

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

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 24, 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>Brown/Forbes</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 746 amends the definition of “clinic” within the Health Care Clinic Act 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,¹ 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.

The bill is estimated to have a net recurring negative fiscal impact of approximately \$69,000 to the Agency for Health Care Administration’s (AHCA) Health Care Trust Fund. The net impact results from an estimate of approximately \$176,000 of additional annual revenue for the trust fund and the need for \$245,000 of recurring expenditures from the trust fund for four full-time equivalent positions to implement the bill.

¹ 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.

II. Present Situation:

Part X of ch. 400, F.S., is known as the Health Care Clinic Act (the Act). The purpose of the Act is to provide for the licensure, establishment, and enforcement of basic standards for health care clinics and to provide administrative oversight by the Agency for Health Care Administration (AHCA).

Health care clinics in the state must be licensed by the AHCA;² however, there are numerous exclusions from the definition of “clinic” in s. 400.9905, F.S.,³ and from the requirement to obtain a license as a clinic. The definition of “clinic” includes only entities that “tender charges for reimbursement.” The AHCA interprets this phrase to solely include entities that bill third parties, such as Medicare, Medicaid, and insurance companies. 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.⁴

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. 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,⁵ licensure suspension or revocation, any applicable criminal penalties⁶ 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.

² Section 400.991, F.S.

³ Section 400.9905(4)(a)-(n), F.S.

⁴ See the AHCA’s bill analysis for SB 746 (January 28, 2014) on file with staff of the Committee on Appropriations.

⁵ 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.

⁶ 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. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Under CS/CS/CS/SB 746, “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 in order to continue operating legally.

B. Private Sector Impact:

“Cash only” clinics that are not currently licensed will incur the \$2,000 licensing fee if they choose to seek licensure. 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 a recurring increase in licensing fee revenue of approximately \$176,000 under the bill that will be deposited into the Health Care Trust Fund.

The AHCA anticipates the licensure workload will increase by 10 percent requiring 4 FTE positions to manage the program. The licensure fees will substantially cover the increased workload costs. Existing resources can absorb the difference.

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:

The CS exempts certain federally certified clinics from the licensure requirements of the bill.

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

The CS subjects 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 provides that only clinics that hire or continues to employ, directly or contractually, a physician whose license is suspended or revoked, are liable for sanctions or criminal penalties.

- B. **Amendments:**

None.