

Bill No. SB 1882

Barcode 482686 Comm: RCS 04/09/2007 05:54 PM

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Proposed Committee Substitute by the Committee on Banking and Insurance

1 A bill to be entitled

2 An act relating to the Health Care Clinic Act;

3 amending s. 400.9905, F.S.; clarifying certain

4 types of sole proprietorships, group practices,

5 partnerships, corporations, and other legal

6 entities that are not subject to the licensure

7 requirements of the act; amending s. 400.991,

8 F.S.; requiring certain persons having a

9 financial interest in a clinic, or having

10 control over certain activities relating to the

11 operations of a clinic, to undergo background

12 screening; authorizing the Agency for Health

13 Care Administration to adopt rules; authorizing

14 the agency to deny or revoke a license if an

15 applicant, licensee, or person having an

16 interest in a clinic has been excluded,

17 suspended, or terminated from the Medicare or

18 Medicaid programs or has committed certain

19 offenses prohibited under level 2 screening

20 standards; providing additional requirements

21 for background screening with respect to

22 offenses committed within the past 10 years;

23 providing that failure to provide such

24 information is a material omission; authorizing

25 the agency to deny, revoke, or suspend a

26 license or assess an administrative penalty if

27 a person fails to comply with the requirements

28 for background screening; authorizing the

29 agency to declare a loss of exempt status under

30 certain conditions; requiring an applicant that

31 performs magnetic resonance imaging, static

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1 radiographs, computed tomography, or positron
2 emission tomography to provide certain
3 information to the agency; providing that the
4 submission of fraudulent or misleading
5 information on an application for licensure is
6 a third-degree felony; amending s. 400.9935,
7 F.S.; specifying additional duties of a medical
8 director or clinic director; limiting the
9 number of clinics and employees for which a
10 medical or clinic director may be responsible;
11 requiring that multiple clinics under the
12 control of the same medical or clinic director
13 must be within a specified proximity;
14 authorizing the agency to waive such
15 limitations upon a showing of good cause;
16 requiring clinics that are exempt from
17 licensure and located within certain counties
18 to obtain a certificate of exemption; requiring
19 that the application be notarized and subject
20 to penalty for perjury; providing for an
21 application fee; providing requirements for
22 renewal of an exemption from licensure;
23 providing a penalty for submitting fraudulent
24 or misleading information in an application for
25 exemption; requiring that the agency issue an
26 emergency order of suspension upon a finding
27 that an applicant has provided false or
28 misleading information or omitted a material
29 fact from an application for a certificate of
30 exemption; amending s. 456.072, F.S.; providing
31 that intentionally providing false information

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1 on an application for a certificate of
 2 exemption from clinic licensure is grounds for
 3 discipline under provisions regulating medical
 4 professionals; providing an effective date.

5

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

7

8 Section 1. Subsection (4) of section 400.9905, Florida
 9 Statutes, is amended to read:

10 400.9905 Definitions.--

11 (4) "Clinic" means an entity at which health care
 12 services are provided to individuals and which tenders charges
 13 for reimbursement for such services, including a mobile clinic
 14 and a portable equipment provider. For purposes of this part,
 15 the term does not include and the licensure requirements of
 16 this part do not apply to:

17 (a) Entities licensed or registered by the state under
 18 chapter 395; or entities licensed or registered by the state
 19 and providing only health care services within the scope of
 20 services authorized under their respective licenses granted
 21 under ss. 383.30-383.335, chapter 390, chapter 394, chapter
 22 397, this chapter except part X, chapter 429, chapter 463,
 23 chapter 465, chapter 466, chapter 478, part I of chapter 483,
 24 chapter 484, or chapter 651; end-stage renal disease providers
 25 authorized under 42 C.F.R. part 405, subpart U; or providers
 26 certified under 42 C.F.R. part 485, subpart B or subpart H; or
 27 any entity that provides neonatal or pediatric hospital-based
 28 health care services by licensed practitioners solely within a
 29 hospital licensed under chapter 395.

30 (b) Entities that own, directly or indirectly,
 31 entities licensed or registered by the state pursuant to

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1 chapter 395; or entities that own, directly or indirectly,
 2 entities licensed or registered by the state and providing
 3 only health care services within the scope of services
 4 authorized pursuant to their respective licenses granted under
 5 ss. 383.30-383.335, chapter 390, chapter 394, chapter 397,
 6 this chapter except part X, chapter 429, chapter 463, chapter
 7 465, chapter 466, chapter 478, part I of chapter 483, chapter
 8 484, chapter 651; end-stage renal disease providers authorized
 9 under 42 C.F.R. part 405, subpart U; or providers certified
 10 under 42 C.F.R. part 485, subpart B or subpart H; or any
 11 entity that provides neonatal or pediatric hospital-based
 12 health care services by licensed practitioners solely within a
 13 hospital licensed under chapter 395.

14 (c) Entities that are owned, directly or indirectly,
 15 by an entity licensed or registered by the state pursuant to
 16 chapter 395; or entities that are owned, directly or
 17 indirectly, by an entity licensed or registered by the state
 18 and providing only health care services within the scope of
 19 services authorized pursuant to their respective licenses
 20 granted under ss. 383.30-383.335, chapter 390, chapter 394,
 21 chapter 397, this chapter except part X, chapter 429, chapter
 22 463, chapter 465, chapter 466, chapter 478, part I of chapter
 23 483, chapter 484, or chapter 651; end-stage renal disease
 24 providers authorized under 42 C.F.R. part 405, subpart U; or
 25 providers certified under 42 C.F.R. part 485, subpart B or
 26 subpart H; or any entity that provides neonatal or pediatric
 27 hospital-based health care services by licensed practitioners
 28 solely within a hospital under chapter 395.

29 (d) Entities that are under common ownership, directly
 30 or indirectly, with an entity licensed or registered by the
 31 state pursuant to chapter 395; or entities that are under

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1 common ownership, directly or indirectly, with an entity
2 licensed or registered by the state and providing only health
3 care services within the scope of services authorized pursuant
4 to their respective licenses granted under ss. 383.30-383.335,
5 chapter 390, chapter 394, chapter 397, this chapter except
6 part X, chapter 429, chapter 463, chapter 465, chapter 466,
7 chapter 478, part I of chapter 483, chapter 484, or chapter
8 651; end-stage renal disease providers authorized under 42
9 C.F.R. part 405, subpart U; or providers certified under 42
10 C.F.R. part 485, subpart B or subpart H; or any entity that
11 provides neonatal or pediatric hospital-based health care
12 services by licensed practitioners solely within a hospital
13 licensed under chapter 395.

14 (e) An entity that is exempt from federal taxation
15 under 26 U.S.C. s. 501(c)(3) or (4), an employee stock
16 ownership plan under 26 U.S.C. s. 409 that has a board of
17 trustees not less than two-thirds of which are
18 Florida-licensed health care practitioners and provides only
19 physical therapy services under physician orders, any
20 community college or university clinic, and any entity owned
21 or operated by the federal or state government, including
22 agencies, subdivisions, or municipalities thereof.

23 (f) A sole proprietorship, group practice,
24 partnership, ~~or~~ corporation, or other legal entity that
25 provides health care services by physicians licensed under
26 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
27 466 ~~covered by s. 627.419~~, that is directly supervised by one
28 or more of such physicians, and that is wholly owned by one or
29 more of those physicians or by a physician and the spouse,
30 parent, child, or sibling of that physician.

31 (g) A sole proprietorship, group practice,

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1 partnership, ~~or~~ corporation, or other legal entity that
2 provides health care services by licensed health care
3 practitioners under chapter 457, physician assistants under
4 chapter 458, chapter 459, chapter 460, or chapter 461, or
5 practitioners under chapter 462, chapter 463, chapter 466,
6 chapter 467, chapter 480, chapter 484, chapter 486, chapter
7 490, chapter 491, or part I, part III, part X, part XIII, or
8 part XIV of chapter 468, or s. 464.012, which entities are
9 wholly owned by one or more licensed health care
10 practitioners, or the licensed health care practitioners set
11 forth in this paragraph and the spouse, parent, child, or
12 sibling of a licensed health care practitioner, so long as one
13 of the owners who is a licensed health care practitioner is
14 supervising the health care services ~~business activities~~ and
15 is legally responsible for the entity's compliance with all
16 federal and state laws. However, health care services provided
17 may not exceed the scope of the licensed owner's health care ~~a~~
18 ~~health care practitioner may not supervise services beyond the~~
19 ~~scope of the practitioner's license, except that, for the~~
20 purposes of this part, a clinic owned by a licensee in s.
21 456.053(3)(b) that provides only services authorized pursuant
22 to s. 456.053(3)(b) may be supervised by a licensee specified
23 in s. 456.053(3)(b).

24 (h) Clinical facilities affiliated with an accredited
25 medical school at which training is provided for medical
26 students, residents, or fellows.

27 (i) Entities that provide only oncology or radiation
28 therapy services by physicians licensed under chapter 458 or
29 chapter 459 or entities that provide oncology or radiation
30 therapy services by physicians licensed under chapter 458 or
31 chapter 459 which are owned by a corporation whose shares are

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1 publicly traded on a recognized stock exchange.

2 (j) Clinical facilities affiliated with a college of
3 chiropractic accredited by the Council on Chiropractic
4 Education at which training is provided for chiropractic
5 students.

6 (k) Entities that provide licensed practitioners to
7 staff emergency departments or to deliver anesthesia services
8 in facilities licensed under chapter 395 and that derive at
9 least 90 percent of their gross annual revenues from the
10 provision of such services. Entities claiming an exemption
11 from licensure under this paragraph must provide documentation
12 demonstrating compliance.

13 Section 2. Section 400.991, Florida Statutes, is
14 amended to read:

15 400.991 License requirements; background screenings;
16 prohibitions.--

17 (1)(a) Each clinic, as defined in s. 400.9905, must be
18 licensed and shall at all times maintain a valid license with
19 the agency. Each clinic location shall be licensed separately
20 regardless of whether the clinic is operated under the same
21 business name or management as another clinic.

22 (b) Each mobile clinic must obtain a separate health
23 care clinic license and must provide to the agency, at least
24 quarterly, its projected street location to enable the agency
25 to locate and inspect such clinic. A portable equipment
26 provider must obtain a health care clinic license for a single
27 administrative office and is not required to submit quarterly
28 projected street locations.

29 (2) The initial clinic license application shall be
30 filed with the agency by all clinics, as defined in s.
31 400.9905, on or before July 1, 2004. A clinic license must be

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1 renewed biennially.

2 (3) Applicants that submit an application on or before
 3 July 1, 2004, which meets all requirements for initial
 4 licensure as specified in this section shall receive a
 5 temporary license until the completion of an initial
 6 inspection verifying that the applicant meets all requirements
 7 in rules authorized in s. 400.9925. However, a clinic engaged
 8 in magnetic resonance imaging services may not receive a
 9 temporary license unless it presents evidence satisfactory to
 10 the agency that such clinic is making a good faith effort and
 11 substantial progress in seeking accreditation required under
 12 s. 400.9935.

13 (4) Application for an initial clinic license or for
 14 renewal of an existing license shall be notarized on forms
 15 furnished by the agency and must be accompanied by the
 16 appropriate license fee as provided in s. 400.9925. The agency
 17 shall take final action on an initial license application
 18 within 60 days after receipt of all required documentation.

19 (5)(a) The application shall contain information that
 20 includes, but need not be limited to, information pertaining
 21 to the name, residence and business address, phone number,
 22 social security number, and license number of the medical or
 23 clinic director, of the licensed medical providers employed or
 24 under contract with the clinic, and of each person who,
 25 directly or indirectly, owns or controls 5 percent or more of
 26 an interest in the clinic, or general partners in limited
 27 liability partnerships.

28 (b) Any person having a financial interest in a
 29 clinic, directly or indirectly, as set forth in this paragraph
 30 is subject to background screening requirements under this
 31 part. This includes any person who may or may not own stock or

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1 an equivalent interest in the clinic, but nonetheless has
 2 control over or the authority to approve, directly or
 3 indirectly, clinic billing, policy, business activities, or
 4 personnel decisions, including, but not limited to, contracted
 5 or employed persons or entities, managers, and management
 6 companies performing third-party billing services and persons
 7 and entities, directly or indirectly, which lend, give, or
 8 gift money of any denomination or any thing of value exceeding
 9 an aggregate of \$5,000 for clinic use, with or without an
 10 expectation of a return of the money or thing of value, and
 11 regardless of profit motive.

12 (c) The agency may adopt rules to administer this
 13 subsection.

14 (6) The applicant must file with the application
 15 satisfactory proof that the clinic is in compliance with this
 16 part and applicable rules, including:

17 (a) A listing of services to be provided either
 18 directly by the applicant or through contractual arrangements
 19 with existing providers;

20 (b) The number and discipline of each professional
 21 staff member to be employed; and

22 (c) Proof of financial ability to operate. An
 23 applicant must demonstrate financial ability to operate a
 24 clinic by submitting a balance sheet and an income and expense
 25 statement for the first year of operation which provide
 26 evidence of the applicant's having sufficient assets, credit,
 27 and projected revenues to cover liabilities and expenses. The
 28 applicant shall have demonstrated financial ability to operate
 29 if the applicant's assets, credit, and projected revenues meet
 30 or exceed projected liabilities and expenses. All documents
 31 required under this subsection must be prepared in accordance

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1 with generally accepted accounting principles, may be in a
2 compilation form, and the financial statement must be signed
3 by a certified public accountant. As an alternative to
4 submitting a balance sheet and an income and expense statement
5 for the first year of operation, the applicant may file a
6 surety bond of at least \$500,000 which guarantees that the
7 clinic will act in full conformity with all legal requirements
8 for operating a clinic, payable to the agency. The agency may
9 adopt rules to specify related requirements for such surety
10 bond.

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 an individual ~~individuals~~ owning or controlling,
15 directly or indirectly, 5 percent or more of an interest in a
16 clinic; the medical or clinic director, or a similarly titled
17 person who is responsible for the day-to-day operation of the
18 licensed clinic; the financial officer or similarly titled
19 individual who is responsible for the financial operation of
20 the clinic; ~~and~~ licensed health care practitioners at the
21 clinic; and any person who has a controlling interest as
22 defined in s. 408.803(7).

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

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1 own less than 10 percent of a health care clinic are not
2 required to submit fingerprints under this section.

3 (c) Each applicant must submit to the agency, with the
4 application, a description and explanation of any exclusions,
5 permanent suspensions, or terminations of an applicant from
6 the Medicare or Medicaid programs. Proof of compliance with
7 the requirements for disclosure of ownership and control
8 interest under the Medicaid or Medicare programs may be
9 accepted in lieu of this submission. The description and
10 explanation may indicate whether such exclusions, suspensions,
11 or terminations were voluntary or not voluntary on the part of
12 the applicant. The agency may deny or revoke licensure based
13 on information received under this paragraph for exclusions,
14 permanent suspensions, or terminations of an applicant or
15 persons or entities identified in paragraph (5)(b) from the
16 Medicare or Medicaid programs.

