

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 701 w/CS Consumer Health Care Spending Protection

SPONSOR(S): Clarke and others

TIED BILLS: None.

IDEN./SIM. BILLS: SB 2022 (s); HB 1629 (c)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care	23 Y, 0 N w/CS	Rawlins	Collins
2) Health Access and Finance	7 Y, 0 N	Callaway	Cooper
3) Insurance	19 Y, 0 N w/CS	Callaway	Cooper
4) Health Appropriations (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

Currently, hospitals and ambulatory surgical centers are required to submit discharge data on a quarterly basis to the Agency for Health Care Administration (AHCA). The State Center for Health Statistics collects three types of discharge information from 261 inpatient health care facilities and Ambulatory Patient Data is collected from 526 freestanding ambulatory surgical centers, lithotripsy centers, cardiac catheterization laboratories, and short-term acute care hospitals. The data is used for information guides and research by many that are interested in the health of Florida residents.

The bill requires AHCA to collect and publish additional data not currently collected. It requires AHCA to publish data already collected in a more user-friendly format. It requires pharmacies to disclose pricing information and for AHCA to publish that information. It requires HMOs to provide payment information to subscribers. It gives AHCA rulemaking authority to implement the bill's provisions. It requires health care facilities and pharmacies to provide data on their Internet website.

The bill requires health care facilities to provide a good faith estimate of the cost of hospitalization to patients upon request. It requires health care facilities to implement a billing question/dispute procedure.

AHCA must study various issues relating to transparency of health care and report to the Governor and Legislature of its findings and recommendations.

The bill's provisions will require AHCA to obtain additional personnel. Health care facilities, health care providers, health care insurers (including HMOs), and pharmacies may incur an increase in expenses for disclosure of the required data on their Internet website and for providing data to AHCA. Health care facilities may incur an increase in expenses for implementing a procedure/program for providing patients an estimate of charges and for addressing patient billing questions/concerns.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0701d.in.doc

DATE: April 26, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a “no” above, please explain:

This bill requires an individual hospitals, health insurers and pharmacies to report specific data to the agency and the agency is required to post specific facility, insurer, and pharmacy information on its website.

B. EFFECT OF PROPOSED CHANGES

Background

Consumers are demanding more accountability from their health care providers across the nation. Many states have taken measures to provide more “transparencies” in the health care industry. For example, The Alliance for Quality Health Care (AQHC) and Niagara Health Quality Coalition (NHQC) have released Indicators of Inpatient Care in New York State Hospitals, 2001, which report hospital performance. The report provides consumers with reliable and comparable data on hospitals throughout the state. Nearly 300 hospitals are included in this hospitalization database. Hospitals in the same metropolitan area are grouped together. Links to additional explanatory information are provided throughout the report, which is accessible through the World Wide Web.

Under s. 408.061, F.S., AHCA is authorized to require licensed facilities to submit data that is necessary for AHCA to carry out its duties. AHCA must adopt a rule to establish the requirement to submit data, and the rules governing this data collection are in chapter 59E-7, F.A.C., Currently, hospitals and ambulatory surgical centers are required to submit discharge data on a quarterly basis to AHCA. Hospital data collected by AHCA includes detailed patient data collected from acute care hospitals, short-term psychiatric hospitals, and comprehensive rehabilitation hospitals. It also includes aggregate data collected from long-term psychiatric hospitals.

The State Center for Health Statistics (SCHS) uses the three types of discharge information collected by AHCA from 261 inpatient healthcare facilities and ambulatory patient data collected from 526 freestanding ambulatory surgical centers, lithotripsy centers, cardiac catheterization laboratories, and short-term acute care hospitals to create detailed reports that examine health care trends and outcomes of specific diagnoses in the Health Outcome Series. In addition, SCHS produces a variety of publications within the Consumer Awareness Series and the Florida HMO Report to assist the public in making well-informed health care decisions.

Under Rule 59E-7.013, F.A.C., a hospital that refuses to file, fails to timely file, or files false or incomplete reports or other information required to be filed under the provisions of s. 408.08(13), F.S., other Florida Law, or rules adopted thereunder, is subject to administrative penalties. Failure to comply with reporting requirements will also result in the referral of a hospital to the Agency’s Bureau of Health Facility Regulation. In addition, any hospital which is delinquent for a reporting deficiency shall be subject to a fine of \$100 per day of violation for the first violation, \$350 per day of violation for the second violation, and \$1,000 per day of violation for the third and all subsequent violations. Violations will be considered those activities which necessitate the issuance of an administrative complaint by the

agency; unless the administrative complaint is withdrawn or a final order dismissing the administrative complaint is entered.

