HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 145 Emergency Room Staffing Initiative
SPONSOR(S): Ambler
TIED BILLS: **IDEN./SIM. BILLS:** CS/SM 1746

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health & Family Services Policy Council		Shaw	Gormley
2)	Rules & Calendar Council			
3)	Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The House Memorial urges the United States Congress to create a nationwide initiative to assist in reducing the existing shortage of physicians and medical specialists who provide on-call emergency room services by amending the nation's tax code to allow for all uncompensated emergency room work to be eligible as a charitable deduction against earned income for the practicing physician or medical specialist, up to a maximum of $100,000.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

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 availability of physicians, especially physician specialists, in hospital emergency departments (EDs) has been a concern in Florida and nationwide for several years. The Florida Senate Committee on Health Regulation studied this situation in the 2007-2008 interim and issued Interim Project Report 2008-138, *Availability of Physicians and Physician Specialists for Hospital Emergency Services and Care* in November, 2007.[1] The report found that there are multiple reasons why physicians are unavailable for on-call coverage in hospital emergency departments (EDs) and the problem varies by locality, specialty, and hospital. However, in general, physicians are reluctant to provide emergency on-call coverage due to the negative impact on their lifestyle, the perceived hostile medical malpractice climate, and the inability to obtain adequate compensation for services rendered. All of these reasons are disincentives to assuming liability for treating emergency patients previously unknown to the physician. In some cases, however, the problem is simply an inadequate supply of a particular type of specialist in the market.

Among the consequences of having fewer on-call emergency providers is reduced patient access to timely specialty care in the nation's EDs. The findings of a 2006 report by the American College of Emergency Physicians' (ACEP) Emergency Medicine Foundation indicate that "on-call coverage in the nation's EDs has deteriorated and public policymakers should take note of the largely unintended consequences of the regulations governing the Emergency Medical Treatment and Labor Act (EMTALA)."[2] According to the ACEP, emergency care physicians provide on average $140,000 in uncompensated care annually.[3]

[1] This report is available at:< http://www.flsenate.gov/data/Publications/2008/Senate/reports/interim_reports/pdf/2008-138hr.pdf > (Last visited on March 19, 2010). An addendum to the report was subsequently published and is available at: <http://www.flsenate.gov/data/Publications/2008/Senate/reports/interim_reports/pdf/2008-138ahr.pdf> (Last visited on March 19, 2010).
[2] American College of Emergency Physicians (ACEP). "On-Call Specialist Coverage in U.S. Emergency Departments." ACEP Survey of Emergency Department Directors, April 2006.
Available at: <http://www.acep.org/WorkArea/downloadasset.aspx?id=33266> (Last visited March 19, 2010).
[3] See: ACEP, Health Care Reform Fact Sheet. Available at: <http://www.acep.org/pressroom.aspx?LinkIdentifier=id&id=45294&fid=3496&Mo=No&taxid=112443> (Last visited March 19, 2010).

Federal Emergency Medical Treatment and Labor Act[4]

In 1986, Congress enacted the EMTALA to ensure public access to emergency services regardless of a person's ability to pay. The EMTALA applies to hospitals with an ED that participate in the Medicare program. The EMTALA specifies that a hospital with an ED must provide for an appropriate medical screening examination to determine whether an emergency condition exists for any individual who comes to an ED and requests examination or treatment of a medical condition. If an emergency medical condition exists, the hospital must provide, within the staff and facilities available at the hospital, further medical examination and treatment as may be required to stabilize the medical condition for transfer of the patient to another medical facility or discharge.

Emergency Departments

From 1996 to 2006, the number of people needing emergency care annually increased 32 percent, from 90.3 million to 119.2 million. At the same time, the number of hospital EDs in the country has dropped nearly 7 percent, from 4,109 to 3,833.[5] The Centers for Disease Control and Prevention (CDC) has reported that the elderly population of emergency department users, who have the largest share of serious emergency medical conditions, is about to soar as baby boomers reach Medicare age. The CDC forecasts that this group will fuel demand for more specialty care in EDs.[6]

Effect of Proposed Changes

The House Memorial urges the United States Congress to create a nationwide initiative to assist in reducing the existing shortage of physicians and medical specialists who provide on-call emergency room services by amending the nation's tax code to allow for all uncompensated emergency room work to be eligible as a charitable deduction against earned income for the practicing physician or medical specialist, up to a maximum of $100,000.

The memorial specifies that charges eligible for the charitable deduction should be based on a rate equivalent to 200 percent of the Medicare reimbursement rate at the time the service is rendered. In the absence of an applicable Medicare billing code, the charge for this deduction should be based on a fee not to exceed 100 percent of the average customary and reasonable charges allowed under private health insurance for any services rendered.

Copies of the memorial are to be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

B. SECTION DIRECTORY:

Not applicable as a memorial does not have sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[4] Section 1867 of the Social Security Act, 42 U.S.C. s. 1395dd.
[5] ACEP. The National Report Card on the State of Emergency Medicine. 2009. Available at: <http://www.emreportcard.com/uploadedFiles/ACEP-ReportCard-10-22-08.pdf.pdf> (Last visited March 19, 2010).
[6] Centers for Disease Control and Prevention (CDC). National Hospital Ambulatory Medical Care Survey: 2003 Emergency Department Summary. *Advance Data*, No. 358, May 2005. Available at: <http://www.cdc.gov/nchs/data/ad/ad358.pdf> (Last visited March 19, 2010).

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 since as memorial does not amend, create, or repeal any provisions of the Florida Statutes.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES