

By Representative Brooks

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; including "mobile
6 surgical facility" within the definition of
7 "ambulatory surgical center" and "licensed
8 facility"; amending s. 395.003, F.S.; requiring
9 the licensure of mobile surgical facilities
10 under ch. 395, F.S.; amending s. 395.004, F.S.;
11 requiring a license fee upon application for
12 licensure as a mobile surgical facility;
13 amending s. 395.0163, F.S.; providing that
14 required agency inspections of mobile surgical
15 facilities shall apply only to alternations of
16 or additions to licensed facilities; 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; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 395.001, Florida Statutes, is
28 amended to read:

29 395.001 Legislative intent.--It is the intent of the
30 Legislature to provide for the protection of public health and
31 safety in the establishment, construction, maintenance, and

1 operation of hospitals, ~~and~~ ambulatory surgical centers, and
2 mobile surgical facilities by providing for licensure of same
3 and for the development, establishment, and enforcement of
4 minimum standards with respect thereto.

5 Section 2. Subsections (4), (17), and (22) of section
6 395.002, Florida Statutes, are amended to read:

7 395.002 Definitions.--As used in this chapter:

8 (4) "Ambulatory surgical center" or "mobile surgical
9 facility" means a facility the primary purpose of which is to
10 provide elective surgical care, in which the patient is
11 admitted to and discharged from such facility within the same
12 working day and is not permitted to stay overnight, and which
13 is not part of a hospital. A mobile surgical facility under
14 contract to the Department of Corrections to provide
15 health-care-related services to inmates shall not be subject
16 to certificate of need requirements contained in chapter 408.

17 However, a facility existing for the primary purpose of
18 performing terminations of pregnancy, an office maintained by
19 a physician for the practice of medicine, or an office
20 maintained for the practice of dentistry shall not be
21 construed to be an ambulatory surgical center, provided that
22 any facility or office which is certified or seeks
23 certification as a Medicare ambulatory surgical center shall
24 be licensed as an ambulatory surgical center pursuant to s.
25 395.003.

26 (17) "Licensed facility" means a hospital, ~~or~~
27 ambulatory surgical center, or mobile surgical facility
28 licensed in accordance with this chapter.

29 (22) "Premises" means those buildings, beds, and
30 equipment located at the address of the licensed facility and
31 all other buildings, beds, and equipment for the provision of

1 hospital,~~or~~ ambulatory surgical, or mobile surgical care
2 located in such reasonable proximity to the address of the
3 licensed facility as to appear to the public to be under the
4 dominion and control of the licensee.

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

7 395.003 Licensure; issuance, renewal, denial, and
8 revocation.--

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

13 (b)1. It is unlawful for any person to use or
14 advertise to the public, in any way or by any medium
15 whatsoever, any facility as a "hospital," ~~or~~ "ambulatory
16 surgical center," or "mobile surgical facility" unless such
17 facility has first secured a license under the provisions of
18 this part.

19 2. Nothing in this part applies to veterinary
20 hospitals or to commercial business establishments using the
21 word "hospital," ~~or~~ "ambulatory surgical center," or "mobile
22 surgical facility" as a part of a trade name if no treatment
23 of human beings is performed on the premises of such
24 establishments.

25 Section 4. Section 395.004, Florida Statutes, is
26 amended to read:

27 395.004 Application for license, disposition of fees;
28 expenses.--

29 (1) An application for a license or renewal thereof
30 shall be made under oath to the agency, upon forms provided by
31 it, and shall contain such information as the agency

1 reasonably requires, which may include affirmative evidence of
2 ability to comply with applicable laws and rules.

3 (2) Each application for a general hospital license,
4 specialty hospital license, ~~or~~ ambulatory surgical center
5 license, or mobile surgical facility license, or renewal
6 thereof, shall be accompanied by a license fee, in accordance
7 with the following schedule:

8 (a) The biennial license, provisional license, and
9 license renewal fee required of a facility licensed under this
10 part shall be reasonably calculated to cover the cost of
11 regulation under this part and shall be established by rule at
12 the rate of not less than \$9.50 per hospital bed, nor more
13 than \$30 per hospital bed, except that the minimum license fee
14 shall be \$1,500 and the total fees collected from all licensed
15 facilities may not exceed the cost of properly carrying out
16 the provisions of this part.

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

21 Section 5. Subsection (3) is added to section
22 395.0163, Florida Statutes, to read:

23 395.0163 Construction inspections; plan submission and
24 approval; fees.--

25 (1) The agency shall make, or cause to be made, such
26 construction inspections and investigations as it deems
27 necessary. The agency may prescribe by rule that any licensee
28 or applicant desiring to make specified types of alterations
29 or additions to its facilities or to construct new facilities
30 shall, before commencing such alteration, addition, or new
31 construction, submit plans and specifications therefor to the

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

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

26 (b) Notwithstanding any other provisions of law to the
27 contrary, all moneys received by the agency pursuant to the
28 provisions of this section shall be deposited in the Planning
29 and Regulation Trust Fund, as created by s. 395.004, to be
30 held and applied solely for the operations required under this
31 section.

1 (3) Agency inspections and investigations required
2 under this section shall, in the case of mobile surgical
3 facilities, apply only to alterations of or additions to
4 licensed facilities.

5 Section 6. Subsection (2) of section 395.1055, Florida
6 Statutes, is amended to read:

7 395.1055 Rules and enforcement.--

8 (2) Separate standards may be provided for general and
9 specialty hospitals, ambulatory surgical centers, mobile
10 surgical facilities, and statutory rural hospitals as defined
11 in s. 395.602.

12 Section 7. Paragraph (o) is added to subsection (3) of
13 section 408.036, Florida Statutes, to read:

14 408.036 Projects subject to review.--

15 (1) APPLICABILITY.--Unless exempt under subsection
16 (3), all health-care-related projects, as described in
17 paragraphs (a)-(k), are subject to review and must file an
18 application for a certificate of need with the agency. The
19 agency is exclusively responsible for determining whether a
20 health-care-related project is subject to review under ss.
21 408.031-408.045.

22 (a) The addition of beds by new construction or
23 alteration.

24 (b) The new construction or establishment of
25 additional health care facilities, including a replacement
26 health care facility when the proposed project site is not
27 located on the same site as the existing health care facility.

28 (c) The conversion from one type of health care
29 facility to another, including the conversion from one level
30 of care to another, in a skilled or intermediate nursing
31 facility, if the conversion effects a change in the level of

1 care of 10 beds or 10 percent of total bed capacity of the
2 skilled or intermediate nursing facility within a 2-year
3 period. If the nursing facility is certified for both skilled
4 and intermediate nursing care, the provisions of this
5 paragraph do not apply.

6 (d) Any increase in licensed bed capacity.

7 (e) Subject to the provisions of paragraph (3)(i), the
8 establishment of a Medicare-certified home health agency, the
9 establishment of a hospice, or the direct provision of such
10 services by a health care facility or health maintenance
11 organization for those other than the subscribers of the
12 health maintenance organization; except that this paragraph
13 does not apply to the establishment of a Medicare-certified
14 home health agency by a facility described in paragraph
15 (3)(h).

16 (f) An acquisition by or on behalf of a health care
17 facility or health maintenance organization, by any means,
18 which acquisition would have required review if the
19 acquisition had been by purchase.

20 (g) The establishment of inpatient institutional
21 health services by a health care facility, or a substantial
22 change in such services.

23 (h) The acquisition by any means of an existing health
24 care facility by any person, unless the person provides the
25 agency with at least 30 days' written notice of the proposed
26 acquisition, which notice is to include the services to be
27 offered and the bed capacity of the facility, and unless the
28 agency does not determine, within 30 days after receipt of
29 such notice, that the services to be provided and the bed
30 capacity of the facility will be changed.

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- 1 (i) An increase in the cost of a project for which a
2 certificate of need has been issued when the increase in cost
3 exceeds 20 percent of the originally approved cost of the
4 project, except that a cost overrun review is not necessary
5 when the cost overrun is less than \$20,000.
- 6 (j) An increase in the number of psychiatric or
7 rehabilitation beds.
- 8 (k) The establishment of tertiary health services.
- 9 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless
10 exempt pursuant to subsection (3), projects subject to an
11 expedited review shall include, but not be limited to:
- 12 (a) Cost overruns, as defined in paragraph (1)(i).
13 (b) Research, education, and training programs.
14 (c) Shared services contracts or projects.
15 (d) A transfer of a certificate of need.
- 16 (e) A 50-percent increase in nursing home beds for a
17 facility incorporated and operating in this state for at least
18 60 years on or before July 1, 1988, which has a licensed
19 nursing home facility located on a campus providing a variety
20 of residential settings and supportive services. The
21 increased nursing home beds shall be for the exclusive use of
22 the campus residents. Any application on behalf of an
23 applicant meeting this requirement shall be subject to the
24 base fee of \$5,000 provided in s. 408.038.
- 25 (f) Combination within one nursing home facility of
26 the beds or services authorized by two or more certificates of
27 need issued in the same planning subdistrict.
- 28 (g) Division into two or more nursing home facilities
29 of beds or services authorized by one certificate of need
30 issued in the same planning subdistrict. Such division shall
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1 not be approved if it would adversely affect the original
2 certificate's approved cost.

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

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7 The agency shall develop rules to implement the provisions for
8 expedited review, including time schedule, application
9 content, and application processing.

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

13 (o) For any expenditure to provide mobile surgical
14 facilities and related health care services under contract
15 with the Department of Corrections.

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

20 Section 8. This act shall take effect upon becoming a
21 law.

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24 HOUSE SUMMARY

25 Includes "mobile surgical facility" within the definition
26 of "ambulatory surgical center" and "licensed facility"
27 for the purposes of ch. 395, F.S., relating to hospital
28 licensing and regulation. Requires the licensure of
29 mobile surgical facilities under ch. 395, F.S. Requires a
30 license fee upon application for licensure as a mobile
31 surgical facility. Provides that required agency
inspections of mobile surgical facilities shall apply
only to alterations of or additions to licensed
facilities. Authorizes the establishment of separate
standards for mobile surgical facilities. Provides an
exemption from review and application for certificate of
need under ch. 408, F.S., for mobile surgical facilities.