

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.)

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

BILL: CS/SB 1264

INTRODUCER: Health Policy Committee and Senator Flores

SUBJECT: Hospital Licensure

DATE: April 2, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.			CF	
3.			AHS	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1264 allows certain specialty-licensed children’s hospitals that have neonatal intensive care beds to provide obstetrical (OB) services, including labor and delivery care, to up to 10 patients who have documentation by an examining physician that the woman’s fetus has at least one characteristic or condition that would characterize the pregnancy or delivery as high risk or that the fetus may require at least one perinatal intervention.

This bill substantially amends section 395.003 of the Florida Statutes.

II. Present Situation:

Presently, s. 395.003, F.S., states that a specialty hospital may not provide any service or regularly serve any population group beyond those that are specified in its license with an exception made for specialty-licensed children’s hospitals to allow them to treat certain adult patients with cardiovascular issues that the hospital treated as children. The Agency for Health Care Administration (AHCA) licenses all hospital types in the state of Florida. According to the AHCA, the options for a class II specialty hospital are a women’s hospital or a children’s hospital. To offer services to women and children, a hospital must be licensed as a class I general

acute care hospital. A currently licensed children's hospital wanting to offer services outside of their previously defined patient base would be required to obtain a Certificate of Need to establish a new hospital or apply to change their classification to a class I general acute care hospital. Three hospitals in Florida qualify as specialty-licensed children's hospitals: All Children's Hospital in Saint Petersburg, Miami Children's Hospital in Miami, and Nemours Children's Hospital in Orlando.¹ Only Miami Children's Hospital is located in a county with a population of 1,750,000 or more.^{2,3}

Presently, it is necessary for new-born infants that require emergency procedures performed by specialists at children's hospitals to be transported from their place of birth to the children's hospital for treatment. The number of new-born infants that require emergency transport is relatively small. For example, in Miami-Dade, Broward, and Palm Beach counties, between 2007 and 2012, a total of 1,526 of the neonatal admissions were diagnosed with conditions considered to be high risk before birth. Of these, 1,479 infants were air-lifted from surrounding hospitals to Miami Children's Hospital for emergency procedures.⁴

The AHCA regulates hospitals and AHCA Rule 59A-3.2085(8), F.A.C., specifically regulates OB departments within hospitals. The rule requires that if a hospital provides OB services, they must include labor, delivery, and nursery facilities and be formally organized and operated to provide complete and effective care for each patient. Also, except for in hospitals with 75 beds or less. The OB services must be separated from other patient care rooms and have a separate nursing staff. The rules also include provisions for admitting clean gynecological and surgical patients and for ensuring that infants are identified at birth.

III. Effect of Proposed Changes:

Section 1 amends s. 395.003, F.S., to allow specialty-licensed children's hospitals that have neonatal intensive care beds and are located in a county with a population of at least 1,750,000 to provide obstetrical services, including labor and delivery care, to up to 10 patients who have documentation by an examining physician that their fetus has at least one characteristic or condition that would characterize the pregnancy or delivery as high risk or that their fetus may require at least one perinatal intervention. The bill further requires that the OB services must be provided in compliance with the AHCA's rules pertaining to the OB department in a hospital.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹ AHCA bill analysis for SB 1264, dated Mar. 15, 2013, on file with the Senate Health Policy Committee.

² US Census Bureau, 2012 Population Estimates, found at:

http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2012_PEPANNRES&prodType=table, last visited on April 3, 2013.

³ Nemours Children's Hospital is located in Orange County which had a population of 1,202,234 in 2012, and All Children's Hospital is located in Pinellas County which had a population of 921,319 in 2012. Id.

⁴ Statistics from Miami Children's Hospital on High Risk Deliveries, on file with the Senate Health Policy Committee.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill may be challenged on constitutional grounds as a special law passed as a general law. A general law operates universally throughout the state, or uniformly upon subjects as they may exist throughout the state, or uniformly within permissible classifications by population of counties or otherwise, or is a law relating to a state function or instrumentality.⁵ Conversely, special and local laws operate within a very narrow classification of persons or on a limited geographic region of the state. The Florida Supreme Court defines special and local laws as:

[A law] relating to, or designed to operate upon, particular persons or things, or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal; a local law is one relating to, or designed to operate only in, a specifically indicated part of the state, or one that purports to operate within classified territory when classification is not permissible or the classification adopted is illegal.⁶

While general laws are enacted through the ordinary legislative process, a special law or local law must be noticed according to s. 11.02, F.S., as required by Art. III, s. 10 of the State Constitution.

The legal test to determine if a law is a special law or a general law is a reasonableness test. A general law may, when first enacted, only apply to one locality or one party and still be constitutional if the law can be reasonably expected to apply to other locations or parties in the future.⁷

This bill presently only affects Miami Children's Hospital. It is possible for this bill to affect other children's hospitals if the populations of Orange (Nemours Children's Hospital) or Pinellas (All Children's Hospital) Counties grow to 1,750,000 or if a specialty licensed children's hospital is built in a county with a population of 1,750,000 or more. Currently only Dade and Broward Counties have populations of 1,750,000 or more.⁸

⁵ *St. Vincent's Medical Center, Inc. v. Memorial HealthCare Group, Inc.*, 967 So.2d 794(Fla. 2007).

⁶ *Id.* Additionally, Art. X, s. 10 of the State Constitution, defines "special law" as "a special or local law."

⁷ *Id.*

⁸ *Supra*, n. 2.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

CS/SB 1264 will have an indeterminate positive fiscal impact by removing the need to transfer some new-born infants to specialty-licensed children's hospitals.

The bill may have a negative fiscal impact on general hospitals offering obstetrics and neonatal intensive care if their specialists stop or reduce their services at the general hospital. General hospitals offering obstetrics without neonatal intensive care may see no change or may strengthen their cooperation with the children's hospital, such as transfer agreements.⁹

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows OB for up to 10 patients, but does not specify a time frame. It would be beneficial to specify a time frame (such as "10 patients at the same time," or "10 patients per month") in order to clarify the effect of the bill. Also, the bill specifies that OB services may only be provided to patients whose fetuses display at least one characteristic or condition that would characterize the pregnancy or delivery as high risk, but the bill does not define the term high risk or reference a specified standard for determining what fetal conditions qualify as high risk.

VIII. 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 April 2, 2013:

The CS substantially amends SB 1264 to restrict which specialty licensed children's hospitals are allowed to provide OB services to those that are located in counties with a population of 1,750,000 or more and clarify that OB services provided by such hospitals must be in compliance with AHCA rules.

⁹Supra n. 1

B. Amendments:

None.

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