

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 746

INTRODUCER: Health Policy Committee and Senator Sobel

SUBJECT: Health Care Clinic Act

DATE: March 11, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.			CJ	
3.			CA	
4.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 746 amends the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The bill also makes clinics liable for administrative penalties<sup>1</sup> and any applicable criminal penalties if an inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked.

**II. Present Situation:**

Clinics in the state must be licensed by the Agency for Health Care Administration (AHCA);<sup>2</sup> however, there are numerous exclusions from the definition of “clinic” in s. 400.9905, F.S.,<sup>3</sup> and from the requirement to obtain a license as a clinic. The definition of “clinic” only includes entities that “tender charges for reimbursement.” The AHCA interprets this phrase to only include entities that bill third parties, such as Medicare, Medicaid and insurance companies. Entities that provide health care services on a “cash only” basis are excluded from the definition of “clinic” and, as such, need not be licensed by the AHCA.<sup>4</sup>

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<sup>1</sup> See s 400.995, F.S., allowing the AHCA to deny, revoke or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

<sup>2</sup> s. 400.991, F.S.

<sup>3</sup> s. 400.9905(4)(a)-(n), F.S.

<sup>4</sup> See AHCA bill analysis for SB 746, on file with Health Policy Committee staff.

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 400.9905, F.S., to amend the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The effect of this change is to require “cash only” clinics to obtain a license as a clinic and, as a result, these facilities will be subject to periodic inspections which may help detect and deter unlawful practices.

**Section 2** of the bill amends s. 400.9935, F.S., to make clinics liable for administrative penalties<sup>5</sup> and any applicable criminal penalties<sup>6</sup> if an inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked.

**Section 3** establishes an effective date of July 1, 2014.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

“Cash only” clinics that are not currently licensed will be required to obtain a license from the AHCA and pay a \$2,000 licensing fee. Also, clinics that hire or continue to employ a physician whose license is suspended or revoked may be required to pay a fine of up to \$5,000.

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<sup>5</sup> See s 400.995, F.S., allowing the AHCA to deny, revoke or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

<sup>6</sup> The criminal penalties are not specified, however, these penalties could include a felony of the third degree imposed by s. 458.327(1)(b), F.S., on physicians who attempt to use a license which is suspended or revoked to practice medicine.

C. **Government Sector Impact:**

The AHCA anticipates an increased workload for clinic licensure of approximately 10 percent and to require four new FTEs to manage the increased workload.<sup>7</sup> The increased workload will generate an estimated one-time cost to the AHCA of approximately \$16,000 and estimated recurring costs of approximately \$60,000.<sup>8</sup>

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 400.9905 and 400.9935

IX. **Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on March 11, 2014:**

The CS amends SB 746 to state that only a clinic that hires or continues to employ, directly or contractually, a physician whose license is suspended or revoked is liable for sanctions or criminal penalties.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>7</sup> Supra n. 4

<sup>8</sup> Id.