17 (d) A license may not be granted to a clinic if the
18 applicant, or a person or entity identified in paragraph
19 (5)(b), has been found guilty of, regardless of adjudication,
20 or has entered a plea of nolo contendere or guilty to, any
21 offense prohibited under the level 2 standards for screening
22 set forth in chapter 435 or this section. In addition to the
23 process and procedures set forth in s. 408.809 which are
24 specifically required, all persons who must meet level 2
25 standards of chapter 435 must also undergo level 2 background
26 screening for any felony committed within the past 10 years
27 under chapter 400, chapter 408, chapter 409, chapter 440,
28 chapter 456, chapter 624, chapter 626, chapter 627, chapter
29 812, chapter 817, chapter 831, chapter 837, chapter 838,
30 chapter 895, or chapter 896, or any substantially comparable
31 offense or crime of another state or of the United States if

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1 such offense is a felony in that jurisdiction. The agency may
2 require each person who must undergo background screening to
3 disclose, on forms provided by the agency, his or her name,
4 address, social security number, and date of birth and any
5 arrest for any crime for which any court disposition other
6 than dismissal has been rendered within the past 10 years
7 prior to an affiliation with an applicant or licensee under
8 this part. Failure to provide such information may be
9 considered by the agency as a material omission in the
10 application or licensure process. Notwithstanding the time
11 provisions of chapter 120 for granting or denying an
12 application for a license, the agency may not approve an
13 initial, renewal, or change-of-ownership application for any
14 applicant whose background screening process is not complete
15 and all persons required to undergo such screening demonstrate
16 compliance with this paragraph. The agency shall deny a
17 pending application or revoke or suspend a license and assess
18 an administrative penalty in accordance with s. 400.995(1)
19 against a licensee if the agency substantiates that a person
20 who is required to meet background screening standards has
21 failed or refused to submit to background screening as set
22 forth in this part or does not meet the minimum requirements
23 of such screening after the timely submission of fingerprint
24 cards to the agency., or a violation of insurance fraud under
25 s. 817.234, within the past 5 years. If the applicant has been
26 convicted of an offense prohibited under the level 2 standards
27 or insurance fraud in any jurisdiction, the applicant must
28 show that his or her civil rights have been restored prior to
29 submitting an application.

30 (e) The agency may deny or revoke licensure or declare
31 loss of an exempt status, effective on the date that the

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1 requirements for exempt status are not met, if the applicant
 2 has falsely represented any material fact or omitted any
 3 material fact from the application required by this part or by
 4 agency rule. An exempt status under this part ceases to exist
 5 on the date that a business fails to qualify for an exemption
 6 under this part or the Health Care Licensing Procedures Act.

7 (f) Each applicant that performs the technical
 8 component of magnetic resonance imaging, static radiographs,
 9 computed tomography, or positron emission tomography, and also
 10 provides the professional components of such services through
 11 an employee or independent contractor must provide to the
 12 agency on a form provided by the agency, the name and address
 13 of the clinic, the serial or operating number of each magnetic
 14 resonance imaging, static radiograph, computed tomography, and
 15 positron emission tomography machine, the name of the
 16 manufacturer of the machine, and such other information as
 17 required by the agency to identify the machine. The
 18 information must be provided to the agency upon renewal of the
 19 clinic's license and within 30 days after a clinic begins
 20 using a machine for which it has not provided the information
 21 to the agency.

22 (8) Requested information omitted from an application
 23 for licensure, license renewal, or transfer of ownership must
 24 be filed with the agency within 21 days after receipt of the
 25 agency's request for omitted information, or the application
 26 shall be deemed incomplete and shall be withdrawn from further
 27 consideration.

28 (9) The failure to file a timely renewal application
 29 shall result in a late fee charged to the facility in an
 30 amount equal to 50 percent of the current license fee.

31 (10) Any person or entity that submits an application

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1 for a license which contains fraudulent or material and
 2 misleading information commits a felony of the third degree,
 3 punishable as provided in s. 775.082, s. 775.083, or s.
 4 775.084.

