



338174

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
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The Committee on Health and Human Services Appropriations  
(Gaetz) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 124 - 187  
and insert:

Section 3. Subsections (1) and (4) of section 408.815,  
Florida Statutes, are amended, and subsection (5) is added to  
that section, to read:

408.815 License or application denial; revocation.—

(1) In addition to the grounds provided in authorizing  
statutes, grounds that may be used by the agency for denying and  
revoking a license or change of ownership application include  
any of the following actions by a controlling interest:



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13 (a) False representation of a material fact in the license  
14 application or omission of any material fact from the  
15 application.

16 (b) An intentional or negligent act materially affecting  
17 the health or safety of a client of the provider.

18 (c) A violation of this part, authorizing statutes, or  
19 applicable rules.

20 (d) A demonstrated pattern of deficient performance.

21 (e) The applicant, licensee, or controlling interest has  
22 been or is currently excluded, suspended, or terminated from  
23 participation in the state Medicaid program, the Medicaid  
24 program of any other state, or the Medicare program.

25 (f) The applicant, licensee, or controlling interest is or  
26 was an administrator or controlling interest in a facility or  
27 entity during the period an event that caused or contributed to  
28 the facility or entity being excluded, suspended, or terminated  
29 from participation in the state Medicaid program, the Medicaid  
30 program of any other state, or the Medicare program.

31 (4) In addition to the grounds provided in authorizing  
32 statutes, the agency shall deny an application for an initial a  
33 license or a change-of-ownership license ~~renewal~~ if the  
34 applicant or a person having a controlling interest in the an  
35 applicant ~~has been~~:

36 (a) Has been convicted of, or entered enters a plea of  
37 guilty or nolo contendere to, regardless of adjudication, a  
38 felony under chapter 409, chapter 817, chapter 893, or a similar  
39 felony offense committed in another state or jurisdiction ~~21~~  
40 ~~U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396~~, unless the  
41 sentence and any subsequent period of probation for such



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42 conviction ~~convictions~~ or plea ended more than 15 years before  
43 ~~prior to~~ the date of the application;

44 (b) Has been convicted of, or entered a plea of guilty or  
45 nolo contendere to, regardless of adjudication, a felony under  
46 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the  
47 sentence and any subsequent period of probation for such  
48 conviction or plea ended more than 15 years before the date of  
49 the application;

50 (c) ~~(b)~~ Has been terminated for cause from the Florida  
51 Medicaid program pursuant to s. 409.913, unless the applicant  
52 has been in good standing with the Florida Medicaid program for  
53 the most recent 5 years; ~~or~~

54 (d) ~~(e)~~ Has been terminated for cause, pursuant to the  
55 appeals procedures established by the state, ~~or Federal~~  
56 ~~Government, from the federal Medicare program or from any other~~  
57 ~~state Medicaid program, unless the applicant has been in good~~  
58 ~~standing with a state Medicaid program or the federal Medicare~~  
59 ~~program~~ for the most recent 5 years and the termination occurred  
60 at least 20 years before ~~prior to~~ the date of the application;  
61 or-

62 (e) Is currently listed on the United States Department of  
63 Health and Human Services Office of Inspector General's List of  
64 Excluded Individuals and Entities.

65 (5) In addition to the grounds provided in authorizing  
66 statutes, the agency shall deny an application for licensure  
67 renewal if the applicant or a person having a controlling  
68 interest in the applicant:

69 (a) Has been convicted of, or entered a plea of guilty or  
70 nolo contendere to, regardless of adjudication, a felony under



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71 chapter 409, chapter 817, chapter 893, or a similar felony  
72 offense committed in another state or jurisdiction since July 1,  
73 2009;

74 (b) Has been convicted of, or entered a plea of guilty or  
75 nolo contendere to, regardless of adjudication, a felony under  
76 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 since July 1,  
77 2009;

78 (c) Has been terminated for cause from the Florida Medicaid  
79 program pursuant to s. 409.913, unless the applicant has been in  
80 good standing with the Florida Medicaid program for the most  
81 recent 5 years;

82 (d) Has been terminated for cause, pursuant to the appeals  
83 procedures established by the state, from any other state  
84 Medicaid program, unless the applicant has been in good standing  
85 with a state Medicaid program for the most recent 5 years and  
86 the termination occurred at least 20 years before the date of  
87 the application; or

88 (e) Is currently listed on the United States Department of  
89 Health and Human Services Office of Inspector General's List of  
90 Excluded Individuals and Entities.

