

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 Health Policy

BILL: CS/SB 768

INTRODUCER: Health Policy Committee and Senator Calatayud

SUBJECT: Controlling Business Interests by Persons with Ties to Foreign Countries of Concern

DATE: March 19, 2025 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 768 revises health care providers’ minimum licensure requirements to require licensees to make reasonable efforts to ensure that a person or entity that possesses a direct controlling interest does not directly hold an interest in an entity that has a business relationship with a foreign country of concern or that is subject to the statute prohibiting contracting with scrutinized companies. The bill also removes “any other entity of significant control” (of such foreign country of concern) from the definition of foreign country of concern and engaging in “any other apparatus of business or commerce” from the definition of “business relationship, for purposes of that requirement.

These changes would ease heightened requirements, relating to business interests by persons with ties to foreign countries of concern, for licensees who may not have access to the information that they need to ensure that they satisfy those current minimum licensure requirements.

The bill provides an effective date of July 1, 2025.

II. Present Situation:

Health Care Licensing Procedures Act

As of February 21, 2025, the Florida Agency for Health Care Administration (AHCA) regulates 49,823 health care providers.¹ The Health Care Licensing Procedures Act² provides a streamlined and consistent set of basic licensing requirements for health care providers that are licensed, registered, or certified by the AHCA.³ The Act is intended to minimize confusion, standardize terminology, and include issues that are not otherwise addressed in state law pertaining to specific providers.⁴ Among other things, it provides certain minimum licensure requirements with which applicants and licensees must comply in order to obtain and maintain a license.⁵ The issuance of a license is not a contract or an agreement between the state and the licensee.⁶ A license is a privilege that is granted by the state based upon the licensee complying with licensure requirements.⁷

Minimum Licensure Requirements; An Act Relating to the Interests of Foreign Countries

On July 1, 2023, Senate Bill 264 (2023), relating to the Interests of Foreign Countries, became effective, creating additional minimum licensure requirements for health care providers.⁸

One such additional requirement is subsection (15) of s. 408.810, F.S., which requires a licensee to ensure that a person or entity who possesses a *controlling interest* in the licensee does not also hold, either directly or indirectly, regardless of ownership structure, an *interest* in an entity that has a business relationship with a foreign country of concern or that is subject to the statute prohibiting contracting with scrutinized companies.⁹

¹ Agency for Health Care Administration, Senate Bill 786 Legislative Analysis (Feb. 19, 2025) (on file with the Senate Committee on Health Policy).

² Chapter 408, Part II, F.S. *See also* s. 408.801(1), F.S.

³ Section 408.801(2), F.S. The act applies to following providers: laboratories authorized to perform testing under the Drug-Free Workplace Act, birth centers, abortion clinics, crisis stabilization units, short-term residential treatment facilities, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment providers, intermediate care facilities for persons with developmental disabilities, health care services pools, health care clinics, organ tissue and eye procurement organizations.

⁴ *Id.*

⁵ *See generally* s. 408.810, F.S.

⁶ *Supra* note 1.

⁷ *Supra* note 1.

⁸ Chapter 2023-22, s. 10, Laws of Fla.

⁹ Section 287.135, F.S.

The term “controlling interest” is defined for the Act (part II of ch. 408, F.S.) in s. 408.803(7), F.S.:

- “Controlling interest” means:
 - (a) *The applicant or licensee;*
 - (b) *A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the applicant or licensee; or*
 - (c) *A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the management company or other entity, related or unrelated, with which the applicant or licensee contracts to manage the provider.*

The term does not include a voluntary board member.

For purposes of s. 408.810(15), F.S., the following terms are defined:

- “Business relationship” means engaging in commerce in any form, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.
- “Foreign country of concern” has the same meaning as in s. 692.201(3), F.S., as that term is defined for purposes of the conveyance of property.
 - *“Foreign country of concern” means the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.*
- “Interest” has the same meaning as in s. 286.101(1), F.S., as that term is defined for purposes of foreign gifts and contracts in business.
 - *“Interest” in an entity means any direct or indirect investment in or loan to the entity valued at 5 percent or more of the entity’s net worth or any form of direct or indirect control exerting similar or greater influence on the governance of the entity.*

