

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 380

INTRODUCER: Health Policy Committee and Senators Bean and Brandes

SUBJECT: Obstetrical Services at Hospitals

DATE: February 4, 2014 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 380 requires a hospital to notify obstetrical physicians at least 120 days before closing its obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which designates certain hospitals as “provider hospitals,” requires physicians in those hospitals to follow practice parameters when performing cesarean sections paid for by the state, and requires review of those cesarean sections by internal peer review boards.

II. Present Situation:

Licensure Requirements for Obstetrical Services in Hospitals

As a requirement of licensure, hospitals report the emergency services they will provide on the application form to the Agency for Health Care Administration (AHCA).¹ These services, such as obstetrics, are then listed on the hospital’s license,² and must be displayed conspicuously.³ Hospitals must notify AHCA of any change of service that affects information on their license by submitting a revised licensure application, between 60 and 120 days in advance of the change.⁴

¹ AHCA, *Health Care Licensing Application: Hospitals*, at 13, http://ahca.myflorida.com/MCHQ/Corebill/Hospital/Application_Hospitals_Recommend.pdf (last visited Jan. 23, 2014).

² Section 408.806(4)(b), F.S.

³ Section 408.804, F.S.

⁴ Section 408.806(2)(c), F.S.

The list of services is also used for the inventory of hospital emergency services maintained by AHCA.⁵ According to the AHCA website, there are currently 139 hospitals in Florida that are licensed to offer emergency obstetrical services.⁶

Closure of an Obstetrical Department in Bartow, Florida

In June of 2007 Bartow Regional Medical Center in Polk County announced to patients and physicians that it would close its obstetrics department at the end of July of the same year.⁷ Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.⁸ Physicians and the local community protested the short timeframe for ceasing to offer obstetrical services. According to the Florida Medical Association and several physicians who worked at the hospital, the short notice “endangered pregnant women who [were] too close to delivery for obstetricians at other hospitals to want them as patients.”⁹

Cesarean Births at Provider Hospitals

A cesarean section is a surgical procedure performed when a mother is not able to safely deliver vaginally. Instead, a baby is delivered through an incision in the mother’s abdomen and uterus. Florida’s rate of Cesarean deliveries increased from 22.8 percent in 1996 to 40.1 percent in 2011, which was consistently greater than the national average by several percent.¹⁰ Physicians avoid performing unnecessary cesarean sections, because cesarean births can result in babies being born with respiratory problems, and can put pregnant women at risk of medical complications, such as lacerations, infections, blood clots, and bleeding during subsequent pregnancies.¹¹

Presently s. 383.336, F.S., defines the term “provider hospital”¹² and creates certain requirements related to cesarean deliveries for such hospitals. Physicians in provider hospitals are required to comply with practice parameters designed to reduce the number of unnecessary cesarean sections performed within the hospital.¹³ These parameters must be followed by physicians when performing cesarean sections partially or fully paid for by the state. Section 383.336, F.S., also requires provider hospitals to establish a peer review board consisting of obstetric physicians and other persons with credentials to perform cesarean sections within the

⁵ See s. 395.1041(2), F.S.

⁶ AHCA, *Facility/Provider Locator*, <http://www.floridahealthfinder.gov/facilitylocator/FacilitySearch.aspx> (report generated Jan. 23, 2014).

⁷ Jennifer Starling, *Community Unites Against OB Closure*, THE POLK COUNTY DEMOCRAT, July 12, 2007, available at <http://ufdc.ufl.edu/UF00028292/00258/1x?vo=12> (last visited Dec. 20, 2013).

⁸ Robin Adams, *Bartow Hospital Plan Criticized*, THE LEDGER, July 11, 2007, available at <http://www.theledger.com/article/20070711/NEWS/707110433?p=1&tc=pg&tc=ar> (last visited Dec. 20, 2013).

⁹ Id.

¹⁰ AHCA, *Statistical Brief: Demographic Trends in Florida Cesarean Delivery, 1996-2010*, Issue No. 15 (September 2013); Florida Department of Health, *PRAMS Fact Sheet: Prevalence of Cesarean Delivery Among Florida Mothers* (2011).

¹¹ Id.

¹² A provider hospital is a hospital in which 30 or more births occur annually that are paid for, partly or fully, by state funds or federal funds administered by the state. Section 383.336 (1), F.S.

¹³ Section 383.336(2), F.S., provides these parameters be established by the Office of the State Surgeon General in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society, and directs these entities to consider the feasibility of attempting a vaginal delivery, dystocia, fetal distress, and fetal malposition.

hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were partially or fully funded by the state.

These provisions are not currently implemented. Department of Health (DOH) rules regarding provider hospitals were repealed, effective July 1, 2013.¹⁴

III. Effect of Proposed Changes:

Section 1 of the bill repeals s. 383.336, F.S., relating to provider hospitals.

Section 2 of the bill amends s. 395.1051, F.S., to require hospitals to give at least a 120 day advanced notice to each obstetrical physician with clinical privileges at that hospital if the hospital intends to close its obstetrical department or cease providing obstetrical services unless the hospital can demonstrate that it was impossible to do so within this timeframe. The bill also provides that if notice cannot be provided at least 120 days in advance, a hospital must provide notice as soon as practicable.

Although specific penalties are not listed for violating the notification provisions, the AHCA has the authority to fine a health care facility up to \$500 for a non-designated violation.¹⁵ Such non-designated violations include violating any provision of that health care facility's authorizing statute.¹⁶

Section 3 of the bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁴ Chapter 2012-31, ss. 9-10, Laws of Fla.

¹⁵ A non-designated violation is any violation that is not designated as class I-IV. See s. 408.813(3), F.S.

¹⁶ Section 408.813(3)(b), F.S.

B. Private Sector Impact:

CS/SB 380 may have a positive fiscal impact for obstetrical physicians who receive this notice to allow them adequate time to ensure that they obtain privileges at another hospital. Advanced notice will also allow the patient to adequately plan for delivery at another location. The bill may have a negative fiscal impact on hospitals that fail to comply due to potential administrative fines.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 395.1051.

This bill repeals the following sections of the Florida Statutes: 383.336.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on January 8, 2014:

Amends SB 380 to repeal s. 383.336, F.S., related to provider hospitals; to delete language granting rulemaking authority to the DOH; and to require a hospital to provide notice as soon as practicable if it is impossible for a hospital to provide 120 days' notice.

B. Amendments:

None.