

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 471 Responsibilities of Health Care Providers

SPONSOR(S): Burton

TIED BILLS: **IDEN./SIM. BILLS:** SB 586

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	12 Y, 0 N	Guzzo	Poche
2) Health & Human Services Committee	14 Y, 0 N	Guzzo	Calamas

SUMMARY ANALYSIS

HB 471 requires a hospital to notify each obstetrical physician with privileges at the hospital at least 120 days before closing the obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which requires the state Surgeon General to establish practice parameters for a physician performing cesarean section procedures at a provider hospital, defined as a hospital where at least 30 cesarean section procedures are performed and paid for, at least in part, by state funds or federal funds distributed by the state. Each provider hospital is also required to establish a peer review board to examine cesarean section procedures. These provisions are no longer implemented by the Department of Health.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Obstetrical Services

Licensure Requirements

A hospital is required to report the emergency services it will provide on its license application form to the Agency for Health Care Administration (AHCA).¹ Obstetrics is included as one of the reportable emergency services. These services are then listed on the hospital's license,² which must be conspicuously displayed in the facility.³ The list of services is also used for the inventory of hospital emergency services maintained by AHCA.⁴

Hospitals and other facilities regulated by AHCA are required to submit a request to amend a license 60 to 120 days in advance of the requested effective date. However, the deadline does not apply to a request to amend hospital emergency services.⁵

There are currently 144 hospitals in Florida that are licensed to offer emergency obstetrical services.⁶

Cesarean Births at Provider Hospitals

A cesarean section is a surgical procedure performed when a mother is not able to safely deliver a fetus vaginally. Instead, the fetus is delivered through an incision in the mother's abdomen and uterus.

Section 383.336(2), F.S., requires the Department of Health (DOH) to adopt rules to implement practice parameters for a physician performing a cesarean section delivery in a provider hospital. A provider hospital has at least 30 births per year that are paid, in part or in full, by state funds or federal funds administered by the state.

Section 383.336(3), F.S., requires a provider hospital to establish a peer review board consisting of obstetric physicians and other credentialed individuals performing cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were paid, in part or in full, by state funds or federal funds administered by the state. Further, the board is required to conduct its review pursuant to the parameters specified in rules adopted by DOH.

In 1992, the former Department of Health and Rehabilitative Services (HRS) adopted rules to implement the provisions of s. 383.336, F.S.⁷ In 1996, responsibility for all public health matters was moved from HRS to DOH⁸; however, the rules adopted by HRS were never amended or readopted. In 2012, the Legislature directed DOH to initiate rulemaking to readopt or amend the rules by July 1, 2013, to avoid nullification of the rules.⁹ Instead, the rules were repealed on July 1, 2013.

¹ Agency for Health Care Administration, *Health Care Licensing Application: Hospitals*, at 12, available at http://ahca.myflorida.com/mchq/Health_Facility_Regulation/Hospital_Outpatient/Hospitals/SupportingForms.shtml#licap (last visited February 18, 2016).

² Section 408.806(4)(b), F.S.

³ Section 408.804(2), F.S.

⁴ Section 395.1041(2), F.S.

⁵ Rule 59A-35.040(2)(c), F.A.C.

⁶ Agency for Health Care Administration, *Facility/Provider Locator*, available at http://www.floridahealthfinder.gov/facilitylocator/Facility_Search.aspx (report generated February 18, 2016).

⁷ Chapter 10D-116, F.A.C.

⁸ Ch. 96-403, s. 6, Laws of Fla.

⁹ Ch. 2012-31, ss. 9-10, Laws of Fla.

Effect of Proposed Changes

The bill creates s. 395.0192, F.S., to require a hospital to notify each obstetrical physician with privileges at the hospital at least 120 days before closing the obstetrical department or ceasing to provide obstetrical services. Penalties for failure to comply with the notification requirement are not specified in the bill. However, AHCA has the authority to fine a health care facility up to \$500 for an unclassified violation.¹⁰

The bill also repeals s. 383.336, F.S., which requires DOH to establish practice parameters for physicians performing cesarean section procedures in provider hospitals and requires each provider hospital to create a peer review board to examine such procedures. The provisions of this section are not being implemented and the rules adopted under the authority provided in this section were repealed in 2013.

B. SECTION DIRECTORY:

Section 1: Repeals s. 383.336, F.S., relating to provider hospitals; practice parameters; peer review board.

Section 2: Creates s. 395.0192, F.S., relating to duty to notify physicians.

Section 3: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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:

Hospitals may experience an increase in administrative fines imposed for failure to comply with the notification requirement.

D. FISCAL COMMENTS:

None.

III. COMMENTS

¹⁰ S. 408.813(3), F.S., authorizes AHCA to impose an administrative fine for a violation that is not designated as a class I, class II, class III, or class IV violation. Unless otherwise specified by law, the amount of the fine may not exceed \$500 for each violation. Unclassified violations include: Violating any term or condition of a license; Violating any provision of part II of ch. 408, F.S., authorizing statutes, or applicable rules; Exceeding licensed capacity; Providing services beyond the scope of the license; or violating a moratorium imposed pursuant to s. 408.814.

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES