

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1361 Emergency Services
SPONSOR(S): Healthcare Council and Garcia
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Health Innovation</u>	<u>6 Y, 1 N</u>	<u>Cicccone</u>	<u>Calamas</u>
2) <u>Healthcare Council</u>	<u>16 Y, 0 N, As CS</u>	<u>Cicccone</u>	<u>Gormley</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

CS/HB 1361 provides for the application and operation of off-premises hospital emergency departments providing certain conditions are met.

The bill specifies the following criteria regarding an off-premises emergency department. Under the bill a facility is required to:

- provide emergency services and care for any emergency medical condition that is within the service capability of the main hospital;
- ensure that the same medical specialists are available for consult as are available at the main hospital;
- provide patient transportation between the off-premises emergency department and the main hospital;
- provide a designated physician to direct off-premises emergency department operations;
- provide treatment to patients who have an emergency medical condition without regard to ability to pay;
- comply with all adopted rules governing emergency care;
- is accredited by the same accrediting organization as the main hospital; and
- meets all physical plant requirements, including electrical, architectural, and mechanical requirements as specified in the Florida Building Code.

The bill directs the Department of Health to determine whether statewide transport and transfer protocols should be developed regarding off-premises emergency departments and to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2008.

The bill provides that off-premises emergency departments licensed as of July 1, 2007, or have had Stage 2 architectural plans approved as of that date are subject to the licensure criteria in existence before July 1, 2007.

The bill appears to have no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2007.

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

STORAGE NAME: h1361c.HCC.doc
DATE: 4/18/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

1. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill requires the Agency for Health Care Administration to establish criteria regarding off-premises emergency departments. The bill requires the Department of Health to determine whether statewide transport and transfer protocols should be developed regarding off-premises emergency departments and to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

I. EFFECT OF PROPOSED CHANGES

The bill provides criteria for hospitals to establish off-premises emergency departments. The agencies that are affected by this bill are the Department of Health (DOH) and the Agency for Health Care Administration (AHCA). According to the DOH the new requirements in the proposal will require the department to determine whether statewide transport and transfer protocols should be developed regarding off-premises emergency departments and to report its findings to the Governor, the President of the Senate and the Speaker of the House of Representatives by January 31, 2008.

The AHCA and its regulated entities are affected in several ways. The bill directs the AHCA to standardize criteria regarding current and future off-premises emergency departments as follows:

- provide emergency services and care for any emergency medical condition that is within the service capability of the main hospital;
- ensure that the same medical specialists are available for consult as are available at the main hospital;
- provide patient transportation between the off-premises emergency department and the main hospital;
- provide a designated physician to direct off-premises emergency department operations;
- provide treatment to patients who have an emergency medical condition without regard to ability to pay;
- comply with all adopted rules governing emergency care;
- is accredited by the same accrediting organization as the main hospital; and
- meet all physical plant requirements, including electrical, architectural, and mechanical requirements as specified in the Florida Building Code.

Present Situation

By law, Florida hospitals are not required to have emergency departments but they must provide emergency care and services for the medical services within their service capability. Hospital emergency departments must meet requirements for operation and construction as identified in statute and rule.

There are currently two licensed and established off-premises emergency departments -- Munroe Regional Medical Center (MRMC) and Ft. Walton Beach Medical Center (FWB); and two off-premises emergency department that have received Stage 2 architectural plan approval – Morton Plant Medical Center (MPMC) and Mt. Sinai Medical Center.

In 2004, Section 23, Chapter 2004-350, Laws of Florida (CS/SB 2448) directed the Agency for Health Care Administration (AHCA) to submit a report recommending whether or not hospital off-premises emergency departments were in the best interests of the public; and if so, to recommend licensure

criteria, including criteria related to quality of care and the service capability of off-premises emergency departments. That report¹ found that:

- It is in the public interest to allow hospitals in certain unique communities to develop freestanding emergency departments and to have them listed separately on their license. Such communities are likely to be high growth areas within a reasonable travel time to the main hospital to enable patient transport for surgery and inpatient services. This allows growing communities to gain quicker access to emergency care but avoids the premature development of a hospital in a community that cannot yet support it.
- It is reasonable to assume that interest in freestanding emergency departments will remain limited. Factors such as liability concerns and staffing problems will prevent many hospitals from pursuing this option.
- There is currently no indication of any quality of care concerns at either of the state's two freestanding emergency departments. The two existing freestanding emergency departments have served as pilot projects to allow the AHCA to gain information about any quality problems that might be associated with freestanding facilities. Since April 2002, there have been no reports of any problem in either facility.

While there are no separate standards for off-premises emergency departments, the AHCA currently applies all the regulatory standards applicable to on premises emergency departments to off-premises emergency departments. The following regulatory standards currently apply to offsite emergency departments:

- The offsite emergency department must be inspected and meet the requirements of Rule 59A-3.255, Florida Administrative Code.
- If the hospital is accredited, the offsite location must also be accredited.
- The same services provided at the main emergency department must be provided at the freestanding emergency department, 24 hours per day, seven days per week.
- Since a freestanding emergency department is a department of the hospital, it must be able to provide emergency services and care for any emergency medical condition that is within the service capability of the hospital. Patients may be transported from one area of the hospital (offsite) to another (main) as long as emergency services and care are provided within the service capability of the hospital. Transportation from one area of the hospital (offsite) to another (main) must be provided by the hospital or through a contract with the local community EMS system. All services provided by on-call physicians must be available to patients at the offsite facility as well as the main hospital.
- A hospital's freestanding emergency department is subject to the same signage requirements (Chapter 59A-3.255, F.A.C.) as the main emergency department. Signs posted in the freestanding emergency department must be identical to signs posted in the onsite emergency department, as they must identify the service capability of the hospital.
- A list of services provided at the main campus and at the freestanding location must be provided.
- Medical screening and stabilization are required for all patients seeking emergency services at both the main emergency department and the freestanding location.

¹ <http://ahca.myflorida.com/freestanding/docs/report.pdf>

- An emergency medicine physician member of the organized medical staff must be in charge of each emergency department location.
- Supervision of care by a registered nurse qualified by relevant training and experience in emergency care for all emergency department nursing staff must be provided at each location.
- A control register identifying all persons seeking emergency care must be maintained at each location.
- Both onsite and freestanding emergency departments must have procedures in place and a listing of on-call physicians.
- Onsite and freestanding emergency departments are subject to the federal Emergency Medical Treatment and Labor Act (EMTALA) regulations as well as Florida's emergency access statute.
- The AHCA Office of Plans and Construction must review and approve construction plans for freestanding emergency departments.
- Freestanding emergency departments must meet all of the physical plant requirements, including electrical and mechanical, of an onsite emergency department as described in Section 419.4.11 of the Florida Building Code. These facilities must also meet the requirements of section 7.D.9, Definitive Emergency Care, as described in the *Guidelines for the Design and Construction of Hospitals and Health Care Facilities, 2001*, edition incorporated by referenced in Section 419.2.1.2 of the Florida Building Code.
- Freestanding emergency departments must meet the occupancy and construction requirements of the Life Safety Code and Florida Building Code relevant to the actual use of the facility.

The 2004 statute placed a moratorium on any additional off-premises emergency departments until July 1, 2005. The following year the moratorium was extended until July 1, 2006. Subsequently, the moratorium expired, and hospitals have contacted the Agency about the development of additional off-premises departments. These hospitals have been directed that the same standards for operation and construction must be met as those for any hospital emergency department. Two hospitals have submitted construction plans to the Agency which have completed Stage 1 or Stage 2 review.

There are currently no limitations on where an off-premises emergency department can be located; however an off-premises emergency department can only be established by an existing licensed hospital as a department of that same hospital. The off-premises emergency department must be accredited by the same entity as the main hospital if that hospital is accredited (but hospitals and emergency departments are not required to be accredited), and must provide the same emergency services as are provided by the main hospital. Medical specialists must be on call and available to provide services 24/7. All emergency departments (on and off-premises) are subject to the federal Emergency Medical Treatment and Labor Act (EMTALA) and Florida emergency access statutes. Off-premises emergency departments must meet the same requirements as on site emergency departments. Policies and procedures must include direction of the emergency department by a designated physician who is a member of the organized medical staff. All hospitals and their emergency departments, whether on or off-premises, must treat all patients regardless of ability to pay. Hospitals are not required to have written transfer agreements with emergency medical services providers.

2. SECTION DIRECTORY:

Section 1. Amends s. 395.003, F.S., relating to licensure; issuance, renewal, denial modification, suspension, and revocation.

Section 2. Provides an unnumbered section of statute creating new language relating to off-premises emergency department licensure.

Section 3. Provides an effective date of July 1, 2007.

3. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

4. Revenues:

None.

5. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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 take 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.

6. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On **March 20, 2007**, the Health Innovation Committee adopted one strike-all amendment to the bill. This amendment:

- Provides licensure criteria for hospital off-premises emergency departments.
- Directs the Agency for Health Care Administration to review hospital licensure applications for off-premises emergency departments based on certain criteria.

The bill was reported favorable with one strike-all amendment.

On April **10, 2007**, the Healthcare Council adopted a substitute amendment. This substitute amendment compares to the original bill as follows:

- Removes the minimum distance (from competing facilities) requirements for licensure of off-premises emergency departments.
- Maintains other requirements for licensure in the original bill. The off-premises emergency department must:
 - provide emergency services and care for any emergency medical condition within the service capability of the main hospital;
 - ensure the same medical specialists are available for consult as are available at the main hospital;
 - provide patient transportation between the off-premises emergency department and the main hospital;
 - be directed by a designated physician who is a member of the medical staff;
 - provide treatment to patients who have an emergency medical condition without regard to ability to pay;
 - comply with all adopted rules governing emergency care;
 - be accredited by the same accrediting organization as the main hospital; and
 - meet physical plant requirements, including electrical, architectural, and mechanical requirements as specified in the Florida Building Code.
- Specifies another requirement for licensure:
 - An off-premises emergency department's provision for patient transport must be consistent with chapter 401, F.S.
- Directs the DOH to determine whether statewide transport and transfer protocols should be developed regarding off-premises emergency departments and to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2008.
- Exempts certain entities from the new licensure requirements:
 - provides that off-premises emergency departments licensed as of July 1, 2007, are subject to the licensure criteria in existence before July 1, 2007; and
 - provides that license applicants that have received letters of non-reviewability from the agency and have had Stage 2 architectural plans approved as of July 1, 2007 are subject to the licensure criteria in existence before July 1, 2007.

The bill was reported favorable as a Council Substitute. The analysis reflects the Council Substitute.