

CHAPTER 98-192

Committee Substitute for Senate Bill No. 570

An act relating to assessments on health care entities; amending s. 395.701, F.S.; exempting outpatient radiation therapy services provided by certain hospitals from the annual assessment on net operating revenues of such hospitals; amending s. 395.7015, F.S.; exempting freestanding radiation therapy centers from the annual assessment on net operating revenues of certain health care entities; providing legislative intent to evaluate the implication of an Adult Heart Transplant Program in this state; providing for a report by legislative committees; providing parameters for the report; providing for the report to be presented to the Social Services Estimating Conference; providing for review and certification of the cost estimates by the conference; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 395.701, Florida Statutes, is amended to read:

395.701 Annual assessments on net operating revenues to fund public medical assistance; administrative fines for failure to pay assessments when due; exemption.—

(1) For the purposes of this section, the term:

(a) “Gross operating revenue” or “gross revenue” means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges, and other operating revenue.

(b) “Health Care Board” or “board” means the Health Care Board created by s. 20.42.

(c) “Hospital” means a health care institution as defined in s. 395.002(12), but does not include any hospital operated by the agency or the Department of Corrections.

(d) “Net operating revenue” or “net revenue” means gross revenue less deductions from revenue.

(e) “Total deductions from gross revenue” or “deductions from revenue” means reductions from gross revenue resulting from inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care.

(2) There is hereby imposed upon each hospital an assessment in an amount equal to 1.5 percent of the annual net operating revenue for each hospital, such revenue to be determined by the department, based on the actual experience of the hospital as reported to the department. Within 6

months after the end of each hospital fiscal year, the department shall certify the amount of the assessment for each hospital. The assessment shall be payable to and collected by the department in equal quarterly amounts, on or before the first day of each calendar quarter, beginning with the first full calendar quarter that occurs after the department certifies the amount of the assessment for each hospital. All moneys collected pursuant to this subsection shall be deposited into the Public Medical Assistance Trust Fund.

(3) The department shall impose an administrative fine, not to exceed \$500 per day, for failure of any hospital to pay its assessment by the first day of the calendar quarter on which it is due. The failure of a hospital to pay its assessment within 30 days after the assessment is due is ground for the department to impose an administrative fine not to exceed \$5,000 per day.

(4) The purchaser, successor, or assignee of a facility subject to the board's jurisdiction shall assume full liability for any assessments, fines, or penalties of the facility or its employees, regardless of when identified. Such assessments, fines, or penalties shall be paid by the employee, owner, or licensee who incurred them, within 15 days of the sale, transfer, or assignment. However, the purchaser, successor, or assignee of the facility may withhold such assessments, fines, or penalties from purchase moneys or payment due to the seller, transferor, or employee, and shall make such payment on behalf of the seller, transferor, or employee. Any employer, purchaser, successor, or assignee who fails to withhold sufficient funds to pay assessments, fines, or penalties arising under the provisions of chapter 408 shall make such payments within 15 days of the date of the transfer, purchase, or assignment. Failure by the transferee to make payments as provided in this subsection shall subject such transferee to the penalties and assessments provided in chapter 408. Further, in the event of sale, transfer, or assignment of any facility under the board's jurisdiction, future assessments shall be based upon the most recently available prior year report or audited actual experience for the facility. It shall be the responsibility of the new owner or licensee to require the production of the audited financial data for the period of operation of the prior owner. If the transferee fails to obtain current audited financial data from the previous owner or licensee, the new owner shall be assessed based upon the most recent year of operation for which 12 months of audited actual experience are available or upon a reasonable estimate of 12 months of full operation as calculated by the board.

(5) A statutory teaching hospital that had 100,000 or more Medicaid covered days during the most recent fiscal year may elect to have its assessment imposed pursuant to subsection (2) deducted from any Medicaid disproportionate share payment due to such hospital for the quarter ending 6 months after the assessment due date. If the assessment is greater than the disproportionate share payment, or if no disproportionate share payment is due the hospital, the difference, or full amount of the assessment in cases in which no payment is due, shall be paid on or before the date the disproportionate share payment is made or would have been made.

(6) Outpatient radiation therapy services provided by a hospital subject to this section are exempt from the provisions of this section.

