

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1039 Nurse Registries  
**SPONSOR(S):** Health Innovation Subcommittee; Stone  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 904

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	12 Y, 0 N, As CS	Langston	Poche
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

In Florida, a nurse registry is a business, akin to an employment agency, that is licensed to secure temporary employment for nurses, home health aides, certified nursing assistants, homemakers, and companions in a patient's home or with health care facilities or other entities. A person referred for contract by a nurse registry is compensated by fees as an independent contractor, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to licensed health care facilities or other entities. This person, and not any employee of the nurse registry, is the only person who may enter the home of the patient and provide care. Nurse registries are unique among the home health agencies in that their only employees are administrative and office staff.

Currently, each operational site of a nurse registry is to be licensed unless there is more than one site within a county; in that case, all locations within a single county are listed on one license. If offices are located in multiple counties within a service area, then a separate license is required for each county in which an office is located.

CS/HB 1039 amends s. 400.462, F.S., to define the term "satellite office" as a secondary office of a nurse registry within the same health service planning districts as the operational site. Eleven health service planning districts are defined in s. 408.032(5), F.S., consisting of between one and sixteen counties. The bill permits a nurse registry to operate an unlimited number of satellite offices within a health service planning district if there is a nurse registry operational site also located in the health service planning district.

The bill also amends s. 400.506, F.S., to limit the activities that can take place at a satellite office. The satellite office may store supplies and records, register and process contractors, and conduct business by telephone. The operational site must administer the satellite office and maintain all original records.

Additionally, the bill expands the requirements of what must be provided when a nurse registry wishes to relocate an existing office or open a new satellite office. A nurse registry must advise the Agency for Health Care Administration in writing of its intent to relocate the operational site or open a new satellite office. In addition, a nurse registry must submit evidence of its legal right to occupy the proposed site and evidence that the property is zoned for use as a nurse registry.

There is an insignificant negative fiscal impact to state government. There is no fiscal impact to local governments.

The bill provides an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Nurse Registries

A nurse registry is a business that procures, offers, promises, or attempts to procure health care related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, homemakers and companions to provide services to patients in their homes and temporary staff to health care facilities or other business entities.<sup>1</sup> Nurse registries are governed by part II of chapter 408, F.S.,<sup>2</sup> associated rules in Chapter 59A-35, F.A.C., and the nurse registry rules in Chapter 59A-18, F.A.C. A nurse registry must be licensed by the Agency for Health Care Administration (AHCA) to offer contracts in Florida.<sup>3</sup>

A nurse registry has several responsibilities established by statute and rule, including:

- Confirming and annually reconfirming the licensure or certification of independent contractors;<sup>4</sup>
- Establishing a system for recording and following-up on complaints involving independent contractors referred for contract;<sup>5</sup>
- Preparing and maintaining a written comprehensive emergency management plan;<sup>6</sup> and
- Complying with the background screening requirements in s. 400.512, F.S., which require a level II background check for all employees and contractors.<sup>7</sup>

The workers referred by the nurse registry are hired as independent contractors by the patient, health care facility, or other business entities.<sup>8</sup> Examples of the differences between a nurse registry and other types of health care service pools are:

- A nurse registry and a home health agency may provide services that are privately paid for by insurance or other means to patients in their home or place of residence and provide staff to health care facilities, schools, or other business entities; a health care service pool cannot.
- A nurse registry and a health care services pool do not qualify for Medicare reimbursements; a home health agency does.
- A nurse registry cannot have any employees except for the administrator, alternate administrator and office staff – all individuals who enter the home of patients to provide direct care must be independent contractors.<sup>9</sup>

In July 2014, there were 517 nurse registries, 114 of which were in Broward County, and 112 of which were in Palm Beach County.<sup>10</sup> By January 2015, that number had grown to 541 licensed nurse registries with 367 different ownerships consisting of corporations, limited liability companies, and one sole proprietor (companies).<sup>11</sup> A total of 62 companies, or 17 percent, owned two or more licensed

---

<sup>1</sup> S. 400.642(21), F.S.

<sup>2</sup> S. 400.506(2), F.S. A nurse registry is also governed by the provisions in s. 400.506, F.S.

<sup>3</sup> S. 400.506(1), F.S.

<sup>4</sup> Rule 59A-18.005(3) and (4), F.A.C.

<sup>5</sup> Rule 59A-18.017(4), F.A.C.

<sup>6</sup> Rule 59A-18.018(1), F.A.C.

<sup>7</sup> S. 400.506(9), F.S.

<sup>8</sup> Id.

<sup>9</sup> Agency for Health Care Administration, *Frequently Asked Questions Nurse Registries: What is a nurse registry?*

[http://ahca.myflorida.com/mchq/Health\\_Facility\\_Regulation/Home\\_Care/NR\\_FAQS/section1.shtml](http://ahca.myflorida.com/mchq/Health_Facility_Regulation/Home_Care/NR_FAQS/section1.shtml) (last visited March 13, 2015).

<sup>10</sup> Anne Menard, Power Point Presentation: *AHCA Nurse Registry Regulatory Update*, July 22, 2014, available at

[http://ahca.myflorida.com/mchq/Health\\_Facility\\_Regulation/Home\\_Care/docs/2014\\_NR\\_Regulatory\\_Update.pptx](http://ahca.myflorida.com/mchq/Health_Facility_Regulation/Home_Care/docs/2014_NR_Regulatory_Update.pptx) (last visited on March 13, 2015).

<sup>11</sup> Agency for Health Care Administration, *2015 Agency Legislative Bill Analysis*, February 17, 2015 (on file with Health Innovation Subcommittee Staff).

nurse registries.<sup>12</sup> Of those 62 companies, eight companies have multiple nurse registries within one of the eleven health service planning districts.<sup>13</sup> There are currently 548 licensed nurse registries in the state.<sup>14</sup>

## Licensing

Nurse registries are licensed by AHCA. The initial application requires a fee of \$2,000.<sup>15</sup> The license can be renewed every two years with a fee of \$2,000.<sup>16</sup> Currently, the license fee includes the main office and any additional offices within a single county.<sup>17</sup> Additional offices located in different counties within a service area require a separate license.<sup>18</sup> The renewal application must be submitted to AHCA no less than 60 days prior to expiration of the current license.<sup>19</sup>

Rule 59A-18.004(4), F.A.C. requires that all nurse registries apply for counties contained in a single geographic service area. A geographic service area is defined, by rule,<sup>20</sup> as the area, as specified on the license, in which the nurse registry may refer its independent contractors to provide services to patients or clients in their homes or to provide staffing in facilities.<sup>21</sup> The AHCA area boundaries, defined in the rule as geographic service areas, are the same as the health service planning districts in s. 408.032(5), F.S. Nurse registries may apply for one or all of the counties within the specific AHCA area boundaries.<sup>22</sup>

### **AHCA Area Boundaries (“Health Service Planning Districts”)**

<b>Area/ District</b>	<b>Counties</b>
<b>1</b>	Escambia, Walton, Santa Rosa and Okaloosa
<b>2</b>	Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, Wakulla and Washington
<b>3</b>	Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Lake, Levy, Marion, Putnam, Sumter, Suwannee and Union
<b>4</b>	Baker, Clay, Duval, Flagler, Nassau, St. Johns and Volusia
<b>5</b>	Pasco and Pinellas
<b>6</b>	Hardee, Highlands, Hillsborough, Manatee and Polk
<b>7</b>	Brevard, Orange, Osceola and Seminole
<b>8</b>	Charlotte, Collier, Desoto, Glades, Hendry, Lee and Sarasota
<b>9</b>	Indian River, Martin, Okeechobee, Palm Beach and St. Lucie
<b>10</b>	Broward
<b>11</b>	Dade and Monroe

Nurse registries are surveyed by AHCA’s field offices biennially.<sup>23</sup> In addition to the biennial inspection, nurse registries may also be inspected to determine compliance with the relevant statutes and rules.<sup>24</sup>

Rule 59A-35.040, F.A.C., details notification requirements when a provider, including a nurse registry, changes its address on record. A nurse registry must provide 21 to 120 days advance notification of any change in the address of the main or principal office.<sup>25</sup>

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Agency for Health Care Administration, *Facility/Provider Search Results-Nurse Registries*, report generated March 15, 2015, available at <http://www.floridahealthfinder.gov/FacilityLocator/ListFacilities.aspx>.

<sup>15</sup> Rule 59A-18.004(3), F.A.C.

<sup>16</sup> S. 400.506(3), F.S.; Rule 59A-18.004(6), F.A.C.

<sup>17</sup> S. 400.506(1), F.S.

<sup>18</sup> Id.

<sup>19</sup> S. 408.806(2), F.S.; Rule 59A-18.004(6), F.A.C.

<sup>20</sup> Rule 59A-18.004(4), F.A.C.

<sup>21</sup> S. 408.032(5), F.S.; Rule 59A-18.002(7), F.A.C.

<sup>22</sup> Rule 59A-18.004(4), F.A.C.

<sup>23</sup> S. 408.811(1)(b), F.S.

<sup>24</sup> S. 400.484(1), F.S.

<sup>25</sup> Rule 59A-35.040(2)(b)5., F.A.C.

## Effect of Proposed Changes

### Satellite Office

CS/HB 1039 amends s. 400.462, F.S., to add and define the term “satellite office” as a secondary office of a nurse registry within the same health service planning district, as defined in s. 408.032, F.S., as a licensed nurse registry operational site.

The bill creates s. 400.506(1)(b), F.S., which describes what activities can occur at a satellite office. A satellite office may:

- Store supplies and records;
- Register and process contractors; and
- Conduct business by telephone.

The bill prohibits a satellite office from keeping any original records. The operational site must administer all satellite offices and keep the original records.

### Licensing

The bill amends s. 400.506(1), F.S., to allow a single license for more than one office within a health planning service district. This provision reduces the number of licenses a nurse registry needs. It would expand the coverage of the operational site license from all offices within a county to all operational sites and satellite offices located in a health service planning district, which usually consists of more than one county.<sup>26</sup>

### Notification of Change of Address

The bill requires nurse registries to notify AHCA in writing of a proposed change of address for the operational site or the opening of a satellite office. This is consistent with what is presently required by rule. In addition, the bill requires that, prior to relocating an operational site or opening a satellite office, the nurse registry must submit:

- Evidence of its legal right to use the property; and
- A certificate of occupancy, certificate of use, or other evidence that the property is zoned for use by the nurse registry.

The bill provides an effective date of July 1, 2015

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 400.462, F.S., relating to definitions.

**Section 2:** Amends s. 400.506, F.S., relating to licensure of nurse registries; requirements; penalties.

**Section 3:** Reenacts s. 400.497, F.S., relating to rules establishing minimum standards; reenacts s. 400.506(3), F.S., relating to licensing of nurse registries; and s. 817.505(3)(h), F.S., relating to patient brokering prohibited; exceptions; penalties.

**Section 4:** Provides for an effective date of July 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

<sup>26</sup> Health Service Planning District 10, consisting of Broward County, is the only single county district.

AHCA may realize a loss of revenue from licensing fees since nurse registries can set up multiple satellite offices throughout the health service planning district without paying license fees for offices located outside of the county where its main office is located.

2. Expenditures:

There is an insignificant negative fiscal impact on AHCA associated with rulemaking activities necessary to implement the provisions of the bill. These costs are nonrecurring and can be absorbed within current resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Nurse registries will see reduced license fees as only one license is required for each, typically multi-county, health service planning district. Nurse registries will be able to set up unlimited satellite offices per health service planning district at no additional licensing cost.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA has sufficient rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 18, 2015, the Health Innovation Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment made the following changes to the bill:

- Replaced the term “geographic service area” with “health service planning district;” health service planning district is currently defined in statute.
- Removed the deletion of the exemption from penalties for improper remunerations of certain persons for nurse registries that bill the Florida Medicaid Program.

The analysis is drafted to the committee substitute as passed by the Health Innovation Subcommittee.