



845588

LEGISLATIVE ACTION

Senate

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House

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The Committee on Budget (Gaetz) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete line 2584

and insert:

(1) In addition to the grounds provided in authorizing statutes, grounds that may be used by the agency for denying and revoking a license or change of ownership application include any of the following actions by a controlling interest:

(a) False representation of a material fact in the license application or omission of any material fact from the application.

(b) An intentional or negligent act materially affecting the health or safety of a client of the provider.



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14 (c) A violation of this part, authorizing statutes, or  
15 applicable rules.

16 (d) A demonstrated pattern of deficient performance.

17 (e) The applicant, licensee, or controlling interest has  
18 been or is currently excluded, suspended, or terminated from  
19 participation in the state Medicaid program, the Medicaid  
20 program of any other state, or the Medicare program.

21 (2) If a licensee lawfully continues to operate while a  
22 denial or revocation is pending in litigation, the licensee must  
23 continue to meet all other requirements of this part,  
24 authorizing statutes, and applicable rules and must file  
25 subsequent renewal applications for licensure and pay all  
26 licensure fees. The provisions of ss. 120.60(1) and  
27 408.806(3)(c) shall not apply to renewal applications filed  
28 during the time period in which the litigation of the denial or  
29 revocation is pending until that litigation is final.

30 (3) An action under s. 408.814 or denial of the license of  
31 the transferor may be grounds for denial of a change of  
32 ownership application of the transferee.

33 (4) Unless an applicant is determined by the agency to  
34 satisfy the provisions in subsection (5), the agency shall deny  
35 any application for a license or license renewal based upon any  
36 of the following actions of an applicant, a controlling interest  
37 of the applicant, or any entity in which a controlling interest  
38 of the applicant was an owner or officer at the time of any of  
39 the following actions: In addition to the grounds provided in  
40 authorizing statutes, the agency shall deny an application for a  
41 license or license renewal if the applicant or a person having a  
42 controlling interest in an applicant has been:



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43 (a) A conviction or ~~Convicted of, or enters~~ a plea of  
44 guilty or nolo contendere to, regardless of adjudication, a  
45 felony under chapter 409, chapter 817, chapter 893, 21 U.S.C.  
46 ss. 801-970, or 42 U.S.C. ss. 1395-1396, Medicaid fraud,  
47 Medicare fraud or insurance fraud, unless the sentence and any  
48 subsequent period of probation for such convictions or plea  
49 ended more than 15 years prior to the date of the application;  
50 or

51 (b) Termination ~~Terminated~~ for cause from the Medicare  
52 Florida Medicaid program or from any state Medicaid program  
53 ~~pursuant to s. 409.913,~~ unless the applicant has been in good  
54 standing with a state ~~the Florida~~ Medicaid program or the  
55 Medicare program for the most recent 5 years and the termination  
56 occurred at least 20 years before the date of the application;  
57 ~~or~~

58 (c) ~~Terminated for cause, pursuant to the appeals~~  
59 ~~procedures established by the state or Federal Government, from~~  
60 ~~the federal Medicare program or from any other state Medicaid~~  
61 ~~program, unless the applicant has been in good standing with a~~  
62 ~~state Medicaid program or the federal Medicare program for the~~  
63 ~~most recent 5 years and the termination occurred at least 20~~  
64 ~~years prior to the date of the application.~~

65 (5) For any application subject to denial under subsection  
66 (4), the agency may consider mitigating circumstances as  
67 applicable, including, but not limited to:

68 (a) Completion or lawful release from confinement,  
69 supervision, or sanction, including any terms of probation, and  
70 full restitution;

71 (b) Execution of a compliance plan with the agency;



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72 (c) Compliance with any integrity agreement or compliance  
73 plan with any other government agency;

74 (d) Determination by any state Medicaid program or the  
75 Medicare program that the controlling interest or entity in  
76 which the controlling interest was an owner or officer is  
77 currently allowed to participate in the state Medicaid program  
78 or the Medicare program, either directly as a provider or  
79 indirectly as an owner or officer of a provider entity;

80 (e) Continuation of licensure by the controlling interest  
81 or entity in which the controlling interest was an owner or  
82 officer, either directly as a licensee or indirectly as an owner  
83 or officer of a licensed entity in the state where the action  
84 occurred;

85 (f) Overall impact upon the public health, safety, or  
86 welfare; or

87 (g) Determination that license denial is not commensurate  
88 with the prior action taken by the Medicare or state Medicaid  
89 program.

90  
91 Upon consideration of the circumstances listed in this  
92 subsection, the agency shall grant the license, with or without  
93 conditions, grant a provisional license for a period of no more  
94 than the licensure cycle, with or without conditions, or deny  
95 the license.

96 (6) In order to ensure the health, safety, and welfare of  
97

98 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

99 And the directory clause is amended as follows:

100 Delete lines 2581 - 2582



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101 and insert:

102 Section 70. Section 408.815, Florida Statutes, is amended  
103 to read:

104

105 ===== T I T L E A M E N D M E N T =====

106 And the title is amended as follows:

107 Delete line 228

108 and insert:

109 408, F.S.; amending s. 408.815, F.S.; requiring that  
110 the agency deny any application for a license or  
111 license renewal of an applicant, a controlling  
112 interest of the applicant, or any entity in which a  
113 controlling interest of the applicant was an owner or  
114 officer during the occurrence of certain actions;  
115 authorizing the agency to consider certain mitigating  
116 circumstances; authorizing the