

Bill No. CS for CS for SB 370

Amendment No. Barcode 984106

<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(30)~~(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 (33) are renumbered as
13 subsections (11) through (34), respectively, and a new
14 subsection (10) is added to that section, to read:

15 395.002 Definitions.--As used in this chapter:

16 (9) "Emergency medical condition" means:

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

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

25 2. Serious impairment to bodily functions.

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

27 (b) With respect to a pregnant woman:

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

30 2. That a transfer may pose a threat to the health and
31 safety of the patient or fetus; or

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

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

10 1. Serious jeopardy to the health of a patient; or

11 2. Serious jeopardy to the health of others.

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

14 (11)(10) "Emergency services and care" means medical
15 screening, examination, and evaluation by a physician, or, to
16 the extent permitted by applicable law, by other appropriate
17 personnel under the supervision of a physician, to determine
18 if an emergency medical condition exists and, if it does, the
19 care, treatment, or surgery by a physician necessary to
20 stabilize ~~relieve or eliminate~~ the emergency medical
21 condition, within the service capability of the facility.

22 (27)(26) "Service capability" means the physical
23 space, equipment, supplies, and services that the hospital
24 provides and the level of care that the medical staff can
25 provide within the training and scope of their professional
26 licenses and hospital privileges ~~all services offered by the~~
27 ~~facility where identification of services offered is evidenced~~
28 ~~by the appearance of the service in a patient's medical record~~
29 ~~or itemized bill.~~

30 (31)(30) "Stabilized" means, with respect to an
31 emergency medical condition, that no material deterioration of

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1 the condition is likely, within reasonable medical
2 probability, to result from the transfer or discharge of the
3 patient from a hospital.

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

7 395.1041 Access to emergency services and care.--

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

26 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.--The
27 agency shall establish and maintain an inventory of hospitals
28 with emergency services. The inventory shall list all
29 services within the service capability of the hospital, and
30 such services shall appear on the face of the hospital
31 license. Each hospital having emergency services shall notify

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1 the agency of its service capability in the manner and form
2 prescribed by the agency. The agency, in cooperation with the
3 Department of Health shall provide ~~use~~ the inventory to ~~assist~~
4 emergency medical services providers and shall make the
5 inventory available to others to assist in locating
6 appropriate emergency medical care. The inventory shall also
7 be made available to the general public. On or before August
8 1, 1992, the agency shall request that each hospital identify
9 the services which are within its service capability. ~~On or~~
10 ~~before November 1, 1992, the agency shall notify each hospital~~
11 ~~of the service capability to be included in the inventory.~~
12 ~~The hospital has 15 days from the date of receipt to respond~~
13 ~~to the notice. By December 1, 1992, the agency shall publish~~
14 ~~a final inventory.~~ Each hospital shall reaffirm its service
15 capability when its license is renewed and shall notify the
16 agency of the addition of a new service or the termination of
17 a service prior to a change in its service capability.

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

20 (c) A patient that has not been stabilized, ~~whether~~
21 ~~stabilized or not~~, may be transferred to another hospital
22 which has the requisite service capability or is not at
23 service capacity, if:

24 1. The patient, or a person who is legally responsible
25 for the patient and acting on the patient's behalf, after
26 being informed of the hospital's obligation under this section
27 and of the risk of transfer, requests that the transfer be
28 effected;

29 2. A physician has signed a certification that, based
30 upon the reasonable risks and benefits to the patient, and
31 based upon the information available at the time of transfer,

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1 the medical benefits reasonably expected from the provision of
2 appropriate medical treatment at another hospital outweigh the
3 increased risks to the individual's medical condition from
4 effecting the transfer; or

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

15
16 provided that this paragraph shall not be construed to require
17 acceptance of a transfer that is not medically necessary.

18 (d)1. Every hospital shall ensure the provision of
19 services within the service capability of the hospital, at all
20 times, either directly or indirectly through an arrangement
21 with another hospital, through an arrangement with one or more
22 physicians, or as otherwise made through prior arrangements.
23 A hospital may enter into an agreement with another hospital
24 for purposes of meeting its service capability requirement,
25 and appropriate compensation or other reasonable conditions
26 may be negotiated for these backup services.

27 2. If any arrangement requires the provision of
28 emergency medical transportation, such arrangement must be
29 made in consultation with the applicable emergency medical
30 service provider and may not require the emergency medical
31 service provider to provide transportation that is outside the

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1 routine service area of that emergency medical service
2 provider or in a manner that impairs the ability of the
3 emergency medical service provider to timely respond to
4 prehospital emergency calls. Emergency medical transportation
5 provided under this subparagraph is considered to be emergency
6 services and care as defined in s. 395.002.

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

17 a. Number and proximity of hospitals with the same
18 service capability.

19 b. Number, type, credentials, and privileges of
20 specialists.

21 c. Frequency of procedures.

22 d. Size of hospital.

23 4. The agency shall publish proposed rules
24 implementing a reasonable exemption procedure ~~by November 1,~~
25 ~~1992. Subparagraph 1. shall become effective upon the~~
26 ~~effective date of said rules or January 31, 1993, whichever is~~
27 ~~earlier. For a period not to exceed 1 year from the effective~~
28 ~~date of subparagraph 1., a hospital requesting an exemption~~
29 ~~shall be deemed to be exempt from offering the service until~~
30 ~~the agency initially acts to deny or grant the original~~
31 ~~request.~~ The agency has 45 days from the date of receipt of

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1 the request for exemption to approve or deny the request.
2 ~~After the first year from the effective date of subparagraph~~
3 ~~1.7.~~If the agency fails to initially act within the time
4 period, the hospital is deemed to be exempt from offering the
5 service until the agency initially acts to deny the request.
6 5. The agency shall convene a workgroup consisting of
7 representatives from the Florida Hospital Association, the
8 Florida Statutory Teaching Hospital Council, the Florida
9 Medical Association, the Florida Osteopathic Medical
10 Association, and the Florida College of Emergency Physicians
11 to make recommendations to the Legislature for changes to this
12 paragraph regarding:
13 a. Services performed on an infrequent basis that
14 would not be considered to be within the service capability of
15 the hospital.
16 b. Situations in which hospitals would be deemed
17 exempt from providing services at all times that are within
18 their service capability.
19 Section 37. Paragraph (c) of subsection (2) of section
20 395.602, Florida Statutes, is amended to read:
21 395.602 Rural hospitals.--
22 (2) DEFINITIONS.--As used in this part:
23 (c) "Inactive rural hospital bed" means a licensed
24 acute care hospital bed, as defined in s. 395.002(15)(14),
25 that is inactive in that it cannot be occupied by acute care
26 inpatients.
27 Section 38. Paragraph (c) of subsection (1) of section
28 395.701, Florida Statutes, is amended to read:
29 395.701 Annual assessments on net operating revenues
30 for inpatient and outpatient services to fund public medical
31 assistance; administrative fines for failure to pay

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1 assessments when due; exemption.--

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

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

7 Section 39. Paragraph (b) of subsection (1) of section
8 400.051, Florida Statutes, is amended to read:

9 400.051 Homes or institutions exempt from the
10 provisions of this part.--

11 (1) The following shall be exempt from the provisions
12 of this part:

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

15 Section 40. Section 401.23, Florida Statutes, is
16 amended to read:

17 401.23 Definitions.--As used in this part, the term:

18 (1) "Advanced life support" means the use of skills
19 and techniques described in the most recent U.S. DOT National
20 Standard Paramedic Curriculum by a paramedic under the
21 supervision of a licensee's medical director as required by
22 rules of the department. The term "advanced life support" also
23 includes other techniques which have been approved and are
24 performed under conditions specified by rules of the
25 department. The term "advanced life support" also includes
26 provision of care by a paramedic under the supervision of a
27 licensee's medical director to one experiencing an emergency
28 medical condition as defined herein. ~~"Advanced life support"~~
29 ~~means treatment of life-threatening medical emergencies~~
30 ~~through the use of techniques such as endotracheal intubation,~~
31 ~~the administration of drugs or intravenous fluids, telemetry,~~

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1 ~~cardiac monitoring, and cardiac defibrillation by a qualified~~
2 ~~person, pursuant to rules of the department.~~

3 (2) "Advanced life support service" means any
4 emergency medical transport or nontransport service which uses
5 advanced life support techniques.

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

10 (4) "Air ambulance service" means any publicly or
11 privately owned service, licensed in accordance with the
12 provisions of this part, which operates air ambulances to
13 transport persons requiring or likely to require medical
14 attention during transport.

15 (5) "Ambulance" or "emergency medical services
16 vehicle" means any privately or publicly owned land or water
17 vehicle that is designed, constructed, reconstructed,
18 maintained, equipped, or operated for, and is used for, or
19 intended to be used for, land or water transportation of sick
20 or injured persons requiring or likely to require medical
21 attention during transport.

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

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

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

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

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

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

24 (11) "Emergency medical condition" means:

25 (a) A medical condition manifesting itself by acute
 26 symptoms of sufficient severity, which may include severe
 27 pain, psychiatric disturbances, symptoms of substance abuse,
 28 or other acute symptoms, such that the absence of immediate
 29 medical attention could reasonably be expected to result in
 30 any of the following:

31 1. Serious jeopardy to patient health, including a

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1 pregnant woman or fetus.

2 2. Serious impairment to bodily functions.

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

4 (b) With respect to a pregnant woman, that there is
5 evidence of the onset and persistence of uterine contractions
6 or rupture of the membranes.

7 (c) With respect to a person exhibiting acute
8 psychiatric disturbance or substance abuse, that the absence
9 of immediate medical attention could reasonably be expected to
10 result in:

11 1. Serious jeopardy to the health of a patient; or

12 2. Serious jeopardy to the health of others.

13 (12)(11) "Emergency medical technician" means a person
14 who is certified by the department to perform basic life
15 support pursuant to this part.

16 (13)(12) "Interfacility transfer" means the
17 transportation by ambulance of a patient between two
18 facilities licensed under chapter 393, chapter 395, or chapter
19 400, pursuant to this part.

20 (14)(13) "Licensee" means any basic life support
21 service, advanced life support service, or air ambulance
22 service licensed pursuant to this part.

23 (15)(14) "Medical direction" means direct supervision
24 by a physician through two-way voice communication or, when
25 such voice communication is unavailable, through established
26 standing orders, pursuant to rules of the department.

27 (16)(15) "Medical director" means a physician who is
28 employed or contracted by a licensee and who provides medical
29 supervision, including appropriate quality assurance but not
30 including administrative and managerial functions, for daily
31 operations and training pursuant to this part.

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1 ~~(17)~~(16) "Mutual aid agreement" means a written
2 agreement between two or more entities whereby the signing
3 parties agree to lend aid to one another under conditions
4 specified in the agreement and as sanctioned by the governing
5 body of each affected county.

6 ~~(18)~~(17) "Paramedic" means a person who is certified
7 by the department to perform basic and advanced life support
8 pursuant to this part.

9 ~~(19)~~(18) "Permit" means any authorization issued
10 pursuant to this part for a vehicle to be operated as a basic
11 life support or advanced life support transport vehicle or an
12 advanced life support nontransport vehicle providing basic or
13 advanced life support.

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

22 ~~(21)~~(20) "Registered nurse" means a practitioner who
23 is licensed to practice professional nursing pursuant to part
24 I of chapter 464.

25 ~~(22)~~(21) "Secretary" means the Secretary of Health.

26 ~~(23)~~(22) "Service location" means any permanent
27 location in or from which a licensee solicits, accepts, or
28 conducts business under this part.

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

31 409.905 Mandatory Medicaid services.--The agency may

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

15 (8) NURSING FACILITY SERVICES.--The agency shall pay
16 for 24-hour-a-day nursing and rehabilitative services for a
17 recipient in a nursing facility licensed under part II of
18 chapter 400 or in a rural hospital, as defined in s. 395.602,
19 or in a Medicare certified skilled nursing facility operated
20 by a hospital, as defined by s. 395.002(12)(~~11~~), that is
21 licensed under part I of chapter 395, and in accordance with
22 provisions set forth in s. 409.908(2)(a), which services are
23 ordered by and provided under the direction of a licensed
24 physician. However, if a nursing facility has been destroyed
25 or otherwise made uninhabitable by natural disaster or other
26 emergency and another nursing facility is not available, the
27 agency must pay for similar services temporarily in a hospital
28 licensed under part I of chapter 395 provided federal funding
29 is approved and available.

30 Section 42. Paragraph (1) of subsection (1) of section
31 468.505, Florida Statutes, is amended to read:

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1 468.505 Exemptions; exceptions.--

2 (1) Nothing in this part may be construed as
3 prohibiting or restricting the practice, services, or
4 activities of:

5 (1) A person employed by a nursing facility exempt
6 from licensing under s. 395.002~~(14)~~~~(13)~~, or a person exempt
7 from licensing under s. 464.022.

8 Section 43. Paragraph (b) of subsection (2) of section
9 812.014, Florida Statutes, is amended to read:

10 812.014 Theft.--

11 (2)

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

14 2. The property stolen is cargo valued at less than
15 \$50,000 that has entered the stream of interstate or
16 intrastate commerce from the shipper's loading platform to the
17 consignee's receiving dock; or

18 3. The property stolen is emergency medical equipment,
19 valued at \$300 or more, that is taken from a facility licensed
20 under chapter 395 or from an aircraft or vehicle permitted
21 under chapter 401,

22

23 the offender commits grand theft in the second degree,
24 punishable as a felony of the second degree, as provided in s.
25 775.082, s. 775.083, or s. 775.084. Emergency medical
26 equipment means mechanical or electronic apparatus used to
27 provide emergency services and care as defined in s.
28 395.002~~(11)~~~~(10)~~ or to treat medical emergencies.

29

30 (Redesignate subsequent sections.)

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

2 And the title is amended as follows:

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

4

5 and insert:

6 conforming cross-references; amending s.
7 395.002, F.S.; revising definitions relating to
8 emergency services and care provided by
9 hospitals and related facilities; amending s.
10 395.1041, F.S.; revising provisions relating to
11 hospital service capability and access to
12 emergency services and care; directing the
13 Agency for Health Care Administration to
14 convene a workgroup to report to the
15 Legislature regarding hospital service
16 capability requirements; amending ss. 383.50,
17 394.4787, 395.602, 395.701, 400.051, 409.905,
18 468.505, and 812.014, F.S.; conforming
19 cross-references; amending s. 401.23, F.S.;
20 redefining the terms "advanced life support"
21 and "basic life support"; defining the term
22 "emergency medical conditions"; amending s.
23 395.0161,

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