

By the Committees on Health Care, Criminal Justice and Senator
Bronson

317-2121-98

1 A bill to be entitled
2 An act relating to mobile surgical facilities;
3 amending s. 395.001, F.S.; providing
4 legislative intent; amending s. 395.002, F.S.;
5 revising definitions; defining "mobile surgical
6 facility"; amending s. 395.003, F.S.; requiring
7 the licensure of mobile surgical facilities
8 under ch. 395, F.S.; amending s. 395.004, F.S.;
9 requiring a license fee upon application for
10 licensure as a mobile surgical facility;
11 amending s. 395.0161, F.S.; requiring licensure
12 inspections of such facilities under specified
13 circumstances; providing an exception; amending
14 s. 395.0163, F.S.; requiring construction
15 inspections of such facilities under specified
16 circumstances; providing an exception; amending
17 s. 395.1055, F.S.; authorizing the
18 establishment of separate standards for mobile
19 surgical facilities; amending s. 408.036, F.S.;
20 providing an exemption from review and
21 application for certificate of need for mobile
22 surgical facilities; amending s. 395.7015,
23 F.S.; providing for the imposition of an annual
24 assessment upon mobile surgical facilities;
25 providing application; requiring specified
26 mobile surgical facilities in operation prior
27 to the effective date of the act to continue to
28 operate and be subject to the provisions of the
29 act only after the effective date of rules
30 established by the Agency for Health Care
31 Administration; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 395.001, Florida Statutes, is
4 amended to read:

5 395.001 Legislative intent.--It is the intent of the
6 Legislature to provide for the protection of public health and
7 safety in the establishment, construction, maintenance, and
8 operation of hospitals, and ambulatory surgical centers, and
9 mobile surgical facilities by providing for licensure of same
10 and for the development, establishment, and enforcement of
11 minimum standards with respect thereto.

12 Section 2. Subsections (4) and (17) of section
13 395.002, Florida Statutes, are amended, subsections (21)
14 through (31) are redesignated as subsections (22) through
15 (32), respectively, present subsection (22) is redesignated
16 and amended, and a new subsection (21) is added to said
17 section, to read:

18 395.002 Definitions.--As used in this chapter:

19 (4) "Ambulatory surgical center" or "mobile surgical
20 facility" means a facility the primary purpose of which is to
21 provide elective surgical care, in which the patient is
22 admitted to and discharged from such facility within the same
23 working day and is not permitted to stay overnight, and which
24 is not part of a hospital. However, a facility existing for
25 the primary purpose of performing terminations of pregnancy,
26 an office maintained by a physician for the practice of
27 medicine, or an office maintained for the practice of
28 dentistry shall not be construed to be an ambulatory surgical
29 center, provided that any facility or office which is
30 certified or seeks certification as a Medicare ambulatory
31 surgical center shall be licensed as an ambulatory surgical

1 center pursuant to s. 395.003. Any structure or vehicle in
2 which a physician maintains an office and practices surgery,
3 and which can appear to the public to be a mobile office
4 because the structure or vehicle operates at more than one
5 address, shall be construed to be a mobile surgical facility.

6 (17) "Licensed facility" means a hospital, ~~or~~
7 ambulatory surgical center, or mobile surgical facility
8 licensed in accordance with this chapter.

9 (21) "Mobile surgical facility" is a mobile facility
10 in which licensed health care professionals provide elective
11 surgical care under contract with the Department of
12 Corrections or a private correctional facility operating
13 pursuant to chapter 957 and in which inmate patients are
14 admitted to and discharged from said facility within the same
15 working day and are not permitted to stay overnight. However,
16 mobile surgical facilities may provide health care services
17 only to the inmate patients of the Department of Corrections,
18 or inmate patients of a private correctional facility
19 operating pursuant to chapter 957, and not to the general
20 public.

21 ~~(23)~~(22) "Premises" means those buildings, beds, and
22 equipment located at the address of the licensed facility and
23 all other buildings, beds, and equipment for the provision of
24 hospital, ~~or~~ ambulatory surgical, or mobile surgical care
25 located in such reasonable proximity to the address of the
26 licensed facility as to appear to the public to be under the
27 dominion and control of the licensee.

28 Section 3. Subsection (1) of section 395.003, Florida
29 Statutes, is amended to read:

30 395.003 Licensure; issuance, renewal, denial, and
31 revocation.--

1 (1)(a) No person shall establish, conduct, or maintain
2 a hospital,~~or~~ ambulatory surgical center, or mobile surgical
3 facility in this state without first obtaining a license under
4 this part.

5 (b)1. It is unlawful for any person to use or
6 advertise to the public, in any way or by any medium
7 whatsoever, any facility as a "hospital," ~~or~~ "ambulatory
8 surgical center," or "mobile surgical facility"unless such
9 facility has first secured a license under the provisions of
10 this part.

11 2. Nothing in this part applies to veterinary
12 hospitals or to commercial business establishments using the
13 word "hospital," ~~or~~ "ambulatory surgical center," or "mobile
14 surgical facility"as a part of a trade name if no treatment
15 of human beings is performed on the premises of such
16 establishments.

17 Section 4. Section 395.004, Florida Statutes, is
18 amended to read:

19 395.004 Application for license, disposition of fees;
20 expenses.--

21 (1) An application for a license or renewal thereof
22 shall be made under oath to the agency, upon forms provided by
23 it, and shall contain such information as the agency
24 reasonably requires, which may include affirmative evidence of
25 ability to comply with applicable laws and rules.

26 (2) Each application for a general hospital license,
27 specialty hospital license, ~~or~~ ambulatory surgical center
28 license, or mobile surgical facility license, or renewal
29 thereof, shall be accompanied by a license fee, in accordance
30 with the following schedule:
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1 (a) The biennial license, provisional license, and
2 license renewal fee required of a facility licensed under this
3 part shall be reasonably calculated to cover the cost of
4 regulation under this part and shall be established by rule at
5 the rate of not less than \$9.50 per hospital bed, nor more
6 than \$30 per hospital bed, except that the minimum license fee
7 shall be \$1,500 and the total fees collected from all licensed
8 facilities may not exceed the cost of properly carrying out
9 the provisions of this part.

10 (b) Such fees shall be paid to the agency and shall be
11 deposited in the Planning and Regulation Trust Fund of the
12 agency, which is hereby created, for the sole purpose of
13 carrying out the provisions of this part.

14 Section 5. Paragraph (f) is added to subsection (1) of
15 section 395.0161, Florida Statutes, to read:

16 395.0161 Licensure inspection.--

17 (1) The agency shall make or cause to be made such
18 inspections and investigations as it deems necessary,
19 including:

20 (f) Inspections of mobile surgical facilities at each
21 time a facility establishes a new location, prior to the
22 admission of patients. However, such inspections shall not be
23 required when a mobile surgical facility is moved temporarily
24 to a location where medical treatment will not be provided.

25 Section 6. Section 395.0163, Florida Statutes, is
26 amended to read:

27 395.0163 Construction inspections; plan submission and
28 approval; fees.--

29 (1) The agency shall make, or cause to be made, such
30 construction inspections and investigations as it deems
31 necessary. The agency may prescribe by rule that any licensee

1 or applicant desiring to make specified types of alterations
2 or additions to its facilities or to construct new facilities
3 shall, before commencing such alteration, addition, or new
4 construction, submit plans and specifications therefor to the
5 agency for preliminary inspection and approval or
6 recommendation with respect to compliance with agency rules
7 and standards. The agency shall approve or disapprove the
8 plans and specifications within 60 days after receipt of the
9 fee for review of plans as required in subsection (2). The
10 agency may be granted one 15-day extension for the review
11 period if the director of the agency approves the extension.
12 If the agency fails to act within the specified time, it shall
13 be deemed to have approved the plans and specifications. When
14 the agency disapproves plans and specifications, it shall set
15 forth in writing the reasons for its disapproval. Conferences
16 and consultations may be provided as necessary.

17 (2)(a) The agency is authorized to charge an initial
18 fee of \$2,000 for review of plans and construction on all
19 projects, no part of which is refundable. The agency may also
20 collect a fee, not to exceed 1 percent of the estimated
21 construction cost or the actual cost of review, whichever is
22 less, for the portion of the review which encompasses initial
23 review through the initial revised construction document
24 review. The agency is further authorized to collect its
25 actual costs on all subsequent portions of the review and
26 construction inspections. The initial fee payment shall
27 accompany the initial submission of plans and specifications.
28 Any subsequent payment that is due is payable upon receipt of
29 the invoice from the agency.

30 (b) Notwithstanding any other provisions of law to the
31 contrary, all moneys received by the agency pursuant to the

1 provisions of this section shall be deposited in the Planning
2 and Regulation Trust Fund, as created by s. 395.004, to be
3 held and applied solely for the operations required under this
4 section.

5 (3) The agency shall inspect a mobile surgical
6 facility at initial licensure and at each time the facility
7 establishes a new location, prior to admission of patients.
8 However, such inspections shall not be required when a mobile
9 surgical facility is moved temporarily to a location where
10 medical treatment will not be provided.

11 Section 7. Subsection (2) of section 395.1055, Florida
12 Statutes, is amended to read:

13 395.1055 Rules and enforcement.--

14 (2) Separate standards may be provided for general and
15 specialty hospitals, ambulatory surgical centers, mobile
16 surgical facilities, and statutory rural hospitals as defined
17 in s. 395.602.

18 Section 8. Subsections (1) and (2) of section 408.036,
19 Florida Statutes, are amended, and paragraph (o) is added to
20 subsection (3) of that section, to read:

21 408.036 Projects subject to review.--

22 (1) APPLICABILITY.--Unless exempt under subsection
23 (3), all health-care-related projects, as described in
24 paragraphs (a)-(k), are subject to review and must file an
25 application for a certificate of need with the agency. The
26 agency is exclusively responsible for determining whether a
27 health-care-related project is subject to review under ss.
28 408.031-408.045.

29 (a) The addition of beds by new construction or
30 alteration.

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1 (b) The new construction or establishment of
2 additional health care facilities, including a replacement
3 health care facility when the proposed project site is not
4 located on the same site as the existing health care facility.

5 (c) The conversion from one type of health care
6 facility to another, including the conversion from one level
7 of care to another, in a skilled or intermediate nursing
8 facility, if the conversion effects a change in the level of
9 care of 10 beds or 10 percent of total bed capacity of the
10 skilled or intermediate nursing facility within a 2-year
11 period. If the nursing facility is certified for both skilled
12 and intermediate nursing care, the provisions of this
13 paragraph do not apply.

14 (d) Any increase in licensed bed capacity.

15 (e) Subject to the provisions of paragraph (3)(i), the
16 establishment of a Medicare-certified home health agency, the
17 establishment of a hospice, or the direct provision of such
18 services by a health care facility or health maintenance
19 organization for those other than the subscribers of the
20 health maintenance organization; except that this paragraph
21 does not apply to the establishment of a Medicare-certified
22 home health agency by a facility described in paragraph
23 (3)(h).

24 (f) An acquisition by or on behalf of a health care
25 facility or health maintenance organization, by any means,
26 which acquisition would have required review if the
27 acquisition had been by purchase.

28 (g) The establishment of inpatient institutional
29 health services by a health care facility, or a substantial
30 change in such services.

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1 (h) The acquisition by any means of an existing health
2 care facility by any person, unless the person provides the
3 agency with at least 30 days' written notice of the proposed
4 acquisition, which notice is to include the services to be
5 offered and the bed capacity of the facility, and unless the
6 agency does not determine, within 30 days after receipt of
7 such notice, that the services to be provided and the bed
8 capacity of the facility will be changed.

9 (i) An increase in the cost of a project for which a
10 certificate of need has been issued when the increase in cost
11 exceeds 20 percent of the originally approved cost of the
12 project, except that a cost overrun review is not necessary
13 when the cost overrun is less than \$20,000.

14 (j) An increase in the number of psychiatric or
15 rehabilitation beds.

16 (k) The establishment of tertiary health services.

17 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless
18 exempt pursuant to subsection (3), projects subject to an
19 expedited review shall include, but not be limited to:

20 (a) Cost overruns, as defined in paragraph (1)(i).

21 (b) Research, education, and training programs.

22 (c) Shared services contracts or projects.

23 (d) A transfer of a certificate of need.

24 (e) A 50-percent increase in nursing home beds for a
25 facility incorporated and operating in this state for at least
26 60 years on or before July 1, 1988, which has a licensed
27 nursing home facility located on a campus providing a variety
28 of residential settings and supportive services. The
29 increased nursing home beds shall be for the exclusive use of
30 the campus residents. Any application on behalf of an
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1 applicant meeting this requirement shall be subject to the
2 base fee of \$5,000 provided in s. 408.038.

3 (f) Combination within one nursing home facility of
4 the beds or services authorized by two or more certificates of
5 need issued in the same planning subdistrict.

6 (g) Division into two or more nursing home facilities
7 of beds or services authorized by one certificate of need
8 issued in the same planning subdistrict. Such division shall
9 not be approved if it would adversely affect the original
10 certificate's approved cost.

11 (h) Replacement of a health care facility when the
12 proposed project site is located in the same district and
13 within a 1-mile radius of the replaced health care facility.

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15 The agency shall develop rules to implement the provisions for
16 expedited review, including time schedule, application
17 content, and application processing.

18 (3) EXEMPTIONS.--Upon request, supported by such
19 documentation as the agency requires, the agency shall grant
20 an exemption from the provisions of subsection (1):

21 (o) For any expenditure to provide mobile surgical
22 facilities and related health care services under contract
23 with the Department of Corrections or a private correctional
24 facility operating pursuant to chapter 957.

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26 A request for exemption under this subsection may be made at
27 any time and is not subject to the batching requirements of
28 this section.

29 Section 9. Paragraph (b) of subsection (2) of section
30 395.7015, Florida Statutes, is amended to read:

31 395.7015 Annual assessment on health care entities.--

1 (2) There is hereby imposed an annual assessment
2 against certain health care entities as described in this
3 section:

4 (b) For the purpose of this section, "health care
5 entities" include the following:

6 1. Ambulatory surgical centers and mobile surgical
7 facilities licensed under s. 395.003. This subsection shall
8 apply only to mobile surgical facilities operating under
9 contracts entered into on or after July 1, 1998 ~~licensed under~~
10 ~~s. 395.003.~~

11 2. Clinical laboratories licensed under s. 483.091,
12 excluding any hospital laboratory defined under s. 483.041(5),
13 any clinical laboratory operated by the state or a political
14 subdivision of the state, any clinical laboratory which
15 qualifies as an exempt organization under s. 501(c)(3) of the
16 Internal Revenue Code of 1986, as amended, and which receives
17 70 percent or more of its gross revenues from services to
18 charity patients or Medicaid patients, and any blood, plasma,
19 or tissue bank procuring, storing, or distributing blood,
20 plasma, or tissue either for future manufacture or research or
21 distributed on a nonprofit basis, and further excluding any
22 clinical laboratory which is wholly owned and operated by 6 or
23 fewer physicians who are licensed pursuant to chapter 458 or
24 chapter 459 and who practice in the same group practice, and
25 at which no clinical laboratory work is performed for patients
26 referred by any health care provider who is not a member of
27 the same group.

28 3. Freestanding radiation therapy centers providing
29 treatment through the use of radiation therapy machines that
30 are registered under s. 404.22 and rules 10D-91.902,
31 10D-91.903, and 10D-91.904 of the Florida Administrative Code.

1 4. Diagnostic-imaging centers that are freestanding
2 outpatient facilities that provide specialized services for
3 the identification or determination of a disease through
4 examination and also provide sophisticated radiological
5 services, and in which services are rendered by a physician
6 licensed by the Board of Medicine under s. 458.311, s.
7 458.313, or s. 458.317, or by an osteopathic physician
8 licensed by the Board of Osteopathic Medicine under s.
9 459.006, s. 459.007, or s. 459.0075. For purposes of this
10 paragraph, "sophisticated radiological services" means the
11 following: magnetic resonance imaging; nuclear medicine;
12 angiography; arteriography; computed tomography; positron
13 emission tomography; digital vascular imaging; bronchography;
14 lymphangiography; splenography; ultrasound, excluding
15 ultrasound providers that are part of a private physician's
16 office practice or when ultrasound is provided by two or more
17 physicians licensed under chapter 458 or chapter 459 who are
18 members of the same professional association and who practice
19 in the same medical specialties; and such other sophisticated
20 radiological services, excluding mammography, as adopted in
21 rule by the board.

22 Section 10. Mobile surgical facilities in operation
23 pursuant to a contract with the Department of Corrections
24 entered into prior to the effective date of this act shall
25 continue to operate pursuant to such contract and shall only
26 be subject to the provisions of this act subsequent to the
27 effective date of any rules promulgated by the Agency for
28 Health Care Administration relating to mobile surgical
29 facilities.

30 Section 11. This act shall take effect upon becoming a
31 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for SB 1728

The definition of "ambulatory surgical center" is further modified to provide for distinguishing characteristics of a mobile surgical facility based on public perception of a structure or vehicle that operates at more than one address in which a physician maintains an office and practices surgery. Mobile surgical facilities are explicitly restricted to providing health care services to inmate patients of specified correctional entities, and not to the general public. An exception is provided to the requirement for licensure and construction inspections of a mobile surgical facility when it establishes a new location to exclude instances when such a facility is temporarily moved to a location where medical treatment will not be provided. Mobile surgical facilities operating under contracts that were entered into after July 1, 1998, are made subject to the Public Medical Assistance Trust Fund assessment. Mobile surgical facilities in operation under a contract with the Department of Corrections that was entered into prior to the effective date of the bill are authorized to continue operation under the contract and are subject to the requirements of the bill only after the Agency for Health Care Administration adopts rules to implement the provisions of the bill.