

FINAL BILL ANALYSIS

BILL #: CS/CS/HB 935

FINAL HOUSE FLOOR ACTION:

106 Y's 4 N's

SPONSOR: Rep. Corcoran

GOVERNOR'S ACTION: Approved

COMPANION BILLS: SB 1410

SUMMARY ANALYSIS

CS/CS/HB 935 passed the House on April 20, 2011. The bill was amended by the Senate on May 2, 2011, and subsequently passed the House on May 4, 2011. The bill was approved by the Governor on June 2, 2011, chapter 2011-122, Laws of Florida, and takes effect July 1, 2011.

The bill amends s. 381.026, F.S., to allow a primary care physician (PCP) to publish and post a schedule of charges for the 50 most frequently performed medical services that are offered to patients. The charges must be the amount charged per service to an uninsured patient paying with cash, check, credit card, or debit card. The schedule must be posted in the reception area of the office in an area of at least 15 square feet. The bill provides an exemption from one two-year reporting cycle of continuing medical education requirements and one period of license renewal fees for PCPs who post a schedule of medical charges. If a PCP chooses to publish and post a schedule of charges, the schedule must remain posted as long as the PCP maintains an active license in Florida and provides medical services to patients. If the schedule does not remain posted, the PCP must pay the waived license fee amount and make up any continuing medical education credits that were waived.

The bill provides a definition of PCPs, which includes advanced registered nurse practitioners and physician assistants, and includes medical professionals practicing in the areas of family and general practice, general pediatrics and general internal medicine.

The bill defines "urgent care center" and requires all urgent care centers to comply with the publishing and posting requirements.

The bill requires a medical director or clinic director of a health care clinic licensed under the Florida Health Care Clinic Act, to ensure compliance with the publishing and posting requirement. Also, any person or entity applying for a certificate of exemption from licensure under the Florida Health Care Clinic Act must prove compliance with the publishing and posting requirement of the act prior to receiving the certificate of exemption. Failure to comply with the publishing and posting requirements of the bill results in a fine of \$1,000, per day, for failing to publish and post a schedule of charges upon the effective date of the act.

The bill has a negative, but indeterminate, fiscal impact on state government.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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

Health Care Price Transparency 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 patient⁸, 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.⁹

¹ See s. 1, Ch. 91-127, L.O.F. (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 S. 381.026(4)(b)3., F.S.

⁹ 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

In addition, the Agency for Health Care Administration (AHCA) has established, pursuant to statute, the Florida Center for Health Information and Policy Analysis (the Center).¹⁰ 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-related data and statistics.”¹¹ 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.¹² 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.¹³

In addition, AHCA compiles financial data from hospitals across the state, which includes charges for certain treatment and services, and makes the information available to the public.¹⁴ Lastly, AHCA maintains a website that allows the public to compare charges for medical care and services at facilities across the state.¹⁵

Health Care Clinics

Part X of ch. 400, F.S., contains the Health Care Clinic Act (the act) (ss. 400.990-400.995, F.S.). The act was passed in 2003 to reduce fraud and abuse in the personal injury protection (PIP) insurance system. Pursuant to the act, AHCA licenses health care clinics, ensures that such clinics meet basic standards, and provides administrative oversight. Any entity that meets the definition of a “clinic” (“an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services...”) must be licensed as a clinic.¹⁶

Every entity that meets the definition of a “clinic” must maintain a valid license with the AHCA at all times¹⁷, and each clinic location must be licensed separately. A clinic license lasts for a 2-year period. The fees payable by each clinic to the AHCA for licensure cannot exceed \$2,000, adjusted for changes in the Consumer Price Index for the previous 12 months. Each clinic must file in its application for licensure information regarding the identity of the owners, medical providers employed, and the medical director and proof that the clinic is in compliance with applicable rules. The clinic must also present proof of financial ability to operate as a clinic.

Each clinic must have a medical director or clinic director who agrees in writing to accept legal responsibility pursuant to s. 400.9935, F.S., for activities on behalf of the clinic, including, but not limited to:

located in Bradenton, FL; <http://walkincliniccoralsprings.com/feeschedule.html>, Coral Medical Care Urgent Care/Walk-In Clinic located in Coral Springs, FL.

¹⁰ S. 408.05, F.S.

¹¹ S. 408.05(1), F.S.

¹² S. 408.05(3)(k), F.S.

¹³ S. 408.05(3)(k)1., F.S.

¹⁴ 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)

¹⁵ 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).

¹⁶ S. 400.9905(4), F.S.

¹⁷ AHCA presently regulates 2,107 health care clinics throughout Florida. Correspondence from AHCA on file with the Health and Human Services Committee.

- Ensuring that all practitioners providing health care services or supplies to patients maintain a current, active, and unencumbered Florida license;
- Reviewing patient referral contracts or agreements made by the clinic;
- Ensuring that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided;
- Serving as the clinic records owner;
- Ensuring compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of ch. 456, F.S., the respective practice acts, and rules adopted under the Health Care Clinic Act; and
- Conducting systematic reviews of clinic billings to ensure billings are not fraudulent or unlawful. If an unlawful charge is discovered, immediate corrective action must be taken.

Licensed clinics are subject to unannounced inspections by Division of Insurance Fraud personnel and must allow full and complete access to the premises and to billing records. The AHCA may deny, revoke, or suspend a health care clinic license and impose administrative fines of up to \$5,000 per violation pursuant to s. 400.995, F.S.

Although all clinics must be licensed with the AHCA, s. 400.9905(4), F.S., contains a listing of entities that are not considered a “clinic” for purposes of licensure, including:

- Entities licensed or registered by the state under one or more of the specified practice acts and that only provide services within the scope of their license;
- Entities that own, directly or indirectly, an entity licensed or registered by the state under one or more of the specified practice acts and that only provide services within the scope of their license;
- Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state under one or more of the specified practice acts and only provides services within the scope of their license;
- Entities that are exempt from federal taxation under 26 U.S.C. sec. 501(c)(3) or sec. 501(c)(4);
- A community college or university clinic;
- Entities owned or operated by the federal or state government, including agencies, subdivisions and municipalities;
- Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;
- Entities that provide only oncology or radiation therapy services by physicians licensed under chs. 458 or 459, F.S.; and
- Clinical facilities affiliated with a college of chiropractic accredited by the Council on Chiropractic Education at which training is provided for chiropractic students.

A person or entity providing health care services, but not considered a clinic as defined in the Florida Health Care Clinic Act¹⁸, may voluntarily apply for a certificate of exemption from licensure.¹⁹ Currently, there are significantly more clinics which are exempt from licensure than clinics that are licensed under the Act.²⁰

¹⁸ S. 400.9905(4), F.S.

¹⁹ S. 400.9935(6), F.S.

²⁰ There are 8,167 clinics throughout the state of Florida that are exempted from licensure under the act. Correspondence from AHCA on file with the Health and Human Services Committee.

Effect of Changes

This bill allows a PCP to publish and post a schedule of medical services that he or she provides, and the cost for each service, using three price levels. The charges posted must be those fees charged to an uninsured patient who is paying for medical treatment by cash, check, credit card or debit card. If a PCP chooses to post a schedule of charges, it must be posted in a conspicuous place in the reception area of the office in an area of at least 15 square feet. The schedule must list, at least, the 50 most frequently performed services provided by the PCP. The bill requires that an estimate of charges for medical treatment provided to a patient be consistent with the posted schedule of charges, if the PCP posts a schedule of charges pursuant to the bill.

The bill exempts a PCP who posts a schedule of charges from one two-year reporting cycle of continuing medical education credits and from one period of license renewal fees.²¹ The bill requires a PCP who chooses to post a schedule of charges to continually post the schedule for the duration of maintaining his or her license to practice medicine or nursing in the state, as long as the PCP is providing primary care services to patients. If a PCP removes the posted schedule at any time, the PCP will be required to pay any waived license renewal fee and to make up any continuing medical education credits that were waived following the initial posting of the schedule.

A PCP is defined in the bill as a health care provider who provides medical services to patients which are commonly provided without a referral from another health care provider. The definition includes physicians practicing in the fields of family and general medical practice, general pediatrics and general internal medicine, advanced registered nurse practitioners and physician assistants.

The bill defines the term “urgent care center” to include a facility or clinic that provides immediate but not emergent ambulatory medical services to patients with or without an appointment. The definition does not include the emergency department of a hospital.

The bill requires an urgent care center to publish and post a schedule of medical services provided by the urgent care center and the cost of each service. An urgent care center is required to comply with the same posting requirements as a PCP who chooses to publish and post a schedule of medical services. The bill imposes a fine of not more than \$1,000, per day, upon an urgent care center for each day that the schedule of charges is not published and posted as required by the bill.

The bill requires a medical director or clinic director of a clinic, as defined by the Florida Health Care Clinic Act²², to ensure that the clinic complies with the publishing and posting requirements established by the bill. Failure to comply with the publishing and posting requirements results in a fine of not more than \$1,000, per day, until the schedule of charges is published and posted as required by the bill.

Before a certificate of exemption from licensure under the Florida Health Care Clinic Act can be issued to an applicant person or entity, the bill requires the person or entity to comply with the publishing and posting requirements for a schedule of charges for medical services and to provide the AHCA with proof of compliance.

²¹ S. 456.013(6), F.S.; see also Rule 64B8-13.005, F.A.C. and Rule 64B15-13.001, F.A.C.

²² Part X, Chapter 400, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The waiver of one period of license renewal fees for a PCP, as defined in the bill, may result in a staggered, non-recurring reduction in the collection of license renewal fees. The number of PCPs who choose to participate in the program is indeterminate at this time. As a result, the impact of the reduction in the collection of license renewal fees is negative, yet indeterminate at this time.

The state may collect fines from urgent care centers and other applicable clinics which fail to publish and post the schedule of medical charges provided to patients. The amount of fines that will be collected will not be known until compliance with the law by all urgent care centers and clinics which are subject to the terms of the bill can be determined. As a result, the impact of the collection of fines on revenue is indeterminate at this time.

2. Expenditures:

AHCA will be responsible for confirming compliance with the law by urgent care centers and clinics and for imposing and collecting applicable fines. The budgetary impact on AHCA for the increase in workload, if it exists, is indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

PCPs who publish and post a schedule of medical charges under this bill will be exempt from one two-year reporting period of continuing medical education credits and the waiver of one period of license renewal fees, resulting in savings to those PCPs equal to the cost of two years worth of continuing medical education credits and the license renewal amount.

Urgent care centers and other facilities or offices which are subject to the terms of the bill will be required to pay for the publishing and posting of the schedule of charges for the 50 services most frequently performed at the urgent care center or clinic.

D. FISCAL COMMENTS:

None.