

## CHAPTER 98-303

### Committee Substitute for House Bill No. 4455

An act relating to mobile surgical facilities; amending s. 395.001, F.S.; providing legislative intent; amending s. 395.002, F.S.; revising definitions; defining “mobile surgical facility”; amending s. 395.003, F.S.; requiring the licensure of mobile surgical facilities under ch. 395, F.S.; amending s. 395.004, F.S.; requiring a license fee upon application for licensure as a mobile surgical facility; amending s. 395.0161, F.S.; requiring licensure inspections of such facilities under specified circumstances; providing an exception; amending s. 395.0163, F.S.; requiring construction inspections of such facilities under specified circumstances; providing an exception; amending s. 395.1055, F.S.; authorizing the establishment of separate standards for mobile surgical facilities; amending s. 408.036, F.S.; providing an exemption from review and application for certificate of need for mobile surgical facilities; amending s. 395.7015, F.S.; providing for the imposition of an annual assessment upon mobile surgical facilities; providing application; requiring specified mobile surgical facilities in operation prior to the effective date of the act to continue to operate and be subject to the provisions of the act only after the effective date of rules established by the Agency for Health Care Administration; providing an effective date.

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

Section 1. Section 395.001, Florida Statutes, is amended to read:

395.001 Legislative intent.—It is the intent of the Legislature to provide for the protection of public health and safety in the establishment, construction, maintenance, and operation of hospitals, ~~and ambulatory surgical centers, and mobile surgical facilities~~ by providing for licensure of same and for the development, establishment, and enforcement of minimum standards with respect thereto.

Section 2. Subsections (4) and (17) of section 395.002, Florida Statutes, are amended, subsections (21) through (31) are redesignated as subsections (22) through (32), respectively, present subsection (22) is redesignated and amended, and a new subsection (21) is added to said section, to read:

395.002 Definitions.—As used in this chapter:

(4) “Ambulatory surgical center” or “mobile surgical facility” means a facility the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, and which is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy, an office maintained by a physician for the practice of medicine, or an office maintained for the practice of dentistry shall not be construed to be an ambulatory surgical center, provided that any facility or office which is certified or seeks certification as a

Medicare ambulatory surgical center shall be licensed as an ambulatory surgical center pursuant to s. 395.003. Any structure or vehicle in which a physician maintains an office and practices surgery, and which can appear to the public to be a mobile office because the structure or vehicle operates at more than one address, shall be construed to be a mobile surgical facility.

(17) “Licensed facility” means a hospital, ~~or~~ ambulatory surgical center, or mobile surgical facility licensed in accordance with this chapter.

(21) “Mobile surgical facility” is a mobile facility in which licensed health care professionals provide elective surgical care under contract with the Department of Corrections or a private correctional facility operating pursuant to chapter 957 and in which inmate patients are admitted to and discharged from said facility within the same working day and are not permitted to stay overnight. However, mobile surgical facilities may only provide health care services to the inmate patients of the Department of Corrections, or inmate patients of a private correctional facility operating pursuant to chapter 957, and not to the general public.

(23)(22) “Premises” means those buildings, beds, and equipment located at the address of the licensed facility and all other buildings, beds, and equipment for the provision of hospital, ~~or~~ ambulatory surgical, or mobile surgical care located in such reasonable proximity to the address of the licensed facility as to appear to the public to be under the dominion and control of the licensee.

Section 3. Subsection (1) of section 395.003, Florida Statutes, is amended to read:

395.003 Licensure; issuance, renewal, denial, and revocation.—

(1)(a) No person shall establish, conduct, or maintain a hospital, ~~or~~ ambulatory surgical center, or mobile surgical facility in this state without first obtaining a license under this part.

(b)1. It is unlawful for any person to use or advertise to the public, in any way or by any medium whatsoever, any facility as a “hospital,” ~~or~~ “ambulatory surgical center,” or “mobile surgical facility” unless such facility has first secured a license under the provisions of this part.

2. Nothing in this part applies to veterinary hospitals or to commercial business establishments using the word “hospital,” ~~or~~ “ambulatory surgical center,” or “mobile surgical facility” as a part of a trade name if no treatment of human beings is performed on the premises of such establishments.

Section 4. Section 395.004, Florida Statutes, is amended to read:

395.004 Application for license, disposition of fees; expenses.—

(1) An application for a license or renewal thereof shall be made under oath to the agency, upon forms provided by it, and shall contain such information as the agency reasonably requires, which may include affirmative evidence of ability to comply with applicable laws and rules.

(2) Each application for a general hospital license, specialty hospital license, ~~or~~ ambulatory surgical center license, or mobile surgical facility license, or renewal thereof, shall be accompanied by a license fee, in accordance with the following schedule:

(a) The biennial license, provisional license, and license renewal fee required of a facility licensed under this part shall be reasonably calculated to cover the cost of regulation under this part and shall be established by rule at the rate of not less than \$9.50 per hospital bed, nor more than \$30 per hospital bed, except that the minimum license fee shall be \$1,500 and the total fees collected from all licensed facilities may not exceed the cost of properly carrying out the provisions of this part.

(b) Such fees shall be paid to the agency and shall be deposited in the Planning and Regulation Trust Fund of the agency, which is hereby created, for the sole purpose of carrying out the provisions of this part.

Section 5. Paragraph (f) is added to subsection (1) of section 395.0161, Florida Statutes, to read:

395.0161 Licensure inspection.—

(1) The agency shall make or cause to be made such inspections and investigations as it deems necessary, including:

(f) Inspections of mobile surgical facilities at each time a facility establishes a new location, prior to the admission of patients. However, such inspections shall not be required when a mobile surgical facility is moved temporarily to a location where medical treatment will not be provided.

Section 6. Subsection (3) is added to section 395.0163, Florida Statutes, to read:

395.0163 Construction inspections; plan submission and approval; fees.—

(1) The agency shall make, or cause to be made, such construction inspections and investigations as it deems necessary. The agency may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agency for preliminary inspection and approval or recommendation with respect to compliance with agency rules and standards. The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the fee for review of plans as required in subsection (2). The agency may be granted one 15-day extension for the review period if the director of the agency approves the extension. If the agency fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the agency disapproves plans and specifications, it shall set forth in writing the reasons for its disapproval. Conferences and consultations may be provided as necessary.

(2)(a) The agency is authorized to charge an initial fee of \$2,000 for review of plans and construction on all projects, no part of which is refund-

able. The agency may also collect a fee, not to exceed 1 percent of the estimated construction cost or the actual cost of review, whichever is less, for the portion of the review which encompasses initial review through the initial revised construction document review. The agency is further authorized to collect its actual costs on all subsequent portions of the review and construction inspections. The initial fee payment shall accompany the initial submission of plans and specifications. Any subsequent payment that is due is payable upon receipt of the invoice from the agency.

(b) Notwithstanding any other provisions of law to the contrary, all moneys received by the agency pursuant to the provisions of this section shall be deposited in the Planning and Regulation Trust Fund, as created by s. 395.004, to be held and applied solely for the operations required under this section.

(3) The agency shall inspect a mobile surgical facility at initial licensure and at each time the facility establishes a new location, prior to admission of patients. However, such inspections shall not be required when a mobile surgical facility is moved temporarily to a location where medical treatment will not be provided.

Section 7. Subsection (2) of section 395.1055, Florida Statutes, is amended to read:

395.1055 Rules and enforcement.—

(2) Separate standards may be provided for general and specialty hospitals, ambulatory surgical centers, mobile surgical facilities, and statutory rural hospitals as defined in s. 395.602.

Section 8. Paragraph (o) is added to subsection (3) of section 408.036, Florida Statutes, to read:

408.036 Projects subject to review.—

(1) **APPLICABILITY.**—Unless exempt under subsection (3), all health-care-related projects, as described in paragraphs (a)-(k), are subject to review and must file an application for a certificate of need with the agency. The agency is exclusively responsible for determining whether a health-care-related project is subject to review under ss. 408.031-408.045.