5 Section 3. Section 400.9935, Florida Statutes, is
 6 amended to read:

7 400.9935 Clinic responsibilities.--

8 (1) Each clinic shall appoint a medical director or
 9 clinic director who shall agree in writing to accept legal
 10 responsibility for the following activities on behalf of the
 11 clinic. The medical director or the clinic director shall:

12 (a) Have signs identifying the medical director or
 13 clinic director posted in a conspicuous location within the
 14 clinic readily visible to all patients.

15 (b) Ensure that all practitioners providing health
 16 care services or supplies to patients maintain a current
 17 active and unencumbered Florida license and do not provide
 18 health care services or supplies outside the scope of that
 19 license or as otherwise prohibited by law.

20 (c) Review any patient referral contracts or
 21 agreements executed by the clinic.

22 (d) Ensure that all health care practitioners at the
 23 clinic have active appropriate certification or licensure for
 24 the level of care being provided.

25 (e) Serve as the clinic records owner as defined in s.
 26 456.057.

27 (f) Ensure compliance with the recordkeeping, office
 28 surgery, and adverse incident reporting requirements of
 29 chapter 456, the respective practice acts, and rules adopted
 30 under this part.

31 (g) Conduct systematic reviews of clinic billings to

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1 ensure that the billings are not fraudulent or unlawful. Upon
 2 discovery of an unlawful charge, the medical director or
 3 clinic director shall take immediate corrective action. If the
 4 clinic performs only the technical component of magnetic
 5 resonance imaging, static radiographs, computed tomography, or
 6 positron emission tomography, and provides the professional
 7 interpretation of such services, in a fixed facility that is
 8 accredited by the Joint Commission on Accreditation of
 9 Healthcare Organizations or the Accreditation Association for
 10 Ambulatory Health Care, and the American College of Radiology;
 11 and if, in the preceding quarter, the percentage of scans
 12 performed by that clinic which was billed to all personal
 13 injury protection insurance carriers was less than 15 percent,
 14 the chief financial officer of the clinic may, in a written
 15 acknowledgment provided to the agency, assume the
 16 responsibility for the conduct of the systematic reviews of
 17 clinic billings to ensure that the billings are not fraudulent
 18 or unlawful.

19 (h) Not refer a patient to the clinic if the clinic
 20 performs magnetic resonance imaging, static radiographs,
 21 computed tomography, or positron emission tomography. The term
 22 "refer a patient" means the referral of one or more patients
 23 of the medical or clinical director or a member of the medical
 24 or clinical director's group practice to the clinic for
 25 magnetic resonance imaging, static radiographs, computed
 26 tomography, or positron emission tomography. A medical
 27 director who is found to violate this paragraph commits a
 28 felony of the third degree, punishable as provided in s.
 29 775.082, s. 775.083, or s. 775.084.

30 (i) Serve in that capacity for no more than a maximum
 31 of three health care clinics that have a cumulative total of

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1 no more than 100 employees and persons under contract with the
 2 health care clinic at a given time. A medical or clinic
 3 director may not supervise a health care clinic more than 200
 4 miles away from any other health care clinic supervised by the
 5 same medical or clinic director. The agency may allow for
 6 waivers to the limitations of this paragraph upon a showing of
 7 good cause and a determination by the agency that the medical
 8 director will be able to adequately perform the requirements
 9 of this subsection.

10 (2) Any business that becomes a clinic after
 11 commencing operations must, within 5 days after becoming a
 12 clinic, file a license application under this part and shall
 13 be subject to all provisions of this part applicable to a
 14 clinic.

15 (3) Any contract to serve as a medical director or a
 16 clinic director entered into or renewed by a physician or a
 17 licensed health care practitioner in violation of this part is
 18 void as contrary to public policy. This subsection shall apply
 19 to contracts entered into or renewed on or after March 1,
 20 2004.

21 (4) All charges or reimbursement claims made by or on
 22 behalf of a clinic that is required to be licensed under this
 23 part, but that is not so licensed, or that is otherwise
 24 operating in violation of this part, are unlawful charges, and
 25 therefore are noncompensable and unenforceable.

