

By Senator Sobel

31-00641-11

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1                   A bill to be entitled  
2           An act relating to medspas; amending s. 400.9905,  
3           F.S.; redefining the term "clinic" to include a medspa  
4           for purposes of regulation under the Health Care  
5           Clinic Act; defining the term "medspa"; providing an  
6           effective date.

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

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10           Section 1. Subsection (4) of section 400.9905, Florida  
11           Statutes, is amended, present subsections (6) and (7) of that  
12           section are renumbered as subsections (7) and (8), respectively,  
13           and a new subsection (6) is added to that section, to read:

14           400.9905 Definitions.—

15           (4) "Clinic" means an entity at which health care services  
16           are provided to individuals and which ~~tenders~~ charges ~~for~~  
17           ~~reimbursement~~ for such services, including a mobile clinic, a  
18           medspa, and a portable equipment provider. For purposes of this  
19           part, the term does not include and the licensure requirements  
20           of this part do not apply to:

21           (a) Entities licensed or registered by the state under  
22           chapter 395; or entities licensed or registered by the state and  
23           providing only health care services within the scope of services  
24           authorized under their respective licenses granted under ss.  
25           383.30-383.335, chapter 390, chapter 394, chapter 397, this  
26           chapter except part X, chapter 429, chapter 463, chapter 465,  
27           chapter 466, chapter 478, part I of chapter 483, chapter 484, or  
28           chapter 651; end-stage renal disease providers authorized under  
29           42 C.F.R. part 405, subpart U; or providers certified under 42

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30 C.F.R. part 485, subpart B or subpart H; or any entity that  
31 provides neonatal or pediatric hospital-based health care  
32 services or other health care services by licensed practitioners  
33 solely within a hospital licensed under chapter 395.

34 (b) Entities that own, directly or indirectly, entities  
35 licensed or registered by the state pursuant to chapter 395; or  
36 entities that own, directly or indirectly, entities licensed or  
37 registered by the state and providing only health care services  
38 within the scope of services authorized pursuant to their  
39 respective licenses granted under ss. 383.30-383.335, chapter  
40 390, chapter 394, chapter 397, this chapter except part X,  
41 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
42 part I of chapter 483, chapter 484, chapter 651; end-stage renal  
43 disease providers authorized under 42 C.F.R. part 405, subpart  
44 U; or providers certified under 42 C.F.R. part 485, subpart B or  
45 subpart H; or any entity that provides neonatal or pediatric  
46 hospital-based health care services by licensed practitioners  
47 solely within a hospital licensed under chapter 395.

48 (c) Entities that are owned, directly or indirectly, by an  
49 entity licensed or registered by the state pursuant to chapter  
50 395; or entities that are owned, directly or indirectly, by an  
51 entity licensed or registered by the state and providing only  
52 health care services within the scope of services authorized  
53 pursuant to their respective licenses granted under ss. 383.30-  
54 383.335, chapter 390, chapter 394, chapter 397, this chapter  
55 except part X, chapter 429, chapter 463, chapter 465, chapter  
56 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
57 651; end-stage renal disease providers authorized under 42  
58 C.F.R. part 405, subpart U; or providers certified under 42

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59 C.F.R. part 485, subpart B or subpart H; or any entity that  
60 provides neonatal or pediatric hospital-based health care  
61 services by licensed practitioners solely within a hospital  
62 under chapter 395.

63 (d) Entities that are under common ownership, directly or  
64 indirectly, with an entity licensed or registered by the state  
65 pursuant to chapter 395; or entities that are under common  
66 ownership, directly or indirectly, with an entity licensed or  
67 registered by the state and providing only health care services  
68 within the scope of services authorized pursuant to their  
69 respective licenses granted under ss. 383.30-383.335, chapter  
70 390, chapter 394, chapter 397, this chapter except part X,  
71 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
72 part I of chapter 483, chapter 484, or chapter 651; end-stage  
73 renal disease providers authorized under 42 C.F.R. part 405,  
74 subpart U; or providers certified under 42 C.F.R. part 485,  
75 subpart B or subpart H; or any entity that provides neonatal or  
76 pediatric hospital-based health care services by licensed  
77 practitioners solely within a hospital licensed under chapter  
78 395.

79 (e) An entity that is exempt from federal taxation under 26  
80 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
81 under 26 U.S.C. s. 409 that has a board of trustees not less  
82 than two-thirds of which are Florida-licensed health care  
83 practitioners and provides only physical therapy services under  
84 physician orders, any community college or university clinic,  
85 and any entity owned or operated by the federal or state  
86 government, including agencies, subdivisions, or municipalities  
87 thereof.

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88 (f) A sole proprietorship, group practice, partnership, or  
89 corporation that provides health care services by physicians  
90 covered by s. 627.419, that is directly supervised by one or  
91 more of such physicians, and that is wholly owned by one or more  
92 of those physicians or by a physician and the spouse, parent,  
93 child, or sibling of that physician.

94 (g) A sole proprietorship, group practice, partnership, or  
95 corporation that provides health care services by licensed  
96 health care practitioners under chapter 457, chapter 458,  
97 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
98 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
99 chapter 490, chapter 491, or part I, part III, part X, part  
100 XIII, or part XIV of chapter 468, or s. 464.012, which are  
101 wholly owned by one or more licensed health care practitioners,  
102 or the licensed health care practitioners set forth in this  
103 paragraph and the spouse, parent, child, or sibling of a  
104 licensed health care practitioner, so long as one of the owners  
105 who is a licensed health care practitioner is supervising the  
106 business activities and is legally responsible for the entity's  
107 compliance with all federal and state laws. However, a health  
108 care practitioner may not supervise services beyond the scope of  
109 the practitioner's license, except that, for the purposes of  
110 this part, a clinic owned by a licensee in s. 456.053(3)(b) that  
111 provides only services authorized pursuant to s. 456.053(3)(b)  
112 may be supervised by a licensee specified in s. 456.053(3)(b).

113 (h) Clinical facilities affiliated with an accredited  
114 medical school at which training is provided for medical  
115 students, residents, or fellows.

116 (i) Entities that provide only oncology or radiation

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117 therapy services by physicians licensed under chapter 458 or  
118 chapter 459 or entities that provide oncology or radiation  
119 therapy services by physicians licensed under chapter 458 or  
120 chapter 459 which are owned by a corporation whose shares are  
121 publicly traded on a recognized stock exchange.

122 (j) Clinical facilities affiliated with a college of  
123 chiropractic accredited by the Council on Chiropractic Education  
124 at which training is provided for chiropractic students.

125 (k) Entities that provide licensed practitioners to staff  
126 emergency departments or to deliver anesthesia services in  
127 facilities licensed under chapter 395 and that derive at least  
128 90 percent of their gross annual revenues from the provision of  
129 such services. Entities claiming an exemption from licensure  
130 under this paragraph must provide documentation demonstrating  
131 compliance.

132 (l) Orthotic or prosthetic clinical facilities that are a  
133 publicly traded corporation or that are wholly owned, directly  
134 or indirectly, by a publicly traded corporation. As used in this  
135 paragraph, a publicly traded corporation is a corporation that  
136 issues securities traded on an exchange registered with the  
137 United States Securities and Exchange Commission as a national  
138 securities exchange.

139 (6) "Medspa" means an entity at which:

140 (a) A patient is injected with a cosmetic or esthetic  
141 substance that is prescribed by a health care provider who is  
142 licensed to prescribe drugs in this state; or

143 (b) Human tissue is altered through the use of a device  
144 that:

145 1. Is prescribed by a health care provider who is licensed

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146 to prescribe drugs in this state; and

147 2. Uses waveform energy, including, but not limited to, a  
148 laser or intense pulsed light.

149 Section 2. This act shall take effect July 1, 2011.