

By Senator Sobel

33-01100-16

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1 A bill to be entitled
2 An act relating to the Health Care Clinic Act;
3 amending s. 400.9905, F.S.; redefining the term
4 "clinic"; amending s. 400.991, F.S.; redefining the
5 term "applicant"; defining the term "convicted";
6 prohibiting applicants for clinic licensure from
7 having an arrest awaiting final disposition for, or
8 having been convicted of, a felony or crime punishable
9 by a specified term of imprisonment; requiring the
10 Agency for Health Care Administration to deny an
11 application for a clinic license or license renewal
12 from an applicant who has been found by a state or
13 federal regulatory agency or court to have committed
14 an act that resulted in the suspension or revocation
15 of a clinic license; amending s. 400.995, F.S.;
16 providing that a licensed clinic is subject to a
17 specified administrative penalty if its medical
18 director or clinic director fails to ensure that a
19 practitioner providing health care services or
20 supplies to a patient has a valid license; reenacting
21 ss. 400.991(2), 400.9935(6), 480.0475(1)(a), and
22 817.234(8)(c), F.S., to incorporate the amendment made
23 to s. 400.9905, F.S., in references thereto; providing
24 an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsection (4) of section 400.9905, Florida
29 Statutes, is amended to read:

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30 400.9905 Definitions.—

31 (4) "Clinic" means an entity, including a mobile clinic and
32 a portable equipment provider, which provides ~~where~~ health care
33 ~~services are provided~~ to individuals and which receives
34 remuneration ~~tenders charges for reimbursement~~ for the such
35 ~~services, including a mobile clinic and a portable equipment~~
36 ~~provider~~. As used in this part, the term does not include and
37 the licensure requirements of this part do not apply to:

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

51 (b) Entities that own, directly or indirectly, entities
52 licensed or registered by the state pursuant to chapter 395;
53 entities that own, directly or indirectly, entities licensed or
54 registered by the state and providing only health care services
55 within the scope of services authorized pursuant to their
56 respective licenses under ss. 383.30-383.335, chapter 390,
57 chapter 394, chapter 397, this chapter except part X, chapter
58 429, chapter 463, chapter 465, chapter 466, chapter 478, part I

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59 of chapter 483, chapter 484, or chapter 651; end-stage renal
60 disease providers authorized under 42 C.F.R. part 405, subpart
61 U; providers certified under 42 C.F.R. part 485, subpart B or
62 subpart H; or an ~~any~~ entity that provides neonatal or pediatric
63 hospital-based health care services by licensed practitioners
64 solely within a hospital licensed under chapter 395.

65 (c) Entities that are owned, directly or indirectly, by an
66 entity licensed or registered by the state pursuant to chapter
67 395; entities that are owned, directly or indirectly, by an
68 entity licensed or registered by the state and providing only
69 health care services within the scope of services authorized
70 pursuant to their respective licenses under ss. 383.30-383.335,
71 chapter 390, chapter 394, chapter 397, this chapter except part
72 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
73 478, part I of chapter 483, chapter 484, or chapter 651; end-
74 stage renal disease providers authorized under 42 C.F.R. part
75 405, subpart U; providers certified under 42 C.F.R. part 485,
76 subpart B or subpart H; or an ~~any~~ entity that provides neonatal
77 or pediatric hospital-based health care services by licensed
78 practitioners solely within a hospital licensed under chapter
79 395.

80 (d) Entities that are under common ownership, directly or
81 indirectly, with an entity licensed or registered by the state
82 pursuant to chapter 395; entities that are under common
83 ownership, directly or indirectly, with an entity licensed or
84 registered by the state and providing only health care services
85 within the scope of services authorized pursuant to their
86 respective licenses under ss. 383.30-383.335, chapter 390,
87 chapter 394, chapter 397, this chapter except part X, chapter

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88 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
89 of chapter 483, chapter 484, or chapter 651; end-stage renal
90 disease providers authorized under 42 C.F.R. part 405, subpart
91 U; providers certified under 42 C.F.R. part 485, subpart B or
92 subpart H; or an ~~any~~ entity that provides neonatal or pediatric
93 hospital-based health care services by licensed practitioners
94 solely within a hospital licensed under chapter 395.

