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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2019	.	
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The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (3) is added to section 395.1012, Florida Statutes, to read:

395.1012 Patient safety.—

(3)(a) Each hospital shall provide to any patient upon admission, upon scheduling of nonemergency care, or before treatment, written information on a form created by the agency

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that contains the following information available for the hospital for the most recent year and the statewide average for all hospitals related to the following quality measures:

1. The rate of hospital-acquired infections;

2. The overall rating of the Hospital Consumer Assessment of Healthcare Providers and Systems survey; and

3. The 15-day readmission rate.

(b) A hospital shall also provide to any person, upon request, the written information specified in paragraph (a).

(c) The information required by this subsection must be presented in a manner that is easily understandable and accessible to the patient and must also include an explanation of the quality measures and the relationship between patient safety and the hospital's data for the quality measures.

Section 2. Section 395.1052, Florida Statutes, is created to read:

395.1052 Patient access to primary care and specialty providers; notification.—A hospital shall:

(1) Notify each patient's primary care provider, if any, within 24 hours after the patient's admission to the hospital.

(2) Inform the patient immediately upon admission that he or she may request to have the hospital's treating physician consult with the patient's primary care provider or specialist provider, if any, when developing the patient's plan of care. Upon the patient's request, the hospital's treating physician shall make reasonable efforts to consult with the patient's primary care provider or specialist provider when developing the patient's plan of care.

(3) Notify the patient's primary care provider, if any, of

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the patient's discharge from the hospital within 24 hours after the discharge.

(4) Provide the discharge summary and any related information or records to the patient's primary care provider, if any, within 14 days after the patient's discharge from the hospital.

Section 3. Subsection (9) and present subsections (10),(11), and (12) of section 395.1055 ,Florida Statutes, are amended, and a new subsection (10) and subsections (13) and (14) are added to that section; to read:

395.1055 Rules and enforcement.—

(9) The agency shall establish a pediatric cardiac technical advisory panel, pursuant to s. 20.052, to develop procedures and standards for measuring outcomes of pediatric cardiac catheterization programs and pediatric cardiovascular surgery programs.

(a) Members of the panel must have technical expertise in pediatric cardiac medicine, shall serve without compensation, and may ~~not~~ be reimbursed for per diem and travel expenses.

(b) Voting members of the panel shall include: 3 at-large members, and 3 alternate at-large members with different program affiliations, including 1 cardiologist who is board certified in caring for adults with congenital heart disease and 2 board-certified pediatric cardiologists, neither of whom may be employed by any of the hospitals specified in subparagraphs 1.-10. or their affiliates, each of whom is appointed by the Secretary of Health Care Administration, and 10 members, and an alternate for each member, each of whom is a pediatric cardiologist or a pediatric cardiovascular surgeon, each


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appointed by the chief executive officer of the following hospitals:

1. Johns Hopkins All Children's Hospital in St. Petersburg.
2. Arnold Palmer Hospital for Children in Orlando.
3. Joe DiMaggio Children's Hospital in Hollywood.
4. Nicklaus Children's Hospital in Miami.
5. St. Joseph's Children's Hospital in Tampa.
6. University of Florida Health Shands Hospital in Gainesville.
7. University of Miami Holtz Children's Hospital in Miami.
8. Wolfson Children's Hospital in Jacksonville.
9. Florida Hospital for Children in Orlando.
10. Nemours Children's Hospital in Orlando.

Appointments made under subparagraphs 1.-10. are contingent upon the hospital's maintenance of pediatric certificates of need and the hospital's compliance with this section and rules adopted thereunder, as determined by the Secretary of Health Care Administration. A member appointed under subparagraphs 1.-10. whose hospital fails to maintain such certificates or comply with standards may serve only as a nonvoting member until the hospital restores such certificates or complies with such standards. A voting member may serve a maximum of two 2-year terms and may be reappointed to the panel after being retired from the panel for a full 2-year term.

(c) The Secretary of Health Care Administration may appoint nonvoting members to the panel. Nonvoting members may include:

1. The Secretary of Health Care Administration.
2. The Surgeon General.

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3. The Deputy Secretary of Children's Medical Services.

