

ENROLLED  
HB 1417, Engrossed 1

2006 Legislature

1 A bill to be entitled

2 An act relating to hospices; amending s. 400.601, F.S.;  
3 revising the definition of the term "hospice"; amending s.  
4 400.602, F.S.; requiring that a hospice state the year of  
5 initial licensure in the state; prescribing the manner and  
6 placement of such notification; providing an exception;  
7 deleting provisions authorizing the transfer of certain  
8 hospices and the acquisition of additional licenses;  
9 amending s. 400.606, F.S.; providing that the Agency for  
10 Health Care Administration may not deny a license to  
11 applicants that fail to meet certain conditions when good  
12 cause for such failure can be demonstrated; amending s.  
13 400.6105, F.S.; requiring a hospice to use trained  
14 volunteers and to document and report certain volunteer  
15 information; requiring the Office of Program Policy  
16 Analysis and Government Accountability to submit a report  
17 to the Legislature; providing legislative intent;  
18 requiring the Department of Elderly Affairs, in  
19 conjunction with the agency, to develop certain outcome  
20 measures; providing for adoption of national initiatives;  
21 requiring an annual report; providing for severability;  
22 providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsection (3) of section 400.601, Florida  
27 Statutes, is amended to read:

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28 400.601 Definitions.--As used in this part, the term:

29 (3) "Hospice" means a centrally administered corporation  
 30 ~~not for profit, as defined in chapter 617,~~ providing a continuum  
 31 of palliative and supportive care for the terminally ill patient  
 32 and his or her family.

33 Section 2. Section 400.602, Florida Statutes, is amended  
 34 to read:

35 400.602 Licensure required; prohibited acts; exemptions;  
 36 display, transferability of license.--

37 (1)(a) It is unlawful to operate or maintain a hospice  
 38 without first obtaining a license from the agency.

39 (b) It is unlawful for any person or legal entity not  
 40 licensed as a hospice under this part to use the word "hospice"  
 41 in its name, or to offer or advertise hospice services or  
 42 hospice-like services in such a way as to mislead a person to  
 43 believe that the offeror is a hospice licensed under this part.

44 (c) It is unlawful for any person or legal entity  
 45 offering, describing, or advertising hospice services or  
 46 hospice-like services or otherwise holding itself out as a  
 47 hospice to do so without stating the year of initial licensure  
 48 as a hospice in the state or the year of initial licensure of  
 49 the hospice entity or affiliate based in the state that owns the  
 50 hospice. At a minimum, the year of initial licensure must be  
 51 stated directly beneath the name of the licensed entity in a  
 52 type no less than 25 percent of the size of the type used for  
 53 the name or other indication of hospice services or hospice-like  
 54 services and must be prominently stated at least one time on any

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55 document, item, or other medium offering, describing, or  
56 advertising hospice services or hospice-like services. This  
57 requirement excludes any materials relating to the care and  
58 treatment of an existing hospice patient.

59 (2) Services provided by a hospital, nursing home, or  
60 other health care facility, health care provider, or caregiver,  
61 or under the Community Care for the Elderly Act, do not  
62 constitute a hospice unless the facility, provider, or caregiver  
63 establishes a separate and distinct administrative program to  
64 provide home, residential, and homelike inpatient hospice  
65 services.

66 (3)(a) A separately licensed hospice may not use a name  
67 which is substantially the same as the name of another hospice  
68 licensed under this part.

69 (b) A licensed hospice which intends to change its name or  
70 address must notify the agency at least 60 days before making  
71 the change.

72 (4) The license shall be displayed in a conspicuous place  
73 inside the hospice program office; shall be valid only in the  
74 possession of the person or public agency to which it is issued;  
75 shall not be subject to sale, assignment, or other transfer,  
76 voluntary or involuntary; and shall not be valid for any hospice  
77 other than the hospice for which originally issued.

78 ~~(5) Notwithstanding s. 400.601(3), any hospice operating~~  
79 ~~in corporate form exclusively as a hospice, incorporated on or~~  
80 ~~before July 1, 1978, may be transferred to a for profit or not-~~  
81 ~~for profit entity, and may transfer the license to that entity.~~

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82 ~~(6) Notwithstanding s. 400.601(3), at any time after July~~  
 83 ~~1, 1995, any entity entitled to licensure under subsection (5)~~  
 84 ~~may obtain a license for up to two additional hospices in~~  
 85 ~~accordance with the other requirements of this part and upon~~  
 86 ~~receipt of any certificate of need that may be required under~~  
 87 ~~the provisions of ss. 408.031-408.045.~~

88 Section 3. Subsection (7) is added to section 400.606,  
 89 Florida Statutes, to read:

90 400.606 License; application; renewal; conditional license  
 91 or permit; certificate of need.--

92 (7) The agency may deny a license to an applicant that  
 93 fails to meet any condition for the provision of hospice care or  
 94 services imposed by the agency on a certificate of need by final  
 95 agency action, unless the applicant can demonstrate that good  
 96 cause exists for the applicant's failure to meet such condition.

97 Section 4. Subsection (4) of section 400.6105, Florida  
 98 Statutes, is amended to read:

99 400.6105 Staffing and personnel.--

100 (4) A hospice must maintain a trained volunteer staff for  
 101 the purpose of providing both administrative support and direct  
 102 patient care. A hospice must use trained volunteers who work in  
 103 defined roles and under the supervision of a designated hospice  
 104 employee for an amount of time that equals at least 5 percent of  
 105 the total patient care or administrative hours provided by all  
 106 paid hospice employees and contract staff in the aggregate. The  
 107 hospice shall document and report the use of volunteers,  
 108 including maintaining a record of the number of volunteers, the

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109 | number of hours worked by each volunteer, and the tasks  
110 | performed by each volunteer.

111 |       Section 5. No later than January 1, 2010, the Office of  
112 | Program Policy Analysis and Government Accountability shall  
113 | submit to the President of the Senate and the Speaker of the  
114 | House of Representatives a report analyzing the impact of for-  
115 | profit hospices on the delivery of care to terminally ill  
116 | patients and include in the report a review of the quality of  
117 | care offered by for-profit hospices, changes in the competitive  
118 | marketplace in hospice service areas, and any other information  
119 | deemed pertinent.

120 |       Section 6. To protect the citizens of the state, it is the  
121 | intent of the Legislature that no change in law be made to the  
122 | hospice licensure and certificate-of-need provisions until the  
123 | year 2012 to correctly analyze and evaluate the impact of this  
124 | act on the quality of hospice care in the state.

125 |       Section 7. (1) No later than December 31, 2007, the  
126 | Department of Elderly Affairs, in conjunction with the Agency  
127 | for Health Care Administration, shall develop outcome measures  
128 | to determine the quality and effectiveness of hospice care for  
129 | hospices licensed in the state. At a minimum, these outcome  
130 | measures shall include a requirement that 50 percent of patients  
131 | who report severe pain on a 0-to-10 scale must report a  
132 | reduction to 5 or less by the end of the 4th day of care on the  
133 | hospice program.

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134       (2) For hospices licensed in the state, the Department of  
135 Elderly Affairs, in conjunction with the Agency for Health Care  
136 Administration, shall:

137       (a) Consider and adopt national initiatives, such as those  
138 developed by the National Hospice and Palliative Care  
139 Organization, to set benchmarks for measuring the quality of  
140 hospice care provided in the state.

141       (b) Develop an annual report that analyzes and evaluates  
142 the information collected under this act and any other data  
143 collection or reporting provisions of law.

144       Section 8. If any provision of this act or its application  
145 to any person or circumstance is held invalid, the invalidity  
146 does not affect other provisions or applications of this act  
147 which can be given effect without the invalid provision or  
148 application, and to this end the provisions of this act are  
149 severable.

150       Section 9. This act shall take effect July 1, 2006.