

STORAGE NAME: h1839s1.hcl

DATE: April 6, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS**

BILL #: CS/HB 1839

RELATING TO: Governmental Reorganization/Transfer of Medical Quality Assurance

SPONSOR(S): Committee on Health Care Licensing & Regulation and Representative Ritter

COMPANION BILL(S): SB 2202(c) and CS/SB 880(l)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION YEAS 8 NAYS 2
 - (2) GOVERNMENTAL OPERATIONS
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 1839 reassigns the Agency for Health Care Administration (agency) from the Department of Business and Professional Regulation to the Department of Health Care (department), effective July 1, 1999. The agency's current independence is maintained. The title of the director is renamed Executive Director and such appointee is made subject to Senate confirmation for any appointment made on or after October 1, 1999. The current division structure within the Agency for Health Care Administration is changed.

The bill renames the Department of Health as the Department of Health Care. The Division of Statutory Revision is requested to prepare a reviser's bill to make conforming changes to the Florida Statutes.

Effective July 1, 1999, the consumer complaint services, investigations, and prosecutorial services related to health care practitioners that are currently provided by the agency under contract with the department are transferred to the Department of Health. The consumer complaint and investigative services units are to be placed in the Division of Medical Quality Assurance of the department and the prosecutorial unit is to be placed in the Office of the General Counsel of the department. These services are the *final* sections of Medical Quality Assurance remaining with the agency. The agency has been under contract with the department to provide these services since transferral of the professional regulatory boards and professions to the department in 1997. The bill authorizes all rules to remain in effect until such time as the rules are changed pursuant to legislative authority. Existing authority for the Department of Health to contract with the agency for these services is repealed.

The bill provides for an eight-member organizational efficiency advisory committee with equal representation from the department and the agency. The committee shall review current activities of the department and the agency and make recommendations for gaining administrative efficiencies through consolidation of potentially overlapping functions in administrative services, legal services, information and management information systems, and data and planning services. The advisory committee is to prepare and submit recommendations by January 15, 2000.

The repeal of the contractual relationship and transfer of consumer complaint, investigative, and prosecutorial services should have no immediate governmental cost implications.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Department of Health

Section 20.43, F.S., creates and provides the organizational structure for the Department of Health. In 1996, the Department of Health (department) was created, in part, to regulate health care practitioners as necessary for the preservation of the health, safety, and welfare of the public. All of the health care regulatory boards and professions were transferred from the Agency for Health Care Administration (agency) to the department's Division of Medical Quality Assurance, effective July 1, 1997. The complaint analysts, investigators, and prosecutors; however, remained with the agency. The law originally *required* the department to contract with the agency to provide the consumer complaint, investigative, and prosecutorial services required by the department's Division of Medical Quality Assurance.

Before the transferral went into effect in 1997, the law changed "shall" to "may" so that the department could contract with the agency, but was no longer statutorily mandated to do so. The department and the agency entered into an interagency agreement, effective upon the date of the original transfer, which has since been twice amended. The 186.5 agency employees currently performing under contract are solely dedicated to those department functions and do no other services for the agency.

The Department of Health provides services in three broad areas: community public health; services for children with special health care needs; and the regulation of health care practitioners. Community public health services include the following divisions as specified in s. 20.43, F.S.: the Division of Environmental Health; the Division of Disease Control; and the Division of Family Health Services. The 67 county health departments are the primary operational arm for the department's community public health functions. Services to children with special health care needs are provided by the department's Division of Children's Medical Services. The department regulates health care practitioners and improves access to health care providers through the Division of Medical Quality Assurance and the Division of Local Health Planning, Education, and Workforce Development, respectively. The Division of Administration is responsible for the department's functions relating to accounting, budgeting, personnel, general services, purchasing, and related administrative matters. The Correctional Medical Authority (CMA) monitors health care provided to state prison inmates, using contract health care providers to perform audits under the direction of CMA employees.

Agency for Health Care Administration

Section 20.42, F.S., creates and provides the organizational structure for the agency. The mission of the agency is to work to ensure that all Floridians have access to affordable, quality health care. The agency was created in 1992. The agency is organizationally located within the Department of Business and Professional Regulation, but is essentially independent of that department. Under its statutory authority, the agency contains four divisions.

The Division of Health Quality Assurance regulates and monitors the quality of the state's licensed health care facilities and services. The division also serves as the state survey agency for the federal Health Care Financing Administration, certifying facilities for participation in the Medicare and Medicaid Programs. Through this division, the agency regulates managed care providers; conducts state licensure and federal certification of facilities and services; investigates consumer complaints regarding facilities, services, and practitioners; and provides training to facilities regarding quality of care.

The Division of Health Policy and Cost Control develops health policy, oversees the Certificate of Need program and manages health care information. This division functions through the following sections: health policy; Certificate of Need/financial analysis; and the State Center for Health Statistics.

The Division of State Health Purchasing consists of four major areas. The largest is Medicaid, the state and federally funded program that pays for health care for pregnant women, children, elders and disabled people who meet certain income criteria. The division's Program Integrity unit pursues possible fraud and abuse in the Medicaid Program. State Health Purchasing also oversees the

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certification requirements for Community Health Purchasing Alliance (CHPAs) and designates the Accountable Health Partnership (AHPs) that offer health plans to the small businesses which obtain health insurance coverage through CHPAs.

The Division of Administrative Services is the agency's support arm. Three bureaus assist the other divisions with finance, personnel, and other support services.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 1839 reassigns the Agency for Health Care Administration (agency) from the Department of Business and Professional Regulation to the Department of Health Care (department), effective July 1, 1999. The agency's current independence is maintained. The title of the director is renamed Executive Director and such appointee is made subject to Senate confirmation for any appointment made on or after October 1, 1999. The current division structure within the Agency for Health Care Administration is changed.

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The bill provides for an eight-member organizational efficiency advisory committee with equal representation from the department and the agency. The committee shall review current activities of the department and the agency and make recommendations for gaining administrative efficiencies through consolidation of potentially overlapping functions in administrative services, legal services, information and management information systems, and data and planning services. The advisory committee is to prepare and submit recommendations by January 15, 2000.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Administrative rules presently in effect will remain in effect until specifically changed as provided by law.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, the Department of Health will have responsibility for consumer complaints, investigative, and prosecutorial functions related to Medical Quality Assurance which are currently handled by the Agency for Health Care Administration.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The Medical Quality Assurance consumer complaint, investigative, and prosecutorial services are transferred to the Department of Health.

- (2) what is the cost of such responsibility at the new level/agency?

Since the transfer is wholesale, the cost will probably be the same.

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 20.43 and 20.43, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 20.42, F.S., to reassign the Agency for Health Care Administration from the Department of Business and Professional Regulation to the Department of Health Care, effective July 1, 1999. The title of the Director of Health Care Administration is changed to Executive Director of

Health Care Administration. Any person appointed as the Executive Director of Health Care Administration on or after October 1, 1999, is made subject to Senate Confirmation.

The current division structure of the agency is changed to: rename the Division of Health Quality Assurance as the Division of Managed Care and Health Quality and to add managed competition, managed care and the certificate-of-need program to the division's functions; abolish the Division of Health Policy and Cost Control and reassign its functions to other divisions; rename the Division of State Health Purchasing as the Division of Medicaid and to add administration of the Florida Kidcare program to the division's functions; rename the Division of Administrative Services as the Division of Administration and Information Services and to add finance and accounting, management information services and the State Center for Health Statistics to the division's functions.

Section 2. Amends s. 20.43, F.S., to rename the Department of Health as the Department of Health Care. Specifies that divisions are under the direct supervision of a division director appointed by the secretary. Repeals provision which authorizes the department to contract with the agency to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards.

Section 3. Effective July 1, 1999, transfers from the Agency for Health Care Administration to the Department of Health Care all powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds relating to consumer complaint services, investigations, and prosecutorial services. The consumer complaint and investigative services units are placed in the Division of Medical Quality Assurance of the department and the prosecutorial unit is placed in the Office of the General Counsel of the department. Provides for transferral of rules adopted by the agency for administering of programs.

Section 4. Provides for the appointment of and duties for an eight-member Organizational Efficiency Advisory Committee with four staff members each appointed by the Secretary of the Department of Health Care and the Executive Director of Health Care Administration. The committee shall review activities and make recommendations for gaining administrative efficiencies through consolidation of potentially overlapping functions in administrative services, legal services, information and management information systems, and data and planning functions of the Department of Health Care and AHCA. The advisory committee is to prepare and submit recommendations by January 15, 2000.

Section 5. Directs the Division of Statutory Revision of the Office of Legislative Services to prepare a reviser's bill to rename the Department of Health and to make other necessary organizational changes to conform to the legislative intent.

Section 6. Provides that the act shall not affect the validity of judicial or administrative proceedings pending as of the effective date of the act. Entities to which powers and functions are transferred shall be substituted as parties in interest in the pending proceedings.

Section 7. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

No immediate governmental cost implications.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

No immediate governmental cost implications.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

With repeal of the contractual relationship between the department and the agency, funds presently authorized for consumer complaints, investigative, and prosecutorial services within the department would remain with the department to provide those services.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The following comments were provided by the Agency for Health Care Administration in opposition to the bill:

- ◆ AHCA's mission includes championing quality health care. Part of quality is regulation through adequate discipline of health care providers by means of investigation and prosecution. If these functions are transferred to the Department of Health Care (DOHC), there is potential for conflict with DOHC's mission to promote and protect citizens' health, which requires close cooperation and rapport with health care providers.
- ◆ The Governor's Office supports the present structure and division of duties among DOH and AHCA and is opposed to the bill.
- ◆ The duties of the Organizational Efficiency Advisory Committee appear to duplicate and rehash factors already considered and rejected by the transition team during the changeover in administration.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 23, 1999, the Health Care Licensing & Regulation Committee adopted a strike everything amendment and made the bill a committee substitute (impact of committee substitute is outlined in this analysis). The original bill provided for a type two transfer of all powers, duties, functions, and assets that relate to the consumer complaint services, investigative, and prosecutorial services that are performed by the Agency for Health Care Administration under contract with the Department of Health.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Lucretia Shaw Collins

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