HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1487 Licensure of Home Health Agencies, Home Medical Equipment Providers, and Health Care Clinics
SPONSOR(S): Rivera
TIED BILLS: **IDEN./SIM. BILLS:** SB 2658

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee		Calamas	Calamas
2)	Health & Family Services Policy Council			
3)	Full Appropriations Council on General Government & Health Care			
4)				
5)				

SUMMARY ANALYSIS

House Bill 1487 provides legislative intent stating that increased fraud and abuse in the health care delivery system necessitates increased licensure standards of home health agencies, home medical equipment providers and health care clinics. The legislative intent identifies specific geographic areas of the state and provides rationale and recommendations to initiate timely initiatives.

The bill designates Miami-Dade County as a health care fraud area of special concern. The bill creates a new section of law and as such, provides standards for applicants for licensure as a home health agency, home medical equipment provider, or health care clinic. These standards are as follows:

- An applicant must have been a legal resident of the United States at least 5 years, unless a surety bond of at least $500,000 is filed, payable to the agency as assurance of conformity with all legal requirements for operation.
- An applicant must provide proof of financial ability to operate and submit a financial statement based on certain criteria, including the applicant's ability to operate if the applicant's assets, credit, and projected revenues do not meet or exceed projected liabilities and expenses.
- An applicant must demonstrate financial ability to fund startup costs through the break-even operational point.

The bill establishes a limit on the number of home health agency licenses until July 1, 2012 to a ratio of one (1) license per 1,500 or less for the 65 or older population in each county. The bill also provides criminal penalties for the unlicensed operation of all facility or license types issued by the Agency, providing false or misleading information related to the application or agency rule, and violating or conspiring to violate the requirements in this bill.

The fiscal impact is indeterminate at this time (see Fiscal Comments).

The bill provides an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Home Health Agency Licensure and Regulation

Home health agencies are organizations that provide home health services and staffing services. Home health services are health and medical services and medical supplies furnished to an individual in the individual's home or place of residence. The services include: Nursing care; physical, occupational, respiratory, or speech therapy; home health aide services (assistance with daily living such as bathing, dressing, eating, personal hygiene, and ambulation); dietetics and nutrition practice and nutrition counseling; and medical supplies, restricted to drugs and biologicals prescribed by a physician.[1]

Home health agency personnel are employed by or under contract with a home health agency. Staffing services are provided to health care facilities or other business entities on a temporary basis by licensed health care personnel and by certified nursing assistants and home health aides who are employed by, or work under the auspices of, a licensed home health agency.[2]

Home health agencies are organizations licensed and regulated by the Agency for Health Care Administration (AHCA). The licensure requirements for home health agencies are found in the general provisions of part II of ch. 408, F.S., the specific home health agency provisions of part III of ch. 400, F.S., and the chapter 59A-8, Florida Administrative Code.

To obtain a home health agency license, an applicant must:[3]

- Submit an application under oath which includes the name, address, social security number and federal employer identification number or taxpayer identification number of the applicant and each controlling interest, and the name of the person who will manage the provider;
- Submit information identifying the service areas and counties to be served;
- Submit proof of professional and commercial liability insurance of not less than $250,000 per claim; and
- Submit proof of financial ability to operate, or a $50,000 surety bond.

[1] Section 400.462(13), F.S.
[2] Section 400.462(25), F.S.
[3] Sections 408.806, 408.810, and 400.471, F.S., respectively.

- Submit a licensure fee of $1,660; and
- Pass a survey by AHCA inspectors.

In 2008, the Legislature significantly strengthened the home health agency licensure requirements to address fraud and abuse in the Medicaid and Medicare programs. Effective July 1, 2008, applicants must also:

- Submit a business plan detailing the agency's methods to obtain patients and recruit and maintain staff;
- Provide evidence of contingency funding equivalent to 1 month's average operating expenses;
- Submit a balance sheet, income and expense statement, and statement of cash flows for the first 2 years of operation which showing sufficient assets, credit, and projected revenues to cover liabilities and expenses;
- Disclose all ownership interests in other health care entities held by controlling interests; and
- Be accredited by an organization recognized by AHCA.

Specifically, applicants must provide:

> A balance sheet, income and expense statement, and statement of cash flows for the first 2 years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses. The applicant has demonstrated financial ability to operate if the applicant's assets, credit, and projected revenues meet or exceed projected liabilities and expenses. An applicant may not project an operating margin of 15 percent or greater for any month in the first year of operation. All documents required under this paragraph must be prepared in accordance with generally accepted accounting principles and compiled and signed by a certified public accountant.[4]

In addition, the 2008 changes prohibit licensure of an applicant that shares common controlling interest with a home health agency in the same county and within 10 miles of the applicant.[5]

Florida law prohibits unlicensed activity, authorizes AHCA to fine unlicensed providers $500 for each day of noncompliance, and authorizes state attorneys and AHCA to enjoin unlicensed providers.[6] Unlicensed activity is a second degree misdemeanor.[7] In addition, a controlling interest that withholds any evidence of financial instability commits a second degree misdemeanor.[8]

Florida law does not address the legal residency of home health agency applicants. Florida law does not impose caps on the number of home health agency licenses, or define a ratio for the number of licensees per population number.

A home health agency license is valid for 2 years, unless suspended or revoked.[9] AHCA conducts unannounced licensure surveys every 36 months, unless a home health agency has requested an exemption from state licensure surveys based on accreditation by an approved accrediting organization.[10] The Home Health Agency State Regulation Set used in conducting surveys contains nearly 200 standards and surveyor guidelines, which are based on Rule 59A-8, Florida Administrative Code.[11] AHCA also conducts inspections related to complaints. AHCA conducts surveys of Florida

[4] Section 400.471(2)(f), F.S.
[5] Section 400.471, F.S.
[6] Section 400.464, F.S.
[7] Section 400.464, F.S.
[8] Section 408.810, F.S.
[9] Section 408.808, F.S.
[10] Section 400.471(2)(h), F.S., and s. 59A-8.003(3)(b), Florida Administrative Code
[11] Agency for Health Care Administration, Home Health Agency State Regulation Set (2009). Available at: http://ahca.myflorida.com/mchq/health_facility_regulation/Home_Care/definitions.shtml#a (last viewed March 15, 2009).

licensed home health agencies that are enrolled in Medicaid and Medicare for compliance with federal conditions of participation based on the federal set of survey standards.

Legislative changes in 2008 significantly increased the fine amounts, and made them mandatory, rather than discretionary, for AHCA. Section 400.484, F.S., sets the fine amounts for various classes of deficiencies as follows:

- Class I – $15,000 (any act, omission, or practice that results in a patient's death, disablement, or permanent injury, or places a patient at imminent risk of death, disablement, or permanent injury). (This is up from $5,000 prior to 2008.)
- Class II – $5,000 (any act, omission, or practice that has a direct adverse effect on the health, safety, or security of a patient). (This is up from $1,000 prior to 2008.)
- Class III – $1000 (any act, omission, or practice that has an indirect adverse effect on the health, safety, or security of a patient. The fine may be imposed only for an uncorrected or repeated Class III deficiency). (This is up from $500 prior to 2008.)
- Class IV – $500 (any act, omission, or practice related to required reports, forms, or documents which does not have the potential of negatively affecting patients. There must be a finding of an uncorrected or repeated class IV deficiency). (This is up from $200 prior to 2008.)

The 2008 changes also significantly strengthened AHCA's ability to discipline licensees. AHCA *may* deny, revoke and suspend a license, and may impose administrative fines for any violation of the licensure laws, certain acts harmful to patients, failing to provide services over a 60-day period, preparing or maintaining fraudulent patient records. However, AHCA *must* impose administrative fines for falsifying certain documents, fraudulent billing, failing to provide services, providing remuneration for referrals from certain entities or to discharge planners, failing to receive payment for services to residents or staffing services to assisted living facilities, failing to make certain reports to AHCA, giving cash to Medicaid or Medicare beneficiaries, having more than one medical director, providing remuneration to a physician without a medical director contract, and providing remuneration to certain other physicians.[12]

