

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 373 Hospitals

SPONSOR(S): Peters and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 380

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		Guzzo	Shaw
2) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill requires general hospitals and provider hospitals to notify obstetrical physicians at least 120 days before closing an obstetrical department or ceasing to provide obstetrical services and provides that the Agency for Health Care Administration (AHCA) shall adopt rules to administer the requirement.

The bill transfers the rule-making authority from the Department of Health (DOH) to AHCA to adopt rules to implement practice parameters for performing caesarean section deliveries to be followed by physicians in provider hospitals.

The bill also transfers rule-making authority from DOH to AHCA to establish standards for peer review boards in provider hospitals to follow in reviewing all caesarian section deliveries

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Obstetrical Services

Licensure Requirements

Hospitals are required to report the emergency services they will provide on the application form to the Agency for Health Care Administration (AHCA).¹ These services, such as obstetrics, are then listed on the hospital's license,² and must be displayed conspicuously.³ Hospitals must notify AHCA of any change of service that affects information on their license by submitting a revised licensure application, between 60 and 120 days in advance of the change.⁴ The list of services is also used for the inventory of hospital emergency services maintained by AHCA.⁵ There are currently 139 hospitals in Florida that are licensed to offer emergency obstetrical services.⁶

Cesarean Births at Provider Hospitals

A cesarean section is a surgical procedure performed when a mother is not able to safely deliver vaginally. Instead, a baby is delivered through an incision in the mother's abdomen and uterus. Florida's rate of Cesarean deliveries increased from 22.8 percent in 1996 to 40.1 percent in 2011, which was consistently greater than the national average.⁷ Physicians avoid performing unnecessary cesarean sections, because cesarean births can result in babies being born with respiratory problems, and can put pregnant women at risk of medical complications, such as lacerations, infections, blood clots, and bleeding during subsequent pregnancies.⁸

Section 383.336(2), F.S., requires the Department of Health (DOH) to adopt rules to implement practice parameters established by the Office of the State Surgeon General, in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society. The practice parameters must be followed by physicians performing caesarean section deliveries in provider hospitals. A provider hospital is a hospital in which there are at least 30 births per year that are paid, in part, or in full, by state funds or federal funds administered by the state.

Section 383.336(3), F.S., requires provider hospitals to establish a peer review board consisting of obstetric physicians and other individuals with credentials to perform cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were paid, in part, or in full, by state funds or federal funds administered by the state. Further, the board is required to conduct its review pursuant to the parameters specified in rules adopted by DOH.

¹ Agency for Health Care Administration, *Health Care Licensing Application: Hospitals*, at 12, available at http://ahca.myflorida.com/mchq/Health_Facility_Regulation/Hospital_Outpatient/Hospitals/SupportingForms.shtml#licap (last visited February 21, 2014).

² Section 408.806(4)(b), F.S.

³ Section 408.804, F.S.

⁴ Section 408.806(2)(c), F.S.

⁵ Section 395.1041(2), F.S.

⁶ Agency for Health Care Administration, *Facility/Provider Locator*, available at http://www.floridahealthfinder.gov/facilitylocator/Facility_Search.aspx (report generated February 21, 2014).

⁷ Agency for Health Care Administration, *Statistical Brief: Demographic Trends in Florida Cesarean Delivery, 1996-2010*, Issue No. 15 (September 2013); See also Florida Department of Health, *PRAMS Fact Sheet: Prevalence of Cesarean Delivery Among Florida Mothers* (2011).

⁸ *Id.*

In 1992, the former Department of Health and Rehabilitative Services (HRS) adopted rules to implement the provisions of s. 383.336, F.S.⁹ In 1996, responsibility for all public health matters was moved from HRS to DOH,¹⁰ however, the rules adopted by HRS were never amended or readopted. In 2012, the legislature directed DOH to initiate rulemaking to readopt or amend the rules by July 1, 2013 to avoid nullification of the rules.¹¹ The rules were repealed on July 1, 2013.

Effect of Proposed Changes

The bill requires general hospitals and provider hospitals to notify obstetrical physicians at least 120 days before closing an obstetrical department or ceasing to provide obstetrical services and provides that AHCA shall adopt rules to administer the requirement.

The bill transfers rule-making authority from DOH to AHCA to adopt rules to implement practice parameters for performing caesarean section deliveries to be followed by physicians in provider hospitals. The practice parameters must include a reduction in the number of unnecessary caesarean section deliveries and must address the following:

- Feasibility of attempting a vaginal delivery for each patient with a prior caesarean section;
- Dystocia, including arrested dilation and prolonged deceleration phase;
- Fetal distress; and
- Fetal malposition.

The bill also transfers rule-making authority from DOH to AHCA to establish standards for peer review boards in provider hospitals to follow in reviewing caesarian section deliveries.

B. SECTION DIRECTORY:

Section 1: Amends s. 383.336, F.S., relating to provider hospitals; practice parameters; peer review board.

Section 2: Amends s. 395.1051, F.S., relating to duty to notify patients.

Section 3: Provides an effective date of July 1, 2014.

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.

⁹ Rule 10D-116, F.A.C.

¹⁰ Chapter 96-403, s. 6, L.O.F.

¹¹ Chapter 2012-31, ss. 9-10, L.O.F.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill directs AHCA to make rules to implement the notification requirement created by the bill.

The bill transfers rule-making authority in s. 383.336, F.S., from DOH to AHCA.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires AHCA to adopt rules based on the practice parameters set by DOH, the office of the State Surgeon General, in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society. This would be difficult for AHCA to administer since DOH is responsible for establishing the practice parameters. DOH is also responsible for the regulation of physicians.

Section 2 of the bill applies the notice requirements created in the bill to all hospitals while Section 1 of the bill applies the same notice requirements only to "provider hospitals." The language in section 1 duplicates the provisions of section 2 and is not necessary.

The 120 day notice requirement is self-executing. It appears to be unnecessary to give AHCA authority to promulgate rules to implement the notice.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES