

Bill No. CS for CS for SB 370

Amendment No.      Barcode 781524

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

**Senate Amendment (with title amendment)**

On page 97, between lines 23 and 24,

insert:

Section 80. Subsections (1) and (2) and paragraphs (c) and (d) of subsection (3) of section 395.1041, Florida Statutes, are amended to read:

395.1041 Access to emergency services and care.--

(1) LEGISLATIVE INTENT.--The Legislature finds and declares it to be of vital importance that emergency services and care be provided by hospitals and physicians to every person in need of such care. The Legislature finds that persons have been denied emergency services and care by hospitals. It is the intent of the Legislature that the agency vigorously enforce the ability of persons to receive all necessary and appropriate emergency services and care and that the agency act in a thorough and timely manner against hospitals and physicians which deny persons emergency services

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1 and care. It is further the intent of the Legislature that  
2 hospitals, emergency medical services providers, and other  
3 health care providers work together in their local communities  
4 to enter into agreements or arrangements to ensure access to  
5 emergency services and care. ~~The Legislature further  
6 recognizes that appropriate emergency services and care often  
7 require followup consultation and treatment in order to  
8 effectively care for emergency medical conditions.~~

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

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

3 (c) A patient that has not been stabilized, ~~whether~~  
4 ~~stabilized or not~~, may be transferred to another hospital  
5 which has the requisite service capability or is not at  
6 service capacity, if:

7 1. The patient, or a person who is legally responsible  
8 for the patient and acting on the patient's behalf, after  
9 being informed of the hospital's obligation under this section  
10 and of the risk of transfer, requests that the transfer be  
11 effected;

12 2. A physician has signed a certification that, based  
13 upon the reasonable risks and benefits to the patient, and  
14 based upon the information available at the time of transfer,  
15 the medical benefits reasonably expected from the provision of  
16 appropriate medical treatment at another hospital outweigh the  
17 increased risks to the individual's medical condition from  
18 effecting the transfer; or

19 3. A physician is not physically present in the  
20 emergency services area at the time an individual is  
21 transferred and a qualified medical person signs a  
22 certification that a physician, in consultation with  
23 personnel, has determined that the medical benefits reasonably  
24 expected from the provision of appropriate medical treatment  
25 at another medical facility outweigh the increased risks to  
26 the individual's medical condition from effecting the  
27 transfer. The consulting physician must countersign the  
28 certification;

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30 provided that this paragraph shall not be construed to require  
31 acceptance of a transfer that is not medically necessary.

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1 (d)1. Every hospital shall ensure the provision of  
2 services within the service capability of the hospital, at all  
3 times, either directly or indirectly through an arrangement  
4 with another hospital, through an arrangement with one or more  
5 physicians, or as otherwise made through prior arrangements.  
6 A hospital may enter into an agreement with another hospital  
7 for purposes of meeting its service capability requirement,  
8 and appropriate compensation or other reasonable conditions  
9 may be negotiated for these backup services.

10 2. If any arrangement requires the provision of  
11 emergency medical transportation, such arrangement must be  
12 made in consultation with the applicable emergency medical  
13 service provider and may not require the emergency medical  
14 service provider to provide transportation that is outside the  
15 routine service area of that emergency medical service  
16 provider or in a manner that impairs the ability of the  
17 emergency medical service provider to timely respond to  
18 prehospital emergency calls. Emergency medical transportation  
19 provided under this subparagraph is considered to be emergency  
20 services and care as defined in s. 395.002.

21 3. A hospital shall not be required to ensure service  
22 capability at all times as required in subparagraph 1. if,  
23 prior to the receiving of any patient needing such service  
24 capability, such hospital has demonstrated to the agency that  
25 it lacks the ability to ensure such capability and it has  
26 exhausted all reasonable efforts to ensure such capability  
27 through backup arrangements. In reviewing a hospital's  
28 demonstration of lack of ability to ensure service capability,  
29 the agency shall consider factors relevant to the particular  
30 case, including the following:

31 a. Number and proximity of hospitals with the same

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1 service capability.

2 b. Number, type, credentials, and privileges of  
3 specialists.

4 c. Frequency of procedures.

5 d. Size of hospital.

6 4. The agency shall publish proposed rules  
7 implementing a reasonable exemption procedure ~~by November 1,~~  
8 ~~1992. Subparagraph 1. shall become effective upon the~~  
9 ~~effective date of said rules or January 31, 1993, whichever is~~  
10 ~~earlier. For a period not to exceed 1 year from the effective~~  
11 ~~date of subparagraph 1., a hospital requesting an exemption~~  
12 ~~shall be deemed to be exempt from offering the service until~~  
13 ~~the agency initially acts to deny or grant the original~~  
14 ~~request. The agency has 45 days from the date of receipt of~~  
15 ~~the request for exemption to approve or deny the request.~~  
16 ~~After the first year from the effective date of subparagraph~~  
17 ~~1.,~~ If the agency fails to initially act within the time  
18 period, the hospital is deemed to be exempt from offering the  
19 service until the agency initially acts to deny the request.

20 5. The agency shall convene a workgroup consisting of  
21 representatives from the Florida Hospital Association, the  
22 Florida Statutory Teaching Hospital Council, the Florida  
23 Medical Association, the Florida Osteopathic Association, and  
24 the Florida College of Emergency Physicians to make  
25 recommendations to the Legislature for changes to this  
26 paragraph regarding:

27 a. Services performed on an infrequent basis that  
28 would not be considered to be within the service capability of  
29 the hospital.

30 b. Situations in which hospitals would be deemed  
31 exempt from providing services at all times that are within

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1 their service capability.

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3 (Redesignate subsequent sections.)

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

7 And the title is amended as follows:

8

On page 107, line 21, after the semicolon

9

10 insert:

11

amending s. 395.1041, F.S.; revising provisions

12

relating to hospital service capability and

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access to emergency services and care;

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directing the Agency for Health Care

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Administration to convene a workgroup to report

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to the Legislature regarding hospital service

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capability requirements;

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