

By the Committees on Criminal Justice; and Health Regulation;
and Senator Baker

591-05731A-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 or pending
15 accreditation by an organization recognized by the
16 Agency for Health Care Administration; providing
17 penalties; providing an effective date.

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

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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 who
39 are nonimmigrant aliens, as described in 8 U.S.C. s. 1101, must
40 file a surety bond of at least \$500,000, payable to the agency,
41 which guarantees that the home health agency, home medical
42 equipment provider, or health care clinic will act in full
43 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 application received by the agency prior
80 to July 1, 2009, which has been deemed by the agency to be
81 complete except for proof of accreditation, the agency may issue
82 an initial or a change of ownership license only if the
83 applicant has applied for accreditation before May 1, 2009, from
84 an accrediting organization that is recognized by the agency.

85 (4) In addition to the requirements of s. 408.812, any
86 person who offers services that require licensure under part VII
87 or part X of chapter 400, or who offers skilled services that

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88 require licensure under part III of chapter 400, without
89 obtaining a valid license; any person who knowingly files a
90 false or misleading license, license renewal, or change of
91 ownership application or who submits false or misleading
92 information related to such application or agency rule; and any
93 person who violates or conspires to violate this section commits
94 a felony of the third degree, punishable as provided in s.
95 775.082, s. 775.083, or s. 775.084.

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