

CS/HB 1127 – Insurance Fraud (Identical SB 1306)

Repeals s. 400.993, F.S. and amends s. 400.9935, F.S., moving the felonies and enhancing the penalty by adding them to the offense severity ranking chart, as well as adding language to expand on how they are defined.

According to this bill, a person who establishes, owns, operates, manages, or maintains an unlicensed clinic, or advertises services that require licensure as a clinic, regardless of whether notification is provided by the agency, commits a **level 3, 3rd degree felony**. If the agency provides notification or if the person is arrested for this violation, each day which this violation occurs constitutes a separate offense. A person convicted of a second or subsequent violation commits a **level 6, 2nd degree felony**. If the agency provides notification or if the person is arrested for this violation, each day which this violation occurs constitutes a separate offense. Under current law, there is ambiguity over whether someone would be charged under the current unranked, 3rd degree felony for “unlicensed activity” or the current level 3, 3rd degree felony that includes “establishing, operating, or managing an unlicensed clinic otherwise required to be licensed.”

Also in this bill, a person who files a false or misleading license application or license renewal application, or fails to report information to the agency as required in s. 408.810(3) commits a **level 3, 3rd degree felony**. This same felony exists in current law, except that it also includes “person establishing, operating, or managing an unlicensed clinic otherwise required to be licensed,” which is now solely under the 3rd degree felony in the above paragraph.

Additionally, the bill adds the penalties described under theft for a person who knowingly makes or causes to be made an unlawful charge or reimbursement claim on behalf of an unlicensed clinic, regardless of whether a service is rendered or whether the charge or reimbursement claim is paid. The number of these offenses is unknown.

Per DOC, in FY 13-14, no offenders received prison for unlicensed activity, establishing, operating, or managing an unlicensed clinic otherwise required to be licensed, or filing a false or misleading license application or license renewal application. 2 offenders did receive community supervision for establishing an unlicensed clinic/filing a false application. The only prison admission in the last three years was in FY 11-12 for owning/operating an unlicensed clinic.

In FY 13-14, the incarceration rate for a level 3, 3rd degree felony was 11.1%, with an average sentence length of 23.8 months. The incarceration rate for a level 6, 2nd degree felony was 49.9%, with an average sentence length of 55.9 months.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Requested by: House