

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 The Committee on Insurance offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsections (3) and (4) of section 400.9905,  
6 Florida Statutes, are amended, and subsections (5), (6), and (7)  
7 are added to said section, to read:

8 400.9905 Definitions.--

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

15 (a) Entities licensed or registered by the state and  
16 providing only health care services within the scope of services

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17 authorized under their respective licenses granted under ss.  
18 383.30-383.335, chapter 390, chapter 394, chapter 395, chapter  
19 397, this chapter except part XIII, chapter 463, chapter 465,  
20 chapter 466, chapter 478, part I of chapter 483 480, chapter  
21 484, or chapter 651, end-stage renal disease providers  
22 authorized under 42 C.F.R. part 405, subpart U, or providers  
23 certified under 42 C.F.R. part 485, subpart B or subpart H.

24 (b) Entities that own, directly or indirectly, entities  
25 licensed or registered by the state and providing only health  
26 care services within the scope of services authorized pursuant  
27 to their respective licenses granted under ss. 383.30-383.335,  
28 chapter 390, chapter 394, chapter 395, chapter 397, this chapter  
29 except part XIII, chapter 463, chapter 465, chapter 466, chapter  
30 478, part I of chapter 483 480, chapter 484, or chapter 651,  
31 end-stage renal disease providers authorized under 42 C.F.R.  
32 part 405, subpart U, or providers certified under 42 C.F.R. part  
33 485, subpart B or subpart H.

34 (c) Entities that are owned, directly or indirectly, by an  
35 entity licensed or registered by the state and providing only  
36 health care services within the scope of services authorized  
37 pursuant to its respective license granted under ss. 383.30-  
38 383.335, chapter 390, chapter 394, chapter 395, chapter 397,  
39 this chapter except part XIII, chapter 463, chapter 465, chapter  
40 466, chapter 478, part I of chapter 483 480, chapter 484, or  
41 chapter 651, an end-stage renal disease provider authorized  
42 under 42 C.F.R. part 405, subpart U, or a provider certified  
43 under 42 C.F.R. part 485, subpart B or subpart H.

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44 (d) Entities that are under common ownership, directly or  
45 indirectly, with an entity licensed or registered by the state  
46 and providing only health care services within the scope of  
47 services authorized pursuant to its respective license granted  
48 under ss. 383.30-383.335, chapter 390, chapter 394, chapter 395,  
49 chapter 397, this chapter except part XIII, chapter 463, chapter  
50 465, chapter 466, chapter 478, part I of chapter 483 480,  
51 chapter 484, or chapter 651, an end-stage renal disease provider  
52 authorized under 42 C.F.R. part 405, subpart U, or a provider  
53 certified under 42 C.F.R. part 485, subpart B or subpart H.

54 (e) An entity that is exempt from federal taxation under  
55 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), and any community  
56 college or university clinic, and any entity owned or operated  
57 by federal or state government, including agencies,  
58 subdivisions, or municipalities thereof.

59 (f) A sole proprietorship, group practice, partnership, or  
60 corporation that provides health care services by licensed  
61 health care practitioners under chapter 457, chapter 458,  
62 chapter 459, chapter 460, chapter 461, chapter 462, ~~chapter 463,~~  
63 ~~chapter 466,~~ chapter 467, chapter 480 484, chapter 486, chapter  
64 490, chapter 491, or part I, part III, part X, part XIII, or  
65 part XIV of chapter 468, or s. 464.012, which are wholly owned  
66 by one or more a licensed health care practitioners  
67 ~~practitioner~~, or the licensed health care practitioners set  
68 forth in this paragraph practitioner and the spouse, parent, or  
69 child of a licensed health care practitioner, so long as one of  
70 the owners who is a licensed health care practitioner is  
71 supervising the services performed therein and is legally

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72 responsible for the entity's compliance with all federal and  
73 state laws. However, a health care practitioner may not  
74 supervise services beyond the scope of the practitioner's  
75 license, except that, for the purposes of this part, a clinic  
76 owned by a licensee in s. 456.053(3)(b) that provides only  
77 services authorized pursuant to s. 456.053(3)(b) may be  
78 supervised by a licensee specified in s. 456.053(3)(b).

79 (g) Clinical facilities affiliated with an accredited  
80 medical school at which training is provided for medical  
81 students, residents, or fellows.

82 (4) "Medical director" means a physician who is employed  
83 or under contract with a clinic and who maintains a full and  
84 unencumbered physician license in accordance with chapter 458,  
85 chapter 459, chapter 460, or chapter 461. However, if the clinic  
86 does not provide services pursuant to the respective physician  
87 practice acts listed in this subsection, it is limited to  
88 providing health care services pursuant to chapter 457, chapter  
89 484, chapter 486, chapter 490, or chapter 491 or part I, part  
90 III, part X, part XIII, or part XIV of chapter 468, the clinic  
91 may appoint a Florida-licensed health care practitioner who does  
92 not provide services pursuant to the respective physician  
93 practice acts listed in this subsection licensed under that  
94 chapter to serve as a clinic director who is responsible for the  
95 clinic's activities. A health care practitioner may not serve as  
96 the clinic director if the services provided at the clinic are  
97 beyond the scope of that practitioner's license, except that a  
98 licensee specified in s. 456.053(3)(b) that provides only  
99 services authorized pursuant to s. 456.053(3)(b) may serve as

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100 clinic director of an entity providing services as specified in  
101 s. 456.053(3)(b).

102 (5) "Mobile clinic" means a movable or detached self-  
103 contained health care unit within or from which direct health  
104 care services are provided to individuals and that otherwise  
105 meets the definition of a clinic in subsection (3).

106 (6) "Portable equipment provider" means an entity that  
107 contracts with or employs persons to provide portable equipment  
108 to multiple locations performing treatment or diagnostic testing  
109 of individuals, that bills third-party payors for those  
110 services, and that otherwise meets the definition of a clinic in  
111 subsection (3).

112 (7) "Chief financial officer" means an individual who has  
113 at least a bachelor's degree from an accredited university in  
114 accounting, finance, or a related field and is the person  
115 responsible for the preparation of the clinic billing.

116 Section 2. Subsections (1), (2), and (3) and paragraph (a)  
117 of subsection (7) of section 400.991, Florida Statutes, are  
118 amended to read:

119 400.991 License requirements; background screenings;  
120 prohibitions.--

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

126 (b) Each mobile clinic must obtain a separate health care  
127 clinic license and elinies must provide to the agency, at least

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128 | quarterly, its ~~their~~ projected street location ~~locations~~ to  
129 | enable the agency to locate and inspect such clinic ~~clinics~~. A  
130 | portable equipment provider must obtain a health care clinic  
131 | license for a single administrative office and is not required  
132 | to submit quarterly projected street locations.

133 |       (2) The initial clinic license application shall be filed  
134 | with the agency by all clinics, as defined in s. 400.9905, on or  
135 | before July ~~March~~ 1, 2004. A clinic license must be renewed  
136 | biennially.

137 |       (3) Applicants that submit an application on or before  
138 | July ~~March~~ 1, 2004, which meets all requirements for initial  
139 | licensure as specified in this section shall receive a temporary  
140 | license until the completion of an initial inspection verifying  
141 | that the applicant meets all requirements in rules authorized by  
142 | s. 400.9925. However, a clinic engaged in magnetic resonance  
143 | imaging services may not receive a temporary license unless it  
144 | presents evidence satisfactory to the agency that such clinic is  
145 | making a good faith effort and substantial progress in seeking  
146 | accreditation required under s. 400.9935.

147 |       (7) Each applicant for licensure shall comply with the  
148 | following requirements:

149 |       (a) As used in this subsection, the term "applicant" means  
150 | individuals owning or controlling, directly or indirectly, 5  
151 | percent or more of an interest in a clinic; the medical or  
152 | clinic director, or a similarly titled person who is responsible  
153 | for the day-to-day operation of the licensed clinic; the  
154 | financial officer or similarly titled individual who is  
155 | responsible for the financial operation of the clinic; and

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156 licensed health care practitioners ~~medical providers~~ at the  
157 clinic.

158 Section 3. Paragraph (g) of subsection (1) and subsections  
159 (9) and (11) of section 400.9935, Florida Statutes, are amended  
160 to read:

161 400.9935 Clinic responsibilities.--

162 (1) Each clinic shall appoint a medical director or clinic  
163 director who shall agree in writing to accept legal  
164 responsibility for the following activities on behalf of the  
165 clinic. The medical director or the clinic director shall:

166 (g) Conduct systematic reviews of clinic billings to  
167 ensure that the billings are not fraudulent or unlawful. Upon  
168 discovery of an unlawful charge, the medical director or clinic  
169 director shall take immediate corrective action. If the clinic  
170 performs only the technical component of magnetic resonance  
171 imaging, static radiographs, computed tomography, or positron  
172 emission tomography, and provides the professional  
173 interpretation of such services, in a fixed facility that is  
174 accredited by the Joint Commission on Accreditation of  
175 Healthcare Organizations, the Accreditation Association for  
176 Ambulatory Health Care, or the American College of Radiology,  
177 and if, in the preceding quarter, the percentage of scans  
178 performed by that clinic which was billed to a personal injury  
179 protection insurance carrier was less than 15 percent, the chief  
180 financial officer of the clinic may, in a written acknowledgment  
181 provided to the agency, assume the responsibility for the  
182 conduct of the systematic reviews of clinic billings to ensure  
183 that the billings are not fraudulent or unlawful. With regard to

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184 clinics that share majority ownership, the determination of the  
185 percentage of their volume billed to a personal injury  
186 protection insurance carrier may be calculated on a consolidated  
187 basis.

188 (9) Any person or entity providing health care services  
189 which is not a clinic, as defined under s. 400.9905, may  
190 voluntarily apply for a certificate of exemption from licensure  
191 under its exempt status with the agency on a form that sets  
192 forth its name or names and addresses, a statement of the  
193 reasons why it cannot be defined as a clinic, and other  
194 information deemed necessary by the agency. An exemption is not  
195 transferable.

196 (11)(a) Each clinic engaged in magnetic resonance imaging  
197 services must be accredited by the Joint Commission on  
198 Accreditation of Healthcare Organizations, the American College  
199 of Radiology, or the Accreditation Association for Ambulatory  
200 Health Care, within 1 year after licensure. However, a clinic  
201 may request a single, 6-month extension if it provides evidence  
202 to the agency establishing that, for good cause shown, such  
203 clinic can not be accredited within 1 year after licensure, and  
204 that such accreditation will be completed within the 6-month  
205 extension. After obtaining accreditation as required by this  
206 subsection, each such clinic must maintain accreditation as a  
207 condition of renewal of its license.

208 (b) The agency may deny ~~disallow~~ the application or revoke  
209 the license of any entity formed for the purpose of avoiding  
210 compliance with the accreditation provisions of this subsection  
211 and whose principals were previously principals of an entity

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212 that was unable to meet the accreditation requirements within  
213 the specified timeframes. The agency may adopt rules as to the  
214 accreditation of magnetic resonance imaging clinics.

215 Section 4. Subsections (1) and (3) of section 400.995,  
216 Florida Statutes, are amended, and subsection (10) is added to  
217 said section, to read:

218 400.995 Agency administrative penalties.--

219 (1) The agency may deny the application for a license  
220 renewal, revoke or suspend the license, and impose  
221 administrative fines ~~penalties against clinics~~ of up to \$5,000  
222 per violation for violations of the requirements of this part or  
223 rules of the agency. In determining if a penalty is to be  
224 imposed and in fixing the amount of the fine, the agency shall  
225 consider the following factors:

226 (a) The gravity of the violation, including the  
227 probability that death or serious physical or emotional harm to  
228 a patient will result or has resulted, the severity of the  
229 action or potential harm, and the extent to which the provisions  
230 of the applicable laws or rules were violated.

