

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 Fiscal Policy

BILL: CS/SB 904

INTRODUCER: Health Policy Committee and Senator Bean

SUBJECT: Home Health Services

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 904 amends ss. 400.462 and 400.506, F.S. relating to home health agencies and nurse registries. Specifically the bill:

- Allows home health agencies to operate related offices inside of the main office’s geographic service area without an additional license;
- Allows for the licensure of more than one nurse registry operational site with the same geographic service area;
- Authorizes licensed nurse registries to operate a satellite office;
- Requires a nurse registry operational site to keep all original records; and
- Requires a nurse registry to provide notice and certain evidence to the Agency for Health Care Administration (AHCA) before it relocates an operational site or opens a satellite office.

The bill is expected to have a negative insignificant fiscal impact.

II. Present Situation:

Nurse Registries

A nurse registry is defined to mean “any person that procures, offers, promises, or attempts to secure health care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as independent contractors, including but not limited to, contracts for the provision of

services to patients and contracts to provide private duty or staffing services to licensed health care facilities.¹ Nurse registries operate by referring qualified health care workers to patients, health care facilities, or other business entities who hire such health care workers. Workers referred by the nurse registry are independent contractors and the nurse registry receives a fee or commission for each contractor referred.²

Nurse registries are regulated under the Home Health Services Act in part III of ch. 400, F.S., and the general licensing provisions for health care facilities regulated by the AHCA in part II of ch. 408, F.S. A nurse registry is exempt from the licensing requirements of a home health agency, however, a license issued by AHCA is required to operate a nurse registry.³

Some of the responsibilities of a nurse registry as established in statute and rule include:

- Referring independent contractors capable of delivering services as defined in a specific medical plan of treatment for a patient or services requested by a client;⁴
- Keeping clinical records on patients and an independent contractor for five years following the termination of that contractor's service;⁵
- Managing independent contractors, including training, evaluating performance, confirming licensure or certification, and managing any complaints about a contractor; and⁶
- Complying with the background screening requirements in s. 400.512, F.S., which requires a level II background check for all employees and contractors.⁷

Operational Sites

Each nurse registry operational site must be licensed unless it is located in a county where the nurse registry has multiple operational sites.⁸ If the nurse registry has more than one operational site in a single county, only one license is necessary for all operational sites in that county and each site must be listed on the license.⁹ Rule 59A-18.004(4) of the Florida Administrative Code, allows nurse registries apply for licensure to serve a geographic service area that is equivalent to an AHCA district. There are 11 AHCA districts which range in size from a single county, such as District 10 which includes only Broward County, to numerous counties, such as District 3 which includes 16 counties. All districts except District 10 incorporate at least two counties.¹⁰ Each nurse registry operational site can service the entire AHCA district for which the license was granted.

As of January 8, 2015, 541 nurse registries are licensed with the AHCA with 367 different owners.¹¹ A total of 62 nurse registry companies own two or more nurse registry licenses and eight nurse registry companies own two or more nurse registry licenses within the same AHCA

¹ Section 400.462(21), F.S.

² AHCA, *Senate Bill 904 Analysis*, (Feb. 17, 2015) (on file with the Senate Committee on Health Policy).

³ Section 400.506(1), F.S.

⁴ Rule 59A-18.010(2), F.A.C.

⁵ Rule 59A-18.012(7), F.A.C.

⁶ See Rule 59A-18.012(7), 59A-18.013(1), 59A-18.005(3) and (4), and 59A-18.017, F.A.C.

⁷ Section 400.506(9), F.S.

⁸ Section 400.506(1), F.S.

⁹ *Id.*

¹⁰ Section 408.032(5), F.S., and *Supra* note 2.

¹¹ *Supra* note 2.

district.¹² Nurse registries must pay a biennial license fee of \$2,000 per license and are surveyed by the AHCA on a biennial basis.¹³

Home Health Agencies

An HHA is an organization that provides home health services and staffing services.¹⁴ Home health services are health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services.¹⁵ Home health agencies are regulated by the AHCA pursuant to part III of ch. 400, F.S. An HHA must designate an AHCA district in which the HHA will operate and must reapply for licensure in order to relocate to a different AHCA district.¹⁶ Currently, an HHA may have a main office and related offices; however, all related offices outside of the county where the main office is located must be licensed separately and each such office must be specified on the main office's license.¹⁷ An HHA must pay a biennial license fee of \$2,000 per license.¹⁸

III. Effect of Proposed Changes:

The bill amends ss. 400.462 and 400.506, F.S., to allow for the licensure of more than one nurse registry operational site within the same geographic service area (AHCA district). This may reduce the number of licenses some nurse registries may need because a license is currently needed in each county in which the nurse registry operates. The bill defines a satellite office as a secondary office of a nurse registry established pursuant to s. 400.506(1), F.S., in the same geographic service area as a licensed nurse registry operational site.

The nurse registry satellite office may store supplies and records, register and process contractors, and conduct business by telephone at the satellite site, as well as advertise the location of the satellite site to the public. However, all original records must be kept at the nurse registry operational site.

The bill requires a nurse registry to notify the AHCA of proposed changes of address to its operational site and when opening a satellite office. Before relocating its operational site, the nurse registry must submit evidence of its legal right to use the proposed property and proof that the proposed property is in an area zoned for nurse registry use.

The bill also amends s. 400.464, F.S., to allow an HHA to operate a related office in the same geographic service area, rather than in the same county, as the agency's main office without requiring an additional license for the related office.

The bill reenacts ss. 400.49, 817.505(3)(h), and 400.506(3), F.S., for the purpose of incorporating amendments made by the bill.

¹² Id.

¹³ Id. and s. 400.506(3), F.S.

¹⁴ Section 400.462(12), F.S.

¹⁵ Section 400.462(14), F.S.

¹⁶ Section 400.471(9), F.S.

¹⁷ Section 400.464(2), F.S.

¹⁸ Section 400.471(5), F.S.

The bill is effective July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on nurse registries and HHAs that operate multiple licenses within the same AHCA district. If such HHAs or registries are able to replace one or more licensed sites with unlicensed satellite or related offices, they will no longer be required to hold multiple licenses and pay multiple license fees. Additionally, HHAs and nurse registries located in AHCA districts with multiple counties may see a positive fiscal impact if an additional office allows them to reduce travel and other expenses related to having a single office serving multiple counties.

C. Government Sector Impact:

The AHCA may see a slight decline in revenue due to the loss of some licensure fees and the potential requirement to conduct additional surveys. The AHCA anticipates that any costs can be absorbed within existing resources.¹⁹

VI. Technical Deficiencies:

None.

¹⁹ Supra note 2

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 400.462, 400.464, and 400.506 of the Florida Statutes.

The bill reenacts sections 400.497, 400.506(3), and 817.505(3)(h) of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 17, 2015:

The CS amends s. 400.464, F.S., to allow HHAs to operate a related office in the same geographic service area, rather than in the same county, as the agency's main office without requiring an additional license for the related office.

The CS also amends the title of bill to “an act related to home health services.”

- B. **Amendments:**

None.