

By Senator Alexander

17-1604-04

1 A bill to be entitled
2 An act relating to health care clinics;
3 amending s. 400.9905, F.S.; redefining the
4 terms "clinic" and "medical director" for
5 purposes of the Health Care Clinic Act;
6 defining the term "mobile clinic"; amending s.
7 400.991, F.S.; providing that entities that
8 provide specified portable equipment are
9 considered mobile clinics; redefining the term
10 "applicant"; amending s. 400.9935, F.S.;
11 requiring applicants who voluntarily apply to
12 the Agency for Health Care Administration for a
13 certification of exemption from licensure to
14 pay a fee; amending s. 400.995, F.S.;
15 clarifying that the agency may deny, revoke, or
16 suspend specified licenses and impose fines;
17 providing that a temporary license expires
18 after a notice of intent to deny an application
19 is issued by the agency; providing that persons
20 or entities made exempt under the act are not
21 in violation due to failure to comply with
22 certain requirements governing clinic
23 licensure; providing an effective date.

24

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

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27 Section 1. Subsections (3) and (4) of section
28 400.9905, Florida Statutes, are amended, and subsection (5) is
29 added to that section, to read:

30 400.9905 Definitions.--

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1 (3) "Clinic" means an entity at which health care
2 services are provided to individuals and which tenders charges
3 for reimbursement for such services. For purposes of this
4 part, the term does not include and the licensure requirements
5 of this part do not apply to:

6 (a) Entities licensed or registered by the state and
7 providing health care services within the scope of services
8 authorized under s. 383.30, chapter 390, chapter 394, chapter
9 395, chapter 397, this chapter except part XIII, chapter 463,
10 chapter 465, chapter 466, chapter 478, part I of chapter 483
11 ~~chapter 480~~, chapter 484, ~~or~~ chapter 651, or end-stage renal
12 disease providers authorized under 42 C.F.R. part 405, subpart
13 U.

14 (b) Entities that own, directly or indirectly,
15 entities licensed or registered by the state and providing
16 health care services within the scope of services authorized
17 pursuant to s. 383.30, chapter 390, chapter 394, chapter 395,
18 chapter 397, this chapter except part XIII, chapter 463,
19 chapter 465, chapter 466, chapter 478, part I of chapter 483
20 ~~chapter 480~~, chapter 484, ~~or~~ chapter 651, or end-stage renal
21 disease providers authorized under 42 C.F.R. part 405, subpart
22 U.

23 (c) Entities that are owned, directly or indirectly,
24 by an entity licensed or registered by the state and providing
25 health care services within the scope of services authorized
26 pursuant to s. 383.30, chapter 390, chapter 394, chapter 395,
27 chapter 397, this chapter except part XIII, chapter 463,
28 chapter 465, chapter 466, chapter 478, part I of chapter 483
29 ~~chapter 480~~, chapter 484, ~~or~~ chapter 651, or end-stage renal
30 disease providers authorized under 42 C.F.R. part 405, subpart
31 U.

1 (d) Entities that are under common ownership, directly
2 or indirectly, with an entity licensed or registered by the
3 state and providing health care services within the scope of
4 services authorized pursuant to s. 383.30, chapter 390,
5 chapter 394, chapter 395, chapter 397, this chapter except
6 part XIII, chapter 463, chapter 465, chapter 466, chapter 478,
7 part I of chapter 483 ~~chapter 480~~, chapter 484, ~~or~~ chapter
8 651, or end-stage renal disease providers authorized under 42
9 C.F.R. part 405, subpart U.

10 (e) An entity that is exempt from federal taxation
11 under 26 U.S.C. s. 501(c)(3) or s. 501 (c)(4), ~~and~~ any
12 community college or university clinic, or any entity owned or
13 operated by federal or state government, including agencies,
14 subdivisions, or municipalities thereof.

15 (f) A sole proprietorship, group practice,
16 partnership, or corporation that provides health care services
17 by licensed health care practitioners under chapter 457,
18 chapter 458, chapter 459, chapter 460, chapter 461, chapter
19 462, ~~chapter 463, chapter 466,~~ chapter 467, chapter 480
20 ~~chapter 484~~, chapter 486, chapter 490, chapter 491, or part I,
21 part III, part X, part XIII, or part XIV of chapter 468, or s.
22 464.012, which are wholly owned by one or more a licensed
23 health care practitioners set forth in this paragraph
24 ~~practitioner~~, or the licensed health care practitioner and the
25 spouse, parent, or child of a licensed health care
26 practitioner, so long as one of the owners who is a licensed
27 health care practitioner is supervising the services performed
28 therein and is legally responsible for the entity's compliance
29 with all federal and state laws. However, a health care
30 practitioner may not supervise services beyond the scope of
31 the practitioner's license.

1 (g) Clinical facilities affiliated with an accredited
2 medical school at which training is provided for medical
3 students, residents, or fellows.

4 (4) "Medical director" means a physician who is
5 employed or under contract with a clinic and who maintains a
6 full and unencumbered physician license in accordance with
7 chapter 458, chapter 459, chapter 460, or chapter 461.
8 However, if the clinic does not provide services pursuant to
9 the respective physician practices listed in this subsection,
10 it is limited to providing health care services pursuant to
11 chapter 457, chapter 484, chapter 486, chapter 490, or chapter
12 491 or part I, part III, part X, part XIII, or part XIV of
13 chapter 468, the clinic may appoint a health care practitioner
14 licensed under another health care practice that chapter to
15 serve as a clinic director who is responsible for the clinic's
16 activities. A health care practitioner may not serve as the
17 clinic director if the services provided at the clinic are
18 beyond the scope of that practitioner's license.

19 (5) "Mobile clinic" means a movable or detached
20 self-contained health care unit within or from which direct
21 health care services are provided to individuals and which
22 otherwise meets the definition of a clinic in subsection (3).
23 Each mobile clinic must obtain a separate health care clinic
24 license.

25 Section 2. Subsections (1) and (7) of section 400.991,
26 Florida Statutes, are amended to read:

27 400.991 License requirements; background screenings;
28 prohibitions.--

29 (1) Each clinic, as defined in s. 400.9905, must be
30 licensed and shall at all times maintain a valid license with
31 the agency. Each clinic location shall be licensed separately

1 regardless of whether the clinic is operated under the same
2 business name or management as another clinic. Mobile clinics
3 must provide to the agency, at least quarterly, their
4 projected street locations to enable the agency to locate and
5 inspect such clinics. Entities that contract with or employ
6 persons to provide portable equipment to multiple locations
7 performing treatment or diagnostic testing of individuals and
8 that bill third-party payers for those services are considered
9 mobile clinics having a single administrative office and are
10 not required to submit quarterly projected street locations.

11 (7) Each applicant for licensure shall comply with the
12 following requirements:

13 (a) As used in this subsection, the term "applicant"
14 means individuals owning or controlling, directly or
15 indirectly, 5 percent or more of an interest in a clinic; the
16 medical or clinic director, or a similarly titled person who
17 is responsible for the day-to-day operation of the licensed
18 clinic; the financial officer or similarly titled individual
19 who is responsible for the financial operation of the clinic;
20 and licensed health care practitioners ~~medical providers~~ at
21 the clinic.

22 (b) Upon receipt of a completed, signed, and dated
23 application, the agency shall require background screening of
24 the applicant, in accordance with the level 2 standards for
25 screening set forth in chapter 435. Proof of compliance with
26 the level 2 background screening requirements of chapter 435
27 which has been submitted within the previous 5 years in
28 compliance with any other health care licensure requirements
29 of this state is acceptable in fulfillment of this paragraph.

30 (c) Each applicant must submit to the agency, with the
31 application, a description and explanation of any exclusions,

1 permanent suspensions, or terminations of an applicant from
2 the Medicare or Medicaid programs. Proof of compliance with
3 the requirements for disclosure of ownership and control
4 interest under the Medicaid or Medicare programs may be
5 accepted in lieu of this submission. The description and
6 explanation may indicate whether such exclusions, suspensions,
7 or terminations were voluntary or not voluntary on the part of
8 the applicant.

9 (d) A license may not be granted to a clinic if the
10 applicant has been found guilty of, regardless of
11 adjudication, or has entered a plea of nolo contendere or
12 guilty to, any offense prohibited under the level 2 standards
13 for screening set forth in chapter 435, or a violation of
14 insurance fraud under s. 817.234, within the past 5 years. If
15 the applicant has been convicted of an offense prohibited
16 under the level 2 standards or insurance fraud in any
17 jurisdiction, the applicant must show that his or her civil
18 rights have been restored prior to submitting an application.

19 (e) The agency may deny or revoke licensure if the
20 applicant has falsely represented any material fact or omitted
21 any material fact from the application required by this part.

22 Section 3. Subsections (9) and (11) of section
23 400.9935, Florida Statutes, are amended to read:

24 400.9935 Clinic responsibilities.--

25 (9) Any person or entity providing health care
26 services which is not a clinic, as defined under s. 400.9905,
27 may voluntarily apply for a certificate of exemption from
28 licensure under its exempt status with the agency on a form
29 that sets forth its name or names and addresses, a statement
30 of the reasons why it cannot be defined as a clinic, and other
31 information deemed necessary by the agency. The applicant

1 shall pay a nonrefundable fee of \$200 for a certificate of
2 exemption. An exemption is not transferable.

3 (11)(a) Each clinic engaged in magnetic resonance
4 imaging services must be accredited by the Joint Commission on
5 Accreditation of Healthcare Organizations, the American
6 College of Radiology, or the Accreditation Association for
7 Ambulatory Health Care, within 1 year after licensure.

8 However, a clinic may request a single, 6-month extension if
9 it provides evidence to the agency establishing that, for good
10 cause shown, such clinic can not be accredited within 1 year
11 after licensure, and that such accreditation will be completed
12 within the 6-month extension. After obtaining accreditation as
13 required by this subsection, each such clinic must maintain
14 accreditation as a condition of renewal of its license.

15 (b) The agency may deny ~~disallow~~ the application or
16 revoke the license of any entity formed for the purpose of
17 avoiding compliance with the accreditation provisions of this
18 subsection and whose principals were previously principals of
19 an entity that was unable to meet the accreditation
20 requirements within the specified timeframes. The agency may
21 adopt rules as to the accreditation of magnetic resonance
22 imaging clinics.

23 Section 4. Subsections (1) and (3) of section 400.995,
24 Florida Statutes, are amended, and subsection (10) is added to
25 that section, to read:

26 400.995 Agency administrative penalties.--

27 (1) The agency may deny the application for a license
28 renewal, revoke or suspend the license, and impose
29 administrative fines ~~penalties against clinics~~ of up to \$5,000
30 per violation for violations of the requirements of this part
31 or rules of the agency. In determining if a penalty is to be

1 imposed and in fixing the amount of the fine, the agency shall
2 consider the following factors:

3 (a) The gravity of the violation, including the
4 probability that death or serious physical or emotional harm
5 to a patient will result or has resulted, the severity of the
6 action or potential harm, and the extent to which the
7 provisions of the applicable laws or rules were violated.

8 (b) Actions taken by the owner, medical director, or
9 clinic director to correct violations.

10 (c) Any previous violations.

11 (d) The financial benefit to the clinic of committing
12 or continuing the violation.

13 (3) Any action taken to correct a violation shall be
14 documented in writing by the owner, medical director, or
15 clinic director of the clinic and verified through followup
16 visits by agency personnel. The agency may impose a fine and,
17 in the case of an owner-operated clinic, revoke or deny a
18 clinic's license when a clinic medical director or clinic
19 director knowingly ~~fraudulently~~ misrepresents actions taken to
20 correct a violation.

21 (10) If the agency issues a notice of intent to deny a
22 license application after a temporary license has been issued
23 pursuant to s. 400.991(3), the temporary license shall expire
24 on the date of the notice and may not be extended during any
25 proceeding for administrative or judicial review pursuant to
26 chapter 120.

27 Section 5. Any person or entity made exempt from the
28 definition of "clinic" under section 400.9905, Florida
29 Statutes, by the amendment made to that section by this act
30 shall not be in violation of the provisions of part XIII of
31 chapter 400, Florida Statutes, due to failure to apply for a

1 clinic license by March 1, 2003, or otherwise failing to
2 comply with the provisions of that part.

3 Section 6. This act shall take effect July 1, 2004.

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6 SENATE SUMMARY

7 Revises various provisions of the Health Care Clinic Act.
8 Clarifies the definition of the term "clinic" and defines
9 the term "mobile clinic" for purposes of the act.
10 Provides a nonrefundable fee of \$200 for a certificate of
11 exemption from licensure. Provides for a temporary
12 license to expire after the Agency for Health Care
13 Administration issues a notice of intent to deny
14 licensure. (See bill for details.)
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