26 (5) Any person establishing, operating, or managing an
 27 unlicensed clinic otherwise required to be licensed under this
 28 part, or any person who knowingly files a false or misleading
 29 license application or license renewal application, or false
 30 or misleading information related to such application or
 31 department rule, commits a felony of the third degree,

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1 punishable as provided in s. 775.082, s. 775.083, or s.
2 775.084.

3 (6) Any licensed health care provider who violates
4 this part is subject to discipline in accordance with this
5 chapter and his or her respective practice act.

6 (7) The agency may fine, or suspend or revoke the
7 license of, any clinic licensed under this part for operating
8 in violation of the requirements of this part or the rules
9 adopted by the agency.

10 (8) The agency shall investigate allegations of
11 noncompliance with this part and the rules adopted under this
12 part.

13 (9)(a) Any person or entity providing health care
14 services which is not a clinic, as defined under s. 400.9905,
15 may voluntarily apply for a certificate of exemption from
16 licensure under its exempt status. A certificate of exemption
17 is valid for 2 years and may be renewed.

18 (b) However, an entity that is exempt from licensure
19 as a clinic pursuant to s. 400.9905(4)(f) or (g) and that
20 provides health care services must apply for a certificate of
21 exemption from licensure under its exempt status if the entity
22 is located in any of the three counties certified by the
23 Division of Insurance Fraud as having the greatest number of
24 arrests by the division during the previous 2 years. However,
25 a health care provider listed in s. 400.9905(4)(f) or (g) need
26 not apply for a certificate of exemption if the health care
27 provider's practice act prohibits an individual who is not
28 similarly licensed from owning or operating the health care
29 provider's practice and prohibits individuals not similarly
30 licensed from interfering with the health care provider's
31 clinical judgment. An entity that is required to apply for a

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1 certificate of exemption must renew its certificate every 2
2 years as a condition of maintaining an exemption from
3 licensure.

4 (c) The agency shall provide a form that requires the
5 name or names and addresses, a statement of the reasons why
6 the applicant is exempt from licensure as a health care
7 clinic, and other information considered necessary by the
8 agency. The signature on an application for a certificate of
9 exemption must be notarized and signed under oath, subject to
10 penalty for perjury, by persons having knowledge of the truth
11 of its contents. An exemption is not transferable and is valid
12 only for the reasons, location, persons, and entity set forth
13 on the application form. A person or entity claiming an
14 exemption under this part or issued a current certificate of
15 exemption must be exempt from the licensing provisions of this
16 part at all times, or such claim or certificate is invalid
17 from the date that such person or entity is not exempt.

18 (d) The agency shall charge an applicant for a
19 certificate of exemption a fee of \$100 to cover the cost of
20 processing the certificate or the actual cost of processing
21 the certificate, whichever is less.

22 (e) An application for the renewal of a certificate of
23 exemption must be submitted to the agency 60 days prior to the
24 expiration of the certificate of exemption. The agency may
25 investigate any applicant, person, or entity claiming an
26 exemption for purposes of determining compliance when a
27 certificate of exemption is sought. Authorized personnel of
28 the agency shall have access to the premises of any
29 certificateholder or applicant for the sole purpose of
30 determining compliance with an exemption under this part. The
31 agency shall have access to all billings and records indicated

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1 in s. 400.9915(2) and agency rules. The agency may deny or
2 withdraw a certificate of exemption when a person or entity
3 does not qualify under this part.

4 (f) A certificate of exemption is considered withdrawn
5 when the agency determines that an exempt status cannot be
6 confirmed. The provisions applicable to the unlicensed
7 operation of a health care clinic apply to any health care
8 provider that self-determines or claims an exemption or that
9 is issued a certificate of exemption if, in fact, such clinic
10 does not meet the exemption claimed.

11 (g) Any person or entity that submits an application
12 for a certificate of exemption which contains fraudulent or
13 material and misleading information commits a felony of the
14 third degree, punishable as provided in s. 775.082, s.
15 775.083, or s. 775.084.

16 (h) A response to a request in writing for additional
17 information or clarification must be filed with the agency no
18 later than 21 days after receipt of the request or the
19 application shall be denied.

20 (i) The agency shall grant or deny an application for
21 a certificate of exemption in accordance with s. 120.60(1).

22 (j) A person or entity that qualifies as a health care
23 clinic and has been denied a certificate of exemption must
24 file an initial application and pay the fee. A certificate of
25 exemption is valid only when issued and current.

26 (k) The agency shall issue an emergency order of
27 suspension of a certificate of exemption if the agency finds
28 that the applicant has provided false or misleading material
29 information or omitted any material fact from the application
30 for a certificate of exemption which is permitted or required
31 by this part, or has submitted false or misleading information

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1 ~~to the agency when self-determining an exempt status and~~
2 ~~materially misleading the agency as to such status. with the~~
3 ~~agency on a form that sets forth its name or names and~~
4 ~~addresses, a statement of the reasons why it cannot be defined~~
5 ~~as a clinic, and other information deemed necessary by the~~
6 ~~agency. An exemption is not transferable. The agency may~~
7 ~~charge an applicant for a certificate of exemption in an~~
8 ~~amount equal to \$100 or the actual cost of processing the~~
9 ~~certificate, whichever is less.~~

10 (10) The clinic shall display its license in a
11 conspicuous location within the clinic readily visible to all
12 patients.

13 (11)(a) Each clinic engaged in magnetic resonance
14 imaging services must be accredited by the Joint Commission on
15 Accreditation of Healthcare Organizations, the American
16 College of Radiology, or the Accreditation Association for
17 Ambulatory Health Care, within 1 year after licensure.
18 However, a clinic may request a single, 6-month extension if
19 it provides evidence to the agency establishing that, for good
20 cause shown, such clinic can not be accredited within 1 year
21 after licensure, and that such accreditation will be completed
22 within the 6-month extension. After obtaining accreditation as
23 required by this subsection, each such clinic must maintain
24 accreditation as a condition of renewal of its license.

25 (b) The agency may deny the application or revoke the
26 license of any entity formed for the purpose of avoiding
27 compliance with the accreditation provisions of this
28 subsection and whose principals were previously principals of
29 an entity that was unable to meet the accreditation
30 requirements within the specified timeframes. The agency may
31 adopt rules as to the accreditation of magnetic resonance

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1 imaging clinics.

2 (12) The agency shall give full faith and credit
3 pertaining to any past variance and waiver granted to a
4 magnetic resonance imaging clinic from rule 64-2002, Florida
5 Administrative Code, by the Department of Health, until
6 September 2004. After that date, such clinic must request a
7 variance and waiver from the agency under s. 120.542.

8 (13) The clinic shall display a sign in a conspicuous
9 location within the clinic readily visible to all patients
10 indicating that, pursuant to s. 626.9892, the Department of
11 Financial Services may pay rewards of up to \$25,000 to persons
12 providing information leading to the arrest and conviction of
13 persons committing crimes investigated by the Division of
14 Insurance Fraud arising from violations of s. 440.105, s.
15 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized
16 employee of the Division of Insurance Fraud may make
17 unannounced inspections of a clinic licensed under this part
18 as necessary to determine whether the clinic is in compliance
19 with this subsection. A licensed clinic shall allow full and
20 complete access to the premises to such authorized employee of
21 the division who makes an inspection to determine compliance
22 with this subsection.

23 Section 4. Paragraph (ii) is added to subsection (1)
24 of section 456.072, Florida Statutes, to read:

25 456.072 Grounds for discipline; penalties;
26 enforcement.--

27 (1) The following acts shall constitute grounds for
28 which the disciplinary actions specified in subsection (2) may
29 be taken:

30 (ii) Intentionally providing false information on an
31 application for a certificate of exemption from clinic

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1 licensure under part XIII of chapter 400.

2 Section 5. This act shall take effect October 1, 2007.

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