HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 6059 Specialty Hospitals
SPONSOR(S): Health Care Appropriations Subcommittee, Fitzenhagen
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Market Reform Subcommittee	9 Y, 4 N	Guzzo	Calamas
2) Health Care Appropriations Subcommittee	7 Y, 4 N, As CS	Nobles	Clark
3) Health & Human Services Committee	11 Y, 5 N	Guzzo	Calamas

SUMMARY ANALYSIS

A specialty hospital, rather than treating all conditions for all populations as a general hospital does, instead offers:

- A range of medical services restricted to a defined age or gender group;
- A restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical or psychiatric illnesses or disorders; or
- Intensive residential treatment programs for children and adolescents.

Florida law bans certain types of specialty hospitals. It prohibits licensure of a hospital that restricts its medical and surgical services to primarily or exclusively cardiac, orthopedic, surgical, or oncology specialties; or for which more than 65 percent of discharges are for care of certain cardiac, orthopedic, or cancer-related diseases and disorders.

The bill repeals the prohibition on licensure of a specialty hospital that restricts its medical and surgical services to primarily or exclusively cardiac, orthopedic, surgical, or oncology specialties; or for which more than 65% of discharges are for care of certain cardiac, orthopedic, or cancer-related diseases and disorders.

Due to federal law, this repeal would have no impact on specialty hospitals that are partly or wholly owned by physicians.

CS/HB 6059 authorizes 2.0 full-time equivalent positions, with associated salary rate of 128,000, and appropriates the sums of $211,290 in recurring and $18,294 in nonrecurring funds from the Health Care Trust Fund to the Agency for Health Care Administration. The bill has no fiscal impact local on government.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Hospital Licensure

Hospitals are regulated by AHCA under chapter 395, F.S., and the general licensure provisions of part II, of chapter 408, F.S. Hospitals offer a range of health care services with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care.[1] Hospitals must make regularly available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment.[2]

Hospitals must meet initial licensing requirements by submitting a completed application and required documentation, and the satisfactory completion of a facility survey. The license fee is $1,565.13 per hospital or $31.46 per bed, whichever is greater.[3] The inspection fee is $8.00 to $12.00 per bed, but at a minimum $400.00 per facility.[4]

Section 395.1055, F.S., authorizes AHCA to adopt rules for hospitals. Separate standards may be provided for general and specialty hospitals.[5] The rules for general and specialty hospitals must include minimum standards to ensure:

- A sufficient number of qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care;
- Infection control, housekeeping, sanitary conditions, and medical record procedures are established and implemented to adequately protect patients;
- A comprehensive emergency management plan is prepared and updated annually;
- Licensed facilities are established, organized, and operated consistent with established standards and rules; and
- Licensed facility beds conform to minimum space, equipment, and furnishing standards.
- All hospitals submit such data as necessary to conduct certificate-of-need reviews required under part I of chapter 408, F.S.;
- Each hospital has a quality improvement program designed according to standards established by their current accrediting organization;
- Licensed facilities make available on their internet websites, and in a hard copy format upon request, a description of and a link to the patient charge and performance outcome data collected from licensed facilities;
- All hospitals providing organ transplantation, neonatal intensive care services, inpatient psychiatric services, inpatient substance abuse services, or comprehensive medical rehabilitation meet the minimum licensure requirements adopted by the agency.[6]

The minimum standards for hospital licensure are contained in Chapter 59A-3, F.A.C.

Specialty Hospitals

[1] S.395.002(12), F.S.
[2] Id.
[3] Rule 59A-3.066(3), F.A.C.
[4] S. 395.0161(3)(a), F.S.
[5] S. 395.1055(2), F.S.
[6] S. 395.1055(1), F.S.

A specialty hospital, rather than treating all conditions for all populations as a general hospital does, instead offers:

- A range of medical services restricted to a defined age or gender group;
- A restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical or psychiatric illnesses or disorders; or
- Intensive residential treatment programs for children and adolescents.[7]

Specialty hospitals may not provide any service or regularly serve any population group other than those services or groups specified in its license.[8]

Florida law bans certain types of specialty hospitals.[9] Florida law prohibits the licensure of a hospital that restricts its medical and surgical services to primarily or exclusively cardiac, orthopedic, surgical, or oncology specialties.[10] Florida law also prohibits the licensure of hospitals if 65 percent of more of the hospital's discharges are for the diagnostic care and treatment of patients who have:

- Cardiac-related diseases and disorders classified as diagnosis-related groups in major diagnostic category 5[11];
- Orthopedic-related diseases and disorders classified as diagnosis-related groups in major diagnostic category 8[12];
- Cancer-related diseases and disorders classified as discharges in which the principal diagnosis is neoplasm or carcinoma or is for an admission for radiotherapy or antineoplastic chemotherapy or immunotherapy; or
- Any combination of the above discharges.[13]

Florida law exempts from the ban hospitals classified as an exempt cancer center hospital pursuant to federal rule 42 C.F.R. s. 412.23(f)[14] as of December 31, 2005.[15] Two hospitals qualify for this exemption: H. Lee Mofitt Cancer and Research Institute Hospital, Inc., and the University of Miami Hospital and Clinics.[16]

Florida law also exempts from the ban a hospital licensed as of June 1, 2004, if the hospital maintains the same ownership, facility street address, and range of services that were in existence on June 1, 2004.[17] H. Lee Mofitt Cancer and Research Institute Hospital, Inc., also qualifies for this exemption.

Physician Owned Hospitals

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[7] S. 395.002(27), F.S.
[8] S. 395.003(6)(a), F.S.
[9] S. 395.003(8), F.S.
[10] S. 395.003(8)(b), F.S
[11] Major Diagnostic Category 5 is for diseases and disorders of the circulatory system.
[12] Major Diagnostic Category 8 is for diseases and disorders of the musculoskeletal system and connective tissue.
[13] S. 395.003(8)(a), F.S
[14] 42 C.F.R., s. 412.23(f)(1) *General Rule*- If a hospital meets the following criteria, it is classified as a cancer hospital and is excluded from the prospective payment systems: (i) It was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983; (ii) It is classified on or before December 31, 1990, or, if on December 19, 1989, the hospital was located in a state operating a demonstration project, the classification is made on or before December 31, 1991; (iii) It demonstrates that the entire facility is organized primarily for treatment of and research on cancer (that is, the facility is not a subunit of an acute general hospital or university-based medical center; and (iv) It shows that at least 50% of its total discharges have a principal diagnosis that reflects a finding or neoplastic disease.
(2) *Alternative*- A hospital that applied for and was denied, on or before December 31, 1990, classification as a cancer hospital under the criteria in paragraph (f)(1) above is classified as a cancer hospital and is excluded from the prospective payment systems if it meets the criteria set forth in paragraph (f)(1)(i) above and the hospital is: (i) Licensed for fewer than 50 acute care beds as of August 5, 1997; (ii) Is located in a state that as of December 19, 1989, was not operating a demonstration project; and (iii) Demonstrates that, for the 4-year period ending on December 31, 1996, at least 50% of its total discharges have a principal diagnosis that reflects a finding of neoplastic disease.
[15] S. 395.003(8)(c), F.S
[16] Centers for Medicare & Medicaid Services, *PPS-Exempt Cancer Hospitals*, available at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/PPS_Exc_Cancer_Hospasp (last viewed February 9, 2020).
[17] S. 395.003(9), F.S.

Under the federal Patient Protection and Affordable Care Act (PPACA), Medicare-certified hospitals that are partly or wholly owned by physicians as of December 31, 2010, are barred from increasing their aggregate percentage of physician ownership and expanding their number of operating and procedure rooms and beds unless they qualify for an exemption. Federal law also prohibits physicians from referring Medicaid or Medicare patients to any hospital in which they have an ownership share if the hospital was formed after December 31, 2010. A study of physician-owned hospitals found that the ban on Medicare and Medicaid reimbursement effectively banned the formation of new physician-owned hospitals.[18]

Effect of Proposed Changes

Specialty Hospitals

The bill repeals the prohibition on the licensure of a hospital that restricts its medical and surgical services to primarily or exclusively cardiac, orthopedic, surgical, or oncology specialties. The bill also repeals the prohibition on the licensure of specialty hospitals whose discharges are over 65 percent or more of the following:

- Cardiac-related diseases and disorders classified as diagnosis-related groups in major diagnostic category 5;
- Orthopedic-related diseases and disorders classified as diagnosis-related groups in major diagnostic category 8;
- Cancer-related diseases and disorders classified as discharges in which the principal diagnosis is neoplasm or carcinoma or is for an admission for radiotherapy or antineoplastic chemotherapy or immunotherapy; or
- Any combination of the above discharges.

As a result, non-physician-owned specialty hospitals would be permitted to dedicate up to 100 percent of their services to the diagnosis and treatment of cardiac, orthopedic, or cancer related diseases and disorders, and new specialty hospitals could be licensed.

Due to the PPACA ban on physician-owned hospitals, the bill would not result in additional physician-owned specialty hospitals.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 395.003, F.S., relating to licensure; denial, suspension, and revocation.
Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

[18] Elizabeth Plummer and William Wempe, *The Affordable Care Act's Effects on the Formation, Expansion, and Operation of Physician Owned Hospitals*, Health Affairs 2016; 35(8). Prior to the restrictions going into effect, there was a surge in the formation of physician owned hospitals in Texas that receded almost immediately afterwards. Between 2004 and 2009, 64 new physician owned hospitals were formed, representing just under 66% of all new for-profit hospitals in the state. In 2010, 20 new physician-owned hospitals were formed, amounting to more than 83% of new Texas hospitals. From 2011 through 2013, after the restrictions went into effect, only 9 new physician owned hospitals were formed, accounting for 41% of new for-profit hospitals. As of June 2016, all physician owned hospitals formed after 2011 were either sold or in bankruptcy proceedings.

Applicants for licensure as a specialty hospital will be subject to the current Plans and Construction project review fee of $2,000[19] plus $100 per hour for building plan reviews[20], an application fee of at least $1,500[21], and a licensure inspection fee of $400[22].

Licensure and inspection fees would be collected every two years.

2. Expenditures:

The number of hospitals that might seek licensure as a specialty hospital is unknown. AHCA has indicated that as a result of the potential increased workload, additional FTEs will be needed for the bureau to continue to perform plans review timely.

For the 2020-2021 fiscal year, CS/HB 6059 as amended authorizes 2.0 full-time equivalent positions, with associated salary rate of 128,000, and appropriates the sums of $211,290 in recurring and $18,294 in nonrecurring funds from the Health Care Trust Fund to the Agency for Health Care Administration.

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

2. Other:

None.

[19] S. 395.0163(2), F.S.
[20] Id.
[21] Rule 59A-3.066(3), F.A.C.
[22] Rule 59A-3.253(4), F.A.C.

B. RULE-MAKING AUTHORITY:

AHCA has sufficient rulemaking authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 28, 2020, the Health Care Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment authorizes 2.0 full-time equivalent positions, with associated salary rate of 128,000, and appropriates the sums of $211,290 in recurring and $18,294 in nonrecurring funds from the Health Care Trust Fund to the Agency for Health Care Administration for the purpose of implementing this act.

This analysis is drafted to the committee substitute as passed by the Health Care Appropriations Subcommittee.