

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7141 CS PCB HCR 06-02 Licensure of Health Care Providers

SPONSOR(S): Health Care Regulation Committee, Garcia

TIED BILLS: _____ **IDEN./SIM. BILLS:** _____

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Health Care Regulation Committee	11 Y, 0 N	Bell	Mitchell
1) Health Care Appropriations Committee	15 Y, 0 N	Speir	Massengale
2) Health & Families Council	11 Y, 0 N, w/CS	Bell	Moore
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

House Bill 7141 CS eliminates unnecessary duplication and variation of licensure requirements by health care providers licensed by the Agency for Health Care Administration (AHCA). The bill defines common terminology and consolidates core licensure requirements in newly created part II of chapter 408, F.S. The organization of core, uniform standards is similar to the regulatory scheme for health care practitioners by the Department of Health.

Standard minimum licensure requirements consolidated in the bill include timeframes for the license application processing, two-year renewal cycle, definition of change of ownership, background screening, notice of exclusion from Medicare or Medicaid, notice of closure, inactive license, records retention, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, license denial, emergency suspension, and revocation.

The bill lists the facilities affected by the bill.

This bill does not have a fiscal impact on the state or local governments. It may have an impact on service providers in future years if licensure fee increases are necessary to support the actual cost of regulation.

The effective date of the bill is October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill consolidates licensure standards and regulations of health care facilities into core licensure statutes. The bill streamlines current regulation and decreases unnecessary variations.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The licensure statutes for various health care providers regulated by AHCA contain duplication and variation of certain basic licensing standards. These standards include the application process, changes of ownership, licensure categories, background screenings, changes of administrator, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation. The majority of licenses are required to be renewed annually, although some programs call for biennial licensure. Each of these regulatory statutes has evolved independently and, as such, there is variation in the definitions of similar requirements. Licensure processing occurs within the broad requirements of licensure under the Administrative Procedures Act, s. 120.60, F.S., and many unique requirements within each specify authorizing statutes or rules.

Effect of Bill

House Bill 7141 CS creates part II of chapter 408, F.S., by establishing a set of minimum core licensing requirements for all health care providers licensed by the Agency for Health Care Administration to eliminate unnecessary duplication and variation of licensure requirements among providers. This organization of core, uniform standards is similar to the regulatory scheme for health care practitioners within chapter 456, F.S., by the Department of Health. Common definitions of basic standards serve to eliminate confusion for operators of multiple provider types and streamline the licensure process. The bill creates streamlined and consistent licensing requirements for all providers regulated by AHCA, by standardizing terminology in basic licensure requirements.

The health care licensing programs subject to part II of Chapter 408, F.S., include:

- Drug Free Workplace Laboratories, as provided under ss. 112.0455 and 440.102, F.S.;
- Birth Centers, as provided under chapter 383, F.S.;
- Abortion Clinics, as provided under chapter 390, F.S.;
- Crisis Stabilization Units, as provided under parts I and IV of chapter 394, F.S.;
- Short Term Residential Treatment Units, as provided under parts I and IV of chapter 394, F.S.;
- Residential Treatment Facilities, as provided under part IV of chapter 394, F.S.;
- Residential Treatment Centers for Children and Adolescents, as provided under part IV of chapter 394;
- Hospitals, as provided under part I of chapter 395, F.S.;
- Ambulatory Surgical Centers, as provided under part I of chapter 395, F.S.;
- Mobile Surgical Facilities, as provided under part I of chapter 395, F.S.;
- Private Review Agents, as provided under part I of chapter 395, F.S.;
- Health Care Risk Managers, as provided under part I of chapter 395, F.S.;
- Nursing Homes, as provided under part II of chapter 400, F.S.;
- Assisted Living Facilities, as provided under part III of chapter 400, F.S.;

- Home Health Agencies, as provided under part IV of chapter 400, F.S.;
- Nurse Registries, as provided under part IV of chapter 400, F.S.;
- Companion Services or Homemaker Services Providers, as provided under part IV of chapter 400, F.S.;
- Adult Day Care Centers, as provided under part V of chapter 400, F.S.;
- Hospices, as provided under part VI of chapter 400, F.S.;
- Adult Family-Care Homes, as provided under part VII of chapter 400, F.S.;
- Homes for Special Services as provided under part VIII of chapter 400, F.S.;
- Transitional Living Facilities, as provided under part VIII of chapter 400, F.S.;
- Prescribed Pediatric Extended Care Centers, as provided under part IX of chapter 400, F.S.;
- Home Medical Equipment Providers, as provided under part X of chapter 400, F.S.;
- Intermediate Care Facilities for the Developmentally Disabled, as provided under part XI of chapter 400, F.S.;
- Health Care Services Pools, as provided under part XII of chapter 400, F.S.;
- Health Care Clinics, as provided under part XIII of chapter 400, F.S.;
- Clinical Laboratories, as provided under part I of chapter 483, F.S.;
- Multiphasic Health Testing Centers, as provided under part II of chapter 483, F.S.; and
- Certification of Organizations Engaged in the Practice Of Cadaveric Organ and Tissue Procurement, Certification of Organ Procurement Organizations, Tissue Banks and Eye Banks as provided under chapter 765, F.S.

The bill creates licensing and regulatory standards for all of the facilities above.

Licensure Requirements

The bill provides that it is unlawful to provide or offer services that require a license without first obtaining a license. Applicants must submit the appropriate application with license fee to the Agency for Health Care Administration (AHCA). The license fee cannot exceed the actual cost of regulation pursuant to part II of chapter 408, F.S., authorizing statutes, and administrative rules. Licensure fees may be adjusted annually based on the change in the consumer price index within existing maximum levels if increases are necessary to support the actual cost of regulation.

Inspection Fees

The bill provides for the assessment of inspection fees if required by authorizing statute and a fee assessment for license re-issuance because of a reported change by the provider.

Licensure Renewals

The bill mandates the timeframes for initial, renewal, and change of ownership application submission; the timeframe for AHCA review and approval or denial of applications; and the timeframe for applicant submission of omitted application information. These timeframes provide more specific direction than the broad licensing requirements of s. 120.60, F.S. The duration of a license is typically two years, but conditions of licensure category can shorten that period, such as the issuance of a provisional license. Change of ownership responsibilities of the transferor and transferee are specified in the bill.

Licensure Categories

The bill details the conditions for issuing a standard, provisional, or inactive license.

Background Check Requirements

Federal Bureau of Investigation (FBI) and Florida Department of Law Enforcement (FDLE) background screening is required for administrators, individual owners, and financial officers. A person with controlling interest is subject to background screening when there is reason to believe such person has a disqualifying offense. Notice of change of a person required to undergo background screening must be reported to AHCA, pursuant to the specific authorizing statute and rule requirements. New persons

who are subject to the screening requirements must comply with background screening requirements; however, they may be employed pending FBI screening results if the state level (FDLE) screening is clear.

AHCA Right of Entry & Administrative Actions

The Agency for Health Care Administration (AHCA) has the right of entry and inspection of premises to determine compliance with part II of Chapter 408, F.S., authorizing statutes, and rules. AHCA may not enter into a premise, which AHCA believes is operating without a valid license unless permission is granted by the owner or a warrant is first obtained. The bill provides for administrative actions against unlicensed providers. The bill allows the agency to impose administrative fines, a moratorium on admissions, license denial, emergency suspension or revocation, or seek injunctive relief for regulatory violations affecting resident health, safety or welfare.

C. SECTION DIRECTORY:

Section 1. Creates Part I of Chapter 408, F.S., consisting of sections 408.031, 408.032, 408.033, 408.034, 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039, 408.040, 408.041, 408.042, 408.043, 408.044, 408.045, 408.0455, 408.05, 408.061, 408.062, 408.063, 408.07, 408.08, 408.09, 408.10, 408.15, 408.16, 408.18, 408.185, 408.20, 408.301, 408.302, 408.40, 408.50, 408.70, 408.7056, 408.7057, and 408.7071, F.S., entitled “Health Facility and Services Planning.”

Section 2. Creates Part II of Chapter 408, F.S., consisting of sections 408.801, 408.802, 408.803, 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818, 408.819, 408.820, and 408.831, F.S., entitled “Health Care Licensing: General Provisions.”

Section 3. Creates Part III of Chapter 408, F.S., consisting of sections 408.90, 408.901, 408.902, 408.903, 408.904, 408.905, 408.906, 408.907, 408.908, and 408.909, F.S., entitled “Health Insurance Access.”

Section 4. Creates Part IV of Chapter 408, F.S., consisting of sections 408.911, 408.913, 408.914, 408.915, 408.916, 408.917, and 408.918, F.S., entitled “Health and Human Services Eligibility Access System.”

Section 5. Creates sections 408.801 – 408.820, F.S., consolidating licensing requirements for facilities and services licensed by AHCA.

Section 6. Amends s. 400.801, F.S., redefining “home for special services” to mean a site licensed by AHCA prior to January 1, 2006.

Section 7. Amends s. 408.036, F.S., to provide exemptions from the definition of “clinic.”

Section 8. Amends s. 408.036, F.S., to provide for an exemption.

Section 9. Amends s. 408.831, F.S., authorizing AHCA to deny any application, or suspend or revoke any license when a licensee subject to part II of chapter 408, F.S., shares a common controlling interest with the applicant and has failed to pay all outstanding monies due to AHCA.

Section 10. Specifies that the provisions of part II of chapter 408, F.S., prevail over provider authorizing statutes in case of a conflict.

Section 11. Authorizes AHCA to double current annual licensure fees to provide for biennial licensure.

Section 12. Directs the Division of Statutory Revision of the Office of Legislative Services to assist substantive committees of the Senate and House of Representatives in the preparation of draft legislation to conform the Florida Statutes and any legislation enacted during 2006 to the act.

Section 13. Authorizes AHCA to issue any license for less than two years by charging a prorated licensure fee and specifying a different renewal date between October 1, 2006 and September 30, 2008. This will allow for staggering of expiration dates as providers change from annual to biennial licensure.

Section 13. The effective date of the bill is October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In future years, licensure fees may be adjusted annually based on the change in the consumer price index within existing maximum levels if increases are necessary to support the actual cost of regulation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes rule making authority for the Agency for Health Care Administration to carry out provisions of the core licensing provisions. Some licensure requirements that are currently in rule will no longer be necessary if core licensure standards are implemented.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006 the Health Care Regulation Committee adopted three amendments.

Amendment 1: Specifies that if a license renewal application is submitted late or items are missing from the application, the license will not expire until the Agency for Health Care Administration makes a final decision.

Amendment 2: Clarifies the date that a provider's conditional license will be lifted.

Amendment 3: Adds manmade disasters to the types of disasters that might occur which would cause a licensee to request an inactive license.

On April 18, 2006 the Health & Families Council adopted four amendments and reported the bill favorably.

Amendment 1: Provides criteria for creation of a nursing home by combining licensed beds from two or more licensed nursing homes within a district.

Amendment 2: Clarifies the fine charged to a facility for failure to submit a licensure renewal application. If a facility does not renew their license by the renewal date the Agency for Health Care Administration is authorized to charge the facility at \$50 a day late fee up to one-half of the licensing fee or \$500, whichever is lower.

Amendment 3: Provides that the definition of disaster means a sudden emergency occurrence beyond the control of the licensee including natural, technological, or manmade, which renders the provider inoperable at the premises.

Amendment 4: Provides that certain health care providers are a "clinic" licensed under part XIII of chapter 400, F.S.

The analysis is drafted to the council substitute.