

**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 Judiciary

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BILL: CS/SB 768

INTRODUCER: Health Policy Committee and Senator Calatayud

SUBJECT: Controlling Business Interests by Persons with Ties to Foreign Countries of Concern

DATE: March 31, 2025      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 768 relaxes the duty that health care providers have to avoid prohibited business relationships with foreign countries of concern or a scrutinized company as a condition of licensure with the Agency for Health Care Administration. Foreign countries of concern include China, Russia, Iran, North Korea, Cuba, the Venezuelan regime of Nicolas Maduro, and Syria. Scrutinized companies may include those that boycott Israel or have prohibited operations in Cuba, Iran, Sudan, or Syria.

Under existing law, a health care provider “must ensure” that a person or entity who possesses a controlling interest in the health care provider does not “directly or indirectly” hold a prohibited business relationship. Under the bill, a health care provider must only “make reasonable efforts to ensure” that a person or entity having a controlling interest does not “directly” have a prohibited business relationship.

The bill takes effect July 1, 2025.

## II. Present Situation:

### Health Care Licensing Procedures Act

The Health Care Licensing Procedures Act<sup>1</sup> provides a streamlined and consistent set of basic licensing requirements for health care providers, including the 49,823 health care providers that are currently licensed, registered, or certified by the Florida Agency for Health Care Administration (AHCA) as of February 21, 2025.<sup>2</sup>

The Act is intended to minimize confusion, standardize terminology, and include issues that are not otherwise addressed in state law pertaining to specific providers.<sup>3</sup> Among other things, it provides certain minimum licensure requirements that applicants must satisfy to obtain and maintain a license.<sup>4</sup> The issuance of a license is not a contract or an agreement between the state and the licensee,<sup>5</sup> but rather a privilege that is granted by the state based upon the licensee complying with licensure and certification requirements.<sup>6</sup>

### *Minimum Licensure Requirements; An Act Relating to the Interests of Foreign Countries*

On July 1, 2023, Senate Bill 264 (2023), relating to the Interests of Foreign Countries, became effective, creating additional minimum licensure requirements for health care providers.<sup>7</sup>

One such additional requirement<sup>8</sup> requires a licensee to ensure that a person or entity possessing a *controlling interest* in the licensee does not also hold, either directly or indirectly, regardless of ownership structure, an *interest* in an entity that has a business relationship with a foreign country of concern or that is subject to the statute prohibiting contracting with scrutinized companies.<sup>9</sup>

In connection with this additional requirement, the term “controlling interest” means:

- The applicant or licensee;
- A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the applicant or licensee; or

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<sup>1</sup> Chapter 408, Part II, F.S.; *see also* s. 408.801(1), F.S. (providing the short title).

<sup>2</sup> Section 408.801(2), F.S.; Agency for Health Care Administration (AHCA), *Senate Bill 768 Legislative Analysis* (Feb. 19, 2025) (on file with the Senate Committee on Health Policy). The act applies to following providers: laboratories authorized to perform testing under the Drug-Free Workplace Act, birth centers, abortion clinics, crisis stabilization units, short-term residential treatment facilities, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment providers, intermediate care facilities for persons with developmental disabilities, health care services pools, health care clinics, organ tissue and eye procurement organizations. Section 408.802, F.S.

<sup>3</sup> Section 408.801(2), F.S.

<sup>4</sup> *See generally* s. 408.810, F.S. (specifying minimum licensure requirements).

<sup>5</sup> *Senate Bill 768 Legislative Analysis*, *supra* note 3, at 2.

<sup>6</sup> *Id.*

<sup>7</sup> Chapter 2023-22, s. 10, Laws of Fla.

<sup>8</sup> Section 408.810(15), F.S.

<sup>9</sup> Section 287.135, F.S.

- A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the management company or other entity, related or unrelated, with which the applicant or licensee contracts to manage the provider.<sup>10</sup>

Additionally:

- “Business relationship” means engaging in commerce in any form, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.<sup>11</sup>
- “Foreign country of concern” means the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.<sup>12</sup>
- “Interest” means any direct or indirect investment in or loan to the entity valued at 5 percent or more of the entity’s net worth or any form of direct or indirect control exerting similar or greater influence on the governance of the entity.<sup>13</sup>

According to AHCA, the onus is on the licensee to ensure that no business relationship exists with foreign countries of concern, or that is subject to the statute prohibiting contracting with scrutinized companies.<sup>14</sup> Pursuant to the statute outlining the license application process for the Act, proof of compliance with the controlling interest requirement must be submitted with any application for licensure or licensure renewal.<sup>15</sup>

In practice, AHCA verifies the background screening of individuals possessing a controlling interest (generally 5 percent or more) in the licensee if their names are listed on the application.<sup>16</sup> However, some business entities having a controlling interest in a licensee have chosen to not name or disclose individuals. AHCA reports that aside from the application process, there is no mechanism by which its staff can verify whether the controlling interest requirement has been satisfied.<sup>17</sup> AHCA also notes that it is a registered user of the SAVE Program of the U.S. Department of Homeland Security<sup>18</sup> and can determine the status of nonimmigrant aliens

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<sup>10</sup> Section 408.803(7), F.S. The term does not include a voluntary board member. *Id.*

<sup>11</sup> Section 408.810(15)(b)1., F.S.

<sup>12</sup> Section 408.810(15)(b)2., F.S. (incorporating by reference the definition of same in s. 692.201(3), F.S.).

<sup>13</sup> Section 408.810(15)(b)3., F.S. (incorporating by reference the definition of same in s. 286.101(1)(g), F.S.).

<sup>14</sup> *Senate Bill 768 Legislative Analysis*, *supra* note 3, at 2.

<sup>15</sup> Section 408.806(5), F.S.

<sup>16</sup> Section 408.809(1)(d), F.S.

<sup>17</sup> *Senate Bill 768 Legislative Analysis*, *supra* note 3, at 2.

<sup>18</sup> SAVE is an online service for registered federal, state, territorial, tribal, and local government agencies to verify immigration status and naturalized/acquired U.S. citizenship of applicants seeking benefits or licenses. United States Department of Homeland Security, *SAVE*, available at <https://www.uscis.gov/save> (last visited Mar. 21, 2025).

possessing controlling interests in home health agencies, home medical equipment providers, and health care clinics.<sup>19</sup>

### III. Effect of Proposed Changes:

The bill amends s. 408.810, F.S., which regulates the minimum licensure requirements of health care providers, to make it easier for licensees to demonstrate, under subsection (15) of the statute, that persons or entities possessing a controlling interest in them do not have a forbidden business relationship with a foreign country of concern or a scrutinized company.

Specifically, the bill revises the subsection to only require licensees to “make reasonable efforts to ensure,” instead of absolutely ensuring, that persons or entities possessing a direct controlling interest in the licensee do not also hold an interest in an entity having a forbidden business relationship with a foreign country of concern or a scrutinized company.<sup>20</sup>

With respect to the definition of “business relationship” in that subsection, the bill also eliminates the concept of engaging in “any other apparatus of business or commerce” from the definition.

The bill also:

- Revises the subsection so that licensees no longer must demonstrate that a person or entity possessing an *indirect* controlling interest has complied with the subsection.
- Defines the term “foreign country of concern” consistent with existing law,<sup>21</sup> except for excluding the phrase “or any other entity of significant control of” from the definition.

These changes relax existing licensee requirements, recognizing that licensees may not have access to the information they need to absolutely ensure they satisfy the controlling interest requirement of the subsection.

The bill takes effect July 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>19</sup> *Senate Bill 768 Legislative Analysis*, *supra* note 3, at 2.

<sup>20</sup> Section 287.135, F.S.

<sup>21</sup> Under existing law, “foreign country of concern” means the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern. Section 692.201(3), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is objectively easier to “make reasonable efforts to ensure” instead of absolutely ensuring that certain business relationships do not exist. It is possible that changes made by the bill, which ease minimum licensure requirements, could encourage additional health care providers to seek licensure and provide health care services in this state.

C. Government Sector Impact:

AHCA expects this bill to have no fiscal impact on the agency.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

AHCA has noted a lack of clarity as to what it means to make a “reasonable effort” as required by the bill.<sup>23</sup>

**VIII. Statutes Affected:**

This bill substantially amends section 408.810 of the Florida Statutes.

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<sup>22</sup> *Senate Bill 768 Legislative Analysis*, *supra* note 3, at 3-4.

<sup>23</sup> *Senate Bill 768 Legislative Analysis*, *supra* note 3, at 2.

**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 18, 2025:**

The committee substitute revises the application of the requirement in the underlying bill that a licensee must make a reasonable effort to ensure that a person or entity that possesses a “controlling interest” (as defined in the underlying bill) does not have a specified business relationship. Instead, the CS requires the licensee to ensure that a person or entity that possesses a *direct* controlling interest does not have such a relationship. It also deletes the definition of “controlling interest” which is already defined for the chapter in current law.

The underlying bill required the licensee to ensure that such a person or entity does not directly or indirectly hold a specified business relationship. The CS removes “indirectly” and requires the licensee to ensure that such a person or entity does not directly hold such a relationship.

The CS removes the concept of engaging in “any other apparatus of business or commerce” from the definition of “business relationship,” for purposes of the bill’s overall requirement.

- B. **Amendments:**

None.