

## House Bill No. 1417

An act relating to hospices; amending s. 400.601, F.S.; revising the definition of the term “hospice”; amending s. 400.602, F.S.; requiring that a hospice state the year of initial licensure in the state; prescribing the manner and placement of such notification; providing an exception; deleting provisions authorizing the transfer of certain hospices and the acquisition of additional licenses; amending s. 400.606, F.S.; providing that the Agency for Health Care Administration may not deny a license to applicants that fail to meet certain conditions when good cause for such failure can be demonstrated; amending s. