



175278

LEGISLATIVE ACTION

Senate

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House

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Floor: 1a/WD/2R

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04/23/2015 10:49 AM

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Senator Bradley moved the following:

1 **Senate Amendment to Amendment (960070) (with title**
2 **amendment)**

3
4 Delete lines 5 - 72

5 and insert:

6 Section 1. Present paragraph (c) of subsection (4) of
7 section 395.402, Florida Statutes, is redesignated as paragraph
8 (d), and a new paragraph (c) is added to that subsection, to
9 read:

10 395.402 Trauma service areas; number and location of trauma
11 centers.-



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12 (4) Annually thereafter, the department shall review the
13 assignment of the 67 counties to trauma service areas, in
14 addition to the requirements of paragraphs (2)(b)-(g) and
15 subsection (3). County assignments are made for the purpose of
16 developing a system of trauma centers. Revisions made by the
17 department shall take into consideration the recommendations
18 made as part of the regional trauma system plans approved by the
19 department and the recommendations made as part of the state
20 trauma system plan. In cases where a trauma service area is
21 located within the boundaries of more than one trauma region,
22 the trauma service area's needs, response capability, and system
23 requirements shall be considered by each trauma region served by
24 that trauma service area in its regional system plan. Until the
25 department completes the February 2005 assessment, the
26 assignment of counties shall remain as established in this
27 section.

28 (c) In any trauma service area in which the department has
29 designated or provisionally approved a total of one Level I or
30 Level II trauma center and such trauma center ceases operation
31 after July 1, 2015, and there is no other trauma center in the
32 trauma service area, a need for an additional trauma center
33 shall immediately be established. A hospital within such trauma
34 service area may submit an application to operate as a Level I
35 or Level II trauma center at any time after the pre-existing
36 trauma center ceases operation without regard to whether the
37 hospital filed a letter of intent to operate as a trauma center.
38 Because such an application is not submitted within the review
39 cycle established in this part, the dates established in this
40 part are not applicable to an application submitted under this



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41 paragraph. For an application submitted under this paragraph,
42 the department shall conduct a provisional review to determine
43 whether the application has the critical elements required for a
44 trauma center within 30 days after receiving the completed
45 application and conduct the in-depth evaluation of the
46 application within 5 months after receiving the completed
47 application. The department shall conduct the onsite visits by a
48 review team of out-of-state experts within 11 months after
49 receiving the completed application and make a decision whether
50 the hospital is selected as a trauma center within 12 months
51 after receiving the completed application, unless the hospital
52 seeks and obtains an extension of its provisional status, in
53 which case the department may extend the provisional status of
54 the application for an additional 6 months. An application
55 submitted under this paragraph must comply with all other
56 provisions of this part. The department must comply with the
57 dates and timeframes set forth in this paragraph for
58 administrative review and action on applications submitted under
59 this paragraph.

60 Section 2. Subsection (7) of section 400.474, Florida
61 Statutes, is amended to read:

62 400.474 Administrative penalties.—

63 (7) A home health agency shall submit to the agency, with
64 each license renewal application, the number of patients who
65 receive home health services from the home health agency on the
66 day that the license renewal application is filed, ~~within 15~~
67 ~~days after the end of each calendar quarter, a written report~~
68 ~~that includes the following data as they existed on the last day~~
69 ~~of the quarter:~~



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70 ~~(a) The number of insulin-dependent diabetic patients who~~
71 ~~receive insulin-injection services from the home health agency.~~

72 ~~(b) The number of patients who receive both home health~~
73 ~~services from the home health agency and hospice services.~~

74 ~~(c) The number of patients who receive home health services~~
75 ~~from the home health agency.~~

76 ~~(d) The name and license number of each nurse whose primary~~
77 ~~job responsibility is to provide home health services to~~
78 ~~patients and who received remuneration from the home health~~
79 ~~agency in excess of \$25,000 during the calendar quarter.~~

80
81 ~~If the home health agency fails to submit the written~~
82 ~~quarterly report within 15 days after the end of each calendar~~
83 ~~quarter, the Agency for Health Care Administration shall impose~~
84 ~~a fine against the home health agency in the amount of \$200 per~~
85 ~~day until the Agency for Health Care Administration receives the~~
86 ~~report, except that the total fine imposed pursuant to this~~
87 ~~subsection may not exceed \$5,000 per quarter. A home health~~
88 ~~agency is exempt from submission of the report and the~~
89 ~~imposition of the fine if it is not a Medicaid or Medicare~~
90 ~~provider or if it does not share a controlling interest with a~~
91 ~~licensee, as defined in s. 408.803, which bills the Florida~~
92 ~~Medicaid program or the Medicare program.~~

93 Section 3. Paragraph (t) is added to subsection (3) of
94 section 408.036, Florida Statutes, to read:

95 408.036 Projects subject to review; exemptions.—

96 (3) EXEMPTIONS.—Upon request, the following projects are
97 subject to exemption from the provisions of subsection (1):

98 (t) For the establishment of a health care facility or



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99 project that meets all of the following criteria:

100 1. The applicant was previously licensed within the past 21
101 days as a health care facility or provider that is subject to
102 subsection (1).

103 2. The applicant failed to submit a renewal application and
104 the license expired on or after January 1, 2015.

105 3. The applicant does not have a license denial or
106 revocation action pending with the agency at the time of the
107 request.

108 4. The applicant's request is for the same service type,
109 district, service area, and site for which the applicant was
110 previously licensed.

111 5. The applicant's request, if applicable, includes the
112 same number and type of beds as were previously licensed.

113 6. The applicant agrees to the same conditions that were
114 previously imposed on the certificate of need or on an exemption
115 related to the applicant's previously licensed health care
116 facility or project.

117 7. The applicant applies for initial licensure as required
118 under s. 408.806 within 21 days after the agency approves the
119 exemption request. If the applicant fails to apply in a timely
120 manner, the exemption expires on the 22nd day following the
121 agency's approval of the exemption.

122
123 Notwithstanding subparagraph 1., an applicant whose license
124 expired between January 1, 2015 and the effective date of this
125 act may apply for an exemption within 30 days of this act
126 becoming law.

127 Section 4. Subsection (3) of section 456.44, Florida



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128 Statutes, is amended to read:

129 456.44 Controlled substance prescribing.—

130 (3) STANDARDS OF PRACTICE.—The standards of practice in
131 this section do not supersede the level of care, skill, and
132 treatment recognized in general law related to health care
133 licensure.

134 (a) A complete medical history and a physical examination
135 must be conducted before beginning any treatment and must be
136 documented in the medical record. The exact components of the
137 physical examination shall be left to the judgment of the
138 clinician who is expected to perform a physical examination
139 proportionate to the diagnosis that justifies a treatment. The
140 medical record must, at a minimum, document the nature and
141 intensity of the pain, current and past treatments for pain,
142 underlying or coexisting diseases or conditions, the effect of
143 the pain on physical and psychological function, a review of
144 previous medical records, previous diagnostic studies, and
145 history of alcohol and substance abuse. The medical record shall
146 also document the presence of one or more recognized medical
147 indications for the use of a controlled substance. Each
148 registrant must develop a written plan for assessing each
149 patient's risk of aberrant drug-related behavior, which may
150 include patient drug testing. Registrants must assess each
151 patient's risk for aberrant drug-related behavior and monitor
152 that risk on an ongoing basis in accordance with the plan.

153 (b) Each registrant must develop a written individualized
154 treatment plan for each patient. The treatment plan shall state
155 objectives that will be used to determine treatment success,
156 such as pain relief and improved physical and psychosocial



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157 function, and shall indicate if any further diagnostic
158 evaluations or other treatments are planned. After treatment
159 begins, the physician shall adjust drug therapy to the
160 individual medical needs of each patient. Other treatment
161 modalities, including a rehabilitation program, shall be
162 considered depending on the etiology of the pain and the extent
163 to which the pain is associated with physical and psychosocial
164 impairment. The interdisciplinary nature of the treatment plan
165 shall be documented.

166 (c) The physician shall discuss the risks and benefits of
167 the use of controlled substances, including the risks of abuse
168 and addiction, as well as physical dependence and its
169 consequences, with the patient, persons designated by the
170 patient, or the patient's surrogate or guardian if the patient
171 is incompetent. The physician shall use a written controlled
172 substance agreement between the physician and the patient
173 outlining the patient's responsibilities, including, but not
174 limited to:

175 1. Number and frequency of controlled substance
176 prescriptions and refills.

177 2. Patient compliance and reasons for which drug therapy
178 may be discontinued, such as a violation of the agreement.

179 3. An agreement that controlled substances for the
180 treatment of chronic nonmalignant pain shall be prescribed by a
181 single treating physician unless otherwise authorized by the
182 treating physician and documented in the medical record.

183 (d) The patient shall be seen by the physician at regular
184 intervals, not to exceed 3 months, to assess the efficacy of
185 treatment, ensure that controlled substance therapy remains



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186 indicated, evaluate the patient's progress toward treatment
187 objectives, consider adverse drug effects, and review the
188 etiology of the pain. Continuation or modification of therapy
189 shall depend on the physician's evaluation of the patient's
190 progress. If treatment goals are not being achieved, despite
191 medication adjustments, the physician shall reevaluate the
192 appropriateness of continued treatment. The physician shall
193 monitor patient compliance in medication usage, related
194 treatment plans, controlled substance agreements, and
195 indications of substance abuse or diversion at a minimum of 3-
196 month intervals.

197 (e) The physician shall refer the patient as necessary for
198 additional evaluation and treatment in order to achieve
199 treatment objectives. Special attention shall be given to those
200 patients who are at risk for misusing their medications and
201 those whose living arrangements pose a risk for medication
202 misuse or diversion. The management of pain in patients with a
203 history of substance abuse or with a comorbid psychiatric
204 disorder requires extra care, monitoring, and documentation and
205 requires consultation with or referral to an addiction medicine
206 specialist or psychiatrist.

207 (f) A physician registered under this section must maintain
208 accurate, current, and complete records that are accessible and
209 readily available for review and comply with the requirements of
210 this section, the applicable practice act, and applicable board
211 rules. The medical records must include, but are not limited to:

- 212 1. The complete medical history and a physical examination,
213 including history of drug abuse or dependence.
- 214 2. Diagnostic, therapeutic, and laboratory results.



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- 215 3. Evaluations and consultations.
216 4. Treatment objectives.
217 5. Discussion of risks and benefits.
218 6. Treatments.
219 7. Medications, including date, type, dosage, and quantity
220 prescribed.
221 8. Instructions and agreements.
222 9. Periodic reviews.
223 10. Results of any drug testing.
224 11. A photocopy of the patient's government-issued photo
225 identification.
226 12. If a written prescription for a controlled substance is
227 given to the patient, a duplicate of the prescription.
228 13. The physician's full name presented in a legible
229 manner.
- 230 (g) Patients with signs or symptoms of substance abuse
231 shall be immediately referred to a board-certified pain
232 management physician, an addiction medicine specialist, or a
233 mental health addiction facility as it pertains to drug abuse or
234 addiction unless the physician is board-certified or board-
235 eligible in pain management. Throughout the period of time
236 before receiving the consultant's report, a prescribing
237 physician shall clearly and completely document medical
238 justification for continued treatment with controlled substances
239 and those steps taken to ensure medically appropriate use of
240 controlled substances by the patient. Upon receipt of the
241 consultant's written report, the prescribing physician shall
242 incorporate the consultant's recommendations for continuing,
243 modifying, or discontinuing controlled substance therapy. The



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244 resulting changes in treatment shall be specifically documented
245 in the patient's medical record. Evidence or behavioral
246 indications of diversion shall be followed by discontinuation of
247 controlled substance therapy, and the patient shall be
248 discharged, and all results of testing and actions taken by the
249 physician shall be documented in the patient's medical record.

250

251 This subsection does not apply to a board-eligible or
252 board-certified anesthesiologist, physiatrist, rheumatologist,
253 or neurologist, or to a board-certified physician who has
254 surgical privileges at a hospital or ambulatory surgery center
255 and primarily provides surgical services. This subsection does
256 not apply to a board-eligible or board-certified medical
257 specialist who has also completed a fellowship in pain medicine
258 approved by the Accreditation Council for Graduate Medical
259 Education or the American Osteopathic Association, or who is
260 board eligible or board certified in pain medicine by the
261 American Board of Pain Medicine or a board approved by the
262 American Board of Medical Specialties or the American
263 Osteopathic Association and performs interventional pain
264 procedures of the type routinely billed using surgical codes.
265 This subsection does not apply to a physician who prescribes
266 medically necessary controlled substances for a patient during
267 an inpatient stay in a hospital licensed under chapter 395 or
268 for a resident in a facility licensed under part II of chapter
269 400.

270 Section 5. This act shall take effect upon becoming a law.

271

272 ===== T I T L E A M E N D M E N T =====



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273 And the title is amended as follows:

274 Delete lines 79 - 92

275 and insert:

276 An act relating to the regulation of health care;
277 amending s. 395.402, F.S.; providing a determination
278 of need for an additional trauma center where a
279 previously existing trauma center has ceased
280 operation; authorizing a hospital to submit an
281 application to operate as a Level I or Level II trauma
282 center under certain circumstances; providing
283 timeframes for administrative review and action on
284 applications to operate as a trauma center where a
285 previously existing trauma center has ceased
286 operation; providing requirements for such
287 applications; amending s. 400.474, F.S.; revising the
288 information that a home health agency is required to
289 submit to the Agency for Health Care Administration
290 for license renewal; removing the requirement that a
291 home health agency submit quarterly reports; amending
292 s. 408.036, F.S.; providing an exemption from a
293 certificate-of-need review for applicants that were
294 previously licensed within a specified period as a
295 health care facility or provider and that meet certain
296 criteria; providing an exception for an applicant
297 whose license expired during a specified time period
298 to apply for an exemption from the review; amending s.
299 456.44, F.S.; revising the application of requirements
300 for standards of practice for certain controlled
301 substance prescribing; providing an effective date.