

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

Amendment No. Barcode 742038

<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. 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

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

Amendment No. ____ Barcode 742038

1 faith in accordance with this section. Nothing in this
2 subsection limits liability for negligence.

3 Section 28. Subsection (7) of section 394.4787,
4 Florida Statutes, is amended to read:

5 394.4787 Definitions; ss. 394.4786, 394.4787,
6 394.4788, and 394.4789.--As used in this section and ss.
7 394.4786, 394.4788, and 394.4789:

8 (7) "Specialty psychiatric hospital" means a hospital
9 licensed by the agency pursuant to s. 395.002(30)~~(29)~~ as a
10 specialty psychiatric hospital.

11 Section 29. Present subsections (9), (10), (26), and
12 (30) of section 395.002, Florida Statutes, are amended,
13 present subsections (10) through (33) are renumbered as
14 subsections (11) through (34), respectively, and a new
15 subsection (10) is 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

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

Amendment No. ____ Barcode 742038

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

31 (31)(30) "Stabilized" means, with respect to an

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

Amendment No. ____ Barcode 742038

1 emergency medical condition, that no material deterioration of
2 the condition is likely, within reasonable medical
3 probability, to result from the transfer or discharge of the
4 patient from a hospital.

5 Section 30. Subsections (1) and (2) and paragraphs (c)
6 and (d) of subsection (3) of section 395.1041, Florida
7 Statutes, are amended to read:

8 395.1041 Access to emergency services and care.--

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

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

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

Amendment No. ____ Barcode 742038

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

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

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

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

30 2. A physician has signed a certification that, based
31 upon the reasonable risks and benefits to the patient, and

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

Amendment No. ____ Barcode 742038

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

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

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

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

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

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

Amendment No. ____ Barcode 742038

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

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

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

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

22 c. Frequency of procedures.

23 d. Size of hospital.

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

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

Amendment No. ____ Barcode 742038

1 request. The agency has 45 days from the date of receipt of
 2 the request for exemption to approve or deny the request.
 3 ~~After the first year from the effective date of subparagraph~~
 4 ~~1.~~If the agency fails to initially act within the time
 5 period, the hospital is deemed to be exempt from offering the
 6 service until the agency initially acts to deny the request.
 7 5. The agency shall convene a workgroup consisting of
 8 representatives from the Florida Hospital Association, the
 9 Florida Statutory Teaching Hospital Council, the Florida
 10 Medical Association, the Florida Osteopathic Medical
 11 Association, and the Florida College of Emergency Physicians
 12 to make recommendations to the Legislature for changes to this
 13 paragraph regarding:
 14 a. Services performed on an infrequent basis that
 15 would not be considered to be within the service capability of
 16 the hospital.
 17 b. Situations in which hospitals would be deemed
 18 exempt from providing services at all times that are within
 19 their service capability.
 20 Section 31. Paragraph (c) of subsection (2) of section
 21 395.602, Florida Statutes, is amended to read:
 22 395.602 Rural hospitals.--
 23 (2) DEFINITIONS.--As used in this part:
 24 (c) "Inactive rural hospital bed" means a licensed
 25 acute care hospital bed, as defined in s. 395.002(15)(14),
 26 that is inactive in that it cannot be occupied by acute care
 27 inpatients.
 28 Section 32. Paragraph (c) of subsection (1) of section
 29 395.701, Florida Statutes, is amended to read:
 30 395.701 Annual assessments on net operating revenues
 31 for inpatient and outpatient services to fund public medical

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

Amendment No. ____ Barcode 742038

1 assistance; administrative fines for failure to pay
2 assessments when due; exemption.--

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

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

8 Section 33. Paragraph (b) of subsection (1) of section
9 400.051, Florida Statutes, is amended to read:

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

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

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

16 Section 34. Section 401.23, Florida Statutes, is
17 amended to read:

18 401.23 Definitions.--As used in this part, the term:

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

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

Amendment No. ____ Barcode 742038

1 ~~the administration of drugs or intravenous fluids, telemetry,~~
2 ~~cardiac monitoring, and cardiac defibrillation by a qualified~~
3 ~~person, pursuant to rules of the department.~~

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

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

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

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

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

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

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

Amendment No. ____ Barcode 742038

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

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

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

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

25 (11) "Emergency medical condition" means:

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

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

Amendment No. ____ Barcode 742038

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

3 2. Serious impairment to bodily functions.

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

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

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

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

13 2. Serious jeopardy to the health of others.

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

17 (13)(12) "Interfacility transfer" means the
 18 transportation by ambulance of a patient between two
 19 facilities licensed under chapter 393, chapter 395, or chapter
 20 400, pursuant to this part.

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

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

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

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

Amendment No. ____ Barcode 742038

1 operations and training pursuant to this part.

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

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

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

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

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

26 (22)~~(21)~~ "Secretary" means the Secretary of Health.

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

30 Section 35. Subsection (8) of section 409.905, Florida
31 Statutes, is amended to read:

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

Amendment No. ____ Barcode 742038

1 409.905 Mandatory Medicaid services.--The agency may
2 make payments for the following services, which are required
3 of the state by Title XIX of the Social Security Act,
4 furnished by Medicaid providers to recipients who are
5 determined to be eligible on the dates on which the services
6 were provided. Any service under this section shall be
7 provided only when medically necessary and in accordance with
8 state and federal law. Mandatory services rendered by
9 providers in mobile units to Medicaid recipients may be
10 restricted by the agency. Nothing in this section shall be
11 construed to prevent or limit the agency from adjusting fees,
12 reimbursement rates, lengths of stay, number of visits, number
13 of services, or any other adjustments necessary to comply with
14 the availability of moneys and any limitations or directions
15 provided for in the General Appropriations Act or chapter 216.

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

31 Section 36. Paragraph (1) of subsection (1) of section

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

Amendment No. ____ Barcode 742038

1 468.505, Florida Statutes, is amended to read:

2 468.505 Exemptions; exceptions.--

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

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

9 Section 37. Paragraph (b) of subsection (2) of section
10 812.014, Florida Statutes, is amended to read:

11 812.014 Theft.--

12 (2)

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

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

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

23
24 the offender commits grand theft in the second degree,
25 punishable as a felony of the second degree, as provided in s.
26 775.082, s. 775.083, or s. 775.084. Emergency medical
27 equipment means mechanical or electronic apparatus used to
28 provide emergency services and care as defined in s.
29 395.002(11)~~(10)~~ or to treat medical emergencies.

30
31 (Redesignate subsequent sections.)

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

Amendment No. ____ Barcode 742038

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 85, line 26,

4

5 insert:

6 amending s. 395.002, F.S.; revising definitions
7 relating to emergency services and care

8 provided by hospitals and related facilities;

9 amending s. 395.1041, F.S.; revising provisions
10 relating to hospital service capability and

11 access to emergency services and care;

12 directing the Agency for Health Care

13 Administration to convene a workgroup to report
14 to the Legislature regarding hospital service

15 capability requirements; amending ss. 383.50,
16 394.4787, 395.602, 395.701, 400.051, 409.905,

17 468.505, and 812.014, F.S.; conforming

18 cross-references; amending s. 401.23, F.S.;

19 redefining the terms "advanced life support"

20 and "basic life support"; defining the term

21 "emergency medical conditions";

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