

STORAGE NAME: h0923.hcl

DATE: March 10, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Health Care Licensing and Regulation
ANALYSIS**

BILL #: HB 923

RELATING TO: Home Health Agencies/Nurse Registry

SPONSOR(S): Representative Prieguez

COMPANION BILL(S):

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

- (1) HEALTH CARE LICENSING AND REGULATION
 - (2) INSURANCE
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

HB 923 adds the term "home health aide" to the definitions section in s. 400.462, Florida Statutes. The bill also redefines the term "nurse registry" and authorizes nurse registries to refer home health aides for contract services as independent contractors.

The bills adds that a registered nurse shall make monthly visits to the home of a patient receiving home health aide services.

Further, this bill deletes the dual registry requirement in nurse registries which expresses that a certified nursing assistant or any person that provides sitter services, companion, or homemaker services must be registered with the Agency for Health Care Administration.

This bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The "Home Health Services Act", ss. 400.461-400.518, F.S., provides for the licensure of home health agencies. Additional purposes include the development, establishment, and enforcement of basic standards that will ensure safe and adequate care of persons receiving health services in their own homes.

Currently, s. 400.462, F.S., does not contain an explicit definition for home health aides. However, Florida Administrative Code, Chapter 59 A-8, defines a home health aide as one who provides personal health care services for a patient in the patient's home or place of residence, under the supervision of a registered nurse. The duties performed by home health aides consist of a variety of services, including: assisting the patient in activities of daily living, such as dressing, bathing, grooming, eating, and personal hygiene; assisting with physical transfers, passive range-of-motion, and ambulation; and assisting in the self-administration of medications.

According to 1996 data from the Florida Department of Labor and Employment Security, Division of Jobs and Benefits, Bureau of Labor Market and Performance Information, there are approximately 28,989 home health aides delivering care to recovering, elderly, and/or disabled persons in Florida. Additionally, home health aides rank fifth in occupations gaining the most new jobs. It is projected that by the year 2006, there will be 52,171 persons employed as home health aides, representing an expected growth of nearly 80 percent.

Nurse registries provide referral and contract services for registered nurses, certified nursing assistants, sitters, companions, and homemakers. The services include private duty or staffing services to patients or health care facilities. Presently, home health aides are not included in nurse registries and the home health agency statutes refer only to home health aides providing services to patients in their homes through a licensed home health agency. The statutes do not address requirements of supervision of home health aides in nurse registries, since nurse registries cannot employ home health aides under current law. The law regarding the supervision of home health aides addresses only home health aides employed by home health agencies.

Section 400.509, F.S., requires that any person that provides sitter services for adults, companion services, or homemaker services must register with the Agency for Health Care Administration. The registration cost is \$25 per year and each registrant must update the registration on an annual basis. In addition, s. 400.462, F.S., requires that persons registered in nurse registries must also be registered under s. 400.509, F.S. Registration is a duplication of effort for persons who are referred for contract by a nurse registry since by law the registry must assure that contractors have background screening and employment reference checks.

B. EFFECT OF PROPOSED CHANGES:

Defining the characteristics of home health aides in this section distinguishes persons performing these functions from other care providers. Further, defining home health aides in the "Home Health Services Act" may provide acknowledgment to an occupation expected to employ 23,182 more home health aides in Florida by 2006.

Including home health aides on nurse registries enables referral and contract services for home health aide services, making the registry more comprehensive and allowing patients additional options within the registry.

Additionally, eliminating the dual registry requirement means that those registered with the nurse registry would not have to also register under s. 400.509, F.S. Registered nurses, licensed practical nurses, certified nursing assistants, sitters, companions, homemakers, or home health aides could provide contract services and provide care in the home under one registration.

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?

No.

(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?

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?

Yes. The bill clarifies who can provide services under contract in a nurse registry to better protect the rights of patients receiving services in their home through a nurse registry.

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

No.

5. Family Empowerment:

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

This bill does not purport to change or create a program for providing 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?

Yes. The bill expands the list of persons that may be employed as independent contractors to provide services in a nurse registry.

(3) government employees/agencies?

No.

D. STATUTE(S) AFFECTED:

Amends s. 400.462 and 400.506, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 400.462, F.S., to provide a definition for "home health aide" to mean persons who provide hands-on care for certain patients. Adds home health aides to the definition of nurse registry for purposes of providing services as an independent contractor.

Section 2. Amends s. 400.506, F.S., to delete the requirement that a certified nursing assistant or any person that provides sitter services, companion or homemaker services be registered with the Agency for Health Care Administration.

Section 3. 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:

None.

2. Direct Private Sector Benefits:

Expands the list of persons that may be employed as independent contractors to provide services in a nurse registry.

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

None.

D. **FISCAL COMMENTS:**

According to the Agency for Health Care Administration, there are no costs to state agencies associated with the proposed statutory revisions.

Additionally, this bill provides for more employment opportunity for home health aides.

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

A. **APPLICABILITY OF THE MANDATES PROVISION:**

None.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

None.

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

None.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

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