CS/CS/CS/HB 1143 — Health Care

by Health and Family Services Policy Council; Health Care Appropriations Committee; Health Care Regulation Policy Committee; Rep. Hudson and others (CS/CS/SB 2434 by Policy and Steering Committee on Ways and Means; Health Regulation Committee; and Senator Gardiner)

This bill repeals obsolete and redundant provisions, defines and corrects references to the Joint Commission, updates references to a variety of organizations and state agencies to reflect current titles or responsibilities related to facilities regulated by the Agency for Health Care Administration (AHCA), and streamlines reporting by licensed facilities and state agencies. With respect to these regulatory modifications, the bill makes the following substantive changes:

- Authorizes the Department of Health (DOH) to accept funds from local governments and spend those funds for licensable products approved by the U.S. Department of Health and Human Services in response to a public health emergency;

- Revises provisions affecting nursing homes as follows:
  - Limits the DOH food service inspections in nursing homes to twice per year, absent complaints, and the State Fire Marshal inspections to once per year, absent complaints;
  - Expands the authorized staffing of a geriatric outpatient clinic in a nursing home to include a licensed practical nurse under the direct supervision of a registered nurse, advanced registered nurse practitioner, or physician;
  - Authorizes nursing homes to provide respite care for a maximum of 14 days per stay pursuant to an abbreviated plan of care;
  - Authorizes a $1,000 fine per day if a nursing home fails to impose a moratorium on new admissions when the facility has not complied with the minimum-staffing requirements;
  - Revises the timeframe for a nursing home to provide a resident accounting of personal property held by the facility;
  - Eliminates the requirement for a newly hired nursing home surveyor to observe a facility's operations as a part of basic training;
  - Relieves the annual assessment related to Medicaid overpayments for leased nursing homes if the bond fund exceeds $25 million;
  - Requires the AHCA to adopt rules for minimum staffing requirements for nursing homes that serve persons under 21 years of age; and
  - Eliminates the monthly reporting of any notice of claims or liability claims filed against the facility;

- Revises provisions affecting assisted living facilities (ALFs) as follows:
  - Repeals the limited nursing services (LNS) specialty license and authorizes LNS to be provided by appropriately licensed persons in an ALF with a standard license;
  - Increases the per-bed fee for a standard-licensed ALF by $8.50 biennially for beds that are not designated for recipients of optional state supplementation payments (OSS), to offset the loss of revenue that is currently generated from the fees

associated with the LNS specialty license. The maximum amount that an ALF is required to pay for the standard license fee is increased;
    - Requires additional monitoring, either onsite or by a desk review, for an ALF that has been cited with a class I or class II deficiency. The bill repeals the requirement for additional monitoring inspections of an ALF licensed with an extended congregate care (ECC) specialty license;
    - Requires all ALFs to report electronically to the AHCA, at least semiannually, certain aggregated data related to the residents and staff of the facility;
    - Modifies the AHCA's consultation responsibilities; and
    - Eliminates the monthly reporting of any notice of claims or liability claims filed against the facility;

- Expands the definition of a portable equipment provider within the requirements for a health care clinic license to include a portable *health service* or equipment provider;

- Provides additional exemptions for licensure and regulation as a health care clinic for the following:
    - Pediatric cardiology or perinatology clinic facilities;
    - Certain corporate entities with $250 million or more in annual sales of health care services provided by licensed health care practitioners; and
    - Certain publicly traded entities;

- Enhances the general licensing provisions of part II of ch. 408, F.S., to:
    - Provide that the license renewal notice that the AHCA sends is a *courtesy* notice;
    - Authorize the AHCA to impose an administrative fine, not to exceed $500 per violation, for violations that do not qualify within the classification scheme of class I – class IV violations;
    - Authorize the AHCA to extend the license expiration date for up to 30 days and impose other conditions during that extension period in order to accomplish the safe and orderly discharge of clients or residents; and
    - Prohibit activities related to altering, defacing, or falsifying a license certificate;

- Authorizes the AHCA to impose an administrative fine for class IV violations that are uncorrected or repeated by a licensed intermediate care facility for developmentally disabled persons;

- Requires a Medicaid claim for a prescription drug billed as a 340B prescribed medication to meet certain requirements;

- Eliminates the requirement for a pedigree paper for prescription drugs that are distributed in certain medical convenience kits; and

- Includes licensed orthotists and prosthetists in the definition of a health care provider under ch. 766, F.S., related to medical malpractice.

The bill authorizes an insurer that issues a group or individual health benefit plan to offer a voluntary wellness or health-improvement program that allows for rewards or incentives to encourage or reward participation in the program.

The bill prohibits an individual or group health insurance policy or health maintenance contract which is purchased through an exchange with any state or federal funds in the form of any tax credit or cost-sharing credit, from providing coverage for an abortion unless it is performed to save the life or physical health of the mother or when the pregnancy resulted from an act of rape or incest. Separate coverage for abortion may be provided to a private person or entity if the coverage is not purchased with any state or federal funds.

A physician or trained person must perform an ultrasound before an abortion is performed which is not a medical emergency. As a part of informed consent for the abortion, the woman must be allowed to view the live ultrasound images while a licensed medical professional explains the images to her. A woman may decline to view the ultrasound images. If she declines, she must complete a form acknowledging the opportunity to view her ultrasound which she declined and that her decision was not based on any undue influence. The opportunity to view the ultrasound is not required for a woman who presents documentation that she is obtaining the abortion because she is a victim of rape, incest, domestic violence or human trafficking, or that she has been diagnosed with a condition that would create a serious risk of substantial and irreversible impairment of a major bodily function if the termination of her pregnancy is delayed. In addition, the printed materials that are required to be made available to the pregnant woman as a part of informed consent must include a description of the various stages of development of the fetus.

The bill declares the public policy of this state that a federal, state, or local government may not compel a person to purchase health insurance or health services except under certain conditions; preserves the collection of debts lawfully incurred for health insurance or health services; and authorizes the Attorney General to implement or advocate this public policy in any court or administrative forum on behalf of persons whose constitutional rights concerning health insurance coverage may be subject to infringement by federal action.

If approved by the Governor, these provisions take effect July 1, 2010.
Vote: Senate 23-16; House 76-44