95 (e) An entity that is exempt from federal taxation under 26
96 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
97 under 26 U.S.C. s. 409 that has a board of trustees at least
98 two-thirds of which are Florida-licensed health care
99 practitioners and provides only physical therapy services under
100 physician orders, a ~~any~~ community college or university clinic,
101 and an ~~any~~ entity owned or operated by the federal or state
102 government, including agencies, subdivisions, or municipalities
103 thereof.

104 (f) A sole proprietorship, group practice, partnership, or
105 corporation that provides health care services by physicians
106 covered by s. 627.419, that is directly supervised by one or
107 more of such physicians, and that is wholly owned by one or more
108 of those physicians or by a physician and the spouse, parent,
109 child, or sibling of that physician.

110 (g) A sole proprietorship, group practice, partnership, or
111 corporation that provides health care services by licensed
112 health care practitioners under chapter 457, chapter 458,
113 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
114 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
115 chapter 490, chapter 491, or part I, part III, part X, part
116 XIII, or part XIV of chapter 468, or s. 464.012, and that is

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117 wholly owned by one or more licensed health care practitioners,
118 or the licensed health care practitioners set forth in this
119 paragraph and the spouse, parent, child, or sibling of a
120 licensed health care practitioner if one of the owners who is a
121 licensed health care practitioner is supervising the business
122 activities and is legally responsible for the entity's
123 compliance with all federal and state laws. However, a health
124 care practitioner may not supervise services beyond the scope of
125 the practitioner's license, except that, for the purposes of
126 this part, a clinic owned by a licensee in s. 456.053(3)(b)
127 which provides only services authorized pursuant to s.
128 456.053(3)(b) may be supervised by a licensee specified in s.
129 456.053(3)(b).

130 (h) Clinical facilities affiliated with an accredited
131 medical school at which training is provided for medical
132 students, residents, or fellows.

133 (i) Entities that provide only oncology or radiation
134 therapy services by physicians licensed under chapter 458 or
135 chapter 459 or entities that provide oncology or radiation
136 therapy services by physicians licensed under chapter 458 or
137 chapter 459 which are owned by a corporation whose shares are
138 publicly traded on a recognized stock exchange.

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

142 (k) Entities that provide licensed practitioners to staff
143 emergency departments or to deliver anesthesia services in
144 facilities licensed under chapter 395 and that derive at least
145 90 percent of their gross annual revenues from the provision of

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146 such services. Entities claiming an exemption from licensure
147 under this paragraph must provide documentation demonstrating
148 compliance.

149 (l) Orthotic, prosthetic, pediatric cardiology, or
150 perinatology clinical facilities or anesthesia clinical
151 facilities that are not otherwise exempt under paragraph (a) or
152 paragraph (k) and that are a publicly traded corporation or are
153 wholly owned, directly or indirectly, by a publicly traded
154 corporation. As used in this paragraph, a publicly traded
155 corporation is a corporation that issues securities traded on an
156 exchange registered with the United States Securities and
157 Exchange Commission as a national securities exchange.

158 (m) Entities that are owned by a corporation that has \$250
159 million or more in total annual sales of health care services
160 provided by licensed health care practitioners where one or more
161 of the persons responsible for the operations of the entity is a
162 health care practitioner who is licensed in this state and who
163 is responsible for supervising the business activities of the
164 entity and is responsible for the entity's compliance with state
165 law for purposes of this part.

166 (n) Entities that employ 50 or more licensed health care
167 practitioners licensed under chapter 458 or chapter 459 where
168 the billing for medical services is under a single tax
169 identification number. The application for exemption under this
170 subsection must ~~shall~~ contain information that includes: the
171 name, residence, and business address and phone number of the
172 entity that owns the practice; a complete list of the names and
173 contact information of all the officers and directors of the
174 corporation; the name, residence address, business address, and

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175 medical license number of each licensed Florida health care
176 practitioner employed by the entity; the corporate tax
177 identification number of the entity seeking an exemption; a
178 listing of health care services to be provided by the entity at
179 the health care clinics owned or operated by the entity and a
180 certified statement prepared by an independent certified public
181 accountant which states that the entity and the health care
182 clinics owned or operated by the entity have not received
183 payment for health care services under personal injury
184 protection insurance coverage for the preceding year. If the
185 agency determines that an entity which is exempt under this
186 subsection has received payments for medical services under
187 personal injury protection insurance coverage, the agency may
188 deny or revoke the exemption from licensure under this
189 subsection.

190
191 Notwithstanding this subsection, an entity shall be deemed a
192 clinic and must be licensed under this part in order to receive
193 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
194 627.730-627.7405, unless exempted under s. 627.736(5)(h).

195 Section 2. Paragraphs (a) and (b) of subsection (5) of
196 section 400.991, Florida Statutes, are amended, present
197 subsection (6) of that section is redesignated as subsection
198 (7), and a new subsection (6) is added to that section, to read:

199 400.991 License requirements; background screenings;
200 prohibitions.—

201 (5) (a) As used in this subsection and subsection (6), the
202 term:

203 1. "Applicant" means an individual who owns or controls

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204 ~~individuals owning or controlling~~, directly or indirectly, any 5
205 ~~percent or more of an~~ interest in a clinic; the medical or
206 clinic director, or a similarly titled individual ~~person~~ who is
207 responsible for the day-to-day operation of the licensed clinic;
208 the financial officer or similarly titled individual who is
209 responsible for the financial operation of the clinic; and a a
210 licensed health care practitioner ~~practitioners~~ at the clinic.

211 2. "Convicted" means a finding of guilt, regardless of
212 adjudication, the acceptance of a plea of nolo contendere or
213 guilty by a court, or an adjudication of delinquency if the
214 record has not been sealed or expunged.

215 (b) The agency shall require level 2 background screening
216 for applicants and personnel as required in s. 408.809(1)(e)
217 pursuant to chapter 435 and s. 408.809. In addition to the
218 disqualifying offenses listed in ss. 408.809 and 435.04, an
219 applicant may not have an arrest awaiting final disposition for,
220 or have been convicted of, a felony or a crime punishable by
221 imprisonment of 1 year or more under state or federal law or the
222 law of any other country.

223 (6) The agency shall deny the application for a health care
224 clinic license or license renewal by an applicant who has been
225 previously found by a state or federal regulatory agency or
226 court to have committed an act that resulted in the suspension
227 or revocation of a health care clinic license or its equivalent.

228 Section 3. Subsection (4) of section 400.995, Florida
229 Statutes, is amended to read:

230 400.995 Agency administrative penalties.—

231 (4) A ~~Any~~ licensed clinic shall be subject to an
232 administrative fine of \$5,000 per day if its:

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233 (a) ~~whose~~ Owner, medical director, or clinic director
234 concurrently operates an unlicensed clinic ~~shall be subject to~~
235 ~~an administrative fine of \$5,000 per day.~~

236 (b) Medical director or clinic director violates s.
237 400.9935(1)(b).

238 Section 4. Subsection (2) of s. 400.991, subsection (6) of
239 s. 400.9935, paragraph (a) of subsection (1) of s. 480.0475, and
240 paragraph (c) of subsection (8) of s. 817.234, Florida Statutes,
241 are reenacted for the purpose of incorporating the amendment
242 made by this act to s. 400.9905, Florida Statutes, in references
243 thereto.

244 Section 5. This act shall take effect July 1, 2016.