

Bill No. CS/HB 913, 2nd Eng.

Amendment No. Barcode 084092

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Senator Campbell moved the following **amendment to amendment** (913362):

Senate Amendment (with title amendment)

On page 79, between lines 14 and 15,

insert:

Section 27. 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 Medical
24 Association, and the Florida College of Emergency Physicians
25 to make 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 85, line 26, after the semicolon

9

10 insert:

11 amending s. 395.1041, F.S.; revising provisions
12 relating to hospital service capability and
13 access to emergency services and care;
14 directing the Agency for Health Care
15 Administration to convene a workgroup to report
16 to the Legislature regarding hospital service
17 capability requirements;

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