(a) The addition of beds by new construction or alteration.

(b) The new construction or establishment of additional health care facilities, including a replacement health care facility when the proposed project site is not located on the same site as the existing health care facility.

(c) The conversion from one type of health care facility to another, including the conversion from one level of care to another, in a skilled or intermediate nursing facility, if the conversion effects a change in the level of care of 10 beds or 10 percent of total bed capacity of the skilled or intermediate nursing facility within a 2-year period. If the nursing facility is certified for both skilled and intermediate nursing care, the provisions of this paragraph do not apply.

(d) Any increase in licensed bed capacity.

(e) Subject to the provisions of paragraph (3)(i), the establishment of a Medicare-certified home health agency, the establishment of a hospice, or the direct provision of such services by a health care facility or health maintenance organization for those other than the subscribers of the health maintenance organization; except that this paragraph does not apply to the establishment of a Medicare-certified home health agency by a facility described in paragraph (3)(h).

(f) An acquisition by or on behalf of a health care facility or health maintenance organization, by any means, which acquisition would have required review if the acquisition had been by purchase.

(g) The establishment of inpatient institutional health services by a health care facility, or a substantial change in such services.

(h) The acquisition by any means of an existing health care facility by any person, unless the person provides the agency with at least 30 days' written notice of the proposed acquisition, which notice is to include the services to be offered and the bed capacity of the facility, and unless the agency does not determine, within 30 days after receipt of such notice, that the services to be provided and the bed capacity of the facility will be changed.

(i) An increase in the cost of a project for which a certificate of need has been issued when the increase in cost exceeds 20 percent of the originally approved cost of the project, except that a cost overrun review is not necessary when the cost overrun is less than \$20,000.

(j) An increase in the number of psychiatric or rehabilitation beds.

(k) The establishment of tertiary health services.

(2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt pursuant to subsection (3), projects subject to an expedited review shall include, but not be limited to:

(a) Cost overruns, as defined in paragraph (1)(i).

(b) Research, education, and training programs.

(c) Shared services contracts or projects.

(d) A transfer of a certificate of need.

(e) A 50-percent increase in nursing home beds for a facility incorporated and operating in this state for at least 60 years on or before July 1, 1988, which has a licensed nursing home facility located on a campus providing a variety of residential settings and supportive services. The increased nursing home beds shall be for the exclusive use of the campus residents. Any application on behalf of an applicant meeting this requirement shall be subject to the base fee of \$5,000 provided in s. 408.038.

(f) Combination within one nursing home facility of the beds or services authorized by two or more certificates of need issued in the same planning subdistrict.

(g) Division into two or more nursing home facilities of beds or services authorized by one certificate of need issued in the same planning subdistrict. Such division shall not be approved if it would adversely affect the original certificate's approved cost.

(h) Replacement of a health care facility when the proposed project site is located in the same district and within a 1-mile radius of the replaced health care facility.

The agency shall develop rules to implement the provisions for expedited review, including time schedule, application content, and application processing.

(3) EXEMPTIONS.—Upon request, supported by such documentation as the agency requires, the agency shall grant an exemption from the provisions of subsection (1):

(o) For any expenditure to provide mobile surgical facilities and related health care services under contract with the Department of Corrections or a private correctional facility operating pursuant to chapter 957.

A request for exemption under this subsection may be made at any time and is not subject to the batching requirements of this section.

Section 9. Paragraph (b) of 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:

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

1. Ambulatory surgical centers and mobile surgical facilities licensed under s. 395.003. This subsection shall only apply to mobile surgical facilities operating under contracts entered into on or after July 1, 1998 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.

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 10. Mobile surgical facilities in operation pursuant to a contract with the Department of Corrections entered into prior to the effective date of this act shall continue to operate pursuant to such contract and shall only be subject to the provisions of this act subsequent to the effective date of any rules promulgated by the Agency for Health Care Administration relating to mobile surgical facilities.

Section 11. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 29, 1998.

Filed in Office Secretary of State May 28, 1998.