

By Senator Dawson

30-1423-00

1 A bill to be entitled
2 An act relating to medical services; providing
3 legislative findings; amending ss. 395.0193,
4 395.0197, F.S.; authorizing the governing
5 bodies of health care facilities to review the
6 quality of medical care provided within the
7 facilities; amending s. 458.331, F.S.;
8 providing a ground for disciplinary action
9 against physicians; providing an effective
10 date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. (1) The Legislature finds that each
15 licensed facility, as a condition of licensure, must provide
16 for peer review of physicians who deliver health care services
17 at the facility. Each licensed facility shall develop written,
18 binding procedures by which such peer review shall be
19 conducted.

20 (2) The Legislature finds that healthcare facilities,
21 including hospitals and ambulatory surgical centers, have a
22 duty to assure comprehensive risk management and the
23 competence of their medical staff and personnel through
24 careful selection and review.

25 (3) The Legislature finds that while the process of
26 hospital physician peer review is accomplished by physicians,
27 the responsibility for peer review rests with the facility and
28 may not be delegated. If meaningful peer review does not
29 occur, it is the hospital that is subject to regulatory
30 sanctions, not the physicians on the peer review committee.

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1 (4) The Legislature finds there is no legal authority
2 for the Agency for Health Care Administration, the Board of
3 Medicine, or the Department of Health to discipline a
4 physician for failure to adequately carry out the duties of a
5 member of a peer review committee. The Legislature finds that
6 a physician's deliberate or willful failure to conduct good
7 faith peer review when a reasonable belief exists that conduct
8 by a staff member constitutes grounds for discipline,
9 jeopardizes patient care and should form the basis of a
10 separate ground for discipline.

11 (5) The Legislature finds that each hospital must have
12 a medical staff organized under written by-laws approved by
13 the governing body and responsible to the governing body for
14 the quality of all health care provided to patients in the
15 facility and for the ethical and professional practice of its
16 members. Further, the Legislature finds that the governing
17 board of a hospital, to ensure that the public receives
18 quality medical services, may conduct an independent peer
19 review process using outside physician reviewers when its
20 organized medical staff fails or refuses to investigate and
21 determine whether grounds for discipline exist regarding a
22 staff member or physician.

23 Section 2. Subsection (2) of section 395.0193, Florida
24 Statutes, is amended to read:

25 395.0193 Licensed facilities; peer review;
26 disciplinary powers; agency or partnership with physicians.--

27 (2) Each licensed facility, as a condition of
28 licensure, shall provide for peer review of physicians who
29 deliver health care services at the facility. Each licensed
30 facility shall develop written, binding procedures by which
31 such peer review shall be conducted. Notwithstanding any

1 provisions in the medical staff by-laws to the contrary, a
2 hospital's governing board may establish a peer review
3 committee composed of physicians who are not active staff
4 members at the hospital.Such procedures shall include:

5 (a) Mechanism for choosing the membership of the body
6 or bodies that conduct peer review.

7 (b) Adoption of rules of order for the peer review
8 process.

9 (c) Fair review of the case with the physician
10 involved.

11 (d) Mechanism to identify and avoid conflict of
12 interest on the part of the peer review panel members.

13 (e) Recording of agendas and minutes which do not
14 contain confidential material, for review by the Division of
15 Health Quality Assurance of the agency.

16 (f) Review, at least annually, of the peer review
17 procedures by the governing board of the licensed facility.

18 (g) Focus of the peer review process on review of
19 professional practices at the facility to reduce morbidity and
20 mortality and to improve patient care.

21 Section 3. Subsection (3) of section 395.0197, Florida
22 Statutes is amended to read:

23 395.0197 Internal risk management program.--

24 (3)(a) In addition to the programs mandated by this
25 section, other innovative approaches intended to reduce the
26 frequency and severity of medical malpractice and patient
27 injury claims shall be encouraged and their implementation and
28 operation facilitated. Such additional approaches may include
29 extending internal risk management programs to health care
30 providers' offices and the assuming of provider liability by a
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1 licensed health care facility for acts or omissions occurring
2 within the licensed facility.

3 (b) Notwithstanding any provisions in the medical
4 staff by-laws to the contrary, a hospital's governing board
5 may establish a peer review committee composed of physicians
6 who are not active staff members at the hospital.

7 Section 4. Paragraph (g) of subsection (1) of section
8 458.331, Florida Statutes, is amended to read:

9 458.331 Grounds for disciplinary action; action by the
10 board and department.--

11 (1) The following acts shall constitute grounds for
12 which the disciplinary actions specified in subsection (2) may
13 be taken:

14 (g) Failing to perform any statutory or legal
15 obligation placed upon a licensed physician, including
16 conducting or participating in good-faith peer review
17 activities pursuant to s. 395.0193.

18 Section 5. This act shall take effect July 1, 2000.

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21 SENATE SUMMARY

22 Authorizes the governing bodies of health care facilities
23 to conduct independent peer reviews with physicians who
24 are are not on the medical staff of the facilities.
25 Provides that a physician may be disciplined for failing
26 to participate in peer review activities in good faith.
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