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

233 (c) Any previous violations.

234 (d) The financial benefit to the clinic of committing or  
235 continuing the violation.

236 (3) Any action taken to correct a violation shall be  
237 documented in writing by the owner, medical director, or clinic  
238 director of the clinic and verified through followup visits by  
239 agency personnel. The agency may impose a fine and, in the case

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240 of an owner-operated clinic, revoke or deny a clinic's license  
241 when a clinic medical director or clinic director knowingly  
242 ~~fraudulently~~ misrepresents actions taken to correct a violation.

243 (10) If the agency issues a notice of intent to deny a  
244 license application after a temporary license has been issued  
245 pursuant to s. 400.991(3), the temporary license shall expire on  
246 the date of the notice and may not be extended during any  
247 proceeding for administrative or judicial review pursuant to  
248 chapter 120.

249 Section 5. Any person or entity made exempt from the  
250 definition of "clinic" under s. 400.9905, Florida Statutes, by  
251 the amendment made to that section by this act and which person  
252 or entity has paid the clinic licensure fee to the Agency for  
253 Health Care Administration is entitled to a full refund of that  
254 fee from the agency.

255 Section 6. Any person or entity defined as a clinic under  
256 s. 400.9905, Florida Statutes, shall not be in violation of part  
257 XIII of chapter 400, Florida Statutes, due to failure to apply  
258 for a clinic license by July 1, 2004, as previously required by  
259 s. 400.991, Florida Statutes. Payment to any such person or  
260 entity by an insurer or other person liable for payment to such  
261 person or entity may not be denied on the grounds that the  
262 person or entity failed to apply for or obtain a clinic license  
263 before July 1, 2004.

264 Section 7. This act shall take effect upon becoming a law.

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267 ===== T I T L E A M E N D M E N T =====

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268 Remove the entire title and insert:  
269                   A bill to be entitled  
270 An act relating to health care clinics; amending s.  
271 400.9905, F.S.; revising the definitions of "clinic" and  
272 "medical director" and defining "mobile clinic," "portable  
273 equipment provider," and "chief financial officer" for  
274 purposes of the Health Care Clinic Act; amending s.  
275 400.991, F.S.; requiring each mobile clinic to obtain a  
276 health care clinic license; requiring a portable equipment  
277 provider to obtain a health care clinic license for a  
278 single office and exempting such a provider from  
279 submitting certain information to the Agency for Health  
280 Care Administration; revising the date by which an initial  
281 application for a health care clinic license must be filed  
282 with the agency; revising the definition of "applicant";  
283 amending s. 400.9935, F.S.; authorizing the chief  
284 financial officer of a clinic to review clinic billings  
285 under certain circumstances; providing that an exemption  
286 from licensure is not transferable; providing that the  
287 agency may deny an application or revoke a license under  
288 certain circumstances; amending s. 400.995, F.S.;  
289 providing that the agency may deny, revoke, or suspend  
290 specified licenses and impose fines for certain  
291 violations; providing that a temporary license expires  
292 after a notice of intent to deny an application is issued  
293 by the agency; providing that persons or entities made  
294 exempt under the act and which have paid the clinic  
295 licensure fee to the agency are entitled to a refund from

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HOUSE AMENDMENT

Bill No. SB 2380

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296 | the agency; providing that certain persons or entities are  
297 | not in violation of pt. XIII of ch. 400, F.S., due to  
298 | failure to apply for a clinic license by a specified date;  
299 | providing that certain payments may not be denied to such  
300 | persons or entities for failure to apply for or obtain a  
301 | clinic license before a specified date; providing an  
302 | effective date.

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