The onus is on the licensee to ensure that no business relationship exists with foreign countries of concern or that is subject to the statute prohibiting contracting with scrutinized companies.¹⁰

Pursuant to s. 408.806(5), F.S., which outlines the license application process for the Act, proof of compliance with s. 408.810, F.S., including subsection (15) of that section, must be submitted with an application for licensure and licensure renewal.¹¹

In practice, the AHCA processes the background screenings of individual people with a controlling interest (generally 5 percent or more) in the licensee when their names are listed on an application.¹² Licensees may have controlling interests that are business entities with no individual people having been named or disclosed. The AHCA reports that aside from the application process, there is no mechanism by which its staff can verify whether the

¹⁰ *Supra* note 1.

¹¹ Section 408.806(5), F.S.

¹² Section 408.809(1)(d), F.S.

requirements of subsection (15) are met.¹³ The AHCA notes that it is a registered user of the SAVE Program of the U.S. Department of Homeland Security¹⁴ and can determine the status of nonimmigrant aliens with controlling interest in home health agencies, home medical equipment providers, and health care clinics.¹⁵

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 408.810(15), F.S., which provides certain minimum licensure requirements for health care providers relating to foreign countries of concern.¹⁶ The bill adds the phrase “make reasonable efforts to” to subsection (15), so that a licensee would be required to make reasonable efforts to ensure, rather than to absolutely ensure, that a person or entity who possesses a direct controlling interest in the licensee does not also directly hold, regardless of ownership structure, an interest in an entity that has a business relationship with a foreign country of concern or that is subject to the statute prohibiting contracting with scrutinized companies. The bill removes the concept of engaging in “any other apparatus of business or commerce” from the definition of “business relationship”, for purposes of this requirement.

Under the bill, a licensee would no longer have to ensure that a person or entity who possesses an *indirect* controlling interest does not have an interest in an entity that has an otherwise forbidden business relationship.

Additionally, the bill defines the term “foreign country of concern” in a similar manner to how it is currently defined in s. 692.201, F.S.¹⁷, but removes the phrase “or any other entity of significant control of” such foreign country of concern.

These changes would ease the heightened requirements on licensees who may not have access to the information they need to ensure that they meet the current requirements of subsection (15).

Section 2 of the bill provides an effective date of July 1, 2025.

¹³ *Supra* note 1.

¹⁴ SAVE is an online service for registered federal, state, territorial, tribal, and local government agencies to verify immigration status and naturalized/acquired U.S. citizenship of applicants seeking benefits or licenses. United States Department of Homeland Security, *SAVE*, available at <https://www.uscis.gov/save> (last accessed Mar. 15, 2025).

¹⁵ *Supra* note 1.

¹⁶ Section 408.802, F.S. (listing regulated providers).

¹⁷ Pursuant to s. 692.201, F.S., “Foreign country of concern” means the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is objectively easier to “make reasonable efforts to ensure” rather than “ensure” that certain business relationships do not exist. It is possible that changes made by the bill which ease minimum licensure requirements could encourage additional health care providers to seek licensure and provide health care services in this state.

C. Government Sector Impact:

The AHCA expects this bill to have no fiscal impact on the agency.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

The AHCA has noted a lack of clarity as to what it means to make a “reasonable effort” as required by the bill.¹⁹

¹⁸ *Supra* note 1.

¹⁹ *Supra* note 1.

VIII. Statutes Affected:

This bill substantially amends section 408.810 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 18, 2025:

The committee substitute revises the application of the requirement in the underlying bill that a licensee must make a reasonable effort to ensure that a person or entity that possesses a “controlling interest” (as defined in the underlying bill) does not have a specified business relationship. Instead, the CS requires the licensee to ensure that a person or entity that possesses a *direct* controlling interest does not have such a relationship. It also deletes the definition of “controlling interest” which is already defined for the chapter in current law.

The underlying bill required the licensee to ensure that such a person or entity does not directly or indirectly hold a specified business relationship. The CS removes “indirectly” and requires the licensee to ensure that such a person or entity does not directly hold such a relationship.

The CS removes the concept of engaging in “any other apparatus of business or commerce” from the definition of “business relationship,” for purposes of the bill’s overall requirement.

- B. **Amendments:**

None.