

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1216

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Saunders

SUBJECT: Emergencies and Disasters

DATE: February 13, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Favorable/CS
2.	_____	_____	GO	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill replaces the current HIV/AIDS education course requirement for specified health care practitioners and the employees of certain licensed facilities with a course on the conditions caused by nuclear, biological, and chemical terrorism and makes conforming changes to related statutory provisions relating to continuing education of specified practitioners and employees. The term “terrorism” as used in the bill conforms to the statutory definition of that term in s. 775.30, Florida Statutes.

The bill revises the certification requirements for emergency medical technicians and paramedics to allow the course on conditions caused by nuclear, biological, and chemical terrorism to count towards total continuing education credits for these practitioners as a condition of their recertification. Health care practitioners who obtain training in advanced cardiac life support, cardiopulmonary resuscitation, or emergency first aid must receive an equivalent number of continuing education course credits which may be applied toward their licensure renewal requirements.

The bill revises definitions of “advanced life support” and “basic life support” for purposes of the regulation of emergency medical services and creates a definition of “emergency medical condition.”

This bill creates section 456.0345, Florida Statutes.

This bill amends ss. 381.0034, 381.0035, 401.23, 401.27, 456.033, 456.072, 458.319, and 459.008, F.S.

II. Present Situation:

Domestic Security/Counter-Terrorism

After the September 11, 2001 terrorist attack, federal, state and local governments began to review and revise laws relating to domestic security. During the 2001 Special Session "C", the Florida Legislature enacted a number of laws dealing with security, including chapter 2001-365, Laws of Florida, to direct the Department of Law Enforcement to coordinate and direct the law enforcement, initial emergency, and other initial responses to acts of terrorism within or affecting this state. The Department of Law Enforcement must work closely with the Division of Emergency Management; other federal, state, and local law enforcement agencies; fire and rescue agencies; first-responder agencies; and others involved in preparation against and responses to such terrorism. The Department of Law Enforcement must designate a Chief of Domestic Security Initiatives. The legislation established the duties and responsibilities of the chief, which include, but are not limited to, coordinating the department's ongoing assessment of Florida's vulnerability to, and ability to detect and respond to, acts of terrorism; conducting specified security assessments; making recommendations for minimum security standards, funding and training requirements and other security matters; and developing best practices for safety and security.

Chapter 2001-365, L.O.F., also required the Department of Law Enforcement to establish a regional domestic security task force in each of the department's operational regions to serve in an advisory capacity to the Chief of Domestic Security Initiatives. Goals and objectives of each task force include, but are not limited to, coordinating efforts, training, and the collection and dissemination of investigative and intelligence information relevant to countering terrorism; identifying appropriate equipment and training needs, curricula, and materials relevant to responding to acts of terrorism or incidents involving real or hoax weapons of mass destruction; and ensuring that there are appropriate investigations and responses to hate-driven acts against ethnic groups that may have been targeted as a result of acts of terrorism.

Chapter 2001-356, Laws of Florida, provides a definition of the term "terrorism," for purposes of the Florida Criminal Code, to mean an activity that involves a violent act or an act dangerous to human life which is a violation of the criminal laws of Florida or of the United States; or involves a violation of s. 815.06, F.S., providing criminal offenses against computer users; and is intended to intimidate, injure, or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of a government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

AIDS/HIV Continuing Education

Section 456.033, F.S., provides continuing education requirements on human immunodeficiency virus and acquired immune deficiency syndrome (HIV/AIDS) for health care professionals licensed or certified under chapter 457, F.S. (acupuncture), chapter 458, F.S. (medical practice), chapter 459, F.S. (osteopathic medicine), chapter 464, F.S. (nursing), chapter 465, F.S., (pharmacy), chapter 466, F.S. (dentistry and dental hygiene), parts II, III, V, and X of chapter 468, F.S. (nursing home administration, occupational therapy, respiratory therapy, and dietetics and nutrition practice), and chapter 486, F.S. (physical therapy). The appropriate board must

require professionals under its jurisdiction to complete a 1-hour continuing education course approved by the board on AIDS/HIV as a part of the professional's relicensure or recertification every 2 years. The course must consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of AIDS/ HIV. Such course must include information on current Florida law on AIDS and its impact on testing, confidentiality of testing 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.

