

STORAGE NAME: h0705.hcl

DATE: March 31, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS**

BILL #: HB 705

RELATING TO: Emergency Management Planning

SPONSOR(S): Representative Ogles and others

COMPANION BILL(S): SB 2348 (s)

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

- (1) COMMUNITY AFFAIRS YEAS 8 NAYS 0
 - (2) HEALTH CARE LICENSING & REGULATION
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill addresses the problem of providing medical care to special needs patients who require temporary shelter during hurricanes and other emergencies. The bill creates two additional registries of various health care professionals who will be available to assist the Department of Health in case of an emergency or disaster.

The bill grants certain responsibilities and powers to various state and private agencies to clarify their roles regarding the sheltering of persons with special needs during an emergency. The bill requires the Department of Health to assume lead responsibility for the local coordination of local medical and health care providers in developing a plan for staffing and medically managing special needs shelters, provided certain funding and support is available. It places county health departments in a lead, coordinating role to recruit health care practitioners.

The bill has a \$4,034,524 fiscal impact on General Revenue. This amount is shared between the: (1) Department of Health; (2) Department of Children and Family Services; (3) Department of Elderly Affairs; (4) Agency for Health Care Administration; and (5) Department of Community Affairs.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida has large numbers of disabled persons and persons in poor health who need access to special needs shelters during emergencies. This number is growing due to general population growth. Local emergency management agencies have been given the overall responsibility of overseeing the preparedness and operational capacity of special needs shelters. However, they lack the resources to carry out response operations and many lack the expertise to arrange for health care services to be provided in special needs shelters.

Currently, hospital and nursing homes are required to have disaster plans to provide continuous care to their patients during emergencies. Florida law does not require home health agencies, nurse registries or hospices to prepare disaster plans, nor does it require them to provide continuous care during emergencies, although their patients are dependent upon them for their well being.

No agency has rule making authority for special needs shelters.

B. EFFECT OF PROPOSED CHANGES:

The bill requires the assistance of several state agencies to enable the local county emergency management agencies to identify persons with special needs. County health departments will have the lead responsibility for recruiting health care practitioners staff for special needs shelters. The bill also requires county health departments to review the comprehensive emergency management plans prepared by home health agencies and hospices.

The bill provides for the Department of Health to establish a statewide computerized "health practitioner" and "emergency medical technician and paramedic" registry. To establish such registries, the Department of Health will use collected information from health care professionals to obtain health care staff for special needs shelters in the event of an emergency or disaster. The bill authorizes the Department of Health to reimburse practitioners, emergency medical technicians, and paramedics who volunteer to serve in special needs shelters and on disaster medical assistance teams during emergencies. Reimbursement rates are based on average salaries paid to these health care professionals in Florida's hospitals. If there is a Presidential Disaster Declaration, payment will come from the federal government. If there is no such declaration, the Department of Health must submit to the Cabinet or Legislature, as appropriate, a budget amendment requesting reimbursement.

Pursuant to the bill, home health agencies and nurse registries are required to prepare and maintain comprehensive emergency management plans. Such plans for home health agencies must be consistent with standards adopted by national accreditation organizations and the local special needs plan. The bill directs the Agency for Health Care Administration to adopt rules providing reasonable and fair minimum standards relating to the preparation of home health agencies emergency plans. The Agency for Health Care Administration with the concurrence of the Department of Health and in consultation with the Department of Community Affairs must adopt rules establishing minimum criteria for the plan.

Further, home health agencies must submit their emergency plans to their county health departments for review. The county health departments must complete its review within 60 days after receipt of the plan. The county health departments must either approve the plan or advise the home health agency of necessary revisions. If revisions are called for, there are no provisions for resubmitting plans once needed revisions are made for final approval.

The bill provides that nurse registries must assist at-risk clients with special needs registration with the appropriate local emergency management agency. **It is not clear from the bill what review procedures, if any, are established for emergency plans prepared by nurse registries.**

The bill also provides that hospices are required to prepare and maintain comprehensive emergency management plans. The plan must be consistent with local special needs plans. In addition, the plan is subject to review and approval by the county health department. The county health department must complete its review within 60 days after receiving the plan. The county health departments must either approve the plan or advise the hospice of necessary revisions. Again, if revisions are

called for, there are no provisions for resubmitting plans once needed revisions are made for final approval.

The bill provides that the Department of Health may establish a special needs shelter interagency committee. Representatives of various state agencies, health organizations and volunteer organizations serve on the committee. If such a committee is established, the bill enumerates specific organizational guidelines for the operation of the committee. Further, the bill provides that the Department of Health is authorized to adopt rules necessary to implement the provisions relating to the special needs shelter interagency committee, as well as, health practitioner recruitment, special needs shelter plan, and staffing reimbursement to health care practitioners.

The bill requires state agencies that contract with providers for the care of persons with disabilities making them dependent upon the care of others must include emergency and disaster planning provisions in such contracts. Such provision must be included in the contracts at the time the contracts are initiated or upon renewal.

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. The bill authorizes the Department of Health and the Agency for Health Care Administration to adopt rules to implement some of the provisions of this bill including provisions relating to the statewide coordination of certain health care providers, the special needs shelter interagency committee, the scope of home health services to be provided during emergency evacuation, and the preparation of comprehensive emergency management plans.

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

Yes. The home health agencies, nurse registries, and hospices are now required to prepare and maintain comprehensive emergency management plans for special needs shelter services. County health departments are required to review these plans of the home health agencies and hospices.

The Department of Health has the ultimate statewide coordination responsibilities, through its county health departments, to mobilize certain health care professionals to provide services to special needs shelters during emergency events. The Department of Health must maintain two additional health care provider registries. The Department of Health and the Agency for Health Care Administration are required to adopt certain rules relating to some of the provisions in this bill.

The nurse registries must do the following: (1) maintain a current prioritized list of patients who need continued services during an emergency; (2) discuss pertinent emergency provisions with the patient and the patient's care givers regarding actions in the event of an emergency; and (3) include a description of how services will be continued in the event of an emergency in the records of patients listed on the special needs registry. Home health agencies must also include a description of how services will be continued in the event of an emergency in the records of patients listed on the special needs registry.

State agencies who contract with providers giving care to disabled persons must include specific emergency and disaster planning provisions in such contracts.

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

Special needs persons are entitled to specific and continued care in the event of an emergency or disaster.

- 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?

N/A

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

N/A

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

N/A

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

N/A

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:

Chapters 252, 381, 400, 401, 408, and 455, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 252.355, Florida Statutes; updates statutory language; and requires the Departments of Children and Family Services, Health, Labor and Employment Security, and Elderly Affairs to assist the local emergency management agencies with identifying persons for the "registry of persons with special needs."

Section 2: Creates s. 381.0303, Florida Statutes; provides Legislative purpose; allows county health departments to continue to enter into agreements with local emergency management agencies; requires the Department of Health to assume lead responsibility for coordinating local medical and health care providers in developing a plan for staffing and medical management of special needs shelters under specific fiscal circumstances; requires the county health departments, in concert with the local emergency management agencies, to assume the lead responsibility for coordinating the recruitment of health care practitioners; requires the appropriate county health department and local emergency management agency to jointly determine who has responsibility for medical supervision in a special needs shelter; provides for the reimbursement of certain health care providers under certain conditions; establishes the formula for calculating reimbursements; establishes a health care practitioner registry; provides the Department of Health the option to establish a special needs shelter interagency committee; establishes the purpose, duties, and responsibilities of the special needs shelter interagency committee; and authorizes the Department of Health to adopt rules necessary to implement the provisions relating to the special needs shelter interagency committee.

Section 3: Creates s. 400.492, Florida Statutes; requires home health agencies to prepare and maintain a comprehensive emergency management plan that is consistent with national standards; requires the home health services to update the comprehensive emergency management plan, annually; requires certain emergency care description, relating to continued care instructions in the event of an emergency be included in each patient record for patients listed in the registry of persons with special needs; requires each home health agency to maintain a current prioritized list of patients who need continued services during an emergency and how those services must be continued; releases home health agencies from health care responsibility in emergency situations that are beyond their control and that make it impossible to provide services; and allows home health agencies to provide services in a special needs shelter located in any county.

Section 4: Amends s. 400.497, Florida Statutes; provides that the Agency for Health Care Administration's rules must provide reasonable and fair minimum standards relating to the: (1) scope of home health services to be provided particularly during emergency evacuation and sheltering, (2) preparation of a comprehensive emergency management plan; requires such plans to be reviewed and is subject to approval by the county health department; requires the county health department to give specific health care related entities an opportunity to review the plan; and directs the county health department to complete its review within 60 days after receipt of the plan.

Section 5: Amends s. 400.506, Florida Statutes; directs nurse registries to assist at-risk clients with special needs registration with the appropriate local emergency management agency; requires each nurse registry to prepare and maintain a comprehensive emergency management plan that is consistent with national standards; requires the nurse registry to update the comprehensive emergency management plan, annually; requires certain emergency care description, relating to continued care instructions in the event of an emergency, be included in each patient record for patients listed in the registry of persons with special needs; requires the nurse registry to discuss pertinent emergency provisions with the patient and the patient's care givers; directs the nurse registry to maintain a current prioritized list of patients who need continued services during an emergency; and releases nurse registries from health care responsibility in emergency situations that are beyond their control and that make it impossible to provide services.

Section 6: Amends s. 400.610, Florida Statutes; directs the governing body of a hospice to prepare and maintain a comprehensive emergency management plan that provides for continuing hospice services in the event of an emergency consistent with local special needs plans, requires the plan to include provisions for ensuring continuing care to hospice patients who go to special needs shelters; provides that the plan is subject to review by the local emergency management agency; provides that the county health department must review the plan within 60 days.

Section 7: Creates s. 401.273, Florida Statutes; establishes an emergency medical technician and paramedic registry for emergencies; requires the Department of Health to include who is available to assist it in the event of an emergency on the emergency medical technicians and paramedics certification and recertification forms; and provides that the Department of Health must maintain the names of the emergency medical technician and paramedics who indicate on the form that they are available.

Section 8: Amends s. 408.15, Florida Statutes, 1998 Supplement; authorizes the Agency for Health Care Administration to establish, in coordination with the Department of Health, uniform standards of care for special needs units or shelters during times of emergency or major disaster.

Section 9: Creates s. 455.276, Florida Statutes; establishes a health care practitioner registry for disasters and emergencies; requires the Department of Health to include certain information on licensure or certification forms for various medical personnel to ascertain if such personnel will be available to assist the Department of Health in the event of an emergency or disaster.

Section 10: Requires state agencies who contract with providers giving care to disabled persons to include emergency and disaster planning provisions in such contracts at certain times; and lists some of the provisions that must be included in such contracts.

Section 11: Appropriates \$4,034,524 in General Revenue Funds and 6 full-time-equivalent positions to: the Department of Health; the Agency for Health Care Administration; the Department of Children and Family Services; the Department of Elderly Affairs; and the Department of Community Affairs.

Section 12: Provides that this bill will take effect October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

| | |
|----------------------|---------|
| <u>Revenue:</u> | 1999-00 |
| General Revenue Fund | -0- |

Expenditures:

Department of Health

| | |
|------------------------------------|----------|
| Expense (2 FTE's) | \$ 5,710 |
| Operating Capital Outlay (2 FTE's) | 7,954 |

| | |
|---|---------|
| 57 County Health Department Positions | 168,445 |
| Operating Capital Outlay for 57 CHD Positions | 234,643 |

Agency for Health Care Administration

| | |
|----------------------------------|-------|
| Expenses (1 FTE) | 2,132 |
| Operating Capital Outlay (1 FTE) | 3,167 |

Department of Children and Family Services

| | |
|----------------------------------|---------|
| Expenses (1 FTE) | unknown |
| Operating Capital Outlay (1 FTE) | unknown |

Department of Elderly Affairs

| | |
|----------------------------------|---------|
| Expenses (1 FTE) | unknown |
| Operating Capital Outlay (1 FTE) | unknown |

Department of Community Affairs

| | |
|----------------------------------|---------|
| Expenses (1 FTE) | unknown |
| Operating Capital Outlay (1 FTE) | unknown |

2. Recurring Effects:

| | | |
|-----------------|---------|---------|
| <u>Revenue:</u> | 1999-00 | 2000-01 |
| General Revenue | \$ -0- | \$ -0- |

Expenditures:

Department of Health

General Revenue:

| | | |
|---|-----------|-----------|
| Expense (2 FTE's) | 31,466 | 32,410 |
| Expense (health services/CHD) | 928,247 | 956,094 |
| Salaries and Benefits (2 FTE's) | 88,853 | 112,577 |
| Salary and Benefits (health services/CHD) | 2,143,668 | 2,758,720 |
| Training for CHD nurses and other shelter staff | 189,946 | 195,644 |

Agency for Health Care Administration

| | | |
|--|--------|--------|
| General Revenue: | | |
| Salary and Benefits (1 FTE: Program Administrator) | 41,405 | 55,206 |
| Expense Package (1 FTE) | 11,057 | 11,057 |
| Additional Travel Expense | 4,676 | 4,676 |

Department of Children and Family Services

| | | |
|-----------------------------|--------|--------|
| General Revenue: | | |
| Salary and Benefits (1 FTE) | 58,898 | 58,898 |

Department of Elderly Affairs

| | | |
|-----------------------------|--------|--------|
| General Revenue: | | |
| Salary and Benefits (1 FTE) | 58,898 | 58,898 |

Department of Community Affairs

| | | |
|-----------------------------|--------|--------|
| General Revenue: | | |
| Salary and Benefits (1 FTE) | 58,898 | 58,898 |

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Revenues:

| | | |
|-----------------------|--------|--------|
| General Revenue Funds | \$ -0- | \$ -0- |
|-----------------------|--------|--------|

Expenditures:

| | | |
|---|-----------|-----------|
| Department of Health | | |
| General Revenue Fund | 3,798,932 | 4,055,445 |
| Agency for Health Care Administration | | |
| General Revenue Fund | 62,437 | 70,939 |
| Department of Children and Family Services | | |
| General Revenue Fund | 58,898 | 58,898 |
| Department of Elder Affairs | | |
| General Revenue Fund | 58,898 | 58,898 |
| Department of Community Affairs | | |
| General Revenue Fund | 58,898 | 58,898 |

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

According to the Department of Health, the cost to provide a plan for each home health agency, hospice, and nurse registry varies depending upon the size of the organization. Those that are currently accredited by the Joint Commission for the Accreditation of Health Care Organizations require minimal additional expenditures, if any. Additional costs will be incurred by some organizations in providing continuous care during emergencies.

2. Direct Private Sector Benefits:

Unknown.

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

According to the Department of Health, private health care provider enterprises are not currently providing services in this area and may not be willing to do so unless financial reimbursements were available.

D. **FISCAL COMMENTS:**

The total appropriations requested for FY 1999-2000 to implement the provisions of this bill is \$ 4,034,524.

According to the Department of Health, it appears that a significant amount of additional staff time is needed to implement the provisions of this bill. The lion's share of staff time is needed by the Department of Health, though the Departments of Children and Family Services, Community Affairs, Elder Affairs and the Agency for Health Care Administration also are impacted by the provisions of this bill. The provisions of this bill involves these state agencies on some level. Thus, the fiscal impact to the Department of Health is significant while the impact to the other agencies is comparatively minimal.

At the state level, responsibility for standardized shelter staff training and statewide planning for supporting multiple counties and integration of out of state resources during an emergency event will require significant staff time. There will be a large demand on the Department of Health's headquarter's staff's time to create and maintain the registries provided for in this bill.

The bill provides for an appropriation that includes six FTE's. Though the bill does not expressly identify what type of positions these are, the Department of Health represents that the positions are disaster planning staff positions. There are no fees generated by the provisions of this bill.

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 expend funds or 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 percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The sponsor of the bill and the Agency for Health Care Administration indicate that the private health care providers affected by this bill are not opposing the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 22, 1999, the House Committee on Community Affairs adopted seven amendments to HB 705. The amendments are traveling with the bill. An explanation of the amendments follow:

Amendment No. 1: Requires the county health departments to assign their employees to work in special needs shelters when needed to protect the health of patients.

Amendment No. 2: Conforms the bill by requiring rule making for comprehensive emergency management plan for hospices.

Amendment No. 3: Requires certain information to be included on a hospice patient's medical record in the event of an emergency.

Amendment No. 4: Provides specificity for budget amendment requests and provides that travel, expense, and per diem costs shall be reimbursed pursuant to s. 112.061, Florida Statutes.

Amendment No. 5: Inserts provisions that were inadvertently omitted from the bill pertaining to the review of nurse registries' comprehensive emergency management plans by local emergency management agencies.

Amendment No. 6: Establishes comprehensive emergency management plan review procedures for hospices that operate in more than one county.

Amendment No. 7: Establishes comprehensive emergency management plan review procedures for home health agencies that operate in more than one county.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Nayola R. Frazier

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

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