

By the Committee on Health Regulation; and Senator Baker

588-04077-09

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1 A bill to be entitled

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

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. The Legislature hereby designates Miami-Dade  
22 County as a health care fraud area of special concern for  
23 purposes of implementing increased scrutiny of home health  
24 agencies, home medical equipment providers, and health care  
25 clinics in Miami-Dade County in order to assist the state's  
26 efforts to prevent Medicaid fraud, waste, and abuse in the  
27 county and throughout the state.

28 Section 2. Section 408.8065, Florida Statutes, is created  
29 to read:

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

32 (1) An applicant for initial licensure, license renewal, or  
33 change of ownership licensure as a home health agency, home  
34 medical equipment provider, or health care clinic shall comply  
35 with the following requirements:

36 (a) For initial, renewal, or change of ownership licenses  
37 for a home health agency, a home medical equipment provider, or  
38 a health care clinic, applicants and controlling interests must  
39 have been a legal resident of the United States for at least 5  
40 years, or file a surety bond of at least \$500,000, payable to  
41 the agency, which guarantees that the home health agency, home  
42 medical equipment provider, or health care clinic will act in  
43 full conformity with all legal requirements for operation.

44 (b) An applicant for initial or change of ownership license  
45 must demonstrate financial ability to operate, as required under  
46 s. 408.810(8), and submit a financial statement, including a  
47 balance sheet and an income and expense statement, and statement  
48 of cash flow for the first 2 years of operation which provide  
49 evidence of having sufficient assets, credit, and projected  
50 revenues to cover liabilities and expenses. The applicant must  
51 also prove it has the ability to fund all startup costs through  
52 the break-even point in operations by submitting a statement of  
53 estimated provider startup costs and sources of funds. The  
54 statement shall disclose, at a minimum, reasonable anticipated  
55 startup costs, including operating funds needed to reach the  
56 break-even point when operating receipts equal or exceed  
57 expenditures. To reach the break-even point, at a minimum,  
58 operating funds must be equal to 2 months' average expenses to

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59 cover working capital and contingencies. The minimum amount for  
60 contingency funding shall be not less than 1 month's average  
61 projected expenses. The applicant must provide documented proof  
62 that the funds necessary for start-up, working capital and  
63 contingency financing will be available as needed. The applicant  
64 shall have demonstrated the financial ability to operate if the  
65 applicant's assets, credit, and projected revenues meet or  
66 exceed projected liabilities and expenses. All documentation  
67 required under this subsection must be prepared in accordance  
68 with generally accepted accounting principles and may be in a  
69 compilation form. The financial statement must be signed by a  
70 certified public accountant.

71 (3) The agency may not issue an initial or change of  
72 ownership license to a home health agency under part III of  
73 chapter 400 or this part for the purpose of opening a new home  
74 health agency until July 1, 2010, in any county that has at  
75 least one actively licensed home health agency and a population  
76 of persons 65 years of age or older, as indicated in the most  
77 recent population estimates published by the Executive Office of  
78 the Governor, of fewer than 1,200 per home health agency. In  
79 such counties, for any complete application submitted prior to  
80 July 1, 2009, the agency may issue a license only if the  
81 applicant has received accreditation before May 1, 2009, from an  
82 accrediting organization that is recognized by the agency.

83 (4) In addition to the requirements of s. 408.812, any  
84 person who offers services that require licensure under part  
85 III, part VII, or part X of chapter 400 without obtaining a  
86 valid license; any person who knowingly files a false or  
87 misleading license, license renewal, or change of ownership

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88 application or who submits false or misleading information  
89 related to such application or agency rule; and any person who  
90 violates or conspires to violate this section commits a felony  
91 of the third degree, punishable as provided in s. 775.082, s.  
92 775.083, or s. 775.084.

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