

STORAGE NAME: h0929.hcs
DATE: March 21, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 929
RELATING TO: Hospitals
SPONSOR(S): Rep. Wise and others
STATUTE(S) AFFECTED: s. 395.0191, F.S.
COMPANION BILL(S): SB 836 (similar)

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

- (1) HEALTH CARE SERVICES
- (2) BUSINESS REGULATION & CONSUMER AFFAIRS
- (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

Current Florida law prohibits a hospital or ambulatory surgical center from denying the application of specified health care providers for staff membership and clinical privileges within the scope of the provider's license based solely on the chapter under which the practitioner is licensed (s. 395.0191, F.S.). This law applies to medical doctors, osteopathic physicians, dentists, podiatrists, and psychologists.

HB 929 amends current law to add optometrists to the list of practitioners whose application for hospital staff membership and clinical privileges may not be denied based solely on the chapter under which the optometrist is licensed.

This bill has no fiscal impact on state or local government.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The term "optometry" is defined in the Florida Statutes to mean "the diagnosis of conditions of the human eye and its appendages; the employment of any objective or subjective means or methods, including the administration of topical ocular pharmaceutical agents, for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages; and the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and any other means or methods, including topical ocular pharmaceutical agents for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages." (see s. 463.992(5), F.S.)

An ophthalmologist is a physician licensed to practice medicine or osteopathic medicine, who specializes in the branch of medicine dealing with the anatomy, functions, and diseases of the eye. The practice of medicine is defined as "the diagnosis, treatment, operation or prescription for any human disease, pain, injury, deformity or other physical or mental condition." (see s. 458.305(3), F.S.)

Hospitals grant staff membership and clinical privileges to physicians and other health care providers. The granting of staff membership by a hospital serves as a quality assurance mechanism. Hospitals have a duty to assure the competence of their medical staff and personnel because the hospital is liable for a failure to exercise due care in granting staff privileges (see s. 766.110, F.S.). In granting staff membership or clinical privileges, the hospital reviews the applicant's background, experience, health, training, demonstrated competency, adherence to professional ethics, reputation, and ability to work with others. Hospital staff are reevaluated by the hospital every two years.

Current law specifies that no hospital or ambulatory surgical center shall deny an applicant for staff membership or clinical privileges solely because the applicant is licensed under chapters 458, 459, 466, 461, or 490, F.S. (medical doctor, osteopath, dentist, podiatrist, or psychologist). Even though optometrists are not on this list, some hospitals grant clinical privileges to optometrists.

B. EFFECT OF PROPOSED CHANGES:

A hospital or ambulatory surgical center will be prohibited from denying staff membership or clinical privileges to an optometrist solely because the provider is licensed under chapter 463, F.S. The number of optometrists with staff membership and clinical privileges in hospitals and ambulatory surgical centers will increase.

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. Optometrists will be added to the list of providers who may not be denied clinical privileges based on the chapter under which the optometrist is licensed.

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

Yes. Hospitals and ambulatory surgical centers have new responsibilities created.

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

No.

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?

No.

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.

4. Individual Freedom:

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

No, the bill imposes an additional restriction on hospitals and ambulatory surgical centers.

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

Yes, the bill will impose additional government interference on hospitals and ambulatory surgical centers.

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?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION REVIEW:

Section 1. Amends s. 395.0191, F.S., relating to staff membership and clinical privileges, to add optometrists to the list of providers who may not be denied staff membership or clinical privileges solely because of the chapter under which they are licensed.

Section 2. Provides an effective date of October 1, 1997.

III. FISCAL & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

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:

Hospitals and ambulatory surgical centers will experience additional costs in reviewing optometrists for staff membership and clinical privileges.

2. Direct Private Sector Benefits:

Health care costs may be reduced to the extent that optometrists provide cost effective care in hospitals and ambulatory surgical centers.

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

None.

D. FISCAL COMMENTS:

None.

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.

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:

One source in the hospital industry indicates he believes optometrists favor this bill because the bill's passage will improve optometrists' ability to participate in managed care panels. This is the case because the granting of hospital staff membership is a quality assurance mechanism done at the expense of the hospital (a hospital is liable for any staff member who commits malpractice). According to this source, the real beneficiaries of this legislation will be optometrists and managed care companies. This source indicates that little optometric care is provided in the hospital and few optometrists have applied for hospital staff membership.

The optometrists support this bill and suggest the bill's passage is good public policy. Reasons given include reduced health care costs and improved quality of care in cases where the patient of an optometrist is admitted to the hospital and needs medical care related to the care provided by the optometrist.

Ophthalmologists oppose this legislation, indicating: 1) the bill places optometrists on an equal level within the hospital setting with medical doctors, osteopaths, podiatrists, dentists, and psychologists; and 2) Optometrists have no role in the hospital setting because of lack of training, education and scope of practice which does not allow optometrists to perform surgery or treat systemic diseases. The ophthalmologists suggest this bill is part of a nationwide push by optometrists to expand their scope of practice.

STORAGE NAME: h0929.hcs

DATE: March 21, 1997

PAGE 8

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Legislative Research Director:

Michael P. Hansen

Michael P. Hansen