

STORAGE NAME: h3565s1.hcr

DATE: March 27, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE STANDARDS AND REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3565

RELATING TO: Health Quality Assurance

SPONSOR(S): Representative Hill

COMPANION BILL(S): CS/SB 714(s), CS/CS/CS/HB 349(c), CS/HB 3667(c), CS/SB 314(c), SB 1960(c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 9 NAYS 0
- (2) LAW ENFORCEMENT AND PUBLIC SAFETY
- (3) GOVERNMENTAL RULES AND REGULATION
- (4) HEALTH AND HUMAN SERVICES APPROPRIATION
- (5)

I. SUMMARY:

CS/HB 3565 provides for background screening requirements for all applicants of health care facilities licensed by the Agency for Health Care Administration (agency). It gives the agency the authority to prohibit licensure of unsuitable applicants, thereby preventing potential harm to patients/residents/consumers. It requires assisted living facility and adult day care center owners/operators to conduct background screenings on all direct care employees.

The bill also repeals licensure of diagnostic imaging services, radiation therapy, and rehabilitation therapies, pursuant to the Patient Self-Referral Act. This does not repeal professional licensure.

Additionally, the bill adds definitions and exemptions to the Home Health Licensure Act. It changes licensure application time frames for home health agencies from 60 to 90 days after receipt of necessary paperwork. Classifications relating to the severity of deficiencies found in home health agencies are added. Fines relevant to the classifications are assigned, and other enforcement authority against unlicensed home health agencies is expanded.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Background Screening and Licensure Actions:

The Agency for Health Care Administration indicates that the public is at risk from providers who have a history of fraud, abuse, or other crimes that may be repeated, thereby placing the public in jeopardy. Assisted living facilities, adult family care homes, adult day care centers, crisis stabilization units, nursing homes, home health agencies, nurse registries, homemaker, companion and sitter services, intermediate care facilities for the developmentally disabled, residential treatment facilities and short-term residential treatment facilities currently have statutory requirements for background screening for certain employees and owners.

Section 400.411, F.S., requires that owners, administrators, partners, directors, corporate officers, including presidents, vice-presidents, secretaries, and treasurers establish that they are of suitable character to operate an assisted living facility. This determination is made from the Florida Department of Law Enforcement (FDLE) and the Florida Department of Children and Families abuse background screenings. Section 400.556(2)(c), F.S., and Chapter 58A-6, F.A.C., authorize only the operator of the adult day care center (ACT.) to undergo an FDLE and abuse background screening. Section 400.619(4), F.S., requires that an FDLE and abuse background screening be conducted on the adult-family care home (ARCH.) license applicant (owner/operator), all household member 18 years of age or older, and all staff, including the designated relief persons. The cost of background screening is currently paid by the agency from license fee revenues.

Presently, there is no requirement that assisted living facility and adult day care center facility owners/operators conduct a criminal and abuse registry background screening on all direct care employees. However, the Department of Elder Affairs coordinates a criminal and abuse registry background screening on all ACC. operators and direct care staff, including volunteers who work 15 hours or more a week.

At this time, all certified nursing assistants (CNA's) working in nursing homes are required (pursuant to s. 400.211, F.S.) to undergo FDLE and Department of Children and Families central abuse registry screening in accordance with chapter 435, F.S. Section 400.512, F.S., states that all staff who enter a patient's home and the administrator of the home health agency must be screened by FDLE and Department of Children and Families central abuse registry screening. Homemakers, companions and sites and nurse registries also fall under s. 400.512, F.S., background-screening requirements. When direct care staff fail to meet screening requirements in nursing homes, home health agencies, nurse registries, and homemaker, companion, sitter services, those individuals are barred from employment.

Direct care staff of intermediate care facilities for the developmentally disabled must be screened using the level 2 screening standards according to s. 393.0655, F.S.

Mental health personnel of crisis stabilization units, short-term residential treatment facilities, and residential treatment facilities are subject to level 2 screening standards pursuant to s. 394.4572, F.S.

Currently, there are no background screening requirements for the following facilities: Abortion clinics, Ambulatory Surgical Centers, Birthing Centers, Clinical Laboratories, Drug-Free Workplace Laboratories, Homes for Special Services, Hospices, Hospitals, Multiphasic Health Testing Centers, Organ and Tissue Procurement Organizations, Prescribed Pediatric Extended Care Centers, Private Utilization Review Agents, Radiation Therapy Centers, and Transitional Living Facilities.

Home Health Agencies

Section 400.452, F.S., does not have definitions for “administrator,” “Agency,” “director of nursing,” and “infusion therapy”. In s. 400.471, F.S., applications for licensure for the home health agencies must be completed in 60 days. Under current law, a facility that has outstanding fines is permitted to be licensed. Section 400.484, F.S., does not offer direction on classification of state deficiencies while surveying a home health agency, nor does it provide related fines for classified deficiencies.

Currently, there are approximately 1,448 licensed home health agencies in the State of Florida. The program is growing at the rate of approximately 30 facilities per month. As a result of fraud, Operation Restore Trust (ORT) was developed by the federal Health Care Financing Administration to investigate fraud by Medicare providers, including home health agencies. ORT fraud detection has been incorporated into the licensure and Medicare certification survey process currently being conducted by the agency, resulting in these surveys taking about 25 percent more time, due to billing reviews and interviews of pertinent patients. Florida’s Medicaid Grand Jury has taken a special interest in fraud in home health agencies. The additional scrutiny resulting from the fraud that has occurred emphasizes the need to clarify the actions that can be taken by the agency when needed.

Nurse Registries

Section 400.506, F.S., authorizes licensure of nurse registries and permits operational sites. There are 32 nurse registries in the state. Currently, the statute only allows nurse registries to refer licensed nurses, certified nursing assistants, homemakers, and companions to patient’s homes and health care facilities. It does not allow them to refer home health aides. It does not require that persons referred assure that they are free from any communicable disease.

Drug-Free Workplace Laboratories

Section 112.0455, F.S., provides for the use of hair from the scalp for the detection of illicit drugs, as part of the drug-free workplace program.

Chapter 435, F.S., lists specific disqualifying background screening offenses.

The time required to complete FDLE and abuse registry screening is about two weeks.

The time required to complete FBI fingerprinting may take from three to five months.

B. EFFECT OF PROPOSED CHANGES:

Background screening is required of numerous facilities as a requirement of licensure. Applicants for each of the 25 types of licensed healthcare facilities and programs is required to undergo background screening as follows:

--Each managing employee and financial officer is required to undergo a background screening as defined in chapter 435, F.S., level 2 standards, which include checks with the Department of Law Enforcement, and fingerprint checks with the Federal Bureau of Investigation;

--Costs of background screening will be paid by the applicant for licensure;

--Licenses will not be granted to applicants in the event they have been found guilty of, or pleaded nolo contendere to any offense prohibited under the level 2 standards, unless an exemption from disqualification has been granted by the agency; to respond to a request for exemption from disqualification as set forth in chapter 435, F.S.;

--A person may serve in his or her capacity pending receipt of FBI check results, but may not continue if those results show a violation of level 2 standards.;

--A license may be denied or revoked if an applicant omits or falsely represents material facts related to background screening requirements, or has been or is excluded from Medicaid or Medicare.;

--An organ procurement organization, tissue bank, or eye bank that has no direct patient-care responsibilities and does not bill patients or insurers directly for services would be exempt from background screening requirements;

--Modifications of the above items would be made for hospitals, ambulatory surgery centers, nursing homes, assisted living facilities, adult family care homes, adult day care centers, home health agencies, and hospices.

--Applicants must submit any information concerning exclusions or terminations from Medicare or Medicaid;

--Renewal of licenses requires that the licensee report any non-compliance with background screening requirements.

--Applicants for licensure may satisfy requirements for background screening by providing proof of having complied with those requirements in the last five years;

--Provisional licenses may be granted to an applicant who has submitted satisfactory screening results from abuse registry and criminal history checks, but who has not yet received results from Federal Bureau of Investigation checks, or is waiting for the agency

Requirements and exemptions from licensure as a home health agency are modified, and enforcement authority for unlicensed agencies and licensure violations is modified, and enforcement and authority for unlicensed agencies and licensure violations is strengthened.

Provides an effective date of July 1, 1998, except as otherwise provided in the bill.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. An individual found to be disqualified for employment based upon a prior criminal history is entitled to an exemption hearing to be conducted by the agency. The agency then determines if an exemption should be granted.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Certain officers and employees of facilities licensed by the agency would have to meet level 2 screening requirements.

(3) any entitlement to a government service or benefit?

Yes. Background screenings have to be performed by the Department of Children and Families, Florida's Department of Law Enforcement, and the Federal Bureau of Investigation.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

Yes. The cost of background screenings will be borne by license applicants as follows:

FDLE = \$15

FBI = \$24

DCF = \$ 6 (Abuse Registry)

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No. The beneficiaries are the citizens who will realize greater consumer protection from the regulatory provisions of this bill. The cost of regulation will be fee-supported by regulation entities.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. The bill provides for denial of licensure to applicants based on the proposed background-screening requirements.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

Assisted living and adult day care facility owners are required to screen employees or terminate employees when certain histories are identified. Criminal background checks re performed by the Department of Law Enforcement and abuse registry checks are conducted by the Department of Children and Families.

(3) government employees/agencies?

The proposed background screening of licensure applicants will be controlled by the agency.

D. STATUTE(S) AFFECTED:

Chapters 381, 383, 390, 391, 393, 394, 395, 400, 430, 455, 468, and 483, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 112.0455, F.S., relating to drug-testing standards for laboratories, requiring background screening requirements of licensure applicants. Also provides for the use of hair from other body sites such as the underarm and extremities. The use of pubic hair is specifically prohibited.

Section 2. Creates s. 381.60225, F.S., to include background screening of applicants for certification as an organ procurement entity. Also provides that an organ procurement organization, tissue bank, or eye bank certified under ss. 381.6021 and 381.6022, F.S., which has no direct patient-care responsibilities, and does not bill patients or insurers directly for services, is exempt from background screening requirements.

Section 3. Amends s. 383.302, F.S., relating to definitions of terms used in ss. 383.30-383.335, F.S., for birth centers, to conform statutory references to "agency".

Section 4. Amends s. 383.305, F.S., to include background screening of licensure applicants of birth centers.

Section 5. Amends s. 383.308, F.S., to include technical and editorial changes to birth center facility and equipment requirements.

Section 6. Amends s. 383.309, F.S., to include technical and editorial changes for birth centers, rules, and enforcement.

Section 7. Amends s. 383.31, F.S., to include technical changes for selection of birth center clients.

Section 8. Amends s. 383.312, F.S., include technical changes for prenatal care of birth center clients.

STORAGE NAME: h3565s1.hcr

DATE: March 27, 1998

PAGE 9

Section 9. Amends s. 383.313, F.S., to include technical changes to the performance of laboratory and surgical services, and use of anesthetic and chemical agents used in birth centers.

Section 10. Amends s. 383.318, F.S., to include technical changes in the postpartum care for birth center clients and infants.

Section 11. Amends s. 383.32, F.S., to include technical changes in the confidentiality of clinical records.

Section 12. Amends s. 383.324, F.S., to include technical changes in the inspections, investigations, and fees of birth centers.

Section 13. Amends s. 383.325, F.S., to include a technical change in the inspection reports of birth centers.

Section 14. Amends s. 383.327, F.S., to include technical changes in the report of birth and death records of birth centers.

Section 15. Amends s. 383.33, F.S., to include technical changes in the administrative penalties emergency orders, and moratorium on admissions of birth centers.

Section 16. Amends s. 383.331, F.S., to include technical changes in injunctive relief.

Section 17. Amends s. 390.015, F.S., to include background screening of licensure applicants of abortion clinics.

Section 18. Amends s. 391.206, F.S., to include background screening of licensure applicants of prescribed pediatric extended care centers.

Section 19. Amends s. 393.063, F.S., by adding the definition of "agency" and renumbering subsections.

Section 20. Amends s. 393.067, F.S., to include background screening of licensure applicants of intermediate care facilities for the developmentally disabled.

Section 21. Amends s. 394.4787(7), F.S., the definition of a specialty psychiatric hospital, to correct a cross-reference to chapter 395, F.S.

Section 22. Amends s. 394.67, F.S., by adding definitions of terms used in the licensing of crisis stabilization units and residential treatment facilities licensed by the agency.

Section 23. Amends s. 394.875, F.S., to provide background screening requirements for the licensure of crisis stabilization units and residential treatment facilities.

Section 24. Amends s. 394.876, F.S., to provide requirements for applications for licensure of crisis stabilization units and residential treatment facilities; to change references from the Department of Children and Families to the agency; and to delete the requirements for information regarding character and competency of the applicant

and administrator of the facility, which requirements are established in section 28, amending s. 394.875, F.S.

Sections 25-31. Amend various sections to change department to agency.

Section 32. Amends s. 394.907, F.S., technical.

Section 33. Amends s. 395.002, F.S. to add definitions related to background screening requirements established in section 34.

Section 34. Creates s. 395.0055, F.S., to include licensure background screening for hospitals and ambulatory surgical centers.

Section 35. Amends s. 395.0199, F.S., to provide for background screening of private utilization review agents by the agency.

Sections 36-38. Technical, statutory cross-references.

Section 39. Amends s. 400.051(1), F.S., to correct a cross-reference.

Section 40. Amends s. 400.071, F.S., to include background screening of licensure applicants of nursing home facilities.

Section 41. Amends s. 400.411, F.S., providing for background screening requirements for licensing assisted living facilities.

An applicant who has undergone a level 2 background screening within the previous 5 years to fulfill the requirements of the Department of Insurance pursuant to chapter 651, F.S., to operate a continuing care community is acceptable proof of compliance for the Florida Department of Law Enforcement and the Federal Bureau of Investigation.

Section 42. Amends s. 400.414, F.S., by authorizing the agency to deny, revoke, or suspend the license, or impose administrative fines upon, an assisted living facility owner if any person required to undergo level 2 screening is not of suitable character of competency pursuant to said screening. A facility owner or administrator's retention of a direct care employee who is determined not of suitable character or competency as a result of level 1 screening standards pursuant to chapter 435, F.S, is grounds for denial, revocation, suspension of the license, or imposition of an administrative fine. Licensure action also may be taken when an applicant submits fraudulent information, or has been excluded from the Medicare or Medicaid programs.

Section 43. Amends s. 400.417, F.S., by requiring the applicant of an assisted living facility filing for renewal of license and who has not completed the initial level 2 background screening to complete the required screening. Applicants who have completed the level 2 initial screening and are applying for license renewal must submit to the agency a notarized affidavit of compliance with screening requirements.

Section 44. Amends s. 400.4174, F.S., by requiring the assisted living facility owner or administrator to conduct chapter 435, F.S., level 1 background screenings on all personal care service employees hired on or after October 1, 1998, and authorizes the

agency to exempt such a person from employment disqualification, as provided under chapter 435, F.S.; and provides alternative proofs of compliance with the level 1 background screening requirements required by this section. These requirements for background screening of assisted living facility employees conform to current statutory requirements for screening of certified nursing assistants employed in nursing homes. Requirements for level 2 background screening of owners and operators of an assisted living facility are specified.

Section 45. Amends s. 400.4176, F.S., by requiring level 2 background screening in chapter 435, F.S., when an assisted living facility employs a new administrator who has not been previously screened. Corrects statutory citations.

Section 46. Amends s. 400.461, F.S. is amended to correct statutory citations.

Section 47. Amends s. 400.462, F.S., by providing definitions for “administrator,” “agency,” “client,” “director of nursing,” “home health aide,” “home infusion therapy,” “home infusion therapy provider,” “organization,” “physician,” “personal care,” and “skilled care”. Adds clarifying language to the definitions of “certified nursing assistant,” “companion,” “department,” “home health agency,” “home health services,” “homemaker,” “nurse registry,” and “staffing services”.

Section 48. Amends s. 400.464, F.S., by reorganizing current exemptions; modifies one exemption, and adds new exemptions from required licensure as a home health agency. The exemption for home dialysis services is limited to instructional services and supplies and equipment. The exemption for personal care services provided through a community-care-for-the-elderly program is modified to exempt any services provided through a Department of Elderly Affairs program or contract. Services provided by a state agency to persons who have developmental disabilities are also exempt.

New exemptions are added, including:

- health care professionals acting under the practice authorities of chapters 458, 459, 464, 467, parts I, III, V, or X of 468, 480, 486, 490, and 491, F.S.;
- home health aides or certified nursing assistants acting independently from an organization;
- natural persons providing personal care services to no more than 12 individuals or families in a calendar year;
- the delivery of licensed nursing home services;
- the delivery of assisted living facility and adult family care home services;
- community residential services in community residential homes;
- the delivery of hospice services, hospital services, and birth center services;
- not-for-profit, community-based agencies providing early intervention services to infants and toddlers; and
- Medicare-certified rehabilitation agencies and comprehensive outpatient rehabilitation facilities.

Section 49. Amends s. 400.471, F.S., by extending home health agency (HHA) initial licensure determination and renewal to 90 days, which is consistent with other statutory licensure programs and chapter 120, F.S. Places background screening requirements of applicants in s. 40.471, F.S. Permits information provided in the certificate of need to be used for proof of financial ability to operate, and clarifies that just the financial

statement needs to be signed by a certified public accountant. Clarifies insurance requirements, adding malpractice insurance to the existing liability insurance. For renewal of licenses, permits the agency to obtain proof that an agency is financially able to comply with requirements when there has been evidence of financial instability. Prohibits the transfer of a license to an immediate family member following a conviction, assessment, or exclusion from the Medicare or Medicaid programs. Prohibits licensure to any home health agency that has unpaid fines assessed under this act.

Section 50. Amends s. 400.474, F.S., by establishing grounds to authorize penalties upon an owner of an entity for operating without a home health agency license when that owner has in the past operated or currently operates a licensed home health agency. Also permits the agency to deny, revoke, or suspend a license or impose a fine in the following situations:

- HHA fails to provide at least one direct service for a period of 6 consecutive months;
- The agency is unable to gain entry to HHA to conduct a survey, complaint investigation, surveillance or monitoring visit;
- The applicant provides false information;
- The applicant has a history of previous licensure violations or exclusion from the Medicare or Medicaid programs.

Section 51. Amends s. 400.484, F.S., by providing for home health agency class I, II, III, or IV classifications of compliance deficiencies, and fines and penalties relevant to the classifications; the most severe, a class I, \$5,000 fine per occurrence per day, or moratorium and/or revocation of licensure; moderately severe, class II, \$1,000 fine per occurrence per day, and/or a moratorium on admissions and/or suspension of the license; less severe, class III, up to \$500 for each occurrence and each day that an uncorrected or repeated deficiency exists; and class IV related to required reports or documents which do not negatively affect a patient, up to \$200 for each occurrence and each day.

Section 52. Amends s. 400.487, F.S., by clarifying requirements for establishment of a HHA plan of care based on an assessment and treatment orders from a physician for patients receiving skilled care, a service provision plan for clients receiving non-skilled care and for supervision of nursing services delivered to a patient. Makes the HHA fully responsible for ensuring that all care provided through its employees or contract staff meets the law and rules.

Section 53. Amends s. 400.491, F.S., by clarifying that clinical records must be maintained for persons receiving skilled care from a home health agency. A service provision plan is to be maintained for non-skilled care from a home health agency. A service provision plan is to be maintained for non-skilled clients for one year following termination of the client.

Section 54. Amends s. 400.497, F.S., by requiring that rules also include supervision requirements of all home health agency personnel, including home health aides, requirement for verification of employment history of prospective employees, and requirement for on-site and electronic accessibility of supervisory personnel. Permits share staff if the home health agency is part of a retirement community that provides multiple levels of care and is located on one campus.

Section 55. Amends s. 400.506, F.S., licensure of nurse registries, requiring background screening and grounds for licensure action. Licensed nurse registries are authorized to refer for contract home health aides who have successfully completed required training; language is deleted elsewhere in statute. Clarifying language is added.

Section 56. Amends s. 400.509, F.S., which requires the registration of homemakers, companions, and sitters, which are presently required to undergo level 1 background screening. Term of "sitter services" is deleted and the term "patient" is changed to "client" as relates to homemaker and companion services. Exempts from registration individuals who are provided services under a contract with the Department of Children and Family Services, Developmental Services programs, and who have undergone screening under s. 393.0655, F.S.

Section 57. Amends s. 400.512, F.S., relating to background screening of home health agency personnel, nurse registry personnel, companions, and homemakers. Establishes alternative proofs of compliance with requirements for background screening up on employment by the above entities, and deletes language that repeats provisions of chapter 435, F.S. Requires employers to provide proof of compliance directly to another HHA or registry.

Section 58. Amends s. 400.555, F.S., to provide background screening requirements for licensing adult day care centers.

Section 59. Amends s. 400.556, F.S., to authorize denial of licensure of an adult day care center when background screening requirements are not met, or when the applicant has been excluded from the Medicare or Medicaid programs.

Section 60. Amends s. 400.557, F.S., to require that an applicant for an adult day care center license provide an affidavit of compliance with background screening requirements.

Section 61. Creates s. 400.5572, F.S., to require level 1 criminal history and abuse registry checks pursuant to chapter 435, F.S., for adult day centers on all employees hired on or after October 1, 1998, who perform basic or supportive and optional services. Provides alternative proofs of compliance with level 1 background screening requirements. Requirements for level 2 background screening of owners and operators of an adult day care center are specified.

Section 62. Amends s. 400.606, F.S., to require that applicants for hospice licensure submit information regarding any previous exclusion from the Medicare or Medicaid programs.

Section 63. Creates s. 400.6056, F.S., establishing level 2 background screening required for applicants for hospice licensure.

Section 64. Amends s. 400.607, F.S., to authorize denial or revocation of a hospice license for failure to comply with background screening requirements, or for exclusion from the Medicare or Medicaid programs.

Section 65. Amends s. 400.619, F.S., to require level 1 background screening for licensing of adult family care homes as specified in chapter 435, F.S., for applicants, designated relief persons, all adult household members, and all staff members. Provides for alternative proofs of compliance with the background screening requirements.

Section 66. Creates s. 400.6194, F.S., providing grounds for denial, suspension, or revocation of an adult family home license.

Section 67. Amends s. 400.801, F.S., to include background screenings of licensure applicants of homes for special services.

Section 68. Amends s. 400.805, F.S., to include background screening of licensure applicants of transitional living facilities.

Section 69. Amends s. 408.032, F.S., to correct a cross-reference.

Section 70. Amends s. 408.072, F.S., to correct a cross-reference.

Section 71. Amends s. 409.905, F.S., to correct a cross-reference.

Section 72. Amends s. 419.001, F.S., to correct a cross-reference.▶

Section 73. Amends s. 430.04, F.S., requiring the Department of Elder Affairs to ensure that area agencies on aging implement and maintain client grievance resolution procedures.

Section 74. Amends s. 440.13, F.S., to correct a cross-reference.

Section 75. Amends s. 455.654, F.S., to correct a statutory citation.

Section 76. Amends s. 468.505, F.S., technical.

Section 77. Amends s. 483.101, F.S., by requiring background screening of clinical laboratories as a condition of licensure. Background screening and grounds for licensure action are not being proposed for those who hold a clinical laboratory certificate of exemption under s. 483.106, F.S.

Section 78. Amends s. 483.106, F.S., by removing the term “operator” and substituting the word “director”. The owner and director are considered to be the individuals who are responsible for the performance of the laboratory testing being performed. This is consistent with language found in application requirements for other clinical laboratory licenses.

Section 79. Amends s. 483.30, F.S., by requiring background screening of multiphasic health testing centers as a condition of licensure.

Section 80. Amends s. 92.53, F.S., to correct a cross-reference.

Section 81. Amends s. 914.16, F.S., to correct a cross-reference.

STORAGE NAME: h3565s1.hcr

DATE: March 27, 1998

PAGE 15

Section 82. Amends s. 914.17, F.S., to correct a cross-reference.

Section 83. Amends s. 918.16, F.S., to correct a cross-reference.

Section 84. Amends s. 943.0585, F.S., to correct a cross-reference.

Section 85. Amends s. 943.059, F.S., to correct a cross-reference.

Section 86. Repeals s. 455.661, F.S., relating to licensure of specified health services under the Patient Self-Referral Act.

Section 87. Two FTEs are allocated to the agency and \$127,609 is appropriated from the Health Care Trust Fund to implement and administer a background screening exemption program for ALF's and ADCC's.

Section 88. Provides requirement that existing licensees who apply for renewal licences on or after July 1, 1998 must complete the screening requirements of chapter 435, F.S.

Section 89. Provides for an effective date of July 1, 1998.

Section 22. Amends s. 394.67, F.S., by adding definitions of terms

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Background Screening - allocates 2 new FTE's to administer the background screening exemption program for employees of assisted living facilities and adult day care centers.

Revenues: None

Expenditures:

Health Care Trust Fund
(Assisted Living Facility and Adult Day Care
Center Licensure Fees)
Budget Entity: Health Care Regulation

Budget Category: Health Care Quality Improvement

Expense (Agency Standard Package)

For 2 FTE's

2 Professional Staff @ \$3,167	<u>\$4,264</u>	<u>0</u>
Total Non Recurring expense	\$4,264	0

Operating Capital Outlay

(Agency Standard Package) for 2 FTE's

Total Operating Capital Outlay	<u>\$6,334</u>	<u>0</u>
--------------------------------	----------------	----------

Total Non Recurring Expenditures	\$10,598	0
----------------------------------	----------	---

Section 73 - Allocates 2 new FTE's to administer the background screening exemption program for employees of assisted living facilities and adult day care centers.

2. Recurring Effects:

Background Screening

Revenues:

Health Care Trust Fund Surplus Revenue
(To support assisted living facility and
adult day care center background
screening)

\$127,609	\$117,011
-----------	-----------

Expenditures:

Salaries and Benefits
Operations and Management Consultant
(PG 23/Class 2236) 2.0
Total Salaries and Benefits 2.0

<u>\$94,897</u>	<u>\$94,897</u>
\$94,897	\$94,897

Expense

Agency Standard Package per FTE

2 Professional Staff @ \$11,057 per FTE	<u>\$22,114</u>	<u>\$22,114</u>
Total Expense	\$22,114	\$22,114

Total Recurring Background
Screening Expenditures 2.0

\$117,011	\$117,011
-----------	-----------

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>Revenues</u>	<u>FY 98-99</u>	<u>FY 99-00</u>
Health Care Trust Fund	<u>\$127,609</u>	<u>\$117,011</u>
Total Revenue	\$127,609	\$117,011
<u>Expenditures</u>		
Salaries and Benefits 2.0	\$94,897	\$94,897
Expenses	26,378	22,114
Operating Capital Outlay	<u>6,334</u>	<u>0</u>
Total Cost	\$127,609	\$117,011
Revenue Less Expenditures	0	0

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Employment background screening identifies potential employees who have a history of criminal offenses, fraud, or abuse and neglect, which could put vulnerable patients and residents at risk.

The annual licensure fee for a radiation therapy facility is \$650. In 1997, the 82 licensed facilities paid \$53,300 in fees. Repeal of this licensure program will save these providers the licensure fee.

3. Effects on Competition, Private Enterprise and Employment Markets:

Individuals working as direct care staff in assisted living facilities and adult day care centers may be displaced as a result of their criminal background. There is no means of determining the number of persons that may be affected in this manner. It is likely that many of the people displaced from employment in nursing homes and home health agencies due to criminal histories have moved into the assisted living facility work environment.

D. FISCAL COMMENTS:

The two FTE's for background screening will be funded by licensure fees in the Health Care Trust Fund. There is sufficient surplus in the Trust Fund to pay the salaries, benefits, and expenses, including equipment, for these two new positions. The surplus is projected to continue indefinitely and the amount to be used will not erode revenues necessary to support other regulatory programs covered by the Trust Fund.

There will be no revenue impact to AHCA with the implementation of licensure applicant and employee background screening. DCF and FDLE will realize an indeterminate revenue impact from background screening fees; such fees are expected to support the costs of background screening. The fiscal impact as to whether or not FDLE will impose administrative costs for reporting state and national findings to the agency is not determined at this time.

There will be an indeterminate revenue from administrative fines authorized in the proposed legislation.

The repeal of the Patient Self-Referral Act, s. 455.239, F.S., will deregulate the licensure of radiation therapy services, diagnostic imaging services, and rehabilitative therapy services. Entities providing such services will no longer be subject to licensing fees and costs associated with regulatory compliance.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

STORAGE NAME: h3565s1.hcr

DATE: March 27, 1998

PAGE 19

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. **COMMENTS:**

None.

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

The differences between the original bill and the Committee Substitute are:

-All sections of the bill that are found in CS/CS/CS/HB 349, relating to regulation of hospitals and ambulatory surgery centers, are deleted, and the healthcare risk manager licensure program is transferred from the Department of Insurance to the agency;

-Exemptions from home health agency licensure are modified;

-Technical corrections to statutory citations and references to the agency are made; and

-The bill now conforms to CS/SB 714 as passed by the Senate Health Care Committee.

VII. **SIGNATURES:**

COMMITTEE ON HEALTH CARE STANDARDS AND REGULATORY REFORM:

Prepared by:

Legislative Research Director:

TERRI L. PADDON

ROBERT W. COGGINS