

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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**BILL:** CS/CS/CS/SB 746

**INTRODUCER:** Community Affairs Committee; Criminal Justice Committee; Health Policy Committee;  
and Senator Sobel

**SUBJECT:** Health Care Clinic Act

**DATE:** April 8, 2014

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
4.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/CS/CS/SB 746 amends the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The bill also makes clinics subject to additional inspections, administrative penalties,<sup>1</sup> and any applicable criminal penalties if an inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked or the licenses of two or more physicians have been suspended or revoked as a consequence of the physicians’ actions while engaged by the clinic. The bill exempts certain federally certified clinics from licensure under the act.

**II. Present Situation:**

Clinics in the state must be licensed by the Agency for Health Care Administration (AHCA);<sup>2</sup> however, there are numerous exclusions from the definition of “clinic” in s. 400.9905, F.S.,<sup>3</sup> and from the requirement to obtain a license as a clinic. The definition of “clinic” only includes entities that “tender charges for reimbursement.” The AHCA interprets this phrase to only include entities that bill third parties, such as Medicare, Medicaid, and insurance companies.

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<sup>1</sup> See s. 400.995, F.S., allowing the AHCA to deny, revoke, or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

<sup>2</sup> Section 400.991, F.S.

<sup>3</sup> Section 400.9905(4)(a)-(n), F.S.

Entities that provide health care services on a “cash only” basis are excluded from the definition of “clinic” and, as such, need not be licensed by the AHCA.<sup>4</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 400.9905, F.S., to broaden the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The effect of this change is to require “cash only” clinics to obtain a license as a clinic and, as a result, these facilities will be subject to periodic inspections which may help detect and deter unlawful practices. The bill exempts clinics subject to federal licensure requirements under 42 C.F.R. part 485, subpart H.

**Section 2** amends s. 400.995, F.S., to subject clinics to additional inspections, administrative penalties,<sup>5</sup> licensure suspension or revocation, any applicable criminal penalties<sup>6</sup> or any combination thereof if:

- An inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked; or
- The licenses of two or more physicians have been suspended or revoked as a consequence of the physicians’ actions while engaged by the clinic.

**Section 3** establishes an effective date of July 1, 2014.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

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<sup>4</sup> See AHCA bill analysis for SB 746.

<sup>5</sup> See s. 400.995, F.S., allowing the AHCA to deny, revoke, or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

<sup>6</sup> The criminal penalties are not specified, however, these penalties could include a felony of the third degree imposed by s. 458.327(1)(b), F.S., on physicians who attempt to use a license which is suspended or revoked to practice medicine.

**B. Private Sector Impact:**

“Cash only” clinics that are not currently licensed will be required to obtain a license from the AHCA and pay a \$2,000 licensing fee. Also, clinics that hire or continue to employ a physician whose license is suspended or revoked may be required to pay a fine of up to \$5,000.

**C. Government Sector Impact:**

The AHCA anticipates an increased workload for clinic licensure of approximately 10 percent and to require four new FTEs to manage the increased workload.<sup>7</sup> The increased workload will generate an estimated one-time cost to the AHCA of approximately \$16,000 and estimated recurring costs of approximately \$60,000.<sup>8</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 400.9905 and 400.995.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS/CS by Community Affairs on April 8, 2014:**

Exempts certain federally certified clinics from the licensure requirements of the bill.

**CS/CS by Criminal Justice on March 24, 2014:**

The CS amends CS/SB 746 to subject clinics to additional inspections and licensure suspension or revocation (or any combination of penalties including administrative and criminal penalties) if an inspection or investigation reveals that the licenses of two or more physicians have been suspended or revoked as a consequence of the physicians' actions while engaged by the clinic.

**CS by Health Policy on March 11, 2014:**

The CS amends SB 746 to state that only a clinic that hires or continues to employ, directly or contractually, a physician whose license is suspended or revoked is liable for sanctions or criminal penalties.

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<sup>7</sup> Supra n. 4

<sup>8</sup> *Id.*

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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