

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Health and Human Services Appropriations Committee

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BILL: CS/CS/SB 1622

SPONSOR: Health and Human Services Appropriations Committee, Health Care Committee and Senator Atwater

SUBJECT: Hospices

DATE: April 21, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/CS</u>
2.	<u>Dull</u>	<u>Peters</u>	<u>HA</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The bill permits licensure of a for-profit hospice in a hospice service area with a population of 750,000 or more, except that it may not be located in any county in the service area which has a population of 550,000 or less; or in an area where a for-profit hospice is currently licensed to operate.

The bill requires the Agency for Health Care Administration (AHCA) to report to the Legislature by January 1, 2007, regarding the impact of for-profit hospices on the delivery of care to terminally ill patients.

The bill amends section 400.602, F.S.

## II. Present Situation:

### Hospice Licensure

Hospices are licensed under pt. VI of ch. 400, F.S. Under s. 400.601(3), F.S., *hospice* is defined as “a centrally administered corporation not for profit, as defined in ch. 617, F.S., providing a continuum of palliative and supportive care for the terminally ill patient and his or her family.” A *corporation not for profit* is defined in s. 617.01401(5), F.S., as a corporation no part of the income or profit of which is distributable to its members, directors, or officers. Florida has 42 licensed hospices, most of which are operated as not-for-profit corporations.

Section 400.602(5), F.S., provides that any hospice operating in corporate form exclusively as a hospice, incorporated on or before July 1, 1978, may be transferred to a for-profit or not-for-

profit entity, and may transfer the license to that entity. Subsection (6) provides that notwithstanding the definition of hospice in s. 400.601(3), F.S., at any time after July 1, 1995, any entity entitled to licensure under s. 406.602(5), F.S., may obtain a license for up to two additional hospices in accordance with the other requirements of pt. VI of ch. 400, F.S., and upon receipt of any certificate of need that may be required under the provisions of ss. 408.031-408.045, F.S. One company, VITAS, has operated for-profit hospices in Florida since the 1980s under the exception in s. 400.602(5) and (6), F.S. VITAS currently operates 5 hospices in Florida.

### **Certificate-of-Need Review for Hospices**

The establishment of a hospice or hospice inpatient facility is subject to certificate-of-need (CON) review under s. 408.036(1)(d), F.S. A special provision applies when a CON application is made to establish or expand a hospice. Under s. 408.043(2), F.S., the need for such hospice must be determined on the basis of the need for, and availability of, hospice services in the community. The formula on which the CON is based must discourage regional monopolies and promote competition. The inpatient hospice care component of a hospice which is a freestanding facility, or a part of a facility, which is primarily engaged in providing inpatient care and related services and is not licensed as a health care facility must also be required to obtain a CON. Provision of hospice care by any current provider of health care is a significant change in service and therefore requires a CON for such services.

### **Hospice Service Areas**

The 27 service areas for hospices are established in rule 59C-1.0355, F.A.C., as follows:

- Service Area 1 consists of Escambia, Okaloosa, Santa Rosa, and Walton Counties.
- Service Area 2A consists of Bay, Calhoun, Gulf, Holmes, Jackson, and Washington Counties.
- Service Area 2B consists of Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.
- Service Area 3A consists of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union Counties.
- Service Area 3B consists of Marion County.
- Service Area 3C consists of Citrus County.
- Service Area 3D consists of Hernando County.
- Service Area 3E consists of Lake and Sumter Counties.
- Service Area 4A consists of Baker, Clay, Duval, Nassau, and St. Johns Counties.
- Service Area 4B consists of Flagler and Volusia Counties.
- Service Area 5A consists of Pasco County.
- Service Area 5B consists of Pinellas County.
- Service Area 6A consists of Hillsborough County.
- Service Area 6B consists of Hardee, Highlands, and Polk Counties.
- Service Area 6C consists of Manatee County.
- Service Area 7A consists of Brevard County.
- Service Area 7B consists of Orange and Osceola Counties.

- Service Area 7C consists of Seminole County.
- Service Area 8A consists of Charlotte and DeSoto Counties.
- Service Area 8B consists of Collier County.
- Service Area 8C consists of Glades, Hendry and Lee Counties.
- Service Area 8D consists of Sarasota County.
- Service Area 9A consists of Indian River County.
- Service Area 9B consists of Martin, Okeechobee, and St. Lucie Counties.
- Service Area 9C consists of Palm Beach County.
- Service Area 10 consists of Broward County.
- Service Area 11 consists of Dade and Monroe Counties.

### **III. Effect of Proposed Changes:**

The bill amends s. 400.602, F.S., to permit licensure of a for-profit hospice in a hospice service area with a population of 750,000 or more, except that it may not be located in any county in the service area which has a population of 550,000 or less; or in an area where a for-profit hospice is currently licensed to operate. Under the provisions of the bill, based on projected populations for 2005, for-profit hospices could be licensed in the following 10 hospice service areas:

- Service Area 4A—Baker, Clay, Duval, Nassau, and St. Johns Counties (pop. 1,251,077)
- Service Area 4B—Flagler and Volusia Counties (pop. 552,595; for-profit CON approved)
- Service Area 5B—Pinellas County (pop. 951,465)
- Service Area 6A—Hillsborough County (pop. 1,118,063)
- Service Area 7A—Brevard County (pop. 523,757; site of for-profit hospice)
- Service Area 7B—Orange and Osceola Counties (pop. 1,258,011; site of for-profit hospice)
- Service Area 7C—Seminole County (pop. 410,407; site of for-profit hospice)
- Service Area 9C—Palm Beach County (pop. 1,260,707; site of for-profit hospice)
- Service Area 10—Broward County (pop. 1,757,569; site of for-profit hospice)
- Service Area 11—Dade and Monroe Counties (pop. 2,486,342; site of for-profit hospice)

In the future, for-profit hospices could be licensed in other service areas when those areas reach a population of at least 750,000.

The bill requires AHCA to report to the Legislature by January 2007, regarding the impact of for-profit hospices on the delivery of care to terminally ill patients.

The bill will take effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

For-profit corporations will be able to compete for a certificate of need to become a hospice.

While the actual number of licensed hospices will continue to be regulated by the certificate-of-need process, the changes in this bill likely will increase competition among prospective providers and could limit the capabilities of not-for-profit hospice charitable organizations.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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