

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 935 Health Care Price Transparency

SPONSOR(S): Corcoran and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1410

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee		Poche	Schoolfield
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

This bill amends s. 381.026, F.S., requiring primary care physicians to publish a schedule of charges for medical services that they offer and to post this schedule in the reception area of their office. A penalty is applicable to a primary care physician who does not comply with the publish and post requirements. This requirement applies to primary care providers licensed as physicians, osteopathic physicians, and podiatric physicians.

The bill appears to have an indeterminate fiscal impact.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

Florida Patient's Bill of Rights and Responsibilities

In 1991, s. 381.026, F.S., enacted the Florida Patient's Bill of Rights and Responsibilities.¹ The statute established the right of patients to expect medical providers to observe standards of care in providing medical treatment and communicating with their patients.² The standards of care include, but are not limited to, the following aspects of medical treatment and patient communication:

- Individual dignity
- Provision of information
- Financial information and the disclosure of financial information
- Access to health care
- Experimental research
- Patient's knowledge of rights and responsibilities

Pursuant to the section relating to financial information and disclosure of financial information, a patient has the right to request certain financial information from health care providers and facilities.³ Specifically, upon request, a health care provider or health care facility must provide a person with a reasonable estimate of the cost of medical treatment prior to the provision of treatment.⁴ Estimates are required to be written in language "comprehensible to an ordinary layperson."⁵ The reasonable estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges as the patient's needs or medical condition warrant.⁶ A patient has the right to receive a copy of an itemized bill upon request and to receive an explanation of charges upon request.⁷

Current Price Transparency for Health Care in Florida

While a health care provider or health care facility is required to provide a reasonable estimate of charges for non-emergency medical treatment to a patient, there is no requirement that the estimate comply with posted charges for medical treatment. In fact, there is no statutory requirement that a physician post a schedule of his or her fees for medical services. However, several health care providers currently post their fees for a wide variety of medical services, including urgent care treatment, immunizations, and physical examinations.⁸

In addition, the Agency for Health Care Administration (AHCA) has established, by statute, the Florida Center for Health Information and Policy Analysis (the Center).⁹ The Center was required to create "a comprehensive health information system to provide for the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of both purposefully collected and extant health-

¹ See s. 1, Ch.91-127, Laws of Fla. (1991).

² S. 381.026(3), F.S.

³ S. 381.026(4)(c), F.S.

⁴ S. 381.026(4)(c)3., F.S.

⁵ *Id.*

⁶ *Id.*

⁷ S. 381.026(4)(c)5., F.S.

⁸ See <http://www.solantic.com>, Solantic Walk-In Urgent Care Center with locations in Northeast Florida, Gainesville/Ocala, Orlando, Treasure Coast, and South Florida; <http://lwruc.com/selfpaycosts.shtml>, Lakewood Ranch Urgent Care Walk-In Clinic located in Bradenton, FL; <http://walkincliniccoralsprings.com/feeschedule.html>, Coral Medical Care Urgent Care/Walk-In Clinic located in Coral Springs, FL.

⁹ S. 408.05, F.S.

related data and statistics.”¹⁰ Specifically, the Center has developed a plan to make available to consumers health care quality measures and financial data of physicians, health care facilities, and other entities to enable the comparison of health care services.¹¹ The plan includes certain health care quality measures such as average patient charges, the average of undiscounted charges on frequently performed procedures and preventive diagnostic procedures, and a range of charges for procedures from highest to lowest.¹²¹³¹⁴ As a result, there is some level of price transparency required by statute requiring medical services provided in hospitals within the state.

Proposed Changes:

This bill requires a primary care provider to publish and post the schedule of medical services that he or she provides and the cost for each service. A primary care provider is defined as a health care provider who provides medical services to patients which are commonly provided without a referral from another health care provider. The schedule must be posted in a conspicuous location in the reception area of the provider’s office.

The bill requires the posted charges to consist of those fees that would be charged to an uninsured patient paying for medical services by cash, check, credit card, or debit card. Upon request, a primary care provider must provide a reasonable estimate for non-emergency medical treatment to patient. The bill requires that the estimate be consistent with the posted schedule of charges.

The bill requires a penalty to be assessed against a primary care provider who fails to publish and post his or her schedule of charges. The penalty will be determined by the appropriate regulatory board- the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Podiatric Medicine. DOH will amend the disciplinary guidelines of the appropriate board to allow for imposition of the new penalty.¹⁵

This bill contains a provision providing that the references to the disciplinary statutes constitute a general reference under the doctrine of incorporation by reference.¹⁶ The inclusion of this language means that future amendments to the disciplinary statutes will apply to the statutes that reference them.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.026, F.S., relating to Florida Patient’s Bill of Rights and Responsibilities.

Section 2: Amends s. 458.331, F.S., relating to grounds for disciplinary action; action by the board and department.

Section 3: Amends s. 459.015, F.S., relating to grounds for disciplinary action; action by the board and department.

Section 4: Amends s. 461.013, F.S., relating to grounds for disciplinary action; action by the board; investigations by department.

Section 5: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

¹⁰ S. 408.05(1), F.S.

¹¹ S. 408.05(3)(k), F.S.

¹² S. 408.05(3)(k)1., F.S.

¹³ See 2009 Hospital Financial Data, AHCA, data compiled September 2, 2010- available at

http://ahca.myflorida.com/MCHQ/CON_FA/Publications/index.shtml (includes the most recent financial data for hospitals, including costs of daily hospital services, ambulatory services, and other total patient charges)

¹⁴ See <http://www.floridahealthfinder.gov/CompareCare/CompareFacilities.aspx> (provides the range of charges for specific procedures at various facilities throughout Florida, broken down by category, condition or procedure, and age group).

¹⁵ See Bill Analysis, Economic Statement and Fiscal Note for HB 935, Department of Health, March 9, 2011; *see also* s. 456.079, F.S.

¹⁶ A general reference presumes that the referenced section may be amended in the future and would include subsequent changes to the referenced law. *See* Earnest Means, "Statutory Cross References - The "Loose Cannon" of Statutory Construction," Florida State University Law Review, Vol. 9, p. 3 (1981).

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Health states that additional workload could result from additional complaints about, investigations of, and discipline cases against medical doctors, osteopathic physicians, and podiatric physicians who meet the definition of "primary care provider" and fail to comply with the publishing and posting requirement established by the bill. The fiscal impact of the potential increase in workload is unknown and indeterminate.¹⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Primary care providers impacted by this bill may incur costs for publishing and posting the required cost schedule. Additionally, primary care providers who do not comply with the publishing and posting requirement established by this bill will be assessed penalties by the applicable board for non-compliance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

¹⁷ Bill Analysis, Economic Statement and Fiscal Note for HB 935, Department of Health, March 9, 2011.

The Department of Health has appropriate rulemaking authority to establish rules as necessary to implement the provisions of this bill.¹⁸

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁸ See s. 458.309, F.S. (granting rulemaking authority to the Board of Medicine), s. 459.005, F.S. (granting rulemaking authority to the Board of Osteopathic Medicine), and s. 461.005, F.S. (granting rulemaking authority to the Board of Podiatric Medicine).