Each licensee or certificate holder must submit confirmation of having completed such course, on a form provided by the board when submitting fees for each renewal. A professional is subject to discipline for failure to comply with the requirements to complete the required AIDS/HIV course. As a condition of granting a license, applicants for initial licensure must complete a course on AIDS/HIV or show good cause for not completing the requirement and then be allowed 6 months to do so. The board may approve additional equivalent courses that may be used to satisfy the AIDS/HIV course requirements. Any person holding two or more licenses must be permitted to show proof of having taken one board-approved course on AIDS/HIV.

The AIDS/HIV continuing education requirement in s. 456.033, F.S., was amended to provide a health care professional the option of completing an end-of-life care and palliative health care course in lieu of an AIDS/HIV course for licensure and licensure renewal, if the health care professional has completed an AIDS/HIV course in the immediately preceding 2 years.

The AIDS/HIV continuing education requirement in s. 456.033, F.S., was amended last year to provide a licensed dentist or dental hygienist the option of completing a course approved by the Board of Dentistry in lieu of an AIDS/HIV course for licensure renewal, if the licensed dentist or dental hygienist has completed an AIDS/HIV course in the immediately preceding 2 years.

Section 381.0035, F.S., requires the Department of Health to require all employees and clients of licensed facilities providing care or treatment to developmentally disabled persons, licensed mental health facilities, licensed facilities providing substance abuse treatment, and employees of hospitals, ambulatory surgical centers, nursing homes, assisted living facilities, home health agencies, and hospices to biennially complete a continuing education 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.¹

Emergency Medical Technicians and Paramedics

Part III, ch. 401, F.S., provides for the regulation of emergency medical technicians (EMTs) and paramedics by the Department of Health. Section 401.23, F.S., provides definitions. "Advanced life support" is defined to mean treatment of life-threatening medical emergencies through the use of specified techniques by a qualified person, pursuant to Department of Health rules. "Basic

¹ Section 381.0034, F.S., provides a similar provision requiring the completion of an HIV/AIDS educational course as a condition of biennial licensure and relicensure for midwives, radiological technicians and technologists, and clinical laboratory personnel.

life support” is defined to mean treatment of medical emergencies by a qualified person through the use of specified techniques and other techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the United States Department of Transportation. “Basic life support” also includes other techniques that have been approved and are performed under conditions specified by rules of the Department of Health.

Section 401.27(2), F.S., requires the Department of Health to adopt by rule, educational and training criteria and examinations for certification and recertification of EMTs and paramedics. An applicant for certification or recertification as an EMT or paramedic must: (1) have completed an appropriate training course that is equivalent to the most recent EMT basic or paramedic training course of the United States Department of Transportation, as approved by the Department of Health; (2) certify under oath that he or she is not addicted to alcohol or any controlled substance, and that he or she is free from any physical or mental defect or disease that might impair the applicant’s ability to perform his or her duties; and (3) within 1 year after course completion have passed an examination developed by or required by the department and hold current American Heart Association cardiopulmonary resuscitation certification for the appropriate level or its equivalent.²

Section 401.27(6), F.S., requires the Department of Health to establish by rule, a procedure for biennial renewal certification of EMTs and paramedics. Such rules must require a United States Department of Transportation refresher training program of at least 30 hours as approved by the department for EMTs³. The rules must also provide that the refresher course requirement may be satisfied by passing a challenge examination. Section 381.0034(1), F.S., requires 2 hours of training on HIV/AIDS.

Section 401.2715, F.S., requires the Department of Health to establish by rule criteria for all EMT and paramedic recertification training. The rules must provide that all recertification training equals at least 30 hours, includes the performance parameters for adult and pediatric emergency medical clinical care, and is documented through a system of record keeping. Any individual, institution, school, corporation, or governmental entity may conduct EMT or paramedic recertification training after paying a nonrefundable fee to be deposited in the Emergency Medical Services Trust Fund with specified exemptions. To be eligible for recertification as provided in s. 401.27, F.S., certified EMTs and paramedics must provide proof of completion of training conducted pursuant to this section. The department must accept the written affirmation of a licensed basic life support service, advanced life support service, or air ambulance service or a department-approved educational program’s medical director as documentation that the certificateholder has completed a minimum of 30 hours of recertification training.

² Section 401.27(4), F.S.

³ Section 401.27(4)(e), F.S., requires each certified EMT or paramedic to renew his or her certification with a cardiopulmonary resuscitation CPR course appropriate to his or her level of certification. According to the Department of Health, an EMT or paramedic may take 4 to 16 hours of CPR training to maintain this certification, in addition to the required 30 hours of recertification training.

III. Effect of Proposed Changes:

Section 1. Amends s. 381.0034, F.S., relating to HIV/AIDS continuing education for emergency medical technicians, paramedics, midwives, radiological technicians and technologists, and clinical laboratory personnel, to delete the requirement for the specified health care professionals to complete an AIDS/HIV course as a condition of license renewal and substitute for that requirement a course on conditions caused by nuclear, biological, and chemical terrorism. Applicants for initial licensure must take both an AIDS/HIV course and a terrorism course. The terrorism course must consist of education on diagnosis and treatment, modes of transmission, infection control procedures and clinical management. The course must also include information on reporting suspected cases of conditions caused by nuclear, biological, or chemical terrorism to the appropriate health and law enforcement authorities. The use of “terrorism” in the section conforms to the meaning in s. 775.30, F.S.

Section 2. Amends s. 381.0035, F.S., relating to HIV/AIDS continuing education for employees and clients of specified facilities, to delete the requirement for employees of licensed hospitals, ambulatory surgery centers, nursing homes, assisted living facilities, home health agencies, and hospices to complete an AIDS/HIV course and substitute for that requirement a course on conditions caused by nuclear, biological, and chemical terrorism. Employees of facilities licensed under ch. 393, F.S., serving persons with developmental disabilities, facilities licensed under ch. 394, F.S., serving persons with mental illness, and facilities licensed under ch. 397, F.S., serving persons with substance abuse problems, must take an AIDS/HIV course and a terrorism course. The terrorism course must consist of education on diagnosis and treatment, modes of transmission, infection control procedures and clinical management. The course must also include information on reporting suspected cases of conditions caused by nuclear, biological, or chemical terrorism to the appropriate health and law enforcement authorities. New employees of all these facilities will be required to take a course on HIV/AIDS focusing on Florida law, testing and confidentiality in addition to the course on conditions caused by nuclear, biological, or chemical terrorism. The use of “terrorism” in the section conforms to the meaning in s. 775.30, F.S.

Section 3. Amends s. 401.23, F.S., relating to definitions for the regulation of emergency medical services, to revise the definition of “advanced life support” to mean the use of skills and techniques described in the most recent United States Department of Transportation National Standard Paramedic Curriculum by a paramedic under the supervision of a medical director of a basic life support service, advanced life support service, or air ambulance service as required by rules of the Department of Health. “Advanced life support” also includes provision of care by a paramedic under the supervision of the medical director of a basic life support service, advanced life support service, or air ambulance service to one experiencing an emergency medical condition as defined by ch. 401, F.S.

The definition of “basic life support” is revised to mean the use of skills and techniques described in the most recent United States Department of Transportation National Standard Emergency Medical Technician Curriculum by an emergency medical technician or paramedic under the supervision of a medical director of a basic life support service, advanced life support service, or air ambulance service as required by rules of the Department of Health. “Basic life support” also includes other techniques which have been approved and are performed under

conditions specified by rules of the Department of Health; and the provision of care by a paramedic or emergency medical technician under the supervision of the medical director of a basic life support service, advanced life support service, or air ambulance service to one experiencing an emergency medical condition as defined by ch. 401, F.S.

A definition of “emergency medical condition” is created to mean a medical condition manifesting itself by acute symptoms of sufficient severity, which may include severe pain, psychiatric disturbances, symptoms of substance abuse or other acute symptoms, such that the absence of immediate medical attention could reasonably be expected to result in: serious jeopardy to patient health; serious impairment to bodily functions; or serious dysfunction to any bodily organ or part. With respect to a pregnant woman, emergency medical condition means that there is evidence of the onset and persistence of uterine contractions or rupture of membranes. For a person exhibiting acute psychiatric disturbance or substance abuse, emergency medical condition means that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the health of a patient or others.

Section 4. Amends s. 401.27, F.S., relating to the certification requirements for emergency medical technicians and paramedics, to provide that the course required by s. 381.0034(1), F.S., on conditions caused by nuclear, biological, and chemical terrorism must count toward the 30 hours of continuing education required for recertification of these practitioners.

Section 5. Amends s. 456.033, F.S., relating to HIV/AIDS continuing education requirements for specified health care practitioners, to replace the HIV/AIDS continuing education course for health care practitioner licensure renewal with a course on conditions caused by nuclear, biological, and chemical terrorism. Course requirements are specified and include information on reporting suspected cases of conditions caused by nuclear, biological, or chemical terrorism to the appropriate health and law enforcement authorities. The use of “terrorism” in the section conforms to the meaning in s. 775.30, F.S. Applicants for initial licensure must take both an AIDS/HIV course and a course on terrorism.

Section 6. Creates s. 456.0345, F.S., to provide that health care practitioners who obtain training in advanced cardiac life support, cardiopulmonary resuscitation, or emergency first aid must receive an equivalent number of continuing education course credits which may be applied toward their licensure renewal requirements.

Section 7. Amends s. 456.072(1)(e), F.S., relating to grounds for discipline of health care practitioners under the Department of Health, to provide that a health care practitioner is subject to discipline by the department or his or her regulatory board for failure to comply with the educational course requirements for conditions caused by nuclear, biological, and chemical terrorism or for HIV/AIDS. The use of “terrorism” in the paragraph conforms to the meaning in s. 775.30, F.S.

Section 8. Amends s. 458.319(4), F.S., relating to license renewal requirements for medical physicians, to replace references to an HIV/AIDS continuing education course with one for conditions caused by nuclear, biological, and chemical terrorism to conform to changes in the bill; and to provide that a medical physician may complete continuing education on end-of-life care and palliative care in lieu of continuing education in conditions caused by nuclear,

biological, and chemical terrorism, if that physician has completed the continuing education in conditions caused by nuclear, biological, and chemical terrorism in the immediately preceding biennium. The use of “terrorism” in the subsection conforms to the meaning in s. 775.30, F.S.

Section 9. Amends s. 459.008(5), F.S., relating to license renewal requirements for osteopathic physicians, to replace references to an HIV/AIDS continuing education course with one for conditions caused by nuclear, biological, and chemical terrorism to conform to changes in the bill; and to provide that an osteopathic physician may complete continuing education on end-of-life care and palliative care in lieu of continuing education in conditions caused by nuclear, biological, and chemical terrorism, if that physician has completed the continuing education in conditions caused by nuclear, biological, and chemical terrorism in the immediately preceding biennium. The use of “terrorism” in the subsection conforms to the meaning in s. 775.30, F.S.

Section 10. Provides an effective date of upon becoming a law.

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 Art. VII, s. 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 Art. I, s. 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 Art. III, s. 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Practitioners and employees of specified facilities will incur costs relating to their obtaining the necessary training and continuing education courses, as appropriate.

The bill creates a statutory definition of “emergency medical condition” for purposes of the regulation of emergency medical services that may be used by health care providers in negotiation for coverage of conditions that are not currently covered by insurers and managed care plans.

C. Government Sector Impact:

The Department of Health may incur costs to implement the provisions relating to regulation of emergency medical services including rulemaking for the revised definitions of “advanced life support,” and “basic support life support,” and the creation of a new definition for “emergency medical condition.” The department estimates that it will incur costs of about \$3500 to adopt such rules.

VI. Technical Deficiencies:

None.

VII. Related Issues:

On page 11, lines 23-28, the bill provides that health care practitioners who obtain training in advanced cardiac life support, cardiopulmonary resuscitation, or emergency first aid must receive an equivalent number of continuing education course credits which may be applied toward their licensure renewal requirements but does not give the licensing boards or the Department of Health the authority to evaluate or approve, by rule, the provider of such training or to define what constitutes such training for purposes of relicensure or recertification. The Department of Health contends that in accordance with s. 120.536, F.S., it needs specific law to be implemented and would need rulemaking authority to implement the bill’s provisions for training in advanced cardiac life support, cardiopulmonary resuscitation, or emergency first aid. The Second District Court of Appeal found that an administrative rule adopted by the Department of Business and Professional Regulation was an invalid exercise of delegated legislative authority because the law relied upon by the department did not provide specific rulemaking authority for the rule. *St. Petersburg Kennel Club v. Department of Business and Professional Regulation, Div. Of Pari-Mutuel Wagering*, 719 So.2d 1210, 1211 (Fla.2d DCA 1998).

VIII. Amendments:

None.