

Bill No. CS for CS for SB 370

Amendment No. Barcode 033188

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Campbell moved the following amendment:

Senate Amendment (with title amendment)

On page 32, lines 18-27, delete those lines

and insert:

Section 33. Subsection (4) of section 383.50, Florida Statutes, is amended to read:

383.50 Treatment of abandoned newborn infant.--

(4) Each hospital of this state subject to s. 395.1041 shall, and any other hospital may, admit and provide all necessary emergency services and care, as defined in s. 395.002(11)(~~10~~), to any newborn infant left with the hospital in accordance with this section. The hospital or any of its licensed health care professionals shall consider these actions as implied consent for treatment, and a hospital accepting physical custody of a newborn infant has implied consent to perform all necessary emergency services and care. The hospital or any of its licensed health care professionals is immune from criminal or civil liability for acting in good faith in accordance with this section. Nothing in this

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1 subsection limits liability for negligence.

2 Section 34. Subsection (7) of section 394.4787,
3 Florida Statutes, is amended to read:

4 394.4787 Definitions; ss. 394.4786, 394.4787,
5 394.4788, and 394.4789.--As used in this section and ss.
6 394.4786, 394.4788, and 394.4789:

7 (7) "Specialty psychiatric hospital" means a hospital
8 licensed by the agency pursuant to s. 395.002(31)~~(29)~~ as a
9 specialty psychiatric hospital.

10 Section 35. Present subsections (9), (10), (26), and
11 (30) of section 395.002, Florida Statutes, are amended,
12 present subsections (10) through (21) and (22) through (33)
13 are renumbered as subsections (11) through (22) and (24)
14 through (35), respectively, and new subsections (10) and (23)
15 are added to that section, to read:

16 395.002 Definitions.--As used in this chapter:

17 (9) "Emergency medical condition" means:

18 (a) A medical condition manifesting itself by acute
19 symptoms of sufficient severity, which may include severe
20 pain, psychiatric disturbances, symptoms of substance abuse,
21 or other acute symptoms, such that the absence of immediate
22 medical attention could reasonably be expected to result in
23 any of the following:

24 1. Serious jeopardy to patient health, including a
25 pregnant woman or fetus.

26 2. Serious impairment to bodily functions.

27 3. Serious dysfunction of any bodily organ or part.

28 (b) With respect to a pregnant woman:

29 1. That there is inadequate time to effect safe
30 transfer to another hospital prior to delivery;

31 2. That a transfer may pose a threat to the health and

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1 safety of the patient or fetus; or

2 3. That there is evidence of the onset and persistence
3 of uterine contractions or rupture of the membranes.

4 (c) With respect to a person exhibiting acute
5 psychiatric disturbance or substance abuse, or taken into
6 custody and delivered to a hospital under a court ex parte
7 order for examination or placed by an authorized party for
8 involuntary examination in accordance with chapter 394 or
9 chapter 397, that the absence of immediate medical attention
10 could reasonably be expected to result in:

- 11 1. Serious jeopardy to the health of a patient; or
12 2. Serious jeopardy to the health of others.

13 (10) "Emergency medical services provider" means a
14 provider licensed pursuant to chapter 401.

15 (11)~~(10)~~ "Emergency services and care" means medical
16 screening, examination, and evaluation by a physician, or, to
17 the extent permitted by applicable law, by other appropriate
18 personnel under the supervision of a physician, to determine
19 if an emergency medical condition exists and, if it does, the
20 care, treatment, or surgery by a physician necessary to
21 stabilize ~~relieve or eliminate~~ the emergency medical
22 condition, within the service capability of the facility.

23 (23) "Medically unnecessary procedure" means a
24 surgical or other invasive procedure that no reasonable
25 physician, in light of the patient's history and available
26 diagnostic information, would deem to be indicated in order to
27 treat, cure, or palliate the patient's condition or disease.

28 (28)~~(26)~~ "Service capability" means the physical
29 space, equipment, supplies, and services that the hospital
30 provides and the level of care that the medical staff can
31 provide within the training and scope of their professional

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1 ~~licenses and hospital privileges all services offered by the~~
2 ~~facility where identification of services offered is evidenced~~
3 ~~by the appearance of the service in a patient's medical record~~
4 ~~or itemized bill.~~

5 (32)~~(30)~~ "Stabilized" means, with respect to an
6 emergency medical condition, that no material deterioration of
7 the condition is likely, within reasonable medical
8 probability, to result from the transfer or discharge of the
9 patient from a hospital.

10 Section 36. Subsections (1) and (2) and paragraphs (c)
11 and (d) of subsection (3) of section 395.1041, Florida
12 Statutes, are amended to read:

13 395.1041 Access to emergency services and care.--

14 (1) LEGISLATIVE INTENT.--The Legislature finds and
15 declares it to be of vital importance that emergency services
16 and care be provided by hospitals and physicians to every
17 person in need of such care. The Legislature finds that
18 persons have been denied emergency services and care by
19 hospitals. It is the intent of the Legislature that the
20 agency vigorously enforce the ability of persons to receive
21 all necessary and appropriate emergency services and care and
22 that the agency act in a thorough and timely manner against
23 hospitals and physicians which deny persons emergency services
24 and care. It is further the intent of the Legislature that
25 hospitals, emergency medical services providers, and other
26 health care providers work together in their local communities
27 to enter into agreements or arrangements to ensure access to
28 emergency services and care. ~~The Legislature further~~
29 ~~recognizes that appropriate emergency services and care often~~
30 ~~require followup consultation and treatment in order to~~
31 ~~effectively care for emergency medical conditions.~~

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1 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.--The
2 agency shall establish and maintain an inventory of hospitals
3 with emergency services. The inventory shall list all
4 services within the service capability of the hospital, and
5 such services shall appear on the face of the hospital
6 license. Each hospital having emergency services shall notify
7 the agency of its service capability in the manner and form
8 prescribed by the agency. The agency, in cooperation with the
9 Department of Health shall provide use the inventory to ~~assist~~
10 emergency medical services providers and shall make the
11 inventory available to others to assist in locating
12 appropriate emergency medical care. The inventory shall also
13 be made available to the general public. On or before August
14 1, 1992, the agency shall request that each hospital identify
15 the services which are within its service capability. ~~On or~~
16 ~~before November 1, 1992, the agency shall notify each hospital~~
17 ~~of the service capability to be included in the inventory.~~
18 ~~The hospital has 15 days from the date of receipt to respond~~
19 ~~to the notice. By December 1, 1992, the agency shall publish~~
20 ~~a final inventory.~~ Each hospital shall reaffirm its service
21 capability when its license is renewed and shall notify the
22 agency of the addition of a new service or the termination of
23 a service prior to a change in its service capability.

24 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
25 FACILITY OR HEALTH CARE PERSONNEL.--

26 (c) A patient that has not been stabilized, ~~whether~~
27 ~~stabilized or not~~, may be transferred to another hospital
28 which has the requisite service capability or is not at
29 service capacity, if:

30 1. The patient, or a person who is legally responsible
31 for the patient and acting on the patient's behalf, after

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1 being informed of the hospital's obligation under this section
2 and of the risk of transfer, requests that the transfer be
3 effected;

4 2. A physician has signed a certification that, based
5 upon the reasonable risks and benefits to the patient, and
6 based upon the information available at the time of transfer,
7 the medical benefits reasonably expected from the provision of
8 appropriate medical treatment at another hospital outweigh the
9 increased risks to the individual's medical condition from
10 effecting the transfer; or

11 3. A physician is not physically present in the
12 emergency services area at the time an individual is
13 transferred and a qualified medical person signs a
14 certification that a physician, in consultation with
15 personnel, has determined that the medical benefits reasonably
16 expected from the provision of appropriate medical treatment
17 at another medical facility outweigh the increased risks to
18 the individual's medical condition from effecting the
19 transfer. The consulting physician must countersign the
20 certification;

21
22 provided that this paragraph shall not be construed to require
23 acceptance of a transfer that is not medically necessary.

24 (d)1. Every hospital shall ensure the provision of
25 services within the service capability of the hospital, at all
26 times, either directly or indirectly through an arrangement
27 with another hospital, through an arrangement with one or more
28 physicians, or as otherwise made through prior arrangements.
29 A hospital may enter into an agreement with another hospital
30 for purposes of meeting its service capability requirement,
31 and appropriate compensation or other reasonable conditions

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1 may be negotiated for these backup services.

2 2. If any arrangement requires the provision of
3 emergency medical transportation, such arrangement must be
4 made in consultation with the applicable emergency medical
5 service provider and may not require the emergency medical
6 service provider to provide transportation that is outside the
7 routine service area of that emergency medical service
8 provider or in a manner that impairs the ability of the
9 emergency medical service provider to timely respond to
10 prehospital emergency calls. Emergency medical transportation
11 provided under this subparagraph is considered to be emergency
12 services and care as defined in s. 395.002.

13 3. A hospital shall not be required to ensure service
14 capability at all times as required in subparagraph 1. if,
15 prior to the receiving of any patient needing such service
16 capability, such hospital has demonstrated to the agency that
17 it lacks the ability to ensure such capability and it has
18 exhausted all reasonable efforts to ensure such capability
19 through backup arrangements. In reviewing a hospital's
20 demonstration of lack of ability to ensure service capability,
21 the agency shall consider factors relevant to the particular
22 case, including the following:

23 a. Number and proximity of hospitals with the same
24 service capability.

25 b. Number, type, credentials, and privileges of
26 specialists.

27 c. Frequency of procedures.

28 d. Size of hospital.

29 4. The agency shall publish proposed rules
30 implementing a reasonable exemption procedure ~~by November 1,~~
31 ~~1992. Subparagraph 1. shall become effective upon the~~

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1 ~~effective date of said rules or January 31, 1993, whichever is~~
 2 ~~earlier. For a period not to exceed 1 year from the effective~~
 3 ~~date of subparagraph 1., a hospital requesting an exemption~~
 4 ~~shall be deemed to be exempt from offering the service until~~
 5 ~~the agency initially acts to deny or grant the original~~
 6 ~~request. The agency has 45 days from the date of receipt of~~
 7 ~~the request for exemption to approve or deny the request.~~
 8 ~~After the first year from the effective date of subparagraph~~
 9 ~~1.,~~ If the agency fails to initially act within the time
 10 period, the hospital is deemed to be exempt from offering the
 11 service until the agency initially acts to deny the request.

12 5. The agency shall convene a workgroup consisting of
 13 representatives from the Florida Hospital Association, the
 14 Florida Statutory Teaching Hospital Council, the Florida
 15 Medical Association, the Florida Osteopathic Association, and
 16 the Florida College of Emergency Physicians to make
 17 recommendations to the Legislature for changes to this
 18 paragraph regarding:

19 a. Services performed on an infrequent basis that
 20 would not be considered to be within the service capability of
 21 the hospital.

22 b. Situations in which hospitals would be deemed
 23 exempt from providing services at all times that are within
 24 their service capability.

25 Section 37. Paragraph (c) of subsection (2) of section
 26 395.602, Florida Statutes, is amended to read:

27 395.602 Rural hospitals.--

28 (2) DEFINITIONS.--As used in this part:

29 (c) "Inactive rural hospital bed" means a licensed
 30 acute care hospital bed, as defined in s. 395.002(15)(14),
 31 that is inactive in that it cannot be occupied by acute care

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1 inpatients.

2 Section 38. Paragraph (c) of subsection (1) of section
3 395.701, Florida Statutes, is amended to read:

4 395.701 Annual assessments on net operating revenues
5 for inpatient and outpatient services to fund public medical
6 assistance; administrative fines for failure to pay
7 assessments when due; exemption.--

8 (1) For the purposes of this section, the term:

9 (c) "Hospital" means a health care institution as
10 defined in s. 395.002(14)(13), but does not include any
11 hospital operated by the agency or the Department of
12 Corrections.

13 Section 39. Paragraph (b) of subsection (1) of section
14 400.051, Florida Statutes, is amended to read:

15 400.051 Homes or institutions exempt from the
16 provisions of this part.--

17 (1) The following shall be exempt from the provisions
18 of this part:

19 (b) Any hospital, as defined in s. 395.002(12)(11),
20 that is licensed under chapter 395.

21 Section 40. Section 401.23, Florida Statutes, is
22 amended to read:

23 401.23 Definitions.--As used in this part, the term:

24 (1) "Advanced life support" means the use of skills
25 and techniques described in the most recent U.S. DOT National
26 Standard Paramedic Curriculum by a paramedic under the
27 supervision of a licensee's medical director as required by
28 rules of the department. The term "advanced life support" also
29 includes other techniques which have been approved and are
30 performed under conditions specified by rules of the
31 department. The term "advanced life support" also includes

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1 provision of care by a paramedic under the supervision of a
2 licensee's medical director to one experiencing an emergency
3 medical condition as defined herein. ~~"Advanced life support"~~
4 ~~means treatment of life-threatening medical emergencies~~
5 ~~through the use of techniques such as endotracheal intubation,~~
6 ~~the administration of drugs or intravenous fluids, telemetry,~~
7 ~~cardiac monitoring, and cardiac defibrillation by a qualified~~
8 ~~person, pursuant to rules of the department.~~

9 (2) "Advanced life support service" means any
10 emergency medical transport or nontransport service which uses
11 advanced life support techniques.

12 (3) "Air ambulance" means any fixed-wing or
13 rotary-wing aircraft used for, or intended to be used for, air
14 transportation of sick or injured persons requiring or likely
15 to require medical attention during transport.

16 (4) "Air ambulance service" means any publicly or
17 privately owned service, licensed in accordance with the
18 provisions of this part, which operates air ambulances to
19 transport persons requiring or likely to require medical
20 attention during transport.

21 (5) "Ambulance" or "emergency medical services
22 vehicle" means any privately or publicly owned land or water
23 vehicle that is designed, constructed, reconstructed,
24 maintained, equipped, or operated for, and is used for, or
25 intended to be used for, land or water transportation of sick
26 or injured persons requiring or likely to require medical
27 attention during transport.

28 (6) "Ambulance driver" means any person who meets the
29 requirements of s. 401.281.

30 (7) "Basic life support" means the use of skills and
31 techniques described in the most recent U.S. DOT National

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1 Standard EMT-Basic Curriculum by an emergency medical
2 technician or paramedic under the supervision of a licensee's
3 medical director as required by rules of the department. The
4 term "basic life support" also includes other techniques which
5 have been approved and are performed under conditions
6 specified by rules of the department. The term "basic life
7 support" also includes provision of care by a paramedic or
8 emergency medical technician under the supervision of a
9 licensee's medical director to one experiencing an emergency
10 medical condition as defined herein.~~"Basic life support"~~
11 ~~means treatment of medical emergencies by a qualified person~~
12 ~~through the use of techniques such as patient assessment,~~
13 ~~cardiopulmonary resuscitation (CPR), splinting, obstetrical~~
14 ~~assistance, bandaging, administration of oxygen, application~~
15 ~~of medical antishock trousers, administration of a~~
16 ~~subcutaneous injection using a premeasured autoinjector of~~
17 ~~epinephrine to a person suffering an anaphylactic reaction,~~
18 ~~and other techniques described in the Emergency Medical~~
19 ~~Technician Basic Training Course Curriculum of the United~~
20 ~~States Department of Transportation. The term "basic life~~
21 ~~support" also includes other techniques which have been~~
22 ~~approved and are performed under conditions specified by rules~~
23 ~~of the department.~~

24 (8) "Basic life support service" means any emergency
25 medical service which uses only basic life support techniques.