The State Comprehensive Health Information System (CHIS) Advisory Council advises agency staff regarding health information and statistics, pursuant to s. 408.05(8), F.S. CHIS has assisted in the development of the consumer publications Choosing A Quality Health Plan: Florida HMO Report and Understanding Prescription Drug Costs. CHIS has participated in a project to increase awareness and disseminate information on local and state programs combating health disparities. CHIS has also encouraged the continued expansion of the agency's consumer-oriented web site, www.FloridaHealthStat.com. CHIS meets four or more times each year at AHCA offices in Tallahassee or various locations in the state. Meetings are noticed in the Florida Administrative Weekly and are open to the public.

The FloridaHealthStat website provides consumers with a wide array of health care information. The online "Florida Hospital Service Guide 2003" provides consumers with information on hospitalizations for selected conditions and also information on specialized services available at Florida hospitals (<http://apps3.doh.state.fl.us/ahca/fhsg/index.cfm>). The Rx Saver hotlink provides consumer with a link to an online comparison shopping web site which focuses on prescription drugs, health, wellness, and beauty products. The site provides consumers with the necessary information and services to help save money on prescription and drug store item purchases

Proposed Changes

In an effort to create a more transparent health care system in Florida, this bill revises many provisions of law relating to data collection and dissemination by hospitals, insurers, pharmacies, health care providers, and AHCA. The bill also revises the analysis of the data currently collected by AHCA to provide consumers with useful information. The goal of the bill is to provide health care consumers with reliable and understandable information about pharmacy, health insurers, and health care facility charges and performance outcomes to assist them in making informed decisions about health care.

The bill specifies that:

- ✓ Each licensed health care facility not operated by the state shall provide on its Internet website or by other electronic means a description of and a link to the performance outcome and financial data published by AHCA. Notice of the availability of the information published by AHCA must be posted in the reception area of the facility. Rural hospitals having less than 50 beds do not have to provide the link to the AHCA information or provide notice of the availability of the AHCA information in its reception area. However, AHCA is directed to study the most cost-efficient manner for collecting and reporting data from rural hospitals and must submit a report to the Governor and the Legislature by December 1, 2005 on its findings in this regard.
- ✓ Each licensed facility not operated by the state shall provide, prior to provision of any non-emergency medical services, a written estimate of charges for the proposed service upon request of a prospective patient. If requested, the facility must also provide any revision to the estimate to the patient. Failure to provide an estimate of charges results in a fine of \$500 for each instance of the facility's failure to provide the requested estimate of charges. Notice of the availability of the estimate of charges must be posted in the reception area of the facility.
- ✓ A facility must make available to a patient upon request all of the patient's records necessary for verification of the accuracy of the patients bill. The records must be provided within 30 days after the request.

- ✓ All facilities must establish a method for reviewing a patient's billing question. The facility must provide a response to the patient within 30 days after a billing question is received. If the patient is not satisfied with the facility's response to the billing question, the facility must provide the patient with the address of AHCA so the patient can send the billing question to AHCA for review. Section 395.301, F.S., specifies that a licensed facility not operated by the state shall submit to the patient an itemized bill upon request within 7 days following release from the licensed facility, and the itemized bill may not include charges of hospital-based physicians if billed separately. According to AHCA, it is current procedure that when the agency receives a request for assistance from a patient regarding a bill received from a licensed facility, the agency acts to facilitate communication between the facility and patient by requesting a written explanation from the facility.
- ✓ Health care facilities are required to submit data reporting hospital-acquired infections, complications, readmissions, and hospital emergency department data. Although AHCA currently publishes information from the required data submission, it does not publish readmission rates, complication rates, mortality rates, infection rates, and use of computerized drug order systems. Data currently collected pursuant to 408.061, F.S. does not include information about hospital acquired infections. The data specifications in 59B-9.010 through 59B-9.020, F.A.C. and 59E-7.011 through 59E-7.016, F.A.C. do not require that facilities report complications. However, some complications are reported as a secondary diagnosis if space is available on the discharge record. According to AHCA, it is not known whether readmissions are reported separately or combined into one discharge record.
- ✓ Health care facilities are required to report emergency data to AHCA. The data must include the number of patients treated in the emergency department reported by patient acuity level.
- ✓ AHCA must adopt nationally recognized risk adjustment methodologies or software to adjust data submitted.
- ✓ Data from facilities must be reported electronically and certified by the facility's chief executive officer or other authorized representative.
- ✓ Data from health care providers must be certified by the health care provider or other authorized representative.
- ✓ Data from health insurers must be certified by an authorized representative or employee of the insurer.
- ✓ AHCA is responsible for studying the availability and affordability of health insurance for small businesses with the Office of Insurance Regulation.
- ✓ AHCA must study quarterly the retail prices charged by pharmacies for the 50 most frequently prescribed medicines. It must publish on its website by October 1, 2005, and quarterly thereafter, drug prices for a 30-days supply at a standard dose for each pharmacy. The information published must be sorted by pharmacy and by metropolitan statistical area or region. The prices reported on the AHCA website must be the price for the generic drug and the brand-named drug.
- ✓ AHCA must study and monitor the use of emergency department services by patient acuity level and the implication of increasing hospital cost by providing non-urgent care in emergency departments. It must submit a report of its findings to the Governor and the Legislature by January 1, 2006.

