

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1633 CS Hospices  
**SPONSOR(S):** Jennings and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Long-Term Care Committee	5 Y, 2 N, w/CS	Walsh	Liem
2) Health Care Appropriations Committee			
3) Health & Families Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Committee Substitute for HB 1633 amends s. 400.602, F.S., to allow licensure of for-profit hospices in certain geographic areas of the state.

The CS also requires a report to the legislature analyzing the impact of for-profit hospices on health care delivery by the Agency for Health Care Administration (AHCA).

The effective date is July 1, 2005.

## 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:

##### Background

Hospices are licensed under pt. VI of Chapter 400, F.S. Under s. 400.601(3), F.S., hospice is defined as “a centrally administered corporation **not for profit**, as defined in Chapter. 617, F.S.,<sup>1</sup> providing a continuum of palliative and supportive care for the terminally ill patient and his or her family.” [Emphasis supplied.]

An exception to the definition is found in s. 400.602(5), F.S., which allows a hospice that was incorporated on or before July 1, 1978 to be transferred to a for-profit or not-for-profit entity. Section 400.602(6), F.S., further permits any licensed hospice entity to obtain a license for up to two additional hospices.

All entities desiring a license to provide hospice services must first obtain a certificate of need (CON) from the Agency for Health Care Administration (AHCA). Under s. 408.043(2), F.S., the need for a new or expanded hospice must be determined on the basis of the need for, and availability of, hospice services in the community.

- The formula on which the CON is based must discourage regional monopolies and promote competition.
- The inpatient hospice care component of a hospice which is a freestanding facility, or a part of a facility, which is primarily engaged in providing inpatient care and related services and is not licensed as a health care facility must also be required to obtain a CON.
- Provision of hospice care by any current provider of health care is a significant change in service and therefore requires a CON for such services.

Florida has 42 licensed hospices, most of which are operated as not-for-profit corporations. One company, VITAS, has operated for-profit hospices in Florida since the 1980s under the exceptions in s. 400.602(5) and (6), F.S. VITAS currently operates five hospices in Florida.

AHCA has established 27 services are for hospices<sup>2</sup> as follows:

- Service Area 1 consists of Escambia, Okaloosa, Santa Rosa, and Walton Counties.
- Service Area 2A consists of Bay, Calhoun, Gulf, Holmes, Jackson, and Washington Counties.
- Service Area 2B consists of Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.
- Service Area 3A consists of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union Counties.
- Service Area 3B consists of Marion County.
- Service Area 3C consists of Citrus County.
- Service Area 3D consists of Hernando County.
- Service Area 3E consists of Lake and Sumter Counties.

<sup>1</sup> A corporation not for profit is defined in s. 617.01401(5), F.S., as a corporation, no part of the income or profit of which is distributable to its members, directors, or officers.

<sup>2</sup> Rule 59C-1.0355, F.A.C.

- Service Area 4A consists of Baker, Clay, Duval, Nassau, and St. Johns Counties.
- Service Area 4B consists of Flagler and Volusia Counties.
- Service Area 5A consists of Pasco County.
- Service Area 5B consists of Pinellas County.
- Service Area 6A consists of Hillsborough County.
- Service Area 6B consists of Hardee, Highlands, and Polk Counties.
- Service Area 6C consists of Manatee County.
- Service Area 7A consists of Brevard County.
- Service Area 7B consists of Orange and Osceola Counties.
- Service Area 7C consists of Seminole County.
- Service Area 8A consists of Charlotte and DeSoto Counties.
- Service Area 8B consists of Collier County.
- Service Area 8C consists of Glades, Hendry and Lee Counties.
- Service Area 8D consists of Sarasota County.
- Service Area 9A consists of Indian River County.
- Service Area 9B consists of Martin, Okeechobee, and St. Lucie Counties.
- Service Area 9C consists of Palm Beach County.
- Service Area 10 consists of Broward County.
- Service Area 11 consists of Dade and Monroe Counties.

### **Effect of Proposed Changes**

Committee Substitute for HB 1633 provides that notwithstanding the provisions of s. 400.601(3), F.S. (i.e., that a hospice be a not for profit corporation), any for profit hospice may obtain a license if it meets other statutory requirements and receives a CON to provide care in the following areas of the state:

- Hospice Service Areas with population of 550,000 or more, except that the for profit hospice may not be located in any county in the service area which has a population of 50,000 or less; or
- Hospice Service Areas where a for profit hospice is currently licensed to operate

The CS requires that AHCA use the Hospice Service Areas as published on January 1, 2005. Accordingly, for-profit hospices could be licensed in the following 12 hospice service areas. It should be noted that pursuant to s. 1.01(7), F.S., reference to the population of any county of the state shall be taken to be that as shown by the last preceding official decennial federal census. Accordingly, the Hospice Service Area population totals below are derived from the Florida county counts from the United States Census 2000.<sup>3</sup>

- Service Area 1—Escambia, Okaloosa, Santa Rosa, and Walton Counties (pop. 623,252)
- Service Area 4A—Baker, Clay, Duval, Nassau, and St. Johns Counties (pop. 1,112,750)
- Service Area 4B—Flagler and Volusia Counties (pop. 493,175; for-profit CON approved)
- Service Area 5B—Pinellas County (pop. 921,842)
- Service Area 6A—Hillsborough County (pop. 998,948)
- Service Area 6B—Hardee, Highlands, and Polk Counties (pop. 598,228)
- Service Area 7A—Brevard County (pop. 476,230; site of for-profit hospice)
- Service Area 7B—Orange and Osceola Counties (pop. 1,068,837; site of for-profit hospice)
- Service Area 7C—Seminole County (pop. 365,196; site of for-profit hospice)
- Service Area 9C—Palm Beach County (pop. 1,131,184; site of for-profit hospice)
- Service Area 10—Broward County (pop. 1,623,018; site of for-profit hospice)
- Service Area 11—Dade and Monroe Counties (pop. 2,332,951; site of for-profit hospice)

<sup>3</sup> Office of Economic and Demographic Research; available at <http://www.myflorida.com/edr/population/census2000.htm>

In the future, for-profit hospices could be licensed in other service areas when those areas reach a population of at least 550,000.

The CS requires AHCA to submit a report to the Legislature by January 1, 2007, which analyzes the impact of for profit hospices on the delivery of care to terminally ill patients, including quality of care and the change in the competitive marketplace.

The act is effective July 1, 2005.

C. SECTION DIRECTORY:

**Section 1:** Amends s. 400.602, F.S.; creates new subsection (7) relating to licensure of for-profit hospices in certain areas of the state; requires a report to the Legislature.

**Section 2:** Provides an effective date of July 1, 2005.

## 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:

For-profit corporations will be able to compete for a certificate of need to become a hospice.

While the actual number of licensed hospices will continue to be regulated by the certificate-of-need process, the changes in this bill likely will increase competition among prospective providers and could limit the capabilities of not-for-profit hospice charitable organizations.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

None.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its April 6, 2005, meeting, the Committee on Elder & Long-Term Care adopted a strike-all amendment to the bill as filed and favorably reported the Committee Substitute. The CS amends s. 400.602, F.S., to create new subsection (7) relating to licensure of for-profit hospices in certain geographic areas of the state, and requiring a report by the Agency for Health Care Administration.

This analysis is drafted to the Committee Substitute.