

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2166

SPONSOR: Senator Peaden

SUBJECT: Emergency Medical Department/Licensure

DATE: March 14, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill prohibits a medical facility from being licensed as, or representing itself to the public to be, an emergency department of a licensed hospital if the facility is located away from the primary premises of a licensed hospital.

This bill amends s. 395.003, F.S.

II. Present Situation:

Section 395.003, F.S., requires a hospital, ambulatory surgical center, or mobile surgical facility to have a license from the Agency for Health Care Administration (AHCA) before operating in Florida. It is unlawful for a hospital, ambulatory surgical center, or mobile surgical facility to advertise to the public that it is such a facility unless it has first secured a license.

Section 395.002(24), F.S., defines premises as follows:

“Premises” means those buildings, beds, and equipment located at the address of the licensed facility and all other buildings, beds, and equipment for the provision of hospital, ambulatory surgical, or mobile surgical care located in such reasonable proximity to the address of the licensed facility as to appear to the public to be under the dominion and control of the licensee. For any licensee that is a teaching hospital as defined in s. 408.07(44), reasonable proximity includes any buildings, beds, services, programs, and equipment under the dominion and control of the licensee that are located at a site with a main address that is within 1 mile of the main address of the licensed facility; and all such buildings, beds, and equipment may, at the request of a licensee or applicant, be included on the facility license as a single premises.

Currently there are two hospitals in Florida that are licensed to operate off-site emergency departments. The existing facilities currently meet all state licensure requirements for hospitals, as well as certification requirements for Medicare certification. The federal Centers for Medicare and Medicaid Services currently recognizes this type of off-site facility throughout the United States.

Rules related to off-site emergency facilities have been proposed by AHCA and have been challenged.

III. Effect of Proposed Changes:

The bill provides eight “whereas clauses” that state a public purpose for prohibiting off-premises hospital emergency departments.

The bill amends s. 395.003, F.S., to prohibit the licensure of a medical facility located away from the primary premises of a licensed hospital as a hospital emergency department. The bill prohibits the medical facility from representing itself to the public to be the emergency department of a licensed hospital.

The bill would require the two existing off-premises emergency departments to close their facilities and cease operations. The bill would further prohibit all hospitals from establishing emergency departments located away from the primary premises of the licensed hospital.

The bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

D. Other Constitutional Issues:

The bill would require the two existing off-premises emergency departments to close their facilities and cease operations. This requirement may impair existing contractual

obligations. Article I of the United States Constitution and Section 10, Article I of the State Constitution both prohibit state laws impairing the obligations of contracts.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The two existing off-premises emergency departments would incur the cost of closing their facilities. The bill would prevent other licensed hospitals from opening an off-premises emergency department.

C. Government Sector Impact:

Public hospitals would be prohibited from opening an off-premises emergency department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.