

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Continuing Educational Course on HIV and AIDS

All employees and clients of facilities licensed under chapters 393 (developmental disability facilities), 394 (mental health facilities), or 397 (substance abuse facilities), F.S., and employees of facilities licensed under chapter 395 (hospitals), F.S., part II (nursing homes), part III (home health agencies), or part IV (hospices) of chapter 400, F.S., or part I (assisted living facilities) of chapter 429, F.S., are required by the Department of Health (department) to biennially complete a continuing educational course on the transmission, infection control procedures, clinical management, and prevention of HIV and AIDS. New employees are also required to complete a similar educational course on HIV and AIDS.

In 2006,¹ the Legislature repealed the biennial educational course on HIV/AIDS as a requirement of re-licensure for certain health care practitioners licensed under chapter 456, F.S.,² and, instead, required a one-time educational course on HIV/AIDS. However, the requirement for facility employees to complete the biennial educational course on HIV/AIDS remained in statute. Consequently, those health care practitioners who are employed in certain facilities are still required to complete the biennial HIV and AIDS course, despite the fact that the requirement was repealed for most professions in 2006.

Licensure of Nurse Registries

Nurse registries provide skilled and personal care. Nurse registries are set-up differently than home health agencies in that they hire independent contractors who are registered nurses, certified nurse assistants (CNA), home health aides, licensed practical nurses, homemakers, or companions to provide services to patients in their homes. These individuals are not direct employees of the nurse registry, but are independent contractors. A patient contracts with a nurse registry and the independent contractors for services. The patient makes a direct contract with the individual contractor sent from the nurse registry.

¹ House Bill 699; Chapter 2006-251, L.O.F.

² Health care professionals who are required in s. 456.033, F.S. to complete a one-time HIV/AIDS educational course include: acupuncturists (chapter 457, F.S.), physicians (chapter 458, F.S.), osteopathic physicians (chapter 459, F.S.), chiropractors (chapter 460, F.S.), podiatrists (chapter 461, F.S.), optometrists (chapter 463, F.S.), nurses (part I of chapter 464, F.S.), pharmacists (chapter 465, F.S.), dentists and dental hygienists (chapter 466, F.S.), nursing home administrators (part II of chapter 468, F.S.), occupational therapists (part III of chapter 468, F.S.), respiratory therapists (part V of chapter 468, F.S.), dieticians and nutritionists (part X of chapter 468, F.S.), and physical therapists (chapter 486, F.S.). However, s. 456.034, F.S., maintains the biennial HIV/AIDS educational course requirement for athletic trainers and massage therapists.

A nurse registry is required to obtain the following information from the independent contractors they refer: name, address, date of birth, and social security number; educational background and employment history; number and date of the applicable license or certification and renewal information.

On April 10, 2006, the Joint Administrative Procedures Committee (JAPC) sent a letter to the Agency for Health Care Administration (agency) providing comments on the agency's proposed amendment to Rule 59A-18.0081(11). This proposed amendment required CNA's and home health aides referred by nurse registries to have completed a continuing education course biennially on HIV/AIDS pursuant to s. 381.0035, F.S. The JAPC advised the agency that s. 381.0035, F.S., states "The department [of health] may adopt rules to carry out the provisions of this section." Accordingly, the JAPC requested the agency to "provide the specific rulemaking authority to adopt rules to implement this statute." Following the JAPC inquiry, the agency changed its proposed rule to strike this course requirement.

Effect of Proposed Changes:

This bill amends s. 381.0035, F.S., to require all employees and clients of facilities licensed under chapters 393, 394, or 397, F.S., and employees of facilities licensed under chapter 395, F.S., part II, part III, or part IV of chapter 400, F.S., or part I of chapter 429, F.S., to complete a one-time educational course on the transmission, infection control procedures, clinical management, and prevention of HIV and AIDS. The proposed changes in this bill will standardize the HIV and AIDS course requirement for most health care practitioners and employees of health care facilities.

The bill exempts an employee from repeating the HIV and AIDS educational course upon changing employment to a different facility. The bill also exempts an employee who is subject to the HIV and AIDS course requirements found in s. 456.033, F.S, from the course requirements in the bill.

The bill also amends s. 400.506, F.S., to direct each nurse registry to require every applicant for contract to include proof of completion of a continuing educational course on HIV and AIDS in their application form.

C. SECTION DIRECTORY:

Section 1. Amends s. 381.0035, F.S., relating to educational courses on HIV and AIDS for employees and clients of specified licensed health care facilities.

Section 2. Amends s. 400.506, F.S., relating to licensure of nurse registries.

Section 3. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is a potential revenue loss to entities that provide an HIV and AIDS course for a fee.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The agency and department have sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

I am proud to sponsor this good bill. It provides consistency in training for healthcare professionals regardless of where they work. It makes it easier for individuals who work in the various types of facilities and healthcare settings to follow the same rules and guidelines for HIV/AIDS education.

Based on the recommendation of committee staff, I will be offering a technical amendment to HB 153 which clarifies that an employee, whether new or an existing staff member, will have the same HIV/AIDS training requirement. However, employers if they prefer will have the flexibility to offer more training to employees than is mandated by my bill.

I appreciate the opportunity to present this important legislation.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On December 11, 2007, the Health Quality Committee adopted one amendment to the bill. The amendment removes the reference to “new employees” and clarifies that the one-time HIV/AIDS course requirement applies to all employees of the facilities listed. It also removes the reference to a certificate received by those who complete the course. Finally, the amendment clarifies that the bill does not apply to an employee subject to the educational requirements of s. 456.033, F.S.

The bill was reported favorably with recommended Council Substitute.