Prior to 2008, AHCA saw significant growth in the number of applications and new licenses of home health care agencies.[13] AHCA received 431 new licensure applications for home health agencies during 2007. Two hundred fifty-two (58.5 percent) of those were for new home health agency licenses in Miami-Dade County. According to AHCA, the new accreditation requirement has slowed the growth in new licensees, but the agency continues to receive a high volume of applications. Since July 1, 2008, AHCA received 331 applications, most of which were from Miami-Dade County.[14] As of December 31, 2008, there were 2,225 licensed home health agencies in the state,[15] In Miami-Dade County, the number of licensed home health agencies increased from 216 in August 1999 to 895 as of March 6, 2009, which is a 75 percent increase in licensees in that county.[16]

Home Health Agency Fraud and Abuse

AHCA is the single state agency that administers the state Medicaid plan under federal law.[17] Under federal law, ACHA is required to pay eligible providers for the provision of certain mandatory services to eligible recipients; however, other services are optional. Home health care services are mandatory services: Florida law requires Medicaid to pay for certain medically-necessary home health care services provided to an eligible Medicaid recipient.[18]

[12] Section 400.474, F.S.
[13] *See*, Florida Senate Interim Project Report 2008-135, November 2007.
[14] Agency for Health Care Administration: Draft 2009 Bill Analysis & Economic Impact Statement of HB 1487, on file with the Health Regulation Policy Committee.
[15] Source: AHCA Home Care Unit, Bureau of Health Facility Regulation.
[16] Agency for Health Care Administration: Draft 2009 Bill Analysis & Economic Impact Statement of HB 1487, on file with the Health Regulation Policy Committee.
[17] Sections 409.901(2) and (14), F.S. The Medicaid DME and medical supplies program is authorized by Title XIX of the Social Security Act and 42 C.F.R. Part 440.70. The program was implemented through ch. 409, F.S., and Chapter 59G, F.A.C.
[18] Section 400.905, F.S.

Information provided to the House Committee on Health Innovation in 2007 by AHCA and the Office of the Attorney General indicated an increase in AHCA investigations, as well as the number of referrals to the Attorney General's Medicaid Fraud Control Unit (MFCU), related to Medicaid-enrolled home health agencies over the last several years. MFCU opened an average of 7 home health agency cases per year between 2002 and 2004, but opened 17 each year between 2005 and 2007, 70 percent of which were in Miami-Dade County. According to MFCU, fraudulent home health activity includes kickbacks, patient recruiting, and false billing. AHCA's Bureau of Medicaid Program Integrity (MPI) reports that investigations of home health agency providers rose from 47 in FY 2005-2006 to 144 in FY 2006-2007. Identified overpayments are on an upward trend, from about $10,000 in FY 2004-2005 to about $1.3 million in FY 2006-2007.

An MPI review of home health Medicaid reimbursement from 2005 to 2007 showed a strong increase in Miami-Dade County. While Miami-Dade has about 20 percent of Florida's Medicaid population, and about 33 percent of Florida's residents over the age of 60, 91 percent of the state reimbursement for certain home health services were going to Miami-Dade.[19] MPI and federal partners initiated a focused project on these billing patterns, and found several questionable practices, including:

- Aides allegedly working 20 to 25 hour days;
- Patient brokering by aides;
- Alteration of records;
- Agencies that bill home health services when only housekeeping has been provided;
- Agencies that bill for registered nurse services when an licensed practical nurse is attending;
- Agencies using staffing pools of non-Medicaid approved providers;
- Payment of physicians for referrals;
- Payments to patients (in the form of gifts, services or funds);
- Patients receiving services that are not medically necessary; and
- Physicians with financial interests in the agencies referring to those entities.[20]

MPI placed several agencies on prepayment review, recommended contract termination for several home health agencies, made referrals to MFCU for criminal investigation, and made referrals to the Department of Health for health professional licensure action. MPI has seen a 20 percent drop in the type of billing addressed by the project in Miami-Dade County, and estimates the project saved the Medicaid program $5.4 million in FY 2007-2008.[21]

Licensure of Health Care Clinics

The Agency for Health Care Administration licenses and regulates health care clinics under part X of chapter 400, F.S., the Health Care Clinic Act (Act). The Act was passed in 2003 to reduce fraud and abuse occurring in the personal injury protection (PIP) insurance system. Section 400.991, F.S., provides licensure requirements to ensure that clinics meet basic standards, and provides administrative oversight. An entity that meets the definition of a "clinic" must be licensed as such and must maintain a valid license with AHCA. Each clinic location must be licensed separately.

To obtain a health care clinic license, an applicant must:[22]

- Submit an application including information on the identity of the owners, the number and profession of medical providers employed, the medical director;
- Submit proof of financial ability to operate a clinic *or* a $500,000 surety bond;
- Pass a level 2 background screening; and

[19] Agency for Health Care Administration and Medicaid Fraud Control Unit, Annual Report on The State's Efforts to Control Medicaid Fraud and Abuse FY 2007-2008, 37 (December 2008).
[20] *Id.*
[21] *Id.*
[22] Section 409.991, F.S.

- Have a medical director or clinic director who agrees in writing to accept legal responsibility pursuant to s. 400.9935, F.S., for various activities on behalf of the clinic, including ensuring billing is not fraudulent, taking corrective action if unlawful charges are discovered, and ensuring AHCA has full access to the clinic and its billing records.

Pursuant to section 409.991(5), F.S., a license may not be granted to a clinic if the applicant has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any offense prohibited under the level 2 standards for screening or a violation of insurance fraud under s. 817.234, F.S., within the past 5 years.

The agency may deny, revoke, or suspend a health care clinic license and impose administrative fines of up to $5,000 per violation pursuant to section 400.995, F.S.

Entities that do not meet the definition of a "clinic" are exempt from licensure as provided in s. 400.9905(4)(a-l), F.S. These entities may voluntarily apply to AHCA for a certificate of exemption under the act, but are not required to do so. Such providers find it useful to obtain a certificate of exemption to present to an insurance company, particularly a PIP insurer, to prove that the provider is not required to be licensed as a health care clinic.

Licensure of Home Medical Equipment Providers

Home Medical Equipment Providers are licensed and regulated by AHCA as home medical equipment providers under part VII of ch. 400, F.S., and part II of ch. 408, F.S. Home medical equipment includes any products defined as home medical equipment by the Federal Food and Drug Administration, reimbursed under Medicare Part B Durable Medical Equipment benefits, or reimbursed under the Florida Medicaid durable medical equipment program.[23]

Home medical equipment includes: Oxygen and related respiratory equipment; manual, motorized, or customized wheelchairs and related seating and positioning, but does not include prosthetics or orthotics or any splints, braces, or aids custom fabricated by a licensed health care practitioner; motorized scooters; personal transfer systems; and specialty beds, for use by a person with a medical need.[24]

General licensure provisions for various AHCA licensees, including Home Medical Equipment Providers, are found in part II of chapter 408, F.S. Provisions specific to Home Medical Equipment Providers are found in part VII of chapter 400, F.S. To obtain a Home Medical Equipment Provider license, an applicant must:[25]

- Submit an application under oath which includes the name, address, social security number and federal employer identification number or taxpayer identification number of the applicant and each controlling interest, and the name of the person who will manage the provider;
- Pay a licensure fee (not exceeding $300) and an inspection fee (not exceeding $400);
- Submit information on the equipment and services to be provided;
- Submit a list of contracts with providers and clients;
- Submit proof of professional and commercial liability insurance of not less than $250,000 per claim; and
- Submit proof of financial ability to operate, *or* a $50,000 surety bond.

AHCA has rulemaking authority to determine the standards and documentation requirements for proving financial ability to operate. AHCA's rules provide: "*If* AHCA has reason to believe a provider is financially unstable, the applicant must demonstrate financial ability to operate by submitting proof of a

[23] Section 400.925(6), F.S.
[24] *Id.*
[25] Sections 408.806, 400.931, 400.953, 408.810, F.S., respectively.

current $50,000 surety bond [. . .] *or* by submitting AHCA Form 3110-1021[26] [. . . .]" (emphasis added).[27]

AHCA may deny, revoke and suspend a license, and may impose administrative fines (not to exceed $5,000 per violation) for any violation of the licensure laws and for certain acts harmful to patients.[28] Florida law prohibits unlicensed activity, authorizes AHCA to fine unlicensed providers $1,000 for each day of noncompliance, and authorizes state attorneys and AHCA to enjoin unlicensed providers.[29] In addition, a controlling interest that withholds any evidence of financial instability commits a second degree misdemeanor.[30]

Florida law does not address legal residency of Home Medical Equipment Provider applicants.

