

This bill amends sections 381.0035 and 400.506, Florida Statutes.

II. Present Situation:

HIV/AIDS

Acquired Immune Deficiency Syndrome (AIDS) is a physical disorder that results in the loss of immunity in affected persons. It is caused by a retrovirus known as the Human Immunodeficiency Virus (HIV). The HIV infection and AIDS remain leading causes of illness and death in the United States. From the beginning of the HIV/AIDS epidemic in the early 1980s to December 2005, an estimated 952,629 persons in the United States had been diagnosed with AIDS and of these, 530,756 had died.¹ According to the Centers for Disease Control and Prevention, the annual number of AIDS cases and deaths declined substantially after 1994, but stabilized during the period 1999-2004.² The number of HIV/AIDS cases among racial/ethnic minority populations and persons exposed to HIV through heterosexual contact has increased since 1994.³

Florida is among the states that has been hardest hit by the HIV/AIDS epidemic. Florida ranks third among the states in the number of reported AIDS cases, with 109,364 cases reported through December 2007.⁴ A total of 6,235 HIV cases and 3,896 AIDS cases have been reported in Florida were reported in Florida during 2007.⁵

Florida has comprehensive HIV testing and partner notification laws. Additionally Florida law requires certain health care practitioners who provide prenatal services to offer HIV testing along with the testing for other sexually transmissible diseases to pregnant women.

HIV/AIDS Continuing Educational Courses

Under s. 381.0034, F.S., the Department of Health must require specified health care practitioners certified or licensed as emergency medical technicians, paramedics, midwives, radiologic technologists, or clinical laboratory personnel as a condition of biennial relicensure to complete an educational course approved by the department on HIV/AIDS. The course must cover modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS. The course must also include information on current Florida law on AIDS and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to HIV counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification. Failure to comply with the educational requirement is grounds for disciplinary action. An applicant for initial licensure or certification to practice these professions must complete a department-approved course on HIV/AIDS at the time of initial

¹A Glance at the HIV/AIDS Epidemic. Revised June 2007. Centers for Disease Control and Prevention. Found at <<http://www.cdc.gov/hiv/resources/factsheets/At-A-Glance.htm>> (Last visited January 29, 2008).

² CDC Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings. *MMWR (Morbidity and Mortality Weekly Report)* September 22, 2006; 55(RR 14):1-17. Found at: <<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>> (Last visited January 29, 2007).

³ *Id.*

⁴ The Florida Department of Health, Bureau of HIV/ AIDS.

⁵ *Id.*

licensure or certification, or do so within 6 months of licensure or certification upon an affidavit showing good cause.

Under s. 381.0035, F.S., the Department of Health must require the following persons to biennially complete a continuing educational course on the modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS, with an emphasis on appropriate behavior and attitude change:

- All employees *and clients* of the following facilities: foster care facilities, group home facilities, residential habilitation centers, and comprehensive transitional education programs for the developmentally disabled, licensed under ch. 393, F.S.; receiving and treatment facilities for the mentally ill, licensed under ch. 394, F.S.; and substance abuse treatment facilities, licensed under ch. 397, F.S.; and
- Employees of: hospitals, ambulatory surgical centers, and mobile surgical facilities, licensed under ch. 395, F.S.; nursing homes, home health agencies, and hospices, licensed under ch. 400, F.S.; and assisted living facilities, licensed under ch. 429, F.S.

New employees must complete a course with information on HIV/AIDS with instruction specifically including information on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients. Facilities must maintain a record of employees and dates of attendance at HIV/AIDS educational courses. The Department of Health has the authority to review the records of each facility.

Under s. 456.033, F.S., specified health care practitioners are required to complete, no later than upon first renewal of their license or certification, a continuing educational course on HIV/AIDS. The requirement applies to: acupuncturists licensed under ch. 457, F.S.; medical physicians and anesthesiology assistants licensed under ch. 458, F.S.; physician assistants licensed under ch. 458 or ch. 459, F.S.; osteopathic physicians licensed under ch. 459, F.S.; chiropractic physicians licensed under ch. 460, F.S.; podiatric physicians licensed under ch. 461, F.S.; optometrists licensed under ch. 463, F.S.; nurses licensed under part I of ch. 464, F.S.; pharmacists licensed under ch. 465, F.S.; dentists and dental hygienists licensed under ch. 466, F.S.; nursing home administrators licensed under part II of ch. 468, F.S.; occupational therapists licensed under part III of ch. 468, F.S.; respiratory therapists licensed under part V of ch. 468, F.S.; dietitian/nutritionists licensed under part X of ch. 468, F.S.; and physical therapists and physical therapy assistants licensed under ch. 486, F.S.

The course must include education on the modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS. The course must also include information on current Florida law on AIDS and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to HIV counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification. Failure to comply with the educational requirement is grounds for disciplinary action.

Section 456.0034, F.S., requires each person licensed as an athletic trainer or massage therapist to complete a continuing educational course approved by his or her board or the Department of Health on HIV/AIDS as a part of biennial relicensure. The course must include education on modes of transmission, infection control procedures, clinical management, and prevention of

HIV/AIDS, with an emphasis on appropriate behavior and attitude change. An applicant for initial licensure to practice as an athletic trainer or massage therapist must complete a board or department approved course on HIV/AIDS at the time of initial licensure or do so within 6 months of licensure upon an affidavit showing good cause.

Nurse Registries

Section 400.506, F.S., specifies requirements for the licensure of nurse registries. Nurse registries procure health-care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as independent contractors. Every applicant for a nurse registry contract must provide specified information, including:

- Name, address, date of birth, and social security number of the applicant;
- Educational background and employment history of the applicant;
- Number and date of the applicable license or certification; and
- When appropriate, information concerning the renewal of the applicable license, registration, or certification.

III. Effect of Proposed Changes:

The bill amends s. 381.0035, F.S., to revise the HIV/AIDS educational course requirements for employees and clients of the following facilities: foster care facilities, group home facilities, residential habilitation centers, and comprehensive transitional education programs for the developmentally disabled, licensed under ch. 393, F.S.; receiving and treatment facilities for the mentally ill, licensed under ch. 394, F.S.; and substance abuse treatment facilities, licensed under ch. 397, F.S. Employees and clients of these facilities will need to complete the HIV/AIDS course once, rather than every two years. Employees of the following facilities will also need to complete the HIV/AIDS course only once: hospitals, ambulatory surgical centers, and mobile surgical facilities, licensed under ch. 395, F.S.; nursing homes, home health agencies, and hospices, licensed under ch. 400, F.S.; and assisted living facilities, licensed under ch. 429, F.S.

The requirements for HIV/AIDS training do not apply to any employee who is licensed or certified as an acupuncturist, medical physician, physician assistant, anesthesiology assistant, osteopathic physician, chiropractic physician, podiatric physician, optometrist, nurse, advanced registered nurse practitioner, pharmacist, dentist, dental hygienist, occupational therapist, nursing home administrator, respiratory therapist, dietitian/nutritionist, physical therapist, or physical therapy assistant. However, the employee must comply with the HIV/AIDS educational requirements for the employee's profession.

The bill amends s. 400.506, F.S., to require nurse registries to require every applicant for a contract to complete an application form, which includes proof of a continuing educational course on modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS with an emphasis on appropriate behavior and attitude change. The course instruction for the HIV/AIDS class must include information on current Florida law and its effect on testing, confidentiality of test results, and treatment of patients and any protocols

and procedures applicable to HIV counseling and testing, reporting, offering HIV testing to pregnant women, and partner notification issues.

The effective date of the bill is July 1, 2008.

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, Section 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Facilities that currently must provide HIV/AIDS training to their employees every two years will save costs if the facilities' employees are only required to complete the course once and can show proof of HIV/AIDS training upon reemployment with a different facility employer.

Individuals applying for a contract through a nurse registry who are not already required to take an HIV/AIDS course as part of their professional licensure or certification will incur the costs to take the course.

C. Government Sector Impact:

The Department of Health may incur costs to revise its rules relating to HIV/AIDS courses taken by the employees of certain facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 54 through 55 of the bill exempt certain health care practitioners from the HIV/AIDS course requirements of s. 381.0035, F.S., as long as the practitioners comply with the HIV/AIDS course requirements for their profession. The professions specified in the bill do not include all of the professions that are subject to HIV/AIDS educational course requirements under ss. 381.0034, and 456.034, F.S. It is unclear why only some of the professions that have an HIV/AIDS educational course requirement are exempt from s. 381.0035, F.S.

The bill amends s. 400.506, F.S., to require nurse registries to require every applicant for a contract to complete an application form, which includes proof of a continuing educational course on modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS with an emphasis on appropriate behavior and attitude change. The section does not provide an exception for practitioners who comply with HIV/AIDS course requirements for their profession.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The committee substitute does not require a certificate to be issued to a new employee upon completion of HIV/AIDS training. The committee substitute expands the licensed health care practitioners who will be exempt from the HIV/AIDS training requirement as a condition of employment with specified facilities to include: Florida-certified or licensed acupuncturists, chiropractic physicians, optometrists, pharmacists, dentists and dental hygienists, occupational therapists, and respiratory therapists. Such practitioners are excluded as long as they comply with HIV/AIDS course requirements for their profession.

B. Amendments:

None.