



## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The Agency for Health Care Administration (“agency”) license and regulates hospitals pursuant to part I of chapter 395, F.S. In addition to the specific licensure requirements of that part, hospitals are subject to the Health Care Licensing Procedures Act in part II of chapter 408, F.S.<sup>1</sup> The Act was created to address unnecessary duplication and variation in the requirements for licensure by the agency.<sup>2</sup> The Act was intended to streamline and create a consistent set of basic licensing requirements for all providers in order to minimize confusion, standardize terminology, and include issues that are otherwise not adequately addressed in the Florida Statutes pertaining to specific providers.<sup>3</sup> The Act applies to hospitals.<sup>4</sup>

##### **Licensure Process**

Section 408.806, F.S., provides the application process for licensure of hospitals. An applicant for licensure must submit an application to the agency under oath and an associated fee in order for an application to be accepted and considered timely.

To renew a license, an applicant must submit an application and associated fee at least 60 days *prior* to the expiration of the current license. If the renewal application and fee are received by *prior* to the license expiration date, the license does not expire even if the license expiration date occurs during the agency's review of the renewal application.<sup>5</sup> If the application for initial licensure is due to a change of ownership then the application must be received by the agency at least 60 days prior to the date of change of ownership.

The agency is required to notify the licensee by mail or electronically at least 90 days prior to the expiration of a license that a renewal license is necessary to continue operation. The agency will assess a late fee of \$50 per day to a licensee for failure to timely submit a renewal application agency, but the total amount of the late fee may not exceed 50 percent of the licensure fee or \$500, whichever is less.<sup>6</sup> If an application is

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<sup>1</sup> Chapter 2006-192, L.O.F.

<sup>2</sup> Section 408.801(2), F.S.

<sup>3</sup> *Ibid.*

<sup>4</sup> Section 408.802, F.S.

<sup>5</sup> Section 408.806(2), F.S.

<sup>6</sup> Section 408.806(2)(d), F.S.

received after the required filing date and exhibits a hand-canceled postmark obtained from a United States post office dated on or before the required filing date, no fine will be levied.<sup>7</sup> Within 30 days of receipt of an application for a license, the agency is required to notify the applicant in writing of any apparent errors or omissions and request any additional information. Any information that is omitted from an application for licensure, license renewal, or change of ownership, other than an inspection, must be provided to the agency within 21 days after the agency's request or the application will be deemed incomplete and will be withdrawn from further consideration and the submitted fees are forfeited. The agency is required to approve or deny an application within 60 days following the receipt of a complete application. Licenses are generally issued biennially, unless a specific license category specifies a shorter period.<sup>8</sup>

There are three primary licensure categories:<sup>9</sup>

- **Standard License**—a standard license may be issued to an applicant at the time of initial licensure, license renewal, or change of ownership. A standard license is issued when the applicant is in compliance with state law and administrative rules. Unless revoked, a standard license expires two years after the date of issue.<sup>10</sup>
- **Provisional License**—a provisional license is issued to an applicant who has undergone a background screening but not received the results from the Florida Department of Law Enforcement.<sup>11</sup> In addition, an applicant with a pending license may be issued a provisional license effective until a final action is determined.<sup>12</sup>
- **Inactive License**—an inactive license may be issued to a health care provider, subject to the certificate-of-need provisions in part I of chapter 408, F.S., if the provider is currently licensed<sup>13</sup> and temporarily unable to provide services but reasonably expected to resume services within 12 months. Such designation may be made for a period not to exceed 12 months but may be renewed by the agency for up to 12 additional months if the licensee demonstrates progress towards reopening. A request by a licensee for an inactive license or an extension must be submitted to the agency and include:<sup>14</sup>
  - A written justification for the inactive license with the beginning and ending dates of inactivity specified;
  - A plan for the transfer of any clients to other providers; and
  - Appropriate licensure fees.

The agency may not accept a request that is:

- Submitted after initiating closure;
- After any suspension of service; or
- After notifying clients of closure or suspension of service, unless the action is a result of a disaster<sup>15</sup> at the licensed premises.

Upon agency approval, the provider must notify clients of any necessary discharge or transfer that may be required by law. The beginning of the inactive license period is the date the provider ceases operations, while the end of the inactive license period becomes the license expiration date. All

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<sup>7</sup> *Ibid.*

<sup>8</sup> Section 408.806(3), F.S.

<sup>9</sup> Section 408.808, F.S.

<sup>10</sup> Section 408.808(1), F.S.

<sup>11</sup> Section 408.809(3), F.S.

<sup>12</sup> Section 408.808(2), F.S.

<sup>13</sup> The license may not be a provisional license.

<sup>14</sup> Section 408.808(3), F.S.

<sup>15</sup> A "disaster" is considered a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or manmade, which renders the provider inoperable at the premises.

licensure fees must be current, paid in full, and may be prorated. Reactivation of an inactive license requires the approval of a renewal application, associated licensure fees, and necessary inspections indicating compliance with all required licensure provisions.

## **Statutory Rural Hospitals**

Part III of chapter 395, F.S., governs rural hospitals. A "rural hospital" is an acute care hospital that has 100 or fewer licensed beds, an emergency room and is:<sup>16</sup>

- The sole provider within a county with a population density of no greater than 100 persons per square mile;
- An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county;
- A hospital supported by a tax district or sub-district whose boundaries encompass a population of 100 persons or fewer per square mile;
- A hospital in a constitutional charter county with a population of over 1 million persons that has imposed a local option health service tax pursuant to law and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency and has 120 beds or less that serves an agricultural community with an emergency room utilization of no less than 20,000 visits and a Medicaid inpatient utilization rate greater than 15 percent; or
- A hospital with a service area<sup>17</sup> that has a population of 100 persons or fewer per square mile.

Population densities must be determined based upon the most recently completed United States census. An acute care hospital that has not previously been designated as a rural hospital that meets the criteria will be granted such designation upon application, including submission of supporting documentation to the agency.

## **Effect of the Bill**

The bill allows a rural hospital that has held an inactive license for at least 20 months to have its license renewed a second time for an additional 12 months. This would allow a rural hospital with an inactive license to maintain inactive license status for up to 36 months if it meets the eligibility requirements.

To be eligible a rural hospital must meet the statutory rural hospital criteria specified in s.395.602(2), F.S., and must demonstrate progress towards reopening, but not be able to reopen prior to the inactive license expiration date. Hospitals planning construction or renovation must have had the plans approved by the agency. Hospitals with no plans for construction or renovation must provide proof of capital expenditures greater than 25 percent of the total costs for the equipment, supplies and staffing necessary to operate the facility upon opening.

### **B. SECTION DIRECTORY:**

Section 1. Amends s. 408.808, F.S. relating to licensure categories.

Section 2. Provides that the bill takes effect upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

<sup>16</sup> Section 395.602(2), F.S.

<sup>17</sup> A "service area" has the fewest number of zip codes accounting for 75 percent of the hospital's discharges for the most recent 5-year period (based on information available from the hospital inpatient discharge database in the Florida Center for Health Information and Policy Analysis at the Agency for Health Care Administration) or a hospital designated as a critical access hospital, as defined in s. 408.07(15), F.S.

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:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule-making authority is necessary to implement the provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2009, the Health Regulation Policy Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment retained the provisions of the original bill, and provided guidance to the agency in determining whether an inactive licensee is eligible for another renewal. The amendment provides that hospitals planning construction or renovation must have had the plans approved by the agency, and hospitals with no plans for construction or renovation must provide proof of a certain level of capital expenditures.

On April 1, 2009, the Health and Family Services Policy Council adopted one amendment and reported the bill favorably as a council substitute. The amendment clarifies that the requirements that the licensee obtain approval of construction plans by the agency and that construction must have already commenced; or where construction or renovation is not required that the licensee must meet a certain level of capital expenditures, *only* apply for the purposes of a second inactive license renewal.

The analysis is drafted to the council substitute.