26 (9) "Certification" means any authorization issued
27 pursuant to this part to a person to act as an emergency
28 medical technician or a paramedic.

29 (10) "Department" means the Department of Health.

30 (11) "Emergency medical condition" means:

31 (a) A medical condition manifesting itself by acute

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- 1 symptoms of sufficient severity, which may include severe
2 pain, psychiatric disturbances, symptoms of substance abuse,
3 or other acute symptoms, such that the absence of immediate
4 medical attention could reasonably be expected to result in
5 any of the following:
- 6 1. Serious jeopardy to patient health, including a
7 pregnant woman or fetus.
- 8 2. Serious impairment to bodily functions.
- 9 3. Serious dysfunction of any bodily organ or part.
- 10 (b) With respect to a pregnant woman, that there is
11 evidence of the onset and persistence of uterine contractions
12 or rupture of the membranes.
- 13 (c) With respect to a person exhibiting acute
14 psychiatric disturbance or substance abuse, that the absence
15 of immediate medical attention could reasonably be expected to
16 result in:
- 17 1. Serious jeopardy to the health of a patient; or
18 2. Serious jeopardy to the health of others.
- 19 (12)(11) "Emergency medical technician" means a person
20 who is certified by the department to perform basic life
21 support pursuant to this part.
- 22 (13)(12) "Interfacility transfer" means the
23 transportation by ambulance of a patient between two
24 facilities licensed under chapter 393, chapter 395, or chapter
25 400, pursuant to this part.
- 26 (14)(13) "Licensee" means any basic life support
27 service, advanced life support service, or air ambulance
28 service licensed pursuant to this part.
- 29 (15)(14) "Medical direction" means direct supervision
30 by a physician through two-way voice communication or, when
31 such voice communication is unavailable, through established

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1 standing orders, pursuant to rules of the department.

2 (16)~~(15)~~ "Medical director" means a physician who is
3 employed or contracted by a licensee and who provides medical
4 supervision, including appropriate quality assurance but not
5 including administrative and managerial functions, for daily
6 operations and training pursuant to this part.

7 (17)~~(16)~~ "Mutual aid agreement" means a written
8 agreement between two or more entities whereby the signing
9 parties agree to lend aid to one another under conditions
10 specified in the agreement and as sanctioned by the governing
11 body of each affected county.

12 (18)~~(17)~~ "Paramedic" means a person who is certified
13 by the department to perform basic and advanced life support
14 pursuant to this part.

15 (19)~~(18)~~ "Permit" means any authorization issued
16 pursuant to this part for a vehicle to be operated as a basic
17 life support or advanced life support transport vehicle or an
18 advanced life support nontransport vehicle providing basic or
19 advanced life support.

20 (20)~~(19)~~ "Physician" means a practitioner who is
21 licensed under the provisions of chapter 458 or chapter 459.
22 For the purpose of providing "medical direction" as defined in
23 subsection (14) for the treatment of patients immediately
24 prior to or during transportation to a United States
25 Department of Veterans Affairs medical facility, "physician"
26 also means a practitioner employed by the United States
27 Department of Veterans Affairs.

28 (21)~~(20)~~ "Registered nurse" means a practitioner who
29 is licensed to practice professional nursing pursuant to part
30 I of chapter 464.

31 (22)~~(21)~~ "Secretary" means the Secretary of Health.

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1 ~~(23)~~(22) "Service location" means any permanent
2 location in or from which a licensee solicits, accepts, or
3 conducts business under this part.

