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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2010	.	
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The Committee on Children, Families, and Elder Affairs (Storms) recommended the following:

Senate Amendment

Delete lines 799 - 937
and insert:

(e) Any person, as required by authorizing statutes, seeking employment with a licensee or provider who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to clients or have access to client funds, personal property, or living areas; and any person, as required by authorizing statutes, contracting with a licensee or provider whose responsibilities require him or her to provide personal care or personal services directly to



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13 clients. Evidence of contractor screening may be retained by the
14 contractor's employer or the licensee.

15 (2) Every 5 years following his or her licensure,
16 employment, or entry into a contract in a capacity that under
17 subsection (1) would require level 2 background screening under
18 chapter 435, each such person must submit to level 2 background
19 rescreening as a condition of retaining such license or
20 continuing in such employment or contractual status. For any
21 such rescreening, the agency shall request the Department of Law
22 Enforcement to forward the person's fingerprints to the Federal
23 Bureau of Investigation for a national criminal history record
24 check. If the fingerprints of such a person are not retained by
25 the Department of Law Enforcement under s. 943.05(2)(g), the
26 person must file a complete set of fingerprints with the agency
27 and the agency shall forward the fingerprints to the Department
28 of Law Enforcement for state processing, and the Department of
29 Law Enforcement shall forward the fingerprints to the Federal
30 Bureau of Investigation for a national criminal history record
31 check. The fingerprints may be retained by the Department of Law
32 Enforcement under s. 943.05(2)(g). The cost of the state and
33 national criminal history records checks required by level 2
34 screening may be borne by the licensee or the person
35 fingerprinted. Proof of compliance with level 2 screening
36 standards submitted within the previous 5 years to meet any
37 provider or professional licensure requirements of the agency,
38 the Department of Health, the Agency for Persons with
39 Disabilities, ~~or~~ the Department of Children and Family Services,
40 or the Department of Financial Services for an applicant for a
41 certificate of authority or provisional certificate of authority



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42 to operate a continuing care retirement community under chapter
43 651 satisfies the requirements of this section, provided that
44 the person subject to screening has not been unemployed for more
45 than 90 days and such proof is accompanied, under penalty of
46 perjury, by an affidavit of compliance with the provisions of
47 chapter 435 and this section using forms provided by the agency.
48 ~~Proof of compliance with the background screening requirements~~
49 ~~of the Department of Financial Services submitted within the~~
50 ~~previous 5 years for an applicant for a certificate of authority~~
51 ~~to operate a continuing care retirement community under chapter~~
52 ~~651 satisfies the Department of Law Enforcement and Federal~~
53 ~~Bureau of Investigation portions of a level 2 background check.~~
54 (3) All fingerprints must be provided in electronic format.
55 Screening results shall be reviewed by the agency with respect
56 to the offenses specified in s. 435.04 and this section, and the
57 qualifying or disqualifying status of the person named in the
58 request shall be maintained in a database. The qualifying or
59 disqualifying status of the person named in the request shall be
60 posted on a secure website for retrieval by the licensee or
61 designated agent on the licensee's behalf. A provisional license
62 ~~may be granted to an applicant when each individual required by~~
63 ~~this section to undergo background screening has met the~~
64 ~~standards for the Department of Law Enforcement background check~~
65 ~~but the agency has not yet received background screening results~~
66 ~~from the Federal Bureau of Investigation. A standard license may~~
67 ~~be granted to the licensee upon the agency's receipt of a report~~
68 ~~of the results of the Federal Bureau of Investigation background~~
69 ~~screening for each individual required by this section to~~
70 ~~undergo background screening that confirms that all standards~~



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71 ~~have been met or upon the granting of an exemption from~~
72 ~~disqualification by the agency as set forth in chapter 435.~~

73 ~~(4) When a person is newly employed in a capacity that~~
74 ~~requires screening under this section, the licensee must notify~~
75 ~~the agency of the change within the time period specified in the~~
76 ~~authorizing statute or rules and must submit to the agency~~
77 ~~information necessary to conduct level 2 screening or provide~~
78 ~~evidence of compliance with background screening requirements of~~
79 ~~this section. The person may serve in his or her capacity~~
80 ~~pending the agency's receipt of the report from the Federal~~
81 ~~Bureau of Investigation if he or she has met the standards for~~
82 ~~the Department of Law Enforcement background check. However, the~~
83 ~~person may not continue to serve in his or her capacity if the~~
84 ~~report indicates any violation of background screening standards~~
85 ~~unless an exemption from disqualification has been granted by~~
86 ~~the agency as set forth in chapter 435.~~

87 ~~(4)(5) Effective October 1, 2009,~~ In addition to the
88 offenses listed in s. ss. 435.03 and 435.04, all persons
89 required to undergo background screening pursuant to this part
90 or authorizing statutes must not have an arrest awaiting final
91 disposition for, must not have been found guilty of, regardless
92 of adjudication, or entered a plea of nolo contendere or guilty
93 to, and must not have been adjudicated delinquent and the record
94 not have been sealed or expunged for any of the following
95 offenses or any similar offense of another jurisdiction:

96 (a) Any authorizing statutes, if the offense was a felony.

97 (b) This chapter, if the offense was a felony.

98 (c) Section 409.920, relating to Medicaid provider fraud,
99 ~~if the offense was a felony.~~



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- 100 (d) Section 409.9201, relating to Medicaid fraud, ~~if the~~
101 ~~offense was a felony.~~
- 102 (e) Section 741.28, relating to domestic violence.
- 103 ~~(f) Chapter 784, relating to assault, battery, and culpable~~
104 ~~negligence, if the offense was a felony.~~
- 105 ~~(g) Section 810.02, relating to burglary.~~
- 106 (f) ~~(h)~~ Section 817.034, relating to fraudulent acts through
107 mail, wire, radio, electromagnetic, photoelectronic, or
108 photooptical systems.
- 109 (g) ~~(i)~~ Section 817.234, relating to false and fraudulent
110 insurance claims.
- 111 (h) ~~(j)~~ Section 817.505, relating to patient brokering.
- 112 (i) ~~(k)~~ Section 817.568, relating to criminal use of
113 personal identification information.
- 114 (j) ~~(l)~~ Section 817.60, relating to obtaining a credit card
115 through fraudulent means.
- 116 (k) ~~(m)~~ Section 817.61, relating to fraudulent use of credit
117 cards, if the offense was a felony.
- 118 (l) ~~(n)~~ Section 831.01, relating to forgery.
- 119 (m) ~~(o)~~ Section 831.02, relating to uttering forged
120 instruments.
- 121 (n) ~~(p)~~ Section 831.07, relating to forging bank bills,
122 checks, drafts, or promissory notes.
- 123 (o) ~~(q)~~ Section 831.09, relating to uttering forged bank
124 bills, checks, drafts, or promissory notes.
- 125 (p) ~~(r)~~ Section 831.30, relating to fraud in obtaining
126 medicinal drugs.
- 127 (q) ~~(s)~~ Section 831.31, relating to the sale, manufacture,
128 delivery, or possession with the intent to sell, manufacture, or



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129 deliver any counterfeit controlled substance, if the offense was
130 a felony.

131
132 A person who serves as a controlling interest of, ~~or~~ is employed
133 by, or contracts with a licensee on June 30, 2010 ~~September 30,~~
134 ~~2009,~~ who has been screened and qualified according to standards
135 specified in s. 435.03 or s. 435.04 must be rescreened by June
136 30, 2015. The agency may adopt rules pursuant to ss. 120.536(1)
137 and 120.54 to establish a schedule to stagger the implementation
138 of the required rescreening over the 5-year period starting June
139 30, 2010, through June 30, 2015. ~~is not required by law to~~
140 ~~submit to rescreening if that licensee has in its possession~~
141 ~~written evidence that the person has been screened and qualified~~
142 ~~according to the standards specified in s. 435.03 or s. 435.04.~~
143 ~~However, if such person has a disqualifying offense listed in~~
144 ~~this section, he or she may apply for an exemption from the~~
145 ~~appropriate licensing agency before September 30, 2009, and if~~
146 ~~agreed to by the employer, may continue to perform his or her~~
147 ~~duties until the licensing agency renders a decision on the~~
148 ~~application for exemption for offenses listed in this section.~~
149 ~~Exemptions from disqualification may be granted pursuant to s.~~
150 ~~435.07.~~