

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7021 PCB HMR 20-01 Recovery Care Center Fees

**SPONSOR(S):** Health Market Reform Subcommittee, McClure

**TIED BILLS:** HB 827 **IDEN./SIM. BILLS:**

| REFERENCE                                      | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|-----------|---------|--|
| Orig. Comm.: Health Market Reform Subcommittee | 14 Y, 0 N | Guzzo   | Calamas                                  |
| 1) Health Care Appropriations Subcommittee     | 10 Y, 0 N | Nobles  | Clark                                    |

### SUMMARY ANALYSIS

HB 827 creates a new licensure category for a Recovery Care Center (RCC) to be regulated by the Agency for Health Care Administration (AHCA). HB 827 defines a RCC as a facility the primary purpose of which is to provide recovery care services, to which a patient is admitted and discharged within 72 hours, and which is not part of a hospital. The bill defines recovery care services as:

- Postsurgical and post-diagnostic medical and general nursing care to patients for whom acute hospitalization is not required and an uncomplicated recovery is reasonably expected; and
- Postsurgical rehabilitation services.

HB 7021, which is linked to HB 827, authorizes AHCA to set license fees for RCCs. Applicants for licensure as a RCC will be subject to a Plans and Construction project review fee of \$2,000 plus \$100 per hour for building plan reviews, an application fee of at least \$1,500, and a licensure inspection fee of \$400.

The bill becomes effective on the same date as HB 827 or similar legislation.

**This bill appears to authorize a new state fee, requiring a two-thirds vote of the membership of the House. See Section III.A.2. of the analysis.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Legislation Imposing or Raising State Fees or Taxes

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.<sup>1</sup> For purposes of this requirement, a “fee” is any charge or payment required by law, including any fee or charge for services and fees or costs for licenses and “raise” a fee or tax means to:<sup>2</sup>

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.<sup>3</sup>

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.<sup>4</sup>

##### Health Care Facility Licensure Fees

The Division of Health Quality Assurance, housed within the Agency for Health Care Administration (AHCA), licenses, certifies, and regulates 40 different types of health care facilities.<sup>5</sup> Section 408.805, F.S., requires AHCA to set license fees that are reasonably calculated to cover the cost of regulation.

##### HB 827 – Recovery Care Services

HB 827 creates a new licensure category for a Recovery Care Center (RCC), defined as a facility the primary purpose of which is to provide recovery care services, to which a patient is admitted and discharged within 72 hours, and which is not part of a hospital. The bill defines recovery care services as:

- Postsurgical and post-diagnostic medical and general nursing care to patients for whom acute hospitalization is not required and an uncomplicated recovery is reasonably expected; and
- Postsurgical rehabilitation services.

##### **Effect of the Bill**

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<sup>1</sup> Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

<sup>2</sup> Fla. Const. art. VII, s. 19(d).

<sup>3</sup> Fla. Const. art. VII, s. 19(e).

<sup>4</sup> Fla. Const. art. VII, s. 19(c).

<sup>5</sup> Agency for Health Care Administration, *Health Quality Assurance*, 2020, available at <http://ahca.myflorida.com/MCHQ/> (last visited January 2, 2020).

HB 7021, which is linked to HB 827, authorizes AHCA to set license fees for RCCs. Applicants for licensure as a RCC will be subject to the current Plans and Construction project review fee of \$2,000 plus \$100 per hour for building plan reviews, an application fee of at least \$1,500, and a licensure inspection fee of \$400.

The bill becomes effective on the same date as HB 827 or similar legislation.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 395.003, F.S., relating to licensure; denial, suspension and revocation.

**Section 2:** Amends s. 408.802, F.S., relating to applicability.

**Section 3:** Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

Applicants for licensure as a RCC will be subject to the current Plans and Construction project review fee of \$2,000 plus \$100 per hour for building plan reviews, an application fee of at least \$1,500, and a licensure inspection fee of \$400.

2. Expenditures:

HB 827 requires AHCA to regulate RCCs in accordance with Chapters 395 and 408, F.S., and any rules adopted by the agency. The fees associated with the license are anticipated to cover the expense incurred by AHCA in enforcing and regulating the new license.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Entities licensed as RCCs will be subject to license fees set by AHCA.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-

thirds of the membership of each house of the Legislature. As such, the bill appears to implicate Art. VII, s. 19 of the Florida Constitution because the bill authorizes a state fee.

**B. RULE-MAKING AUTHORITY:**

The bill provides sufficient rule-making authority to implement the provisions of the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**