4. Any current or past Division Director of Children's Medical Services.

5. A parent of a child with congenital heart disease.

6. An adult with congenital heart disease.

7. A representative from each of the following organizations: the Florida Chapter of the American Academy of Pediatrics, the Florida Chapter of the American College of Cardiology, the Greater Southeast Affiliate of the American Heart Association, the Adult Congenital Heart Association, the March of Dimes, the Florida Association of Children's Hospitals, and the Florida Society of Thoracic and Cardiovascular Surgeons.

(d) The panel shall meet biannually, or more frequently upon the call of the Secretary of Health Care Administration. Such meetings may be conducted telephonically, or by other electronic means.

(e) The duties of the panel include recommending to the agency standards for quality of care, personnel, physical plant, equipment, emergency transportation, and data reporting for hospitals that provide pediatric cardiac services.

(f) Beginning on January 1, 2020, and annually thereafter, the panel shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of Health Care Administration, and the State Surgeon General. The report must summarize the panel's activities during the preceding fiscal year and include data and performance measures on surgical morbidity and mortality for all pediatric cardiac programs.

(g) Panel members are agents of the state for purposes of

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s. 768.28 throughout the good faith performance of the duties assigned to them by the Secretary of Health Care Administration.

(10) The Secretary of Health Care Administration shall consult the pediatric cardiac technical advisory panel for an advisory recommendation on all certificate of need applications to establish pediatric cardiac surgical centers.

(11) ~~(10)~~ Based on the recommendations of the pediatric cardiac technical advisory panel ~~in subsection (9)~~, the agency shall adopt rules for pediatric cardiac programs which, at a minimum, include:

(a) Standards for pediatric cardiac catheterization services and pediatric cardiovascular surgery including quality of care, personnel, physical plant, equipment, emergency transportation, data reporting, and appropriate operating hours and timeframes for mobilization for emergency procedures.

(b) Outcome standards consistent with nationally established levels of performance in pediatric cardiac programs.

(c) Specific steps to be taken by the agency and licensed facilities when the facilities do not meet the outcome standards within a specified time, including time required for detailed case reviews and the development and implementation of corrective action plans.

(12) ~~(11)~~ A pediatric cardiac program shall:

(a) Have a pediatric cardiology clinic affiliated with a hospital licensed under this chapter.

(b) Have a pediatric cardiac catheterization laboratory and a pediatric cardiovascular surgical program located in the hospital.

(c) Have a risk adjustment surgical procedure protocol

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following the guidelines established by the Society of Thoracic Surgeons.

(d) Have quality assurance and quality improvement processes in place to enhance clinical operation and patient satisfaction with services.

(e) Participate in the clinical outcome reporting systems operated by the Society of Thoracic Surgeons and the American College of Cardiology.

(13)(a) The Secretary of Health Care Administration may request announced or unannounced site visits to any existing pediatric cardiac surgical center or facility seeking licensure as a pediatric cardiac surgical center through the certificate of need process, to ensure compliance with this section and rules adopted hereunder.

(b) At the request of the Secretary of Health Care Administration, the pediatric cardiac technical advisory panel shall recommend in-state physician experts to conduct an on-site visit. The Secretary may also appoint up to two out-of-state physician experts.

(c) A site visit team shall conduct an on-site inspection of the designated hospital's pediatric medical and surgical programs, and each member shall submit a written report of his or her findings to the panel. The panel shall discuss the written reports and present an advisory opinion to the Secretary of Health Care Administration which includes recommendations and any suggested actions for correction.

(d) Each on-site inspection must include all of the following:

1. An inspection of the program's physical facilities,

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clinics, and laboratories.

2. Interviews with support staff and hospital administrators.

3. A review of:

a. Randomly selected medical records and reports, including, but not limited to, advanced cardiac imaging, computed tomography, magnetic resonance imaging, cardiac ultrasound, cardiac catheterization, and surgical operative notes.

b. The program's clinical outcome data submitted to the Society of Thoracic Surgeons and the American College of Cardiology pursuant to s. 408.05(3)(k).

c. Mortality reports from cardiac-related deaths that occurred in the previous year.

d. Program volume data from the preceding year for interventional and electrophysiology catheterizations and surgical procedures.

(14) The Surgeon General shall provide quarterly reports to the Secretary of Health Care Administration consisting of data from the Children's Medical Services' critical congenital heart disease screening program for review by the advisory panel.

(15) ~~(12)~~ The agency may adopt rules to administer the requirements of part II of chapter 408.

Section 4. Subsection (3) of section 395.301, Florida Statutes, is amended to read:

395.301 Price transparency; itemized patient statement or bill; patient admission status notification.—

(3) If a licensed facility places a patient on observation status rather than inpatient status, the licensed facility must


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immediately notify the patient of such status using the form adopted under 42 C.F.R. s. 489.20 for Medicare patients or a form adopted by agency rule for non-Medicare patients. Such notification must ~~observation services shall~~ be documented in the patient's medical records and discharge papers. The ~~patient or the~~ patient's survivor or legal guardian must ~~shall~~ be notified of observation services through discharge papers, which may also include brochures, signage, or other forms of communication for this purpose.

Section 5. Section 624.27, Florida Statutes, is amended to read:

624.27 Direct health ~~primary~~ care agreements; exemption from code.—

(1) As used in this section, the term:

(a) "Direct health ~~primary~~ care agreement" means a contract between a health ~~primary~~ care provider and a patient, a patient's legal representative, or a patient's employer, which meets the requirements of subsection (4) and does not indemnify for services provided by a third party.

(b) "Health ~~Primary~~ care provider" means a health care provider licensed under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 464, or chapter 466, or a health ~~primary~~ care group practice, who provides health ~~primary~~ care services to patients.

(c) "Health ~~Primary~~ care services" means the screening, assessment, diagnosis, and treatment of a patient conducted within the competency and training of the health ~~primary~~ care provider for the purpose of promoting health or detecting and managing disease or injury.

(2) A direct health ~~primary~~ care agreement does not

constitute insurance and is not subject to the Florida Insurance Code. The act of entering into a direct health ~~primary~~ care agreement does not constitute the business of insurance and is not subject to the Florida Insurance Code.

(3) A health ~~primary~~ care provider or an agent of a health ~~primary~~ care provider is not required to obtain a certificate of authority or license under the Florida Insurance Code to market, sell, or offer to sell a direct health ~~primary~~ care agreement.

(4) For purposes of this section, a direct health ~~primary~~ care agreement must:

(a) Be in writing.

(b) Be signed by the health ~~primary~~ care provider or an agent of the health ~~primary~~ care provider and the patient, the patient's legal representative, or the patient's employer.

(c) Allow a party to terminate the agreement by giving the other party at least 30 days' advance written notice. The agreement may provide for immediate termination due to a violation of the physician-patient relationship or a breach of the terms of the agreement.

(d) Describe the scope of health ~~primary~~ care services that are covered by the monthly fee.

(e) Specify the monthly fee and any fees for health ~~primary~~ care services not covered by the monthly fee.

(f) Specify the duration of the agreement and any automatic renewal provisions.

(g) Offer a refund to the patient, the patient's legal representative, or the patient's employer of monthly fees paid in advance if the health ~~primary~~ care provider ceases to offer health ~~primary~~ care services for any reason.

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(h) Contain, in contrasting color and in at least 12-point type, the following statement on the signature page: "This agreement is not health insurance and the health ~~primary~~ care provider will not file any claims against the patient's health insurance policy or plan for reimbursement of any health ~~primary~~ care services covered by the agreement. This agreement does not qualify as minimum essential coverage to satisfy the individual shared responsibility provision of the Patient Protection and Affordable Care Act, 26 U.S.C. s. 5000A. This agreement is not workers' compensation insurance and does not replace an employer's obligations under chapter 440."

Section 6. Effective January 1, 2020, section 627.42393, Florida Statutes, is created to read:

627.42393 Step-therapy protocol.—

(1) A health insurer issuing a major medical individual or group policy may not require a step-therapy protocol under the policy for a covered prescription drug requested by an insured if:

(a) The insured has previously been approved to receive the prescription drug through the completion of a step-therapy protocol required by a separate health coverage plan; and

(b) The insured provides documentation originating from the health coverage plan that approved the prescription drug as described in paragraph (a) indicating that the health coverage plan paid for the drug on the insured's behalf during the 90 days immediately before the request.

(2) As used in this section, the term "health coverage plan" means any of the following which is currently or was previously providing major medical or similar comprehensive

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coverage or benefits to the insured:

(a) A health insurer or health maintenance organization.

(b) A plan established or maintained by an individual employer as provided by the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406.

(c) A multiple-employer welfare arrangement as defined in s. 624.437.

(d) A governmental entity providing a plan of self-insurance.

(3) This section does not require a health insurer to add a drug to its prescription drug formulary or to cover a prescription drug that the insurer does not otherwise cover.

Section 7. Effective January 1, 2020, subsection (45) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(45)(a) A health maintenance organization issuing major medical coverage through an individual or group contract may not require a step-therapy protocol under the contract for a covered prescription drug requested by a subscriber if:

1. The subscriber has previously been approved to receive the prescription drug through the completion of a step-therapy protocol required by a separate health coverage plan; and

2. The subscriber provides documentation originating from the health coverage plan that approved the prescription drug as described in subparagraph 1. indicating that the health coverage plan paid for the drug on the subscriber’s behalf during the 90 days immediately before the request.

(b) As used in this subsection, the term “health coverage plan” means any of the following which previously provided or is

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currently providing major medical or similar comprehensive coverage or benefits to the subscriber:

1. A health insurer or health maintenance organization;

2. A plan established or maintained by an individual employer as provided by the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406;

3. A multiple-employer welfare arrangement as defined in s. 624.437; or

4. A governmental entity providing a plan of self-insurance.

(c) This subsection does not require a health maintenance organization to add a drug to its prescription drug formulary or to cover a prescription drug that the health maintenance organization does not otherwise cover.

Section 8. The Office of Program Policy Analysis and Government Accountability shall research and analyze the Interstate Medical Licensure Compact and the relevant requirements and provisions of general law and the State Constitution and shall develop a report and recommendations addressing this state's prospective entrance into the compact as a member state while remaining consistent with those requirements and provisions. In conducting such research and analysis, the office may consult with the executive director, other executive staff, or the executive committee of the Interstate Medical Licensure Compact Commission. The office shall submit the report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by not later than October 1, 2019.

Section 9. Except as otherwise expressly provided in this

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act, this act shall take effect July 1, 2019.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to health care; amending s. 395.1012, F.S.; requiring a licensed hospital to provide specified information and data relating to patient safety and quality measures to a patient under certain circumstances or to any person upon request; creating s. 395.1052, F.S.; requiring a hospital to notify a patient's primary care provider within a specified timeframe after the patient's admission; requiring a hospital to inform a patient, upon admission, of the option to request consultation between the hospital's treating physician and the patient's primary care provider or specialist provider; requiring a hospital to notify a patient's primary care provider of the patient's discharge and provide specified information and records to the primary care provider within a specified timeframe after discharge; amending s. amending s. 395.1055, F.S.; authorizing the reimbursement of per diem and travel expenses to members of the pediatric cardiac technical advisory panel, established within the Agency for Health Care Administration; revising panel membership to include certain alternate at-large members; providing term

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limits for voting members; providing that members of the panel under certain circumstances are agents of the state for a specified purpose; requiring the Secretary of Health Care Administration to consult the panel for advisory recommendations on certain certificate of need applications; authorizing the secretary to request announced or unannounced site visits to any existing pediatric cardiac surgical centers or facilities seeking licensure as a pediatric cardiac surgical center through the certificate of need process; providing a process for the appointment of physician experts to a site visit team; requiring each member of a site visit team to submit a report to the panel; requiring the panel to discuss such reports and present an advisory opinion to the secretary; providing requirements for an on-site inspection; requiring the Surgeon General of the Department of Health to provide specified reports to the secretary; 395.301, F.S.; requiring a licensed facility, upon placing a patient on observation status, to immediately notify the patient of such status using a specified form; requiring that such notification be documented in the patient’s medical records and discharge papers; amending s. 624.27, F.S.; expanding the scope of direct primary care agreements, which are renamed “direct health care agreements”; conforming provisions to changes made by the act; creating s. 627.42393, F.S.; prohibiting certain health insurers from employing step-therapy protocols under certain

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circumstances; defining the term "health coverage plan"; clarifying that a health insurer is not required to take specific actions regarding prescription drugs; amending s. 641.31, F.S.; prohibiting certain health maintenance organizations from employing step-therapy protocols under certain circumstances; defining the term "health coverage plan"; clarifying that a health maintenance organization is not required to take specific actions regarding prescription drugs; requiring the Office of Program Policy Analysis and Government Accountability to submit by a specified date a report and recommendations to the Governor and the Legislature which addresses this state's prospective entrance into the Interstate Medical Licensure Compact as a member state; providing parameters for the report; providing effective dates.