

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 190

INTRODUCER: Senators Bean and Hays

SUBJECT: Hospices

DATE: January 28, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Pre-meeting</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 190 requires the Agency for Healthcare Administration (AHCA) to assume a need for an additional hospice provider in any ACHA-designated hospice service area with only one hospice provider that is licensed or has been issued a certificate of need (CON).

**II. Present Situation:**

**Hospice Care**

Hospice care is a continuum of palliative and supportive care for the terminally ill patient and his or her family members.<sup>1</sup> Hospice care is provided by a hospice team which includes physicians, nurses, medical social workers, spiritual/pastoral counselors, home health aides, therapists, bereavement counselors, and specially trained volunteers.<sup>2</sup> Hospices can be for-profit or non-profit and provide four levels of care:

- **Routine care** provides the patient with hospice services at home or in a home-like setting. The patient's family provides the primary care with the assistance of the hospice team.
- **Continuous care** provides the patient with skilled nursing services in his or her home during a crisis.
- **Inpatient care** is provided in a healthcare facility for symptoms of a crisis that cannot be managed in the patient's home. Inpatient care is provided on a temporary basis as determined by the patient's physician and the hospice team.
- **Respite care** is provided in a healthcare facility and is primarily to provide the patient's family members and caretakers with a period of relief.<sup>3</sup>

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<sup>1</sup> Fla. Admin. Code R. 59C-1.0355.

<sup>2</sup> Florida Hospice and Palliative Care Association, *About Hospice*, available at <http://www.floridahospices.org/hospice-palliative-care/about-hospice/>, (last visited Jan. 27, 2015).

<sup>3</sup> Id.

## Hospices in Florida

Currently, there are 71 licensed hospice providers and three providers that have received a CON but are not yet licensed in the 27 hospice services areas throughout the state. In seven of the 27 hospice service areas there is only one hospice provider that is either licensed or approved to serve that area. Those seven areas include subdistricts 5B, consisting of Pinellas County; 6A, consisting of Hillsborough County; 6C, consisting of Manatee County; 8A, consisting of Charlotte and DeSoto Counties; 8C, consisting of Glades, Hendry, and Lee Counties; 8D, consisting of Sarasota County; and 9A, consisting of Indian River County. In the most recent projections published in October, 2014, the AHCA found a need for new hospice services in subdistricts 5A, consisting of Pasco County, that already has two licensed hospice providers, and 6A, consisting of Hillsborough County.<sup>4</sup>

## Certificates of Need (CON)

A CON is a written statement issued by the AHCA evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility, health service, or hospice.<sup>5</sup> The Florida CON program has three levels of review: full, expedited, and exempt.<sup>6</sup> A full CON review is required when establishing a new hospice or establishing an inpatient hospice facility that is part of a licensed hospice program.<sup>7</sup> Adding hospice services in a rural hospital in a number that does not exceed half of the hospital's licensed beds is exempt from the CON process.<sup>8</sup>

## Determination of Need

Section 408.043(2), F.S., requires that the need for hospice services be determined based on the need for and availability of hospice services in the community where the proposed hospice services will be located and that the formula on which the CON is based discourage regional monopolies and promote competition. Currently need is determined twice annually for each individual hospice service area<sup>9</sup> based on whether the difference between the projected number of hospice admissions and the actual number of hospice admissions in that service area during a 12-month period is at least 350.<sup>10</sup> Additionally, the AHCA will generally not approve a new hospice in a service area unless all other hospice programs service that area have been operational for at least 2 years prior to the need projection or if there is a hospice program in the service area that has been granted a CON but is not yet licensed.<sup>11</sup>

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<sup>4</sup> Agency for Health Care Administration, *Florida Need Projections for Hospice Programs*, January 2016, at p. 12, [http://ahca.myflorida.com/MCHQ/CON\\_FA/Publications/docs/FlNeedProjections/Oct2014\\_HospiceNeedProjections.pdf](http://ahca.myflorida.com/MCHQ/CON_FA/Publications/docs/FlNeedProjections/Oct2014_HospiceNeedProjections.pdf), (last visited Jan. 15, 2015).

<sup>5</sup> Section 408.032(3), F.S.

<sup>6</sup> Section 408.036, F.S.

<sup>7</sup> *Supra* note 4, at 2 (Licensed beds designated for inpatient hospice care through contract between an existing health care facility and a licensed hospice program do not require a CON.)

<sup>8</sup> Section 408.036(3)(a), F.S.

<sup>9</sup> Currently there are 27 hospice service areas each of which encompass at least one county. These service areas are established in Fla. Admin. Code R. 59C-1.0355.

<sup>10</sup> *Supra*, note 4, at 11 (For example, if the AHCA projects 850 hospice admissions and the actual number of admissions was only 450 during the 12-month period, the difference is 400 and the AHCA would determine there is a need for a new hospice provider in that service area.)

<sup>11</sup> Fla. Admin. Code R. 59C-1.0355(4)(b) and (c).

**III. Effect of Proposed Changes:**

SB 190 requires the AHCA to assume a need for an additional hospice provider in any service area with only one hospice provider that is either currently licensed or has been issued a CON. Currently, based on the most recent need projections, the bill would require the AHCA to assume a need in the following six subdistricts: 5B, consisting of Pinellas County; 6C, consisting of Manatee County; 8A, consisting of Charlotte and DeSoto Counties; 8C, consisting of Glades, Hendry, and Lee Counties; 8D, consisting of Sarasota County; and 9A, consisting of Indian River County.<sup>12</sup>

The bill has an effective date of July 1, 2015.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

SB 190 may have a positive fiscal impact on hospice patients in affected service areas due to increased competition between hospice providers in those areas.

SB 190 may have a negative fiscal impact on hospice providers currently providing hospice services in the affected service areas due to increased competition.

**C. Government Sector Impact:**

SB 190 may have a negative fiscal impact on the AHCA due to an increase in the number of inspections of the newly approved hospices the AHCA will be required to perform, however this impact may be offset by licensure fees paid by those hospices.

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<sup>12</sup> Note: the AHCA has already found a need for an additional provider in subdistrict 6A, consisting of Hillsborough County.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 408.043 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.