

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1447 w/CS St. Lucie County Hospital Governance  
**SPONSOR(S):** Mayfield  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** None.

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Health Standards (Sub)</u>	<u>7 Y, 0 N</u>	<u>Mitchell</u>	<u>Collins</u>
2) <u>Health Care</u>	<u>17 Y, 0 N w/CS</u>	<u>Mitchell</u>	<u>Collins</u>
3) <u>Local Government &amp; Veterans' Affairs</u>	<u></u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

This bill creates an act known as the "St. Lucie County Hospital Governance Law". This bill clarifies the delineation of authority within each hospital within St. Lucie County. The intent of the bill is to provide consolidation of a hospital corporation's board of directors' authority and responsibility under existing statutes with respect to the operation of a hospital. This includes the granting, denial, and discipline of medical staff and clinical privileges, and compliance with statutorily mandated peer review, risk management, and quality assurance activities.

This bill provides that the board of directors of each general hospital operating in St. Lucie County whose license is held by a corporation shall appoint or elect a governing board for each hospital and that the board of directors may delegate authority to the governing board of the hospital. The bill establishes that ultimate responsibility lies with the hospital corporation, and delegation of authority remains subject to control of the board of directors.

This bill provides that in the event of a conflict between bylaws of a hospital corporation's board of directors and a hospital's medical staff bylaws, the hospital board's bylaws prevail with respect to medical staff privileges, quality assurance, peer review, and contracts for hospital-based services.

According to the Economic Impact Statement, there is no fiscal impact on the state budget or the local government budget.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1447c.lgv.doc  
**DATE:** April 16, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### Effects of Proposed Changes

This bill creates an act known as the "St. Lucie County Hospital Governance Law". This bill clarifies the delineation of authority within each hospital within St. Lucie County. The intent of the bill is to provide consolidation of a hospital corporation's board of directors' authority and responsibility under existing statutes with respect to the operation of a hospital. This includes the granting, denial, and discipline of medical staff and clinical privileges, and compliance with statutorily mandated peer review, risk management, and quality assurance activities.

This bill provides that the board of directors of each general hospital operating in St. Lucie County whose license is held by a corporation shall appoint or elect a governing board for each hospital and that the board of directors may delegate authority to the governing board of the hospital. The bill establishes that ultimate responsibility lies with the hospital corporation, and delegation of authority remains subject to control of the board of directors.

This bill provides that in the event of a conflict between bylaws of a hospital corporation's board of directors and a hospital's medical staff bylaws, the hospital board's bylaws prevail with respect to medical staff privileges, quality assurance, peer review, and contracts for hospital-based services.

This bill responds to problems faced by one hospital, Lawnwood Regional Hospital, a Healthcare Corporation of America hospital located in St. Lucie County. The hospital reports that it been unable to bring disciplinary action against the clinical privileges of two physicians who have been charged with criminal acts, due to the failure of the medical staff at the hospital to initiate peer review procedures as required by hospital procedures. Lawnwood Regional Medical Center is a 345-bed, acute care facility and the largest medical center in St. Lucie County. It has more than 200 physicians and more than 1200 employees on staff.

##### Board authority in relation to medical staff

The bill provides intent to consolidate a hospital corporation's board of directors' authority and responsibility under existing statutes with respect to the operation of a hospital. This includes the granting, denial, and discipline of medical staff and clinical privileges, and compliance with statutorily mandated peer review, risk management, and quality assurance activities.

The bill provides that its intent is not to supersede existing medical staff bylaws, but to clarify that in the event of a conflict between bylaws of a hospital corporation's board of directors and a hospital's medical staff bylaws, the hospital board's bylaws prevail with respect to medical staff privileges, quality assurance, peer review, and contracts for hospital-based services.

The bill provides that a governing board's authority for the administration of the hospital is not limited by the authority of its medical staff. If the bylaws or other regulations of the medical staff conflict with the bylaws or other regulations of the governing board, those of the governing board control with respect to medical staff privileges, quality assurance, peer review, and contracts for hospital-based services. It provides that in no event shall a decision regarding medical staff privileges be made by the governing board based entirely on economic considerations.

The bill provides that the governing board is ultimately responsible for the administration of the hospital, including conducting peer review, overseeing the risk management program and determining eligibility for medical staff membership and clinical privileges.

The bill also provides procedures for amending the hospital's medical staff bylaws and related manuals, rules, or regulations.

### **Procedures for a governing board to modify a medical staff recommendation**

The bill provides that a governing board may take action independent of the actions of the medical staff against an individual physician concerning medical staff membership, clinical privileges, peer review, or quality assurance, when the medical staff has failed to act within 75 days after a request from the governing board. The bill provides that the board may reject or modify a medical staff recommendation and take action if the medical staff has failed to act in disciplining staff.

The bill provides procedures for the governing board to recommend disciplinary action to a six-member joint conference committee composed of three members of the governing board and three members of the medical staff if the board determines that corrective or disciplinary action is necessary. The joint conference committee shall accept or reject the recommendation of the board for disciplinary action after a fair hearing. Final action is taken by the governing board but the board shall give full consideration to the recommendations of the joint conference committee.

### **Current Situation**

This bill responds to problems faced by one hospital, Lawnwood Regional Hospital, a Healthcare Corporation of America hospital located in St. Lucie County. The hospital reports that it has been unable to bring disciplinary action against the clinical privileges of two physicians who have been charged with criminal acts, due to the failure of the medical staff at the hospital to initiate peer review procedures as required by hospital procedures.

Currently, authority of the governing board of any hospital in relation to its medical staff is subject to the provisions of sections 395.0191 and 395.0193, Florida Statutes, and the articles of incorporation and bylaws of the hospital corporation.

Section 395.0193, F.S., relating to licensed facilities, peer review, disciplinary powers, agency or partnership with physicians provides that:

- (2) Each licensed facility, as a condition of licensure, shall provide for peer review of physicians who deliver health care services at the facility. Each licensed facility shall develop written, binding procedures by which such peer review shall be conducted.

The statute requires the procedures for peer review to be reviewed annually by the governing board of the licensed facility. After considering the recommendations of its peer review panel, the governing board of a licensed facility is required to suspend, deny, revoke, or curtail the privileges, or reprimand, counsel, or require education, of any staff member or physician after determination is made that grounds for discipline exist.

Section 395.0191 (4) and (5), F.S., relating to staff membership and clinical privileges provides that the medical staff of a licensed facility has the authority to review for approval or disapproval all applications for appointment and reappointment of staff and make recommendations on each applicant to the governing board, including privileges to be granted. The provisions also require the governing board of each licensed facility to set standards and procedures to be applied by the licensed facility and its medical staff in considering applications for staff membership or clinical privileges.

C. SECTION DIRECTORY:

**Section 1.** Provides intent to clarify hospital authority within St. Lucie County.

**Section 2.** Provides a popular name: "St. Lucie County Hospital Governance Law."

**Section 3.** Provides for delegation of authority from a board of directors to a governing board, with ultimate responsibility remaining with the board of directors.

**Section 4.** Provides the governing board is responsible for the administration of the hospital including eligibility for medical staff membership and clinical privileges, subject to the provisions of ss. 395.0191 and 395.0193, F.S., and the articles of incorporation and bylaws of the hospital corporation.

**Section 5.** Provides that a governing board's authority for the administration of the hospital is not limited by the authority of its medical staff.

**Section 6.** Provides conditions and procedures for a governing board to modify a medical staff recommendation.

**Section 7.** Provides the act shall take effect upon becoming a law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 28, 2003

WHERE? *The Fort Pierce Tribune* and *The Port St. Lucie Tribune*, Fort Pierce, St. Lucie County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Other Comments**

**Comment by Health Care Committee:**

At the time the bill was presented an amendment to the bill was proposed. The amendment by Rep. Harrell was agreed to by the delegation. The substance of the amendment is being advertised in a newspaper of general circulation but has not run the 30 days as required by the Florida Constitution. The language in the notice and the amendment has been reviewed by staff of the Committee on Local Government & Veterans' Affairs. According to staff of the Committee on Local Government & Veterans' Affairs, based on their review and knowledge of the advertisement, there is no impediment to having the amendment heard by the Committee on Health Care at its next meeting. The bill, and expected amendment, will be heard subsequently by the Committee on Local Government and Veterans' Affairs. It is expected that by that time, the original affidavit of proof of publication will be available so that the bill can be heard by the Committee on Local Government & Veterans' Affairs.

**Comment by Local Government & Veterans' Affairs:**

The substance of the amendment has been re-advertised and the ad will not mature until a date after the Local Government & Veterans' Affairs Committee meets. The Committee on Local Government & Veterans' Affairs has, in its possession, the original proof of publication relating to the amendment. The ad will "mature" during week 9 of Session and the bill will be available for a hearing by the full House at that time. Although there was no requirement that the amendatory language be re-advertised, as most of the substance appears in the original ad, counsel for the Hospital deemed it advisable to advertise the amendment. The local legislative delegation agreed to the amendment.

**IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES**

On March 27, 2003, the Subcommittee on Health Standards adopted one amendment and reported the bill favorably to the Committee on Health Care.

The amendment makes three changes to the bill: 1) it specifies that hospital board bylaws prevail with respect to medical staff privileges, quality assurance, peer review and contracts; 2) the amount of time for medical staff to act on a board request is extended to 75 days; and 3) the board is required to give full and complete consideration to the joint conference committee recommendations.

On April 9, 2003, the Committee on Health Care adopted the amendment recommended by the subcommittee and reported the bill favorably with a Committee Substitute.