state.

47 (3) Each applicant for licensure of a health care clinic,  
48 home health agency, or as a provider of home medical equipment  
49 must:

50 (a) Be a legal resident of the United States for at least 5  
51 years before becoming an applicant for or procuring a  
52 controlling interest in a health care clinic, home health  
53 agency, or provider of home medical equipment, unless a surety  
54 bond of \$500,000 is provided. As used in this section, the term  
55 "controlling interest" has the same meaning as provided in s.  
56 408.803(7), Florida Statutes.

57 (b) Demonstrate proof of financial ability to operate under  
58 this section by:

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59       1. Submitting a balance sheet, a financial statement, and  
60 an income and expense statement for the first year of operation,  
61 which provide evidence of the applicant's having sufficient  
62 assets, credit, and projected revenues to meet and exceed  
63 liabilities and expenses;

64       2. Providing documented proof that the applicant has the  
65 ability to fund all startup costs through the point of break-  
66 even in operational costs by submitting a statement of estimated  
67 startup costs and any sources of funds. This statement must  
68 disclose, at a minimum, reasonable anticipated startup costs,  
69 including operating funds needed to reach the break-even point  
70 where operating receipts equal or exceed expenditures. At a  
71 minimum, operating funds to reach a break-even amount must equal  
72 2 months worth of average expenses to cover working capital  
73 costs and contingencies; and

74       3. Providing documented proof that the operating funds  
75 described in subparagraph 2. will be available as needed.

76  
77 All documents required under this subsection must be prepared in  
78 accordance with generally accepted accounting principles and may  
79 be in a compilation form. The financial statement must be signed  
80 by a certified public accountant.

81       (4) The Agency for Health Care Administration may not issue  
82 a license to a home health agency for the purpose of opening a  
83 new home health agency until July 1, 2012, in any county where  
84 the ratio of persons 65 years of age and older, as indicated in  
85 the most recent United States Census, to the number of home  
86 health agencies is 1,500-to-1 or less. For purposes of this  
87 subsection, the Agency for Health Care Administration may

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88 continue to process and issue a license to a home health agency  
89 only if the home health agency has received full accreditation  
90 before May 1, 2009.

91 (5) In addition to the requirements of s. 408.812, Florida  
92 Statutes, any person who:

93 (a) Establishes, operates, or manages an unlicensed  
94 facility that is required to be licensed under this section or  
95 part II of chapter 408, Florida Statutes;

96 (b) Knowingly files a false or misleading license  
97 application or license renewal application, or provides false or  
98 misleading information related to the application or agency  
99 rule; or

100 (c) Violates or conspires to violate this section,  
101  
102 commits a felony of the third degree, punishable as provided in  
103 s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

104 (6) The Agency for Health Care Administration may adopt  
105 rules to administer this section.

106 Section 2. This act shall take effect July 1, 2009.