

Bill No. CS for CS for SB 370

Amendment No. Barcode 441786

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Dyer moved the following **amendment to amendment**
(104940):

Senate Amendment (with title amendment)

On page 30, line 29, through
page 33, line 12, delete those lines

and insert:

Section 33. Present subsections (11) through (33) of section 395.002, Florida Statutes, are renumbered as subsections (13) through (35), respectively, and new subsections (11) and (12) are added to that section, to read:

395.002 Definitions.--As used in this chapter:

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

(12) "Surgical first assistant" means the first assistant to the surgeon during a surgical operation.

Section 34. Subsection (5) is added to section

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1 395.0161, Florida Statutes, to read:

2 395.0161 Licensure inspection.--

3 (5)(a) The agency shall adopt rules governing the
4 conduct of inspections or investigations it initiates in
5 response to:

6 1. Reports filed pursuant to s. 395.0197.

7 2. Complaints alleging violations of state or federal
8 emergency access laws.

9 3. Complaints made by the public alleging violations
10 of law by licensed facilities or personnel.

11 (b) The rules must set forth the procedures to be used
12 in the investigations or inspections in order to protect the
13 due process rights of licensed facilities and personnel and to
14 minimize, to the greatest reasonable extent possible, the
15 disruption of facility operations and the cost to facilities
16 resulting from those investigations.

17 Section 35. Paragraph (b) of subsection (1) and
18 subsections (2), (14), and (16) of section 395.0197, Florida
19 Statutes, are amended to read:

20 395.0197 Internal risk management program.--

21 (1) Every licensed facility shall, as a part of its
22 administrative functions, establish an internal risk
23 management program that includes all of the following
24 components:

25 (b) The development of appropriate measures to
26 minimize the risk of adverse incidents to patients, including,
27 but not limited to:

28 1. Risk management and risk prevention education and
29 training of all nonphysician personnel as follows:

30 a. Such education and training of all nonphysician
31 personnel as part of their initial orientation; and

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1 b. At least 1 hour of such education and training
2 annually for all personnel of the licensed facility working in
3 clinical areas and providing patient care, except those
4 persons licensed as health care practitioners who are required
5 to complete continuing education coursework pursuant to
6 chapter 456 or the respective practice act.

7 2. A prohibition, except when emergency circumstances
8 require otherwise, against a staff member of the licensed
9 facility attending a patient in the recovery room, unless the
10 staff member is authorized to attend the patient in the
11 recovery room and is in the company of at least one other
12 person. However, a licensed facility is exempt from the
13 two-person requirement if it has:

14 a. Live visual observation;
15 b. Electronic observation; or
16 c. Any other reasonable measure taken to ensure
17 patient protection and privacy.

18 3. A prohibition against an unlicensed person from
19 assisting or participating in any surgical procedure unless
20 the facility has authorized the person to do so following a
21 competency assessment, and such assistance or participation is
22 done under the direct and immediate supervision of a licensed
23 physician and is not otherwise an activity that may only be
24 performed by a licensed health care practitioner. Moreover,
25 the primary operating surgeon may select a surgical first
26 assistant from among available individuals who are approved or
27 credentialed by the facility.

28 4. Development, implementation, and ongoing evaluation
29 of procedures, protocols, and systems to accurately identify
30 patients, planned procedures, and the correct site of the
31 planned procedure so as to minimize the performance of a

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1 surgical procedure on the wrong patient, a wrong surgical
2 procedure, a wrong-site surgical procedure, or a surgical
3 procedure otherwise unrelated to the patient's diagnosis or
4 medical condition.

5 (2) The internal risk management program is the
6 responsibility of the governing board of the health care
7 facility. Each licensed facility shall use the services of
8 ~~hire~~ a risk manager, licensed under s. 395.10974, who is
9 responsible for implementation and oversight of such
10 facility's internal risk management program as required by
11 this section. ~~A risk manager must not be made responsible for~~
12 ~~more than four internal risk management programs in separate~~
13 ~~licensed facilities, unless the facilities are under one~~
14 ~~corporate ownership or the risk management programs are in~~
15 ~~rural hospitals.~~

16 (14) The agency shall have access, as set forth in
17 rules adopted under s. 395.0161(5), to all licensed facility
18 records necessary to carry out the provisions of this section.
19 The records obtained by the agency under subsection (6),
20 subsection (8), or subsection (10) are not available to the
21 public under s. 119.07(1), nor shall they be discoverable or
22 admissible in any civil or administrative action, except in
23 disciplinary proceedings by the agency or the appropriate
24 regulatory board, nor shall records obtained pursuant to s.
25 456.071 be available to the public as part of the record of
26 investigation for and prosecution in disciplinary proceedings
27 made available to the public by the agency or the appropriate
28 regulatory board. However, the agency or the appropriate
29 regulatory board shall make available, upon written request by
30 a health care professional against whom probable cause has
31 been found, any such records which form the basis of the

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1 determination of probable cause, except that, with respect to
2 medical review committee records, s. 766.101 controls.

3 (16) The agency shall review, as part of its licensure
4 inspection process, the internal risk management program at
5 each licensed facility regulated by this section to determine
6 whether the program meets standards established in statutes
7 and rules, whether the program is being conducted in a manner
8 designed to reduce adverse incidents, and whether the program
9 is appropriately reporting incidents under this section. Only
10 a risk manager, licensed under s. 395.10974 and employed by
11 the Agency for Health Care Administration has the authority to
12 conduct inspections necessary to determine whether a program
13 meets the requirements of this section. A determination must
14 be based on the care, skill, and judgment which, in light of
15 all relevant surrounding circumstances, is recognized as
16 acceptable and appropriate by reasonably prudent similar
17 licensed risk managers. By July 1, 2004, the Agency for Health
18 Care Administration shall employ a minimum of three licensed
19 risk managers in each district to conduct inspections as
20 provided in this subsection.

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23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 On page 100, line 26, before the semicolon

26

27 insert:

28 and the term "surgical first assistant"

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