

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Health Regulation

CS/CS/HB 787 — Health Care Facilities

by Health and Human Services Committee; Health and Human Services Quality Subcommittee; and Rep. Trujillo (CS/SB 1292 by Health Regulation Committee and Senator Bogdanoff)

Nursing Homes

This bill revises the definition of “geriatric outpatient clinic” to allow licensed practical nurses to work there, and “resident care plan” to eliminate signature requirements.

The bill requires nursing homes to maintain clinical records on each resident. It also eliminates certain reporting requirements, such as the total number of grievances handled and the monthly report of notices of litigations and complaints filed against the nursing home.

The bill allows any licensed nursing home to provide services, including respite care, therapeutic spa, and adult day care services to nonresidents, with certain requirements relating to adult day care services provided. The bill provides clarification for the meaning of “day” as it relates to monitoring of adult day care center programs co-located with licensed nursing homes. The bill also provides various criteria for respite care in nursing home facilities.

Nursing homes are no longer required to report staffing data but still must comply with minimum staffing requirements set in statute, with fines and license citations as penalties for noncompliance. New staffing requirements are established for facilities that care for residents under 21 years of age. Provisions concerning internal risk management are simplified to require that nursing homes submit a report to AHCA within 15 calendar days after an adverse event occurs; other, more detailed provisions for internal risk management are deleted.

Nursing home surveyors are no longer required to spend time in a licensed nursing home as part of their training. The bill expands the eligibility requirements of nursing home administrators to include those with baccalaureate degrees in health services administration or an equivalent major.

Other Facilities

For purposes of licensure as a health care clinic under ch. 400, part X, F.S., the definition of “clinic” is amended to exclude certain large businesses owned by health care practitioners. Such businesses are no longer required to be licensed as clinics under ch. 400, F.S., as long as they do not receive payment for health care services under personal injury protection insurance coverage.

The bill revises provisions related to management of nurse registries and licensure of home medical equipment providers. An administrator may manage up to five nurse registries under certain circumstances. A home medical equipment provider that is located out of state must submit documentation pertaining to accreditation.

Organizations providing companion services which contract with the Agency for Persons with Disabilities are exempt from registration as a homemaker and companion organization. The definition of “hospice” is expanded to include limited liability companies.

Hospitals located more than 100 road miles from the closest level II adult cardiovascular services program do not need to meet the 60-minute transfer time protocol if they demonstrate that there is a formalized, written transfer agreement with a hospital that has a level II program.

The bill revises the definition of “urgent care center” to include additional facilities. The bill provides requirements for posting an urgent care center’s schedule of charges, with an exemption for businesses which have urgent care centers for their own employees only. Additionally, an urgent care center that is affiliated with a hospital or ambulatory surgical center must notify patients and post in advertisements whether the charges for medical services are the same as or more than the charges for medical services received at the affiliated hospital or surgical center.

The bill allows a continuing care facility to petition the agency to designate a certain number of its sheltered nursing home beds to provide assisted living, rather than extended congregate care, if the beds are in a distinct area of the facility which can be adapted to meet the requirements for an assisted living facility.

The bill provides an exception to prohibited kickbacks or payments for referrals to authorize assisted living facilities to use employees or persons under contract with the facility, to provide payments for referrals of persons who are not Medicaid recipients, and to compensate residents for referrals of friends. The bill also revises the definition of “remuneration” for purposes of regulating home health agencies to exclude items with an individual value up to \$15 from the prohibitions of certain remunerations.

Clinical laboratories are prohibited from providing personnel to perform any duties in a physician’s office or leasing any part of a physician’s office unless the office and the laboratory are owned and operated by the same entity. A \$5,000 fine and license citations are established as penalties for violation.

The bill creates a second degree misdemeanor for a person to alter, deface, or falsify a license certificate.

AHCA Responsibilities

Rulemaking authority for the AHCA concerning do not resuscitate orders is deleted, as is the authority to investigate consumer complaints related to health care facilities’ billing practices. The bill revises provisions relating to licensure renewal notices to provide that they are courtesy notices sent by the agency and to clarify provisions related to payment of late fees. Penalties are established for acts relating to display of licenses and violations that are not designated as class I, II, III, or IV violations. The AHCA is authorized to post its automatic electronic review of

certain medication subject to prior authorization (“step-edit” review) under Medicaid within 21 days after the prior authorization and step-edit protocols and updates are approved.

Controlled Substance Prescribing

The bill revises definitions related to controlled substance prescribing in ch. 456, F.S., and exempts certain types of physicians from registering as controlled substance prescribers under this chapter. Such physicians include board-eligible or board-certified anesthesiologists, physiatrists, rheumatologists, neurologists, surgeons, pain management specialists, and those who prescribe medically necessary controlled substances for hospitalized patients. Clinics owned and operated by certain physicians are exempt from registration as pain management clinics. Clinics owned and operated by board-eligible or board-certified anesthesiologists, physiatrists, rheumatologists, anesthesiologists, neurologists, or physician multispecialty practices in which at least one physician is certified in pain medicine are also exempt from registration as a pain management clinic. Pain related to rheumatoid arthritis is removed from the definition of “chronic nonmalignant pain” in all three chapters.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 28-10; House 80-33