91 Section 4. Paragraph (a) of subsection (4) and subsection  
92 (11) of section 408.910, Florida Statutes, are amended to read:  
93 408.910 Florida Health Choices Program.—

94 (4) ELIGIBILITY AND PARTICIPATION.—Participation in the  
95 program is voluntary and shall be available to employers,  
96 individuals, vendors, and health insurance agents as specified  
97 in this subsection.

98 (a) Employers eligible to enroll in the program include:

99 1. Employers that have 1 to 50 employees.



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100 2. Fiscally constrained counties described in s. 218.67.

101 3. Municipalities having populations of fewer than 50,000  
102 residents.

103 4. School districts in fiscally constrained counties.

104 5. State universities and community colleges.

105 (11) CORPORATION.—There is created the Florida Health  
106 Choices, Inc., which shall be registered, incorporated,  
107 organized, and operated in compliance with part III of chapter  
108 112 and chapters 119, 286, and 617. The purpose of the  
109 corporation is to administer the program created in this section  
110 and to conduct such other business as may further the  
111 administration of the program.

112 (a)1. The corporation shall be governed by a 5-member ~~15-~~  
113 ~~member~~ board of directors consisting of:

114 ~~1. Three ex officio, nonvoting members to include:~~

115 ~~a. The Secretary of Health Care Administration or a~~  
116 ~~designee with expertise in health care services.~~

117 ~~b. The Secretary of Management Services or a designee with~~  
118 ~~expertise in state employee benefits.~~

119 ~~c. The commissioner of the Office of Insurance Regulation~~  
120 ~~or a designee with expertise in insurance regulation.~~

121 a.2. One member ~~Four members~~ appointed by and serving at  
122 the pleasure of the Governor.

123 b.3. Two ~~Four~~ members appointed by and serving at the  
124 pleasure of the President of the Senate.

125 c.4. Two ~~Four~~ members appointed by and serving at the  
126 pleasure of the Speaker of the House of Representatives.

127 ~~2.5.~~ Board members may not include insurers, health  
128 insurance agents or brokers, health care providers, health



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129 maintenance organizations, prepaid service providers, or any  
130 other entity, affiliate or subsidiary of eligible vendors.

131 (b)1. Members shall be appointed for terms of up to 4 ~~3~~  
132 years. In order to establish staggered terms, for the initial  
133 appointments the President of the Senate and the Speaker of the  
134 House of Representatives shall each appoint one member to a 2-  
135 year term and one member to a 4-year term. Any member is  
136 eligible for reappointment. A vacancy on the board shall be  
137 filled for the unexpired portion of the term in the same manner  
138 as the original appointment.

139 2. Beginning July 1, 2011, the members of the board of  
140 directors shall appoint new members to the board of directors,  
141 subject to confirmation by the Senate.

142 (c) The board shall select a chief executive officer for  
143 the corporation who shall be responsible for the selection of  
144 such other staff as may be authorized by the corporation's  
145 operating budget as adopted by the board.

146 (d) Board members are entitled to receive, from funds of  
147 the corporation, reimbursement for per diem and travel expenses  
148 as provided by s. 112.061. No other compensation is authorized.

149 (e) There is no liability on the part of, and no cause of  
150 action shall arise against, any member of the board or its  
151 employees or agents for any action taken by them in the  
152 performance of their powers and duties under this section.

153 (f) The board shall develop and adopt bylaws and other  
154 corporate procedures as necessary for the operation of the  
155 corporation and carrying out the purposes of this section. The  
156 bylaws shall:

157 1. Specify procedures for selection of officers and



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158 qualifications for reappointment, ~~provided that no board member~~  
159 ~~shall serve more than 9 consecutive years.~~

160 2. Require an annual membership meeting that provides an  
161 opportunity for input and interaction with individual  
162 participants in the program.

163 3. Specify policies and procedures regarding conflicts of  
164 interest, including the provisions of part III of chapter 112,  
165 which prohibit a member from participating in any decision that  
166 would inure to the benefit of the member or the organization  
167 that employs the member. The policies and procedures shall also  
168 require public disclosure of the interest that prevents the  
169 member from participating in a decision on a particular matter.

170 (g) The corporation may exercise all powers granted to it  
171 under chapter 617 necessary to carry out the purposes of this  
172 section, including, but not limited to, the power to receive and  
173 accept grants, loans, or advances of funds from any public or  
174 private agency and to receive and accept from any source  
175 contributions of money, property, labor, or any other thing of  
176 value to be held, used, and applied for the purposes of this  
177 section.

178 (h) The corporation may establish technical advisory panels  
179 consisting of interested parties, including consumers, health  
180 care providers, individuals with expertise in insurance  
181 regulation, and insurers.

182 (i) The corporation shall:

183 1. Determine eligibility of employers, vendors,  
184 individuals, and agents in accordance with subsection (4).

185 2. Establish procedures necessary for the operation of the  
186 program, including, but not limited to, procedures for



187 application, enrollment, risk assessment, risk adjustment, plan  
188 administration, performance monitoring, and consumer education.

189 3. Arrange for collection of contributions from  
190 participating employers and individuals.

191 4. Arrange for payment of premiums and other appropriate  
192 disbursements based on the selections of products and services  
193 by the individual participants.

194 5. Establish criteria for disenrollment of participating  
195 individuals based on failure to pay the individual's share of  
196 any contribution required to maintain enrollment in selected  
197 products.

198 6. Establish criteria for exclusion of vendors pursuant to  
199 paragraph (4) (d).

200 7. Develop and implement a plan for promoting public  
201 awareness of and participation in the program.

202 8. Secure staff and consultant services necessary to the  
203 operation of the program.

204 9. Establish policies and procedures regarding  
205 participation in the program for individuals, vendors, health  
206 insurance agents, and employers.

207 10. Develop a plan, in coordination with the Department of  
208 Revenue, to establish tax credits or refunds for employers that  
209 participate in the program. The corporation shall submit the  
210 plan to the Governor, the President of the Senate, and the  
211 Speaker of the House of Representatives by January 1, 2009.

212  
213 ===== T I T L E A M E N D M E N T =====

214 And the title is amended as follows:

215 Delete lines 2 - 18



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216 and insert:  
217 An act relating to health care; amending s. 400.471,  
218 F.S.; prohibiting the Agency for Health Care  
219 Administration from issuing an initial license to a  
220 home health agency for the purpose of opening a new  
221 home health agency under certain conditions until a  
222 specified date; prohibiting the agency from issuing a  
223 change-of-ownership license to a home health agency  
224 under certain conditions until a specified date;  
225 providing an exception; amending s. 400.474, F.S.;  
226 authorizing the agency to revoke a home health agency  
227 license if the applicant or any controlling interest  
228 has been sanctioned for acts specified under s.  
229 400.471(10), F.S.; amending s. 408.815, F.S.; revising  
230 the grounds upon which the agency may deny or revoke  
231 an application for an initial license, a change-of-  
232 ownership license, or a licensure renewal for certain  
233 health care entities listed in s. 408.802, F.S.;  
234 amending s. 408.910, F.S.; revising the list of  
235 employers who are eligible to enroll in the Florida  
236 Health Choices Program; revising the membership of the  
237 board of directors of the Florida Health Choices,  
238 Inc.; requiring the President of the Senate and the  
239 Speaker of the House of Representatives to initially  
240 appoint members to the board of directors for  
241 staggered terms; requiring that the members of the  
242 board appoint new members to the board of directors  
243 after a specified date, subject to Senate  
244 confirmation; deleting a provision that prohibits



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board members from serving for more than a certain  
number of consecutive years;