

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.)

Prepared By: Health Regulation Committee

BILL: PCB HR-1

INTRODUCER: For consideration by Health Regulation Committee

SUBJECT: Conforming Bill for Licensure of Health Care Providers Regulated by the Agency for Health Care Administration

DATE: December 29, 2006 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bedford	Wilson		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill conforms the Florida Statutes to legislation enacted during the 2006 Regular Session relating to health care providers regulated by the Agency for Health Care Administration. The bill amends and repeals those portions of the specific licensure statutes for health care facilities and services that are now covered under part II of ch. 408, F.S. Some of the areas affected by the changes are license fees; the license application process; payment of late fees; inspections; the establishment of procedures and rules for the electronic transmission of required information; procedures for the change in ownership; background screening; unlicensed activity; administrative fines; moratoriums and emergency suspensions; license denial or revocation; injunctive proceedings; fees and fines to be deposited in the Health Care Trust Fund; and license duration. The bill specifies in the various specific licensure statutes that the provisions of part II of ch. 408, F.S., apply.

This bill also makes numerous changes to statutory cross-references to reflect the movement of parts III, VII, and V of ch. 400, F.S., to parts I, II, and III of ch. 429, F.S., and the resulting renumbering of the parts in ch. 400, F.S.

This bill amends the following sections of the Florida Statutes: ss. 112.0455, 381.78, 383.301, 383.305, 383.309, 383.315, 383.324, 383.33, 383.332, 383.335, 383.50, 390.011, 390.012, 390.014, 390.015, 390.018, 394.455, 394.4787, 394.67, 394.74, 394.82, 394.875, 394.876, 394.877, 394.879, 394.90, 394.902, 394.907, 395.002, 395.003, 395.004, 395.0161, 395.0163, 395.0193, 395.0197, 395.0199, 395.1046, 395.1055, 395.1065, 395.10973, 395.10974, 395.602, 395.701, 400.0073, 400.0074, 400.021, 400.022, 400.051, 400.062, 400.063, 400.071, 400.0712, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.179, 400.18, 400.19, 400.191, 400.23,

400.241, 400.464, 400.471, 400.474, 400.484, 400.497, 400.506, 400.509, 400.512, 400.602, 400.605, 400.606, 400.6065, 400.607, 400.6095, 400.801, 400.805, 400.902, 400.903, 400.905, 400.906, 400.907, 400.908, 400.912, 400.914, 400.915, 400.916, 400.925, 400.93, 400.931, 400.932, 400.933, 400.935, 400.953, 400.955, 400.962, 400.967, 400.968, 400.969, 400.980, 400.991, 400.9915, 400.9925, 400.993, 400.9935, 400.995, 408.802, 408.832, 409.221, 409.815, 409.905, 409.907, 429.02, 429.07, 429.075, 429.08, 429.11, 429.12, 429.14, 429.17, 429.174, 429.176, 429.18, 429.19, 429.22, 429.26, 429.31, 429.34, 429.35, 429.41, 429.47, 429.67, 429.69, 429.71, 429.73, 429.901, 429.907, 429.909, 429.911, 429.913, 429.915, 429.919, 429.925, 429.927, 429.929, 440.102, 468.505, 483.035, 483.051, 483.061, 483.091, 483.101, 483.106, 483.111, 483.172, 483.201, 483.221, 483.291, 483.294, 483.30, 483.302, 483.317, 483.32, 483.322, 765.541, 765.542, 765.544, 766.118, 766.316, and 812.014.

This bill repeals the following sections of the Florida Statutes: ss. 383.304, 383.325, 383.331, 390.013, 390.016, 390.017, 390.019, 390.021, 394.878, 395.0055, 395.0162, 400.125, 400.495, 400.515, 400.910, 400.911, 400.913, 400.917, 400.95, 400.956, 400.963, 400.965, 400.992, 400.994, 400.9945, 429.15, 429.21, 429.51, 429.77, 429.921, 429.923, 429.933, 483.131, 483.25, 483.311, and 483.328.

II. Present Situation:

Agency for Health Care Administration

The Agency for Health Care Administration (AHCA or agency) is created in s. 20.42, F.S., and its general statutory authority is found in ch. 408, F.S. The agency is the chief health policy and planning entity for the state. The agency is responsible for:

- Health facility and services licensure, inspection, and regulatory enforcement;
- Investigation of consumer complaints related to health care facilities, services, and managed care plans;
- Implementation of the certificate-of-need program;
- Operation of the Florida Center for Health Information and Policy Analysis;
- Administration of the Medicaid program;
- Administration of the contracts with the Florida Healthy Kids Corporation;
- Certification of health maintenance organizations and prepaid health clinics as set forth in parts II and III of ch. 641, F.S.; and
- Any other duties prescribed by statute or agreement.

The statutory provisions for the health care facilities and services requiring licensure by, or registration with, AHCA are found in chs. 112, 383, 390, 394, 395, 400, 429, 440, 483, and 765, F.S. Health care providers that are regulated by AHCA include drug-free workplace laboratories, birth centers, abortion clinics, crisis-stabilization units, short-term residential treatment units, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, mobile surgical facilities, private review agents, health care risk managers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment providers, intermediate care

facilities for persons with developmental disabilities, health care services pools, health care clinics, clinical laboratories, multiphasic health testing centers, and organ and tissue procurement agencies.

History of Core Licensure Legislation

The initial proposal for core licensure legislation came from AHCA and was approved by the Governor's Office and the Office of Policy and Budget prior to the 2004 Legislative Session. AHCA felt the core licensure legislation was important for several reasons. Some of the reasons were to:

- Reduce confusion for providers and owners of multiple facility/provider types;
- Improve efficiencies in the use of state resources;
- Reduce regulation and paperwork by reducing AHCA processing timeframes and standardizing requirements for background screening, notice of closure, notice of AHCA and abuse hotline information, and others; and
- Establish a biennial licensure period for all providers.

Senate Bill 1680 was introduced and passed by the Senate during the 2004 Session. In the House of Representatives, the bill was approved by the Speaker to be considered as a proposed committee bill of the House Health Care Committee during the 2004 Session. However, the bill was not heard or filed by the committee.

In 2005, core licensure legislation was filed in both the Senate (SB 2608) and House of Representatives (HB 1941). The bill in the Senate was filed late in the process, passed out of the Health Care Committee, but died in the Committee on Children and Families. The bill in the House of Representatives passed out of the Health and Families Council, but died on the calendar.

In 2006, core licensure legislation, without all the statutory conforming changes, passed both houses of the legislature and became law. (HB 7141 - Chapter 2006-192, Laws of Florida). This bill divided ch. 408, F.S., "Health Care Administration," into parts I-IV. Part I is entitled "Health Facility and Services Planning" and consists of ss. 408.031 – 408.7071, F.S. Its short title may be cited as the "Health Facility and Services Development Act." Part II is entitled "Health Care Licensing: General Provisions" and consists of ss. 408.801 – 408.832, F.S. Its short title may be cited as the "Health Care Licensing Procedures Act." Part III is entitled "Health Insurance Access" and consists of ss. 408.90 – 408.909, F.S. Part IV is entitled "Health and Human Services Eligibility Access System" and consists of ss. 408.911 – 408.918, F.S. Its short title may be cited as the "Florida Health and Human Services Access Act."

Part II consolidates core licensure requirements for health care providers licensed by the agency. It provides legislative findings, purpose, and applicability and specifies the legislative intent to eliminate unnecessary duplication and variation in licensure requirements for health care providers regulated by the agency. Part II defines and standardizes common terminology and specifies the facilities and services that require licensure. It establishes license fees and provides a method for calculating the annual adjustment of fees. Part II provides a license application process, which requires specified information to be included on the application. It requires the

payment of late fees under certain circumstances, authorizes inspections, and authorizes AHCA to establish procedures and rules for the electronic notification and submission of required information.

Part II provides procedures for a change in ownership by a licensee, requiring the transferor to notify the agency in writing within a specified period. It requires providers to have and display a license from AHCA. Part II identifies licensure categories and conditions for issuance of a license. Background screening must be conducted for certain employees. It prohibits unlicensed activity and authorizes administrative fines to be imposed. Part II provides the agency authorization for a moratorium or emergency suspension if conditions present a threat to clients' health, safety, or welfare. It specifies circumstances in which a license may be denied or revoked. The agency is authorized to seek injunctive proceedings under certain circumstances. It requires all fees and fines collected under part II of ch. 408, F.S., to be deposited in the Health Care Trust Fund. Part II authorizes AHCA to adopt rules. The part also provides for certain exemptions from specified licensure requirements for certain providers.

Section 12 of HB 7141 recognized the need to conform the Florida Statutes to the policy decisions reflected in the act and recognized that there may be a need to resolve conflicts between any changes or additions to licensure statutes or other legislation enacted in 2006 and ch. 408, F.S., as amended by the act. The bill required the Division of Statutory Revision to assist relevant substantive legislative committees to prepare draft conforming legislation.

CS/SB 388 (Chapter 2006-197, Laws of Florida)

Committee Substitute for Senate Bill 388 transferred all sections of parts III (assisted living facilities), VII (adult family-care homes), and V (adult day care centers) of ch. 400, F.S., to newly created parts I, II, and III of ch. 429, F.S., entitled "Assisted Care Communities." Additionally, the bill made multiple statutory revisions that are needed to accurately reflect the move of part III of ch. 400, F.S. Finally, the Division of Statutory Revision was directed to prepare a reviser's bill to make conforming changes to the Florida Statutes.

These changes affect the sections of House Bill 7141 that address the portions of ch. 400, F.S. that now need to be amended to be ch. 429, F.S.

III. Effect of Proposed Changes:

This bill amends and repeals those portions of the specific licensure statutes for the health care facilities and services regulated by AHCA that are included in part II of ch. 408, F.S., and conforms the statutes to Chapter 2006-192, Laws of Florida, and Chapter 2006-197, Laws of Florida. The following areas of duplication are addressed: standardized definitions; license fees and the method of calculation of the annual adjustment of fees; the license application process and required information; payment of late fees; inspections; the establishment of procedures and rules for the electronic transmission of required information; procedures for the change in ownership with requirements for notification to the agency in writing; licensure categories and conditions for issuance of a license; background screening; unlicensed activity; administrative fines; moratoriums and emergency suspensions; license denial or revocation; injunctive

proceedings; fees and fines to be deposited in the Health Care Trust Fund; certain exemptions from specified licensure requirements for certain providers; and license duration.

The bill also amends various specific licensure statutes to provide that part II of ch. 408, F.S., is applicable. Numerous changes to statutory cross-references are required to reflect the movement of parts III, VII, and V of ch. 400, F.S., to parts I, II, and III of ch. 429, F.S., and the resulting renumbering of the parts in ch. 400, F.S., as well as other conforming cross references.

Section 1. Makes conforming changes to the licensure requirements for Drug-Free Workplace Laboratories.

Section 2. Corrects a statutory cross-reference.

Sections 3 through 13. Make conforming changes to the licensure requirements for birth centers.

Section 14. Corrects a statutory cross-reference.

Sections 15 through 24. Make conforming changes to the licensure requirements for abortion clinics.

Sections 25 through 37. Make conforming changes to the licensure requirements for community mental health facilities, including crisis stabilization units, short-term residential treatment units, residential treatment facilities, and residential treatment centers for children and adolescents. Statutory cross-references are also corrected.

Sections 38 through 50. Make conforming changes to the licensure requirements for hospitals, ambulatory surgical centers, private review agents, and mobile surgical facilities. Statutory cross-references are also corrected.

Section 51 through 52. Make conforming changes to the licensure requirements for health care risk managers.

Sections 53 through 56. Correct statutory cross-references.

Sections 57 through 75. Make conforming changes to the licensure requirements for nursing homes. Statutory cross-references are also corrected.

Sections 76 through 81. Make conforming changes to the licensure requirements for home health agencies.

Sections 82 through 85. Make conforming changes to the licensure requirements for nurse registries and the registration requirements for companion or homemaker services providers.

Sections 86 through 91. Make conforming changes to the licensure requirements for hospices.

Sections 92 and 93. Make conforming changes to the licensure requirements for homes for special services and transitional living facilities.

Sections 94 through 107. Make conforming changes to the licensure requirements for prescribed pediatric extended care centers (PPEC).

Sections 108 through 117. Make conforming changes to the licensure requirements for home medical equipment providers.

Sections 118 through 123. Make conforming changes to the licensure requirements for intermediate care facilities for the developmentally disabled (ICF-DD).

Section 124. Makes conforming changes to the licensure requirements for health care services pools.

Sections 125 through 133. Make conforming changes to the licensure requirements for health care clinics.

Sections 134 through 139. Conform statutes to add references to ch. 429, F.S.; conforming cross-references.

Sections 140 through 161. Make conforming changes to the licensure requirements for assisted living facilities.

Sections 162 through 166. Make conforming changes to the licensure requirements for adult family-care homes.

Sections 167 through 179. Make conforming changes to the licensure requirements for adult day care centers.

Section 180. Make conforming changes to the licensure requirements for laboratories in the drug-free workplace program.

Section 181. Conforms a statutory cross-reference.

Sections 182 through 193. Make conforming changes to the licensure requirements for clinical laboratories.

Sections 194 through 202. Make conforming changes to the licensure requirements for multiphasic health testing centers.

Sections 203 through 205. Make conforming changes to the certification requirements for organizations engaged in the practice of cadaveric organ and tissue procurement and certification of organ procurement organizations, tissue banks and eye banks.

Sections 206 through 208. Correct statutory cross-references.

Section 209. Provides an effective date of July 1, 2007.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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