- ✓ AHCA must make available on its Internet website no later than October 1, 2004 and in a hard-copy format upon request, patient charge, volumes, length of stay, and performance outcome indicators collected from health care facilities pursuant to s. 408.061, F.S., for specific medical conditions, surgeries, and procedures provided in inpatient and outpatient facilities as determined by the agency. Performance outcome indicators published must be risk or severity adjusted. The data must be updated quarterly.
- ✓ AHCA's website publishing patient charge, volume, length of stay and performance outcome must include an interactive search allowing consumer to view and compare information, a map that allows consumer to select information based on geographical region, definitions of all data, descriptions of each procedure, and an explanation about why the data may differ from facility to facility.
- ✓ AHCA must provide an annual report to the Governor and the Legislature on the collection of data and publication of performance outcome indicators.
- ✓ AHCA must conduct data-based studies and evaluations with recommendations to the Governor and Legislature about exemptions, the effectiveness of limitations on referrals, restrictions on investment interests and compensation arrangements, and the effectiveness of public disclosure. Currently these studies and evaluations are permissive rather than mandatory. ACHA is given authority to collect data needed for the study and evaluation from licensed health care providers. Currently, AHCA is only able to collect data from health facilities.
- ✓ AHCA must develop and implement a strategy for the adoption and use of electronic health records and report to the Governor and Legislature.
- ✓ The Comprehensive Health Information System Advisory Council (CHIS) is tasked with working with ACHA to develop and implement a long-range plan for making performance outcome and financial information available to consumers so that consumers can compare health care services. The information AHCA must make available includes information on pharmaceuticals, physicians, health care facilities, health care plans, and managed care entities. The long-range plan must be submitted to the Governor and the Legislature by March 1, 2005 and updated annually.
- ✓ CHIS must partner with AHCA to determine performance outcomes and patient charge data to be disclosed to consumers by health care facilities. This data must be on AHCA's website by March 1, 2005.
- ✓ CHIS must partner with AHCA to determine what performance outcome and subscriber cost data to disclose to consumers from health plans, including HMOs. This disclosure must be on AHCA's website by March 1, 2006.
- ✓ One of the members of CHIS must be an employee of OIR. This member will replace the employee of DFS. Both the current member and the new member are appointed by the Chief Financial Officer.
- ✓ AHCA must publish on a website data regarding the prices for the 200 most frequently dispensed drugs and must provide a mechanism for the consumer to calculate the retail price and the Medicare discounted price of the drug.
- ✓ Each pharmacy is required to publish on its website a link to the financial data published by AHCA on their website and place notice of the address of its Internet address in the area where customers receive filled prescriptions.

- ✓ Each health insurance issuer and health maintenance organization (HMO) shall make available on its Internet website a link to the performance outcome and financial data that is published by the Agency for Health Care Administration pursuant to s. 408.05(3) (l), F.S. and place notice of the address of its Internet address in every policy delivered or issued for delivery.
- ✓ Each HMO must make the estimated co-pay, coinsurance percentage or deductible for covered services, the status of the HMO subscriber's maximum annual out-of-pocket payments, and the status of a subscriber's maximum lifetime benefit for any covered service. However, the actual co-pay, coinsurance percentage or deductible can exceed the estimate given.
- ✓ AHCA may collect information from licensed health care providers for special study.
- ✓ AHCA must adopt rules necessary to implement the bill by January 1, 2005.

C. SECTION DIRECTORY:

Section 1. Amends s. 381.026, F.S. - *Florida Patient's Bill of Rights and Responsibilities.*

Section 2. Amends s. 395.301, F.S. - *Itemized patient bill; form and content prescribed by the agency.*

Section 3. Amends s. 408.061, F.S. - *Data collection; uniform systems of financial reporting; information relating to physician charges; confidential information; immunity.*

Section 4. Amends s. 408.062, F.S. - *Research, analyses, studies, and reports.*

Section 5. Amends s. 408.05, F.S. - *State Center for Health Statistics.*

Section 6. Amends s. 409.9066, F.S. - *Medicare prescription discount program.*

Section 7. Amends s. 465.0244, F.S. - *Information disclosure.*

Section 8. Amends s. 627.6499, F.S. - *Reporting by insurers and third-party administrators.*

Section 9. Amends 641.54, F.S. - *Information disclosure.*

Section 10. Provides Agency for Health Care Administration must adopt rules to implement act no later than January 1, 2005.

Section 11. Provides the bill will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to ACHA, the fiscal impact is \$1,059,771 for the first year, and \$1,217,891 for the second year. This amount includes \$350,000 to contract to survey all Florida community pharmacies regarding prices for top 50 drugs quarterly, \$20,000 to purchase software for morbidity and risk adjustment of all data submitted, and \$100,000 for statistical consultation in the development of the risk adjustment requirements. The salary for 7 of the requested 11 positions (six at the State

Center for Health Statistics and five information technology (IT) positions) is requested at 10 percent above the minimum. These positions require significant experience in health care and data systems, as well as knowledge in health care outcome measures. The tasks involved are highly complex and cannot be performed by an entry-level position.

The positions requested at the State Center for Health Statistics are:

- One Senior Management Analyst II (SES)
- One Research Associate
- One Senior Web Page Design Specialist
- Three Government Analysts II

The positions requested for IT support staff are:

- One Systems Project Consultant (SES)
- Four Systems Project Analysts (SES)

IT will support the activities of the State Center for Health Statistics. These activities include: adjust patient data collected for risk and severity; require the Agency to develop outcome and financial data; and publish data on the Internet.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Employers and the general population may benefit from additional information (pricing and performance) from health care facilities, health care providers, health insurers, and pharmacies.

Health care facilities, health care providers, health insurers, and pharmacies may incur additional expenses for providing data to AHCA that is not already provided and for publishing data on their website. Although the increase in expenses to these entities is indeterminate, it should be nominal as most health care facilities, health care providers, health insurers, and pharmacies have information technology personnel who should be able to publish the data on the entities' website.

Health care facilities may incur an additional expense associated with providing a good faith estimate and billing question/dispute procedures. This increase in expenses is indeterminate and would be based on whether the facility currently has procedures in place for providing estimates of charges to patients and for addressing billing questions/concerns of patients.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Agency for Health Care Administration with specific rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 17, 2004, the Committee on Health Care considered HB 701 with a strike all amendment and reported the bill favorably with a committee substitute. The amendment differs from the original bill in that the provisions that moved forward due dates for licensed health care facilities to report data specified in 59B-9.010 through 59B-9.020, F.A.C. and 59E-7.011 through 59E-7.016, F.A.C. were removed due to concerns raised regarding facilities having to adjust their internal procedures to meet the new schedule.

Other issues deleted from the original bill include provisions that:

- ✓ Require the agency to add to its website a copy of each licensed facility's uniform schedule of gross charges ("charge master") and information on any percentage increase in each facility's gross revenue due to any price increase or decrease in its charge master during the previous 12-month period.
- ✓ Require the agency to audit the accuracy of health care facility bills and payer claims for provider charges of \$20,000 or more, and requires facilities to refund the overpaid amount to any patient or payer who was overcharged within 30 days after the completion of the audit period. The agency will promulgate rules to implement the audit program and refund procedures.
- ✓ Prohibit facilities from charging more than the lesser of \$1000 or 20 percent above the original estimate unless unanticipated complications occur.
- ✓ Require licensed facilities to provide public notice of any proposed change to the facility's uniform schedule of gross charges 30 days prior to implementing their respective Internet websites and in public reception areas.

According to AHCA, the fiscal impact of the bill as originally filed was \$1,317,104 for FY 04-05 and \$2,130,400 for FY 05-06 with non-recurring expenditures of \$30,652 in FY 04-05 and recurring expenditures of \$1,286,452 and \$2,130,400 in FY 05-06. The changes in the bill, as incorporated by the amendment, will lessen this fiscal impact greatly. Based on the justification provided by AHCA for the fiscal impact of the bill as originally filed, one may assume that the provision of this act may be accomplished with the addition of 2 FTEs.

On April 16, 2004, the Committee on Insurance considered the bill with a strike-everything amendment sponsored by Representatives Berfield and Clarke. The strike-everything amendment made the following major changes to the bill:

- ✓ Provided disclosure for health care facilities, providers, insurers and pharmacies whereas the original bill provided disclosure for health care facilities only.
- ✓ Amended deadlines for disclosure of information by AHCA.
- ✓ Deleted the changes to the CHIS membership.
- ✓ Deleted the specific number of conditions or procedures data is to be disclosed about.

The bill analysis is written to the bill as amended.