Medicaid Contracting for Medical Equipment and Medical Supply Providers

AHCA is the single state agency that administers the state Medicaid plan under federal law.[31] Under federal law, ACHA is required to pay eligible providers for the provision of certain mandatory services to eligible recipients; however, other services are optional. Durable medical equipment and supplies (DME) is an optional service which Florida has opted to provide: Florida law authorizes AHCA to pay for certain medically-necessary durable medical equipment and supplies provided to an eligible Medicaid recipient.[32]

Florida law and AHCA rules provide that a DME provider must meet certain criteria to enroll and obtain a contract to be a Medicaid DME provider.[33] In 2008, the Legislature added to these requirements.[34] The provider must:

- Be licensed by the local government agency as a business or merchant or provide documentation from the city or county authority that no licensure is required;
- Be licensed by the Department of Health, Board of Orthotics and Prosthetics, if providing orthotics and prosthetic devices;
- Hold a Home Medical Equipment Provider license under part III of ch. 400, F.S.;
- Comply with all applicable laws relating to qualifications or licensure;
- Have an in-state business location or be located not more than fifty miles from the Florida state line;
- Meet all the general Medicaid provider requirements and qualifications;
- Be fully operational;
- Submit a surety bond as part of the enrollment application unless the provider is owned and operated by a governmental entity. One $50,000 bond is required for each provider location up to a maximum of five bonds statewide or an aggregate bond of $250,000;
- Pass a site visit unless the applicant is associated with a pharmacy or rural health clinic, or provides only orthotic or prosthetic devices and is licensed by the Board of Orthotics and Prosthetics;
- Be accredited and maintain accreditation by a Centers for Medicare and Medicaid Services (CMS) Deemed Accreditation Organization for suppliers of durable medical equipment, prosthetics, orthotics and supplies;

[26] AHCA Form 3110-1021 is a projected summary of revenues and expenses.
[27] 59A-25.002, F.A.C.
[28] Section 400.932, F.S.
[29] Section 400.812, F.S.
[30] Section 408.810, F.S.
[31] Sections 409.901(2) and (14), F.S. The Medicaid DME and medical supplies program is authorized by Title XIX of the Social Security Act and 42 C.F.R. Part 440.70. The program was implemented through ch. 409, F.S., and Chapter 59G, F.A.C.
[32] Section 409.906(10), F.S.
[33] Section 409.912(48), F.S.; 59G-4.070, F.A.C., incorporating by reference *Florida Medicaid, Durable Medical Equipment/Medical Supply Services Coverage and Limitations Handbook*, Agency for Health Care Administration. Available at: http://portal.flmmis.com/FLPublic/Provider_ProviderSupport/Provider_ProviderSupport_ProviderHandbooks/tabId/42/Default.aspx (Last visited on March 15, 2009).
[34] House Bill 7083 (2008); 2008-246, L.O.F.

- Provide services or supplies directly to the Medicaid recipient or caregiver, or provide the services or supplies by mail, and may not subcontract or consign the function to a third party (with certain exceptions);
- Have a physical business location that meets criteria regarding signage, public accessibility, telephone access, location within Florida, and co-location, with certain exceptions;
- Maintain a stock of equipment and supplies readily available to meet the needs of customers; and
- Obtain a level 2 background screening for staff in direct contact with or providing direct services to recipients.

Information provided to the House Committee on Health Innovation in 2007 by AHCA and the Office of the Attorney General indicated an increase in AHCA investigations, as well as an increase in referrals to the Attorney General's Medicaid Fraud Control Unit (MFCU), related to Medicaid DME providers over the last several years. MFCU worked 117 DME cases between 2002 and 2007, 64 of which were in Miami-Dade County, resulting in 78 arrests. According to MFCU, fraudulent DME activity includes changes of ownership with strawman purchasers and kickback schemes. AHCA's Bureau of Medicaid Program Integrity (MPI) reported that investigations of DME providers rose from 148 in FY 2005-2006 to 354 in FY 2006-2007. However, identified overpayments were on a downward trend, from about $449,000 in FY 2004-2005 to about $349,000 in FY 2006-2007. Concerns about the potential for fraud led the Legislature to strengthen the requirements for Medicaid contracts, noted above.

Effect of Proposed Changes

House Bill 1487 provides legislative intent stating that increased fraud and abuse in the health care delivery system necessitate increased licensure standards of home health agencies, home medical equipment providers and health care clinics. The bill designates Miami-Dade County as a "health care fraud area of special concern" related to fraudulent activity by those providers.

The bill creates a new section of law providing additional standards for applicants for licensure as a home health agency, home medical equipment provider, or health care clinic:

- An applicant must have been a legal resident of the United States at least 5 years, unless a surety bond of at least $500,000 is filed, payable to the agency as assurance of conformity with all legal requirements for operation.
- An applicant must provide proof of financial ability to operate and submit a financial statement based on certain criteria, including the applicant's ability to operate if the applicant's assets, credit, and projected revenues do not meet or exceed projected liabilities and expenses.
- An applicant must demonstrate financial ability to fund startup costs through the break-even operational point.

The bill establishes a limit on the number of home health agency licenses until July 1, 2012 to a ratio of one (1) license per 1,500 or less for the 65 or older population in each county. The bill allows AHCA to continue to issue licenses to home health agencies accredited before May 1, 2009. According to population and licensure data provided by the agency, new licensees would be prohibited in Miami-Dade, Broward, and Gulf Counties.

The bill also provides criminal penalties for the unlicensed operation of all facility or license types issued by the Agency, providing false or misleading information related to the application or agency rule, and violating or conspiring to violate the requirements in this bill. The bill makes the following offenses third degree felonies:

- Establishing, operating, or managing an unlicensed "facility" required to be licensed under laws regulating home health agencies, home medical equipment providers and health care clinics;
- Knowingly filing a false or misleading license or renewal application or submitting false or misleading information; and
- Conspiracy to violate the new s. 408.8065, F.S.

The bill provides that any provisions in the s. 408.8065, F.S., control over any provisions regulating health agencies, home medical equipment providers and health care clinics, if in conflict.

B. SECTION DIRECTORY:

Section 1: Designates Miami-Dade County as a health care fraud area of special concern.

Section 2: Creating s. 408.8065, F.S., relating to licensure of home health agencies, home medical equipment providers, and health care clinics.

Section 3: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The requirement that licensure applicants provide financial projections may cause applicants to incur additional expenses. Applicants subject to the $500,000 surety bond requirement will also be subject to increased costs. New entrants to home health agency, home medical equipment and health care clinic businesses will not be permitted to operate those businesses in Miami-Dade, Broward and Gulf Counties until July 1, 2012.

D. FISCAL COMMENTS:

The bill creates several third degree felonies. The Criminal Justice Impact Conference has not established the impact of the additional felonies. The bill analysis will be updated if the Criminal Justice Impact Conference assigns a value to the impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Agency has sufficient rule-making authority to implement the bill in the existing section 408.819, F.S. The bill includes two additional provisions for rule-making authority that may be unnecessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 1 of the bill designates Miami-Dade County as a health care fraud area of special concern. This section is in an unassigned section of law. It is unclear what impact this designation will have on efforts to curb fraud and abuse, if any.

The amendments to section 408.8065(2)(a), F.S., in the bill appear to regulate the terms of ownership of controlling interests of home health agencies, home medical equipment providers and health care clinics, rather than licensure of those entities.

The amendments to section 408.8065(2)(b), F.S., in the bill create additional documentation requirements for applicants related to financial ability to operate. Some of these provisions appear to duplicate or conflict with existing law, and the bill does not resolve those conflicts.

The bill provides that any provisions in the bill control over any provisions in current law regulating home health agencies, home medical equipment providers and health care clinics, if in conflict. Not all conflicts have been identified in this analysis. The goal of this provision may be better met by identifying and eliminating those provisions which conflict.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES