

**The Florida Senate**  
**PROFESSIONAL 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: CS/SB 1758

INTRODUCER: Health Regulation Committee and Senator Peaden

SUBJECT: Hospitals/Off-premises Emergency Departments

DATE: March 29, 2007

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bedford	Wilson	HR	Fav/CS
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

This bill allows the Agency for Health Care Administration (AHCA or agency) to license additional emergency departments located off the premises of licensed hospitals provided the hospital complies with certain criteria. An off-premises emergency department of a hospital that is already operating as of July 1, 2007, may continue to operate under its original licensure criteria. A hospital that has received a letter of nonreviewability from the agency for an off-premises emergency department and has had Stage 2 architectural plans approved by July 1, 2007, is subject to the licensure criteria that existed before July 1, 2007.

This bill amends s. 395.003, F.S.

**II. Present Situation:**

**Hospital Regulation**

Under ch. 395, F.S., the agency is responsible for licensing and regulating hospitals. A hospital offers services more intensive than those required for room, board, personal services and general nursing care. A range of health care services are offered with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy. Also available are clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent. Unaccredited facilities and initial licenses require certification and licensing surveys. Under state and federal regulations, accredited hospitals are “deemed” to meet the requirements and do not receive an annual license and certification survey. All hospitals are subject to annual life-safety and biennial risk management surveys.

### **Current Freestanding Emergency Departments**

Under s. 395.003(1)(b)3., F.S., there was a moratorium until July 1, 2006, for freestanding emergency departments. Prior to this being the law, the agency had authorized the licensure of two freestanding emergency departments as described below. The agency approved these freestanding emergency departments for two reasons:

- Emergency room patients are outpatients; and
- Chapter 395, F.S., the licensing statute for hospitals, allows hospitals to list offsite outpatient facilities on their licenses.

Chapter 395, F.S., does not regulate outpatients or outpatient services or define them. Emergency room patients are considered and billed as outpatients by Medicaid and Medicare.

#### *Munroe Regional Medical Center*

In June 2000, the CEO for the Munroe Regional Medical Center sent a letter to the agency requesting to build a freestanding emergency department. The agency responded with a letter outlining the criteria that would need to be met for the facility to be added to the license, which included: review by the Joint Commission on Accreditation of Healthcare Organizations; same level of emergency department services as the main hospital; state inspection and safety requirements; and meeting the requirements of the federal Emergency Medical Treatment and Labor Act. In April 2002, the agency approved the first freestanding emergency department to the license of the Munroe Regional Medical Center inpatient facility. This facility, located in Ocala, Florida, approximately 12 miles from the freestanding emergency department, also has an onsite emergency department.

#### *Ft. Walton Beach Medical Center*

In October 2003, the agency approved Florida's second freestanding emergency department for Ft. Walton Beach Medical Center. The off-site facility is located in Destin, approximately 12 miles east of the main inpatient facility.

Currently, hospitals desiring to offer freestanding emergency services must meet the requirements of Rule 59A-3.255, Florida Administrative Code (F.A.C.). The agency's Office of Plans and Construction must review and approve the facilities' plans and specifications before any construction begins. Freestanding emergency departments must meet the occupancy and construction requirements of the Life Safety Code and Florida Building Code relevant to the actual use of the facility. The freestanding emergency department must meet all of the physical plant requirements of an on-site emergency department as described in s. 419.4.11 of the Florida Building Code and also meet the requirements of s. 7.D.9, Definitive Emergency Care (Guidelines for the Design and Construction of Hospitals and Health Care Facilities, 2001) incorporated by reference in s. 419.2.1.2 of the Florida Building Code.

Since July 1, 2006, two hospitals have initiated the process to add a freestanding emergency department to their license.

### III. Effect of Proposed Changes:

**Section 1.** This bill allows the agency to license additional emergency departments located off the premises of licensed hospitals provided the hospital complies with all of the following criteria. The off-premises emergency department must:

- Provide emergency services and care that is within the service capability of the hospital seeking the license;
- Ensure that the same types of medical specialists that are available to the hospital seeking the license are available to the off-premises emergency department;
- Transport patients between the off-premises emergency department and its licensed hospital consistent with ch. 401, F.S. The Department of Health (DOH or department) must determine whether transport and transfer protocols should be developed and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2008;
- Be directed by a designated physician who is a member of the organized medical staff;
- Treat all patients who have an emergency medical condition without regard to ability to pay;
- Comply with all adopted rules governing emergency care;
- Be accredited by the same accrediting organization, if the main hospital is accredited; and
- Meet all physical plant requirements of an onsite emergency department and the requirements for Definitive Emergency Care.

**Section 2.** An off-premises emergency department of a hospital that is already operating as of July 1, 2007, may continue to operate under its original licensure criteria. A hospital that has received a letter of nonreviewability from the agency for an off-premises emergency department and has had Stage 2 architectural plans approved by July 1, 2007, is subject to the licensure criteria that existed before July 1, 2007.

**Section 3.** 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 Article VII, Section 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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The proposed bill affects all licensed hospitals in Florida that may be considering the addition of a freestanding emergency department.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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