

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.)

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

BILL: SB 250

INTRODUCER: Senator Steube

SUBJECT: Ambulatory Surgical Centers and Mobile Surgical Facilities

DATE: December 4, 2017

REVISED: _____

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

I. Summary:

SB 250 amends the definition of “ambulatory surgical center” (ASC) or “mobile surgical facility”¹ in s. 395.002, F.S., to allow patients to remain in the ASC for up to 24 hours rather than requiring that patients be admitted and discharged from the ASC within the same working day. This change conforms to the federal definition of an ACS as part of the conditions of participation in the Medicare program.

II. Present Situation:

Ambulatory Surgical Centers

An ASC is a facility, that is not a part of a hospital, the primary purpose of which is to provide elective surgical care, in which the patient is admitted and discharged within the same working day and is not permitted to stay overnight.² Currently there are 442 licensed ASCs in Florida.³ Between April 2016 and March 2017, there were 3,068,350 visits to ASCs in Florida.⁴ Two of

¹ Chapter 395, Part I, F.S., also includes a provision for mobile surgical facility licensure, which is a portable ASC contracted with the Department of Corrections (DOC) or private correctional facility to serve as the surgery department of a prison hospital. To date, no applications have been received for a mobile surgical facility license and none are anticipated; this provision would be appropriate for repeal and an amendment is proposed to include this repeal. AHCA, *Senate Bill 250 Analysis* (Oct. 19, 2017) (on file with the Senate Committee on Health Policy).

² Section 395.002(3), F.S., defines “Ambulatory surgical center” to mean a facility the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, and which is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy, an office maintained by a physician for the practice of medicine, or an office maintained for the practice of dentistry shall not be construed to be an ambulatory surgical center, provided that any facility or office which is certified or seeks certification as a Medicare ambulatory surgical center shall be licensed as an ambulatory surgical center pursuant to s. 395.003, F.S.

³ Supra note 1

⁴ AHCA, *Florida Health Finder*, <http://www.floridahealthfinder.gov/CompareCare/CompareFacilities.aspx> (last viewed Nov. 30, 2017).

the most popular procedures to have performed at an ASC include cataract procedures with 269,807 performed on adults and colonoscopies with 238,997 performed on adults, also during the same time period.⁵ Average charges for procedures performed at an ASC over this period range from \$2,201 to \$15, 961.⁶

Ambulatory surgical centers are licensed and regulated by the AHCA under the same regulatory framework as hospitals.⁷ In addition, ASCs may seek voluntary accreditation by the Joint Commission or the Accreditation Association for Ambulatory Health Care. The AHCA is required to conduct an annual licensure inspection survey for non-accredited ASCs. The AHCA is authorized to accept survey reports of accredited ASCs from accrediting organizations if the standards included in the survey report are determined to document that the ASC is in substantial compliance with state licensure requirements. The AHCA is required to conduct annual validation inspections on a minimum of 5 percent of the ASCs which were inspected by an accreditation organization.⁸

Ambulatory surgical centers are required to have an agreement with the Centers for Medicare and Medicaid Services (CMS) to participate in Medicare. ASCs are also required to comply with specific conditions for coverage. CMS defines “ASC” as any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours following an admission.⁹

The CMS may deem an ASC to be in compliance with all of the conditions for coverage if the ASC is accredited by a national accrediting body, or licensed by a state agency, and CMS determines that such accreditation or licensure provides reasonable assurance that the conditions for coverage are met.¹⁰ All of the CMS conditions for coverage requirements are specifically required in Rule 59A-5, F.A.C., and apply to all ASCs in Florida. The conditions for coverage require ASCs to have a:

- Governing body that assumes full legal responsibility for determining, implementing, and monitoring policies governing the ASC’s total operation;
- Quality assessment and performance improvement program;
- Transfer agreement with one or more acute care general hospitals, which will admit any patient referred who requires continuing care;
- Disaster preparedness plan;
- Organized medical staff;
- Fire control plan;
- Sanitary environment;
- Infection control program; and
- Procedure for patient admission, assessment and discharge.

⁵ Supra note 4

⁶ Supra note 4

⁷ Sections 395.001-395.1065, F.S., and part II, ch. 408, F.S.

⁸ Rule 59A-5.004, F.A.C.

⁹ 42 C.F.R. s. 416.2.

¹⁰ 42 C.F.R. s. 416.26(a)(1).

III. Effect of Proposed Changes:

SB 250 amends the definition of ASC in s. 395.002, F.S., to allow patients to remain in the ASC for up to 24 hours rather than requiring that patients be admitted and discharged from the ASC within the same working day. This change conforms to the federal definition of an ACS as part of the conditions of participation in the Medicare program.

The bill establishes an effective date of July 1, 2018.

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 250 may have an indeterminate negative fiscal impact on hospitals if more patients choose to have their procedures performed in an ASC.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 395.002 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
