

STORAGE NAME: h1431s1a.grr

DATE: April 8, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
ANALYSIS**

BILL #: CS/HB 1431

RELATING TO: Emergency Medical Services

SPONSOR(S): Committee on Health Care Licensing & Regulation and Representative Casey and others

COMPANION BILL(S): SB 1476(s), HB 1433(c), SB 1810(c), and CS/SB 2220(c)

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

- (1) HEALTH CARE LICENSING & REGULATION YEAS 8 NAYS 0
- (2) GOVERNMENTAL RULES AND REGULATIONS YEAS 5 NAYS 0
- (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

CS/HB 1431 amends and creates sections of Chapter 401, F.S., to establish statutory authority for specific sections of Chapter 64-E, Florida Administrative Code. The bill provides statutory authority for sections of the current rules that relate to the regulation of emergency medical technician and paramedic education programs, staffing of advanced life support transport vehicles, and the provision of a patient's prehospital medical record to the hospital that receives the patient.

According to the Department of Health, the bill has no fiscal impact on the agency, local government or the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 401, F.S., relates to Medical Telecommunications and Transportation. Part I addresses Emergency Telecommunication Systems, Part II is known as the "Florida Emergency Medical Services Grant Act," and Part III is cited as the "Raymond H. Alexander, M.D., Emergency Transportation Services Act."

Section 401.25, F.S., establishes the licensing and operational requirements for emergency medical service licensees. Current law requires basic or advanced life support service licensure, submission of an application and relevant documents, payment of fees, sets requirements for licensure, authority to suspend or revoke a license, license expiration dates, requirements for renewal, and an option for counties to adopt by ordinance reasonable standards. The Department of Health reports that the current law lacks the following necessary provisions:

- lacks time frames, other than the expiration date of a license, for the timely submission of licensure renewal applications;
- does not address medical direction as a condition of licensure;
- does not address trauma transport protocol as a condition of licensure. This limits the department's ability to provide oversight in the coordination of trauma transports; and
- lacks explicit rule authority for the department to administer the requirements of the section.

Section 401.27, F.S., relates to the certification/recertification requirements for emergency medical technicians and paramedics. In addition, s. 401.27(1), F.S., provides staffing requirements for basic life support vehicles, but fails to include requirements for advanced life support vehicles. Requirements for staffing of permitted vehicles are currently established in rule. Repeal of the rule effective July 1, 1999, will leave the department without authority to establish staffing requirements. Rule authority is not provided to the department to administer the section.

Section 401.30, F.S., establishes records requirements for emergency medical service licensees. The section provides for the confidentiality of patient records and appropriate limited release of these records without the consent of the patient. The section permits release of the emergency medical service licensee's patient records to the treating hospital, but does not provide an explicit requirement to deliver such copy to the hospital. Requirements for delivery of patient records by licensees to receiving hospitals are currently established in rules. Repeal of the rule effective July 1, 1999, leaves the department without authority to require licensees to provide emergency medical services patients' records to receiving hospitals.

Chapter 401, F.S., does not clearly define the department's role in the regulation of entities that provide emergency medical technician and paramedic certification and recertification education. Requirements for the regulation of education programs are currently established in rules. Repeal of the rule effective July 1, 1999, leaves the department without authority to regulate emergency medical technician and paramedic education programs.

There is currently no provision in law authorizing the department to administer oaths, take depositions, or issue subpoenas in its investigations or proceedings. Lack of such authority hinders the department in obtaining evidence during investigations.

Although there is a provision in chapter 401, F.S., for emergency medical service licensees to share patient information with receiving hospitals, there is no provision for hospitals to share information with the licensee without the consent of the patient. Emergency medical service licensees lack the definitive diagnoses of patient's conditions which can be used in quality management programs to improve the care and treatment they provide to the public.

B. EFFECT OF PROPOSED CHANGES:

The Effects of the Changes in this bill are included in the Section-by-Section Analysis.

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?

Section 401.35, F.S., provides rulemaking authority to the Department of Health and prescribes the subject areas for which the department must provide minimum standards. As of July 1, 1999, several rules will be repealed unless the department is given legislative authority to promulgate and adopt such rules.

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

No.

(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?

N/A

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?

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

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?

N/A

- 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. STATUTE(S) AFFECTED:

Amends sections 401.25, 401.27, 401.30, and 401.35, F.S.
Creates sections 401.2701, 401.2715, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 401.25, F.S., to specifically outline staffing requirements for permitted basic and advanced transport vehicles.

Section 2. Amends s. 401.27, F.S., to permit the Department of Health to require that application for certification or recertification as an emergency medical technician or paramedic be made under oath.

Section 3. Creates s. 401.2701, F.S., to specify the requirements for approval as an emergency medical technician or paramedic education program. The section provides authority to the Department of Health requiring the department to process applications, approve or deny programs, and perform site visits. The requirements are to be established to ensure ongoing consistency and continuity in the education programs for emergency medical technicians and paramedics.

Section 4. Creates s. 401.2715, F.S., to establish authority in the Department of Health for recertification training for emergency medical technicians and paramedics. Recertification training must cover training for adult and pediatric clinical care. The approval process includes sufficient latitude for medical directors of emergency medical service licensees to prescribe training to meet local needs. The requirements are established to ensure ongoing consistency and continuity in the education programs for emergency medical technicians and paramedics.

Section 5. Amends s. 401.30, F.S., to require licensees to provide a copy of the prehospital medical record to the receiving hospital to assist with patient assessment and care, trauma registry reporting, and hospital quality management activities.

Section 6. Amends s. 401.35, F.S., to provide rule authority to the Department of Health relating to a licensee's security and storage of controlled substances, medications, and fluids, consistent with chapter 499, F.S. The section also provides rule authority to require application for licensure or renewal of a license to be made under oath.

Section 7. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & 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:

Applicants for licensure and certification may incur an expense as a result of the requirement for applications to be made under oath. As providers may currently employ individuals who are commissioned as notaries, fees may be waived by banking institutions or credit unions for account holders, and there is no set fee range for the service for those notaries who charge.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

Many of the requirements of the bill are currently addressed in the Florida Administrative Code. Provision of these requirements will continue to be supported by existing budget.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not required counties or municipalities to spend funds or to take 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.

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

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

V. COMMENTS:

The following are comments by the Committee on Health Care Licensing and Regulation:

Three sections of the bill will provide authority for requirements that exist in rule with uncertain statutory basis. They are the regulation of training centers, the requirement to deliver an emergency medical services patient record to the receiving hospital with the patient, and the staffing of advanced life support vehicles. Three workshops have already been held in the rule repeal process. Without the authority included in the bill, the rules related to these issues will be repealed effective July 1, 1999, leaving the department without any regulatory authority over these three areas.

The following are comments by the Committee on Governmental Rules and Regulations:

The department suggests an amendment to CS/HB 1431. This amendment removes the word "provide" from page 5, line 16, and inserts the word "toll." The department identifies this as a typographical error.

Provisions of this bill will ratify rules identified pursuant to the rule revision process found in s. 120.536(2), F.S. The 1996 amendments to the APA provided a method to address existing rules that exceeded the rulemaking standard described in s. 120.536(1), F.S. Briefly, each agency for which the APA is applicable was directed to identify those rules or portions thereof that exceeded rulemaking authority as described in s. 120.536(1), F.S., and to provide this information to the JAPC by October 1, 1997. The rules identified were shielded from challenge as to validity until the Legislature considered legislation to authorize these rules during the 1998 session. For those rules not authorized in the 1998 session, the adopting agency must have initiated repeal by January 1, 1999. The shield is lifted on July 1, 1999, for all rules identified in the October 1, 1997, report. Though section 120.536(2) is not clear on this issue, it appears that the agency may pursue in the 1999 session ratification of rules for which it has initiated repeal. This bill is such an occurrence.

The rules of the department that this bill will ratify are:

- s. 401.25 (7), F.S., relating to rule 64E-2.003, F.A.C.
- s. 401.2701, F.S., relating to rule 64E-2.011, F.A.C.
- s. 401.30, F.S., relating to rule 64E-2.013 (4), F.A.C.

The department is aware of the strictures of chapter 120 and is further clarifying other sections for rules not identified pursuant to s. 120.536, F.S., to make clear the specific authority for the rules of the department. Such sections not specifically tied to chapter 120, but considered related are the following:

- s. 401.27 (3), F.S., relating to swearing of applicants.
- s. 401.35 (2) (l), F.S., relating to oath on applications.
- s. 401.2715, F.S., relating to recertification training.
- s. 401.35, F.S., relating to security of medications.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A committee substitute was adopted by the Health Care Licensing & Regulation Committee on March 23, 1999, to address the three areas in need to rule authority. The original bill was a complete rewrite of chapter 401, F.S., with the following changes:

- Enabled the Department of Health to fund projects designed to assess the impact of prevention and other programs targeting the reduction of mortality and morbidity and projects that evaluate the efficient utilization of EMS resources.
- Modified the qualifications of medical directors to require emergency medical services education or experience, effective July 1, 2005. The change recognized emergency medicine as a specialty field and ensures appropriate medical supervision of emergency medical technicians and paramedics.
- Allowed mitigation of impairment complaints against emergency medical technicians or paramedics under specified conditions. Required the certificate holder to acknowledge the impairment, enroll in and successfully complete and approved treatment program, and remove himself or herself from medical functions consistent with the recommendation of the treatment program and his or her medical director until treatment has been successfully completed.
- Effective October 1, 1999, amended s. 401.34(1), F.S., to increase fee structure for licensure, permitting, and certification to make regulation self-supporting.

On April 8, 1999, the Committee on Governmental Rules and Regulations adopted an amendment to HB 1431:

The Department of Health recommended a technical amendment on page 5, line 16 of HB 1431. The department's legal council identified the inclusion of the word "provide" as a typographical error. Chapter 120.60, F.S., provides that every application for a license shall be approved or denied within 90 days after receipt of a completed application unless a shorter period of time for agency actions is provided by law. The 90-day time period shall be tolled by the initiation of a proceeding under ss. 120.569 and 120.57.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Lucretia Shaw Collins

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

Prepared by:

Staff Director:

Veronica P. Alvarez

David M. Greenbaum