

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 Appropriations Committee on Health and Human Services

BILL: SB 1370

INTRODUCER: Senator Trumbull

SUBJECT: Ambulatory Surgical Centers

DATE: March 25, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------|------------|------------------|
| 1. | <u>Looke</u> | <u>Brown</u> | <u>HP</u> | Favorable |
| 2. | <u>Barr</u> | <u>McKnight</u> | <u>AHS</u> | Favorable |
| 3. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

SB 1370 amends numerous sections of the Florida Statutes to remove regulation of ambulatory surgical centers (ASC) from Part I of ch. 395, F.S., which currently houses regulations for both ASCs and hospitals, and creates a new chapter, ch. 396, F.S., specific to the regulation of ASCs. The bill also specifies that it is the intent of the Legislature to bifurcate all fees and public records exemptions related to ASCs established in ch. 395, F.S., and transfer those fees to, and preserve such public records exemptions under, ch. 396, F.S.

This bill has no fiscal impact on state revenues or expenditures. **See Section V., Fiscal Impact Statement.**

The bill takes effect July 1, 2025.

II. Present Situation:

Ambulatory Surgical Centers

An ambulatory surgical center (ASC) is a licensed health care facility that is not part of a hospital and has the primary purpose of providing elective surgical care. A patient is admitted to and discharged from the facility within 24 hours.¹ ASCs are required to be licensed by the Agency for Health Care Administration (AHCA) and may choose to be Medicare certified and/or accredited.²

¹ Agency for Health Care Administration, Ambulatory Surgical Center, available at <https://ahca.myflorida.com/health-quality-assurance/bureau-of-health-facility-regulation/hospital-outpatient-services-unit/ambulatory-surgical-center>, (last visited Mar. 13, 2025).

² *Id.*

Licensure

ASCs are licensed and regulated under ch. 395, F.S., by the AHCA under the same regulatory framework as hospitals.³ Applicants for ASC licensure are required to submit certain information to the AHCA prior to accepting patients for care or treatment, including:

- An affidavit of compliance with fictitious name;
- Registration of articles of incorporation; and
- The applicant's zoning certificate or proof of compliance with zoning requirements.⁴

Upon receipt of an initial ASC application, the AHCA is required to conduct a survey to determine compliance with all laws and rules. Applicants are required to provide certain information during the initial inspection, including:

- Governing body bylaws, rules, and regulations;
- Medical staff bylaws, rules, and regulations;
- A roster of medical staff members;
- A roster of registered nurses and licensed practical nurses with current license numbers;
- A nursing procedure manual;
- A fire plan; and
- A comprehensive emergency management plan.⁵

The licensure fee is \$1,679.82 and the survey/inspection fee is \$400.⁶ Currently there are 532 licensed ASCs in Florida.⁷ In 2023, ASCs were visited by patients for outpatient services 3,205,371 times which equals 53.6 percent of all outpatient visits in Florida.⁸

Accreditation

If an ASC chooses to become accredited by an organization recognized by the AHCA, including the Accreditation Association for Ambulatory Health Care, the QUAD A, the Accreditation Commission for Health Care, or the Joint Commission, the ASC may be deemed to be in compliance with state licensure and certification requirements. Deemed ASCs are not scheduled for routine on-site licensure or recertification surveys, although periodic Life Safety Code inspections are still required. Facilities must provide a complete copy of the most recent survey report indicating continuation as an accredited facility in lieu of inspections. The survey report should include correspondence from the accrediting organization containing:

- The dates of the survey,
- Any citations to which the accreditation organization requires a response,
- A response to each citation,
- The effective date of accreditation,

³ Sections 395.001-395.1065, F.S., and part II, ch. 408, F.S.

⁴ Fla. Admin. Code R. 59A-5.003(4) (2019)

⁵ Fla. Admin. Code R. 59A-5.003(5) (2019)

⁶ Agency for Health Care Administration, Ambulatory Surgical Center, available at <https://ahca.myflorida.com/health-quality-assurance/bureau-of-health-facility-regulation/hospital-outpatient-services-unit/ambulatory-surgical-center>, (last visited Mar. 13, 2025).

⁷ Florida Health Finder report, available at <https://quality.healthfinder.fl.gov/Facility-Search/FacilityLocateSearch>, (last visited Mar. 13, 2025).

⁸ Ambulatory (outpatient) Surgery Query Results, Florida Health Finder, available at <https://quality.healthfinder.fl.gov/QueryTool/QTRResults#>, (last visited Mar. 13, 2025).

- Any follow-up reports, and
- Verification of Medicare (CMS) deemed status, if applicable.

Facilities no longer accredited or granted accreditation status other than accredited, or fail to submit the requested documentation, will be scheduled for annual licensure or recertification surveys to be conducted by AHCA field office staff.⁹

Licensure Requirements

Pursuant to s. 395.1055, F.S., the AHCA is authorized to adopt rules for hospitals and ASCs. Separate standards may be provided for general and specialty hospitals, ASCs, mobile surgical facilities, and statutory rural hospitals, but the rules for all hospitals and ASCs are required to include minimum standards for ensuring that:

- 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.

Rule 59A-5 of the Florida Administrative Code implements the minimum standards for ASCs. Those rules require policies and procedures to ensure the protection of patient rights.

Staff and Personnel Rules

ASCs are required to have written policies and procedures for surgical services, anesthesia services, nursing services, pharmaceutical services, laboratory services, and radiologic services. In providing these services, ACSs are required to have certain professional staff available, including:

- A qualified person responsible for the daily functioning and maintenance of the surgical suite;
- An anesthesiologist or other physician, or a certified registered nurse anesthetist under the on-site medical direction of a licensed physician, or an anesthesiologist assistant under the direct supervision of an anesthesiologist, who must be in the center during the anesthesia and post-anesthesia recovery period until all patients are cleared for discharge;
- A registered professional nurse who is responsible for coordinating and supervising all nursing services;
- A registered professional circulating nurse for a patient during that patient's surgical procedure; and
- A registered professional nurse who must be in the recovery area at all times when a patient is present.¹⁰

⁹ Agency for Health Care Administration, Ambulatory Surgical Center, available at <https://ahca.myflorida.com/health-quality-assurance/bureau-of-health-facility-regulation/hospital-outpatient-services-unit/ambulatory-surgical-center>, (last visited Mar. 13, 2025).

¹⁰ Fla. Admin. Code R. 59A-5.0085 (2021)

Infection Control Program

ASCs are required to establish an infection control program involving members of the medical, nursing, and administrative staff. The program must include written policies and procedures reflecting the scope of the infection control program. The written policies and procedures must be reviewed at least every two years by the infection control program members. The infection control program must include:

- Surveillance, prevention, and control of infection among patients and personnel;
- A system for identifying, reporting, evaluating, and maintaining records of infections;
- Ongoing review and evaluation of aseptic, isolation, and sanitation techniques employed by the ASC; and
- Development and coordination of training programs in infection control for all personnel.¹¹

Emergency Management Plan

ASCs are required to develop and adopt a written comprehensive emergency management plan for emergency care during an internal or external disaster or emergency. The ASC must review the plan and update it annually.¹²

Medicare Requirements

ASCs are required to have an agreement with the federal Centers for Medicare & Medicaid Services (CMS) to participate in Medicare. ASCs are also required to comply with specific conditions for coverage. The CMS defines “ASC” as any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and for whom the expected duration of services would not exceed 24 hours following an admission.¹³

The CMS may deem an ASC to be in compliance with all of the conditions for coverage if the ASC is accredited by a national accrediting body or licensed by a state agency and if the CMS determines that such accreditation or licensure provides reasonable assurance that the conditions for coverage are met.¹⁴ All CMS conditions for coverage requirements are specifically required in Rule 59A-5 of the Florida Administrative Code and apply to all ASCs in Florida. The conditions for coverage require ASCs to have a:

- Governing body that assumes full legal responsibility for determining, implementing, and monitoring policies governing the ASC’s total operation;
- Quality assessment and performance improvement program;
- Transfer agreement with one or more acute care general hospitals, which will admit any patient referred who requires continuing care;
- Disaster preparedness plan;
- Organized medical staff;
- Fire control plan;
- Sanitary environment;
- Infection control program; and

¹¹ Fla. Admin. Code R. 59A-5.011 (2016)

¹² Fla. Admin. Code R. 59A-5.018 (2014)

¹³ 42 C.F.R. s. 416.2

¹⁴ 42 C.F.R. s. 416.26(a)(1)

- Procedure for patient admission, assessment and discharge.

III. Effect of Proposed Changes:

Section 1 creates ch. 396, F.S., consisting of ss. 396.201-396.225, F.S., entitled “Ambulatory Surgical Centers.”

Sections 2 through 25 duplicate provisions from Part I of ch. 395, F.S., as necessary to create substantively identical requirements for ambulatory surgery centers (ASC) in the newly created ch. 396, F.S.

Sections 26 through 76 amend provisions in part I of ch. 395, F.S., as well as multiple other sections of the Florida Statutes, to remove the regulation of ASCs from Part I of ch. 395, F.S., and make conforming changes.

Section 77 provides that it is the intent of the Legislature to bifurcate all fees applicable to ASCs authorized and imposed under ch. 395, F.S., and transfer them to ch. 396, F.S. The Agency for Health Care Administration is authorized to maintain its current fees for ASCs and may adopt rules to codify such fees in rule to conform to changes made by the bill. Additionally, the bill specifies that it is the intent of the Legislature to bifurcate any exemptions from public records and public meetings requirements applicable to ASCs under ch. 395, F.S., and preserve such exemptions under ch. 396, F.S.

Section 78 provides that the bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill creates a new chapter of the Florida Statutes specific to the regulation of ambulatory surgical centers (ASC) and removes ASC regulation from ch. 395, F.S., where it is currently housed. As such, many other statutes are required to be amended to make conforming changes to refer to ch. 396, F.S., rather than ch. 395, F.S. As drafted, the bill includes some of the necessary conforming changes but does not amend numerous other statutes that reference ch. 395, F.S., and include both ASCs and hospitals. Such additional statutes should be amended to conform to the changes made by the bill.

Additionally, the Agency for Health Care Regulation has raised several technical issues with the bill including citing multiple incorrect cross-references and several places in which not cross-referencing ch. 396, F.S., may inadvertently leave out ASCs from exemptions or regulations that are necessary for ASCs.¹⁵

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 383.145, 383.50, 385.211, 390.011, 394.4787, 395.001, 395.002, 395.003, 395.1055, 395.10973, 395.3025, 395.607, 395.701, 400.518, 400.93, 400.9935, 401.272, 408.051, 408.07, 408.802, 408.820, 409.905, 409.906, 409.975, 456.041, 456.053, 456.056, 458.3145, 458.320, 458.351, 459.0085, 459.026, 465.0125, 468.505, 627.351, 627.357, 627.6056, 627.6405, 627.64194, 627.6616, 627.736, 627.912, 765.101, 766.101, 766.110, 766.1115, 766.118, 766.202, 766.316, 812.014, 945.6041, and 985.6441.

This bill creates the following sections of the Florida Statutes: 396.201, 396.202, 396.203, 396.204, 396.205, 396.206, 396.207, 396.208, 396.209, 396.211, 396.212, 396.213, 396.214, 396.215, 396.216, 396.217, 396.218, 396.219, 396.221, 396.222, 396.223, 396.224, and 396.225.

¹⁵ Agency for Health Care Administration, *Senate Bill 1730 Analysis* (Mar. 7, 2025)(on file with the Senate Appropriations Committee on Health and Human Services.)

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
