

By the Committee on Health Care; and Senator Atwater

587-2185-06

1 A bill to be entitled
2 An act relating to hospices; amending s.
3 400.601, F.S.; revising the definition of the
4 term "hospice"; amending s. 400.602, F.S.;
5 requiring that a hospice state the year of
6 initial licensure in the state; prescribing the
7 manner and placement of such notification;
8 deleting provisions authorizing the transfer of
9 certain hospices and the acquisition of
10 additional licenses; amending s. 400.606, F.S.;
11 requiring the Agency for Health Care
12 Administration to deny a license or renewal of
13 a license to hospices that fail to meet certain
14 conditions; amending s. 400.6105, F.S.;
15 requiring a hospice to use trained volunteers
16 and to document and report certain volunteer
17 information; requiring the Office of Program
18 Policy Analysis and Government Accountability
19 to submit a report to the Legislature;
20 providing legislative intent; providing that
21 the Department of Elderly Affairs, in
22 conjunction with the agency and all hospices
23 licensed in the state, develop certain outcome
24 measures; providing for adoption of national
25 initiatives; requiring an annual report;
26 providing for severability; providing an
27 effective date.
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29 Be It Enacted by the Legislature of the State of Florida:
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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

3 400.601 Definitions.--As used in this part, the term:

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

8 Section 2. Section 400.602, Florida Statutes, is
9 amended to read:

10 400.602 Licensure required; prohibited acts;
11 exemptions; display, transferability of license.--

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

14 (b) It is unlawful for any person or legal entity not
15 licensed as a hospice under this part to use the word
16 "hospice" in its name, or to offer or advertise hospice
17 services or hospice-like services in such a way as to mislead
18 a person to believe that the offeror is a hospice licensed
19 under this part.

20 (c) It is unlawful for any person or legal entity
21 offering, describing, or advertising hospice services or
22 hospice-like services or otherwise holding itself out as a
23 hospice to do so without stating the year of initial licensure
24 as a hospice in the state or the year of initial licensure of
25 the hospice entity or affiliate based in the state that owns
26 the hospice. At a minimum, the year of initial licensure must
27 be stated directly beneath the name of the licensed entity in
28 a type no less than 25 percent of the size of the type used
29 for the name or other indication of hospice services or
30 hospice-like services and must be prominently stated at least
31 one time on any document, item, or other medium offering,

1 describing, or advertising hospice services or hospice-like
2 services.

3 (2) Services provided by a hospital, nursing home, or
4 other health care facility, health care provider, or
5 caregiver, or under the Community Care for the Elderly Act, do
6 not constitute a hospice unless the facility, provider, or
7 caregiver establishes a separate and distinct administrative
8 program to provide home, residential, and homelike inpatient
9 hospice services.

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

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

16 (4) The license shall be displayed in a conspicuous
17 place inside the hospice program office; shall be valid only
18 in the possession of the person or public agency to which it
19 is issued; shall not be subject to sale, assignment, or other
20 transfer, voluntary or involuntary; and shall not be valid for
21 any hospice other than the hospice for which originally
22 issued.

23 ~~(5) Notwithstanding s. 400.601(3), any hospice~~
24 ~~operating in corporate form exclusively as a hospice,~~
25 ~~incorporated on or before July 1, 1978, may be transferred to~~
26 ~~a for profit or not for profit entity, and may transfer the~~
27 ~~license to that entity.~~

28 ~~(6) Notwithstanding s. 400.601(3), at any time after~~
29 ~~July 1, 1995, any entity entitled to licensure under~~
30 ~~subsection (5) may obtain a license for up to two additional~~
31 ~~hospices in accordance with the other requirements of this~~

1 ~~part and upon receipt of any certificate of need that may be~~
2 ~~required under the provisions of ss. 408.031 408.045.~~

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

5 400.606 License; application; renewal; conditional
6 license or permit; certificate of need.--

7 (7) The agency may deny a license to an applicant that
8 fails to meet any condition for the provision of hospice care
9 or services imposed by the agency on a certificate of need by
10 final agency action, unless, as determined by the agency in
11 its sole discretion, that good cause exists for the
12 applicant's failure to meet such condition.

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

15 400.6105 Staffing and personnel.--

16 (4) A hospice must maintain a trained volunteer staff
17 for the purpose of providing both administrative support and
18 direct patient care. A hospice must use trained volunteers who
19 work in defined roles and under the supervision of a
20 designated hospice employee for an amount of time that equals
21 at least 5 percent of the total patient care or administrative
22 hours, of which at least 50 percent must be direct
23 patient-care hours, provided by all paid hospice employees and
24 contract staff in the aggregate. The hospice shall document
25 and report the use of volunteers, including maintaining a
26 record of the number of volunteers, the number of hours worked
27 by each volunteer, and the tasks performed by each volunteer.

28 Section 5. No later than January 1, 2010, the Office
29 of Program Policy Analysis and Government Accountability shall
30 submit to the President of the Senate and the Speaker of the
31 House of Representatives a report analyzing the impact of

1 for-profit hospices on the delivery of care to terminally ill
2 patients and include in the report a review of the quality of
3 care offered by for-profit hospices, changes in the
4 competitive marketplace in hospice service areas, and any
5 other information deemed pertinent.

6 Section 6. In order to protect the citizens of the
7 state, it is the intent of the Legislature that no change in
8 law or in administrative rule be made to the hospice licensure
9 and certificate-of-need provisions until the year 2012 in
10 order to correctly analyze and evaluate the impact of this act
11 on the quality of hospice care in the state.

12 Section 7. (1) No later than December 31, 2007, the
13 Department of Elderly Affairs, in conjunction with the Agency
14 for Health Care Administration and all hospices licensed in
15 the state, shall develop outcome measures to determine the
16 quality and effectiveness of hospice care in the state. At a
17 minimum, these outcome measures shall include a requirement
18 that:

19 (a) Fifty percent of patients who report severe pain
20 on a 0-to-10 scale must report a reduction to 5 or less by the
21 end of the 4th day of care on the hospice program; and

22 (b) Each patient and family the hospice serves is
23 provided a patient and family satisfaction questionnaire.
24 Seventy-five percent of patients and families who respond to
25 the questionnaire with respect to overall hospice satisfaction
26 must indicate an overall satisfaction of 90 percent or higher.

27 (2) The Department of Elderly Affairs, in conjunction
28 with the Agency for Health Care Administration and all
29 hospices licensed in the state, shall:

30 (a) Consider and adopt national initiatives, such as
31 those developed by the National Hospice and Palliative Care

1 Organization, to set benchmarks for measuring the quality of
2 hospice care provided in the state.

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

6 Section 8. If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 invalidity does not affect other provisions or applications of
9 this act which can be given effect without the invalid
10 provision or application, and to this end the provisions of
11 this act are severable.

12 Section 9. This act shall take effect July 1, 2006.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1548

4 The committee substitute amends the definition of "hospice" in
5 the hospice licensure law to delete the requirement that a
6 hospice be a not-for-profit corporation and deletes the
7 provisions allowing certain for-profit entities to get an
8 exception to the not-for-profit licensure requirement in order
9 to conform to the new definition of hospice.

10 The committee substitute makes it unlawful for a person or
11 entity to offer, describe, or advertise hospice services or
12 otherwise hold itself out as a hospice without stating the
13 year of initial licensure as a hospice in Florida.

14 The committee substitute authorizes the Agency for Health Care
15 Administration (AHCA or agency) to deny a license to an
16 applicant that fails to meet any condition of a certificate of
17 need, unless the agency determines there was good cause. A
18 hospice must use trained volunteers for at least 5 percent of
19 the total patient-care and administrative hours. At least 50
20 percent of such hours must be direct patient-care hours. The
21 hospice must document the number of volunteers, the hours
22 worked by the volunteers, and the tasks performed by each
23 volunteer.

24 The committee substitute requires the Office of Program Policy
25 Analysis and Government Accountability to submit a report to
26 the Legislature by January 1, 2010, analyzing the impact of
27 for-profit hospices. The bill states that it is the intent of
28 the Legislature that there be no changes in the laws or rules
29 for hospice licensure until 2012. By December 31, 2007, the
30 Department of Elderly Affairs (DOEA), the agency, and all
31 hospices licensed in Florida must develop outcome measures for
32 hospice care. The DOEA, AHCA, and all hospices in Florida must
33 also adopt national quality initiatives and develop an annual
34 report. If any part of the act or application is invalid, it
35 is severable and does not affect the other parts.