4 Section 41. Subsection (8) of section 409.905, Florida
5 Statutes, is amended to read:

6 409.905 Mandatory Medicaid services.--The agency may
7 make payments for the following services, which are required
8 of the state by Title XIX of the Social Security Act,
9 furnished by Medicaid providers to recipients who are
10 determined to be eligible on the dates on which the services
11 were provided. Any service under this section shall be
12 provided only when medically necessary and in accordance with
13 state and federal law. Mandatory services rendered by
14 providers in mobile units to Medicaid recipients may be
15 restricted by the agency. Nothing in this section shall be
16 construed to prevent or limit the agency from adjusting fees,
17 reimbursement rates, lengths of stay, number of visits, number
18 of services, or any other adjustments necessary to comply with
19 the availability of moneys and any limitations or directions
20 provided for in the General Appropriations Act or chapter 216.

21 (8) NURSING FACILITY SERVICES.--The agency shall pay
22 for 24-hour-a-day nursing and rehabilitative services for a
23 recipient in a nursing facility licensed under part II of
24 chapter 400 or in a rural hospital, as defined in s. 395.602,
25 or in a Medicare certified skilled nursing facility operated
26 by a hospital, as defined by s. 395.002~~(12)~~(11), that is
27 licensed under part I of chapter 395, and in accordance with
28 provisions set forth in s. 409.908(2)(a), which services are
29 ordered by and provided under the direction of a licensed
30 physician. However, if a nursing facility has been destroyed
31 or otherwise made uninhabitable by natural disaster or other

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1 emergency and another nursing facility is not available, the
2 agency must pay for similar services temporarily in a hospital
3 licensed under part I of chapter 395 provided federal funding
4 is approved and available.

5 Section 42. Paragraph (1) of subsection (1) of section
6 468.505, Florida Statutes, is amended to read:

7 468.505 Exemptions; exceptions.--

8 (1) Nothing in this part may be construed as
9 prohibiting or restricting the practice, services, or
10 activities of:

11 (1) A person employed by a nursing facility exempt
12 from licensing under s. 395.002(14)(13), or a person exempt
13 from licensing under s. 464.022.

14 Section 43. Paragraph (b) of subsection (2) of section
15 812.014, Florida Statutes, is amended to read:

16 812.014 Theft.--

17 (2)

18 (b)1. If the property stolen is valued at \$20,000 or
19 more, but less than \$100,000;

20 2. The property stolen is cargo valued at less than
21 \$50,000 that has entered the stream of interstate or
22 intrastate commerce from the shipper's loading platform to the
23 consignee's receiving dock; or

24 3. The property stolen is emergency medical equipment,
25 valued at \$300 or more, that is taken from a facility licensed
26 under chapter 395 or from an aircraft or vehicle permitted
27 under chapter 401,

28

29 the offender commits grand theft in the second degree,
30 punishable as a felony of the second degree, as provided in s.
31 775.082, s. 775.083, or s. 775.084. Emergency medical

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1 equipment means mechanical or electronic apparatus used to
2 provide emergency services and care as defined in s.
3 395.002(11)(10) or to treat medical emergencies.

4
5 (Redesignate subsequent sections.)

6
7
8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 3, lines 19-21, delete those lines

11
12 and insert:

13 conforming cross-references; amending s.
14 395.002, F.S.; revising definitions relating to
15 emergency services and care provided by
16 hospitals and related facilities; amending s.
17 395.1041, F.S.; revising provisions relating to
18 hospital service capability and access to
19 emergency services and care; directing the
20 Agency for Health Care Administration to
21 convene a workgroup to report to the
22 Legislature regarding hospital service
23 capability requirements; amending ss. 383.50,
24 394.4787, 395.602, 395.701, 400.051, 409.905,
25 468.505, and 812.014, F.S.; conforming
26 cross-references; amending s. 401.23, F.S.;
27 redefining the terms "advanced life support"
28 and "basic life support"; defining the term
29 "emergency medical conditions"; amending s.
30 395.0161,

31