

[Fla. Stat. § 400.9935.]

§ 400.9935. Clinic Responsibilities: Health Care Clinic Act

- (1) Each clinic shall appoint a medical director or clinic director who shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:
- (a) Have signs identifying the medical director or clinic director posted in a conspicuous location within the clinic readily visible to all patients.
 - (b) Ensure that all practitioners providing health care services or supplies to patients maintain a current active and unencumbered Florida license.
 - (c) Review any patient referral contracts or agreements executed by the clinic.
 - (d) Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.
 - (e) Serve as the clinic records owner as defined in s. 456.057.
 - (f) Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and rules adopted under this part and part II of chapter 408.
 - (g) Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director shall take immediate corrective action. If the clinic performs only the technical component of magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography, and provides the professional interpretation of such services, in a fixed facility that is accredited by a national accrediting organization that is approved by the Centers for Medicare and Medicaid Services for magnetic resonance imaging and advanced diagnostic imaging services and if, in the preceding quarter, the percentage of scans performed by that clinic which was billed to all personal injury protection insurance carriers was less than 15 percent, the chief financial officer of the clinic may, in a written acknowledgment provided to the agency, assume the responsibility for the conduct of the systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful.
 - (h) Not refer a patient to the clinic if the clinic performs magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography. The term “refer a patient” means the referral of one or more patients of the medical or clinical director or a member of the medical or clinical director’s group practice to the clinic for magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography. A medical director who is found to violate this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 - (i) Ensure that the clinic publishes a schedule of charges for the medical services offered to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be posted in a conspicuous place in the reception area of the urgent care center and must include, but is not limited to, the 50 services most frequently provided by the clinic. The schedule may group services by three price levels, listing services in each price level. The posting may be a sign that must be at least 15 square feet in size or through an electronic messaging board that is at

least 3 square feet in size. The failure of a clinic to publish and post a schedule of charges as required by this section shall result in a fine of not more than \$1,000, per day, until the schedule is published and posted.

(2) Any contract to serve as a medical director or a clinic director entered into or renewed by a physician or a licensed health care practitioner in violation of this part is void as contrary to public policy. This subsection shall apply to contracts entered into or renewed on or after March 1, 2004.

(3) A charge or reimbursement claim made by or on behalf of a clinic that is required to be licensed under this part but that is not so licensed, or that is otherwise operating in violation of this part, regardless of whether a service is rendered or whether the charge or reimbursement claim is paid, is an unlawful charge and is noncompensable and unenforceable. A person who knowingly makes or causes to be made an unlawful charge commits theft within the meaning of and punishable as provided in s. 812.014.

(4)(a) Regardless of whether notification is provided by the agency under s. 408.812, a person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person knowingly:

1. Establishes, owns, operates, manages, or maintains an unlicensed clinic required to be licensed under this part or part II of chapter 408; or
2. Offers or advertises services that require licensure as a clinic under this part or part II of chapter 408 without a license.

(b) If the agency provides notification under s. 408.812 of, or if a person is arrested for, a violation of subparagraph (a)1. or subparagraph (a)2., each day during which a violation of subparagraph (a)1. or subparagraph (a)2. occurs constitutes a separate offense.

(c) A person convicted of a second or subsequent violation of subparagraph (a)1. or subparagraph (a)2. commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the agency provides notification of, or if a person is arrested for, a violation of this paragraph, each day that this paragraph is violated thereafter constitutes a separate offense. For purposes of this paragraph, the term “convicted” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(d) In addition to the requirements of part II of chapter 408, a health care provider who is aware of the operation of an unlicensed clinic shall report the clinic to the agency. The agency shall report to the provider’s licensing board a failure to report a clinic that the provider knows or has reasonable cause to suspect is unlicensed.

(e) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person knowingly:

1. Files a false or misleading license application or license renewal application or files false or misleading information related to such application or agency rule; or
2. Fails to report information to the agency as required by s. 408.810(3).

(5) Any licensed health care provider who violates this part is subject to discipline in accordance with this chapter and his or her respective practice act.

(6) Any person or entity providing health care services which is not a clinic, as defined under s. 400.9905, may voluntarily apply for a certificate of exemption from licensure under its exempt status with the agency on

a form that sets forth its name or names and addresses, a statement of the reasons why it cannot be defined as a clinic, and other information deemed necessary by the agency. An exemption may be valid for up to 2 years and is not transferable. The agency may charge an applicant for a certificate of exemption in an amount equal to \$100 or the actual cost of processing the certificate, whichever is less. An entity seeking a certificate of exemption must publish and maintain a schedule of charges for the medical services offered to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be posted in a conspicuous place in the reception area of the entity and must include, but is not limited to, the 50 services most frequently provided by the entity. The schedule may group services by three price levels, listing services in each price level. The posting must be at least 15 square feet in size. As a condition precedent to receiving a certificate of exemption, an applicant must provide to the agency documentation of compliance with these requirements.

(7)(a) Each clinic engaged in magnetic resonance imaging services must be accredited by a national accrediting organization that is approved by the Centers for Medicare and Medicaid Services for magnetic resonance imaging and advanced diagnostic imaging services within 1 year after licensure. A clinic that is accredited or that is within the original 1-year period after licensure and replaces its core magnetic resonance imaging equipment shall be given 1 year after the date on which the equipment is replaced to attain accreditation. However, a clinic may request a single, 6-month extension if it provides evidence to the agency establishing that, for good cause shown, such clinic cannot be accredited within 1 year after licensure, and that such accreditation will be completed within the 6-month extension. After obtaining accreditation as required by this subsection, each such clinic must maintain accreditation as a condition of renewal of its license. A clinic that files a change of ownership application must comply with the original accreditation timeframe requirements of the transferor. The agency shall deny a change of ownership application if the clinic is not in compliance with the accreditation requirements. When a clinic adds, replaces, or modifies magnetic resonance imaging equipment and the accrediting agency requires new accreditation, the clinic must be accredited within 1 year after the date of the addition, replacement, or modification but may request a single, 6-month extension if the clinic provides evidence of good cause to the agency.

(b) The agency may deny the application or revoke the license of any entity formed for the purpose of avoiding compliance with the accreditation provisions of this subsection and whose principals were previously principals of an entity that was unable to meet the accreditation requirements within the specified timeframes. The agency may adopt rules as to the accreditation of magnetic resonance imaging clinics.

(8) The agency shall give full faith and credit pertaining to any past variance and waiver granted to a magnetic resonance imaging clinic from rule 64-2002, Florida Administrative Code, by the Department of Health, until September 2004. After that date, such clinic must request a variance and waiver from the agency under s. 120.542.

(9) In addition to the requirements of part II of chapter 408, the clinic shall display a sign in a conspicuous location within the clinic readily visible to all patients indicating that, pursuant to s. 626.9892, the Department of Financial Services may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Investigative and Forensic Services arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized employee of the Division of Investigative and Forensic Services may make unannounced inspections of a clinic licensed under this part as necessary to determine whether the clinic is in compliance with this subsection. A

licensed clinic shall allow full and complete access to the premises to such authorized employee of the division who makes an inspection to determine compliance with this subsection.