Section 2. Subsection (2) of section 395.7015, Florida Statutes, is amended to read:

395.7015 Annual assessment on health care entities.—

(2) There is hereby imposed an annual assessment against certain health care entities as described in this section:

(a) The assessment shall be equal to 1.5 percent of the annual net operating revenues of health care entities.

~~1. The first assessment shall be due on April 30, 1992, and the second on April 30, 1993, and each shall be based on the appropriate reports filed with the agency no later than March 31 of the year the assessment is due. By January 1, 1992, the health care entity shall make a one-time election to base the assessments on net operating revenue received in the health care entity's latest fiscal year ending on or before December 31, 1991, or December 31, 1992, respectively, or in the 12-month period ending March 31 of the year the assessment is due.~~

The assessment shall be payable to and collected by the agency.

~~2. Beginning July 1, 1993, Assessments shall be based on annual net operating revenues for the entity's most recently completed fiscal year as provided in subsection (3).~~

(b) For the purpose of this section, "health care entities" include the following:

1. Ambulatory surgical centers licensed under s. 395.003.

2. Clinical laboratories licensed under s. 483.091, excluding any hospital laboratory defined under s. 483.041(5), any clinical laboratory operated by the state or a political subdivision of the state, any clinical laboratory which qualifies as an exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which receives 70 percent or more of its gross revenues from services to charity patients or Medicaid patients, and any blood, plasma, or tissue bank procuring, storing, or distributing blood, plasma, or tissue either for future manufacture or research or distributed on a nonprofit basis, and further excluding any clinical laboratory which is wholly owned and operated by 6 or fewer physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice, and at which no clinical laboratory work is performed for patients referred by any health care provider who is not a member of the same group.

~~3. Freestanding radiation therapy centers providing treatment through the use of radiation therapy machines that are registered under s. 404.22 and rules 10D-91.902, 10D-91.903, and 10D-91.904 of the Florida Administrative Code.~~

3.4. Diagnostic-imaging centers that are freestanding outpatient facilities that provide specialized services for the identification or determination of a disease through examination and also provide sophisticated radiological

services, and in which services are rendered by a physician licensed by the Board of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by an osteopathic physician licensed by the Board of Osteopathic Medicine under s. 459.006, s. 459.007, or s. 459.0075. For purposes of this paragraph, "sophisticated radiological services" means the following: magnetic resonance imaging; nuclear medicine; angiography; arteriography; computed tomography; positron emission tomography; digital vascular imaging; bronchography; lymphangiography; splenography; ultrasound, excluding ultrasound providers that are part of a private physician's office practice or when ultrasound is provided by two or more physicians licensed under chapter 458 or chapter 459 who are members of the same professional association and who practice in the same medical specialties; and such other sophisticated radiological services, excluding mammography, as adopted in rule by the board.

Section 3. It is the intent of the Legislature to evaluate the implications of an Adult Heart Transplant Program in this state. The Senate Committee on Ways and Means, the Senate Health Care Committee, the House of Representatives Health Care Services Committee, and the House of Representatives Fiscal Responsibility Council shall analyze the short and long term public policy and cost implications of implementing a state-sponsored Adult Heart Transplant Program. The report shall consider all direct and ancillary costs associated with providing comprehensive care associated with an adult heart transplant. The report shall also include the alternatives of implementing this program through the Medicaid program and on a non-Medicaid basis. The report shall be presented to the Social Services Estimating Conference, which shall review and certify the cost estimates. Thereafter, the report and the findings of the Social Services Estimating Conference shall be presented to the President of the Senate and the Speaker of the House of Representatives by September 1, 1998. The agency may submit a budget amendment in accordance with the provisions of chapter 216, Florida Statutes, for the purpose of implementing an Adult Heart Transplant Program in fiscal year 1998-1999.

Section 4. This act shall take effect July 1, 1998, except that the amendment of sections 395.701 and 395.7015, Florida Statutes, by this act shall take effect only upon the Agency for Health Care Administration receiving written confirmation from the federal Health Care Financing Administration that the changes contained in such amendments will not adversely affect the use of the remaining assessments as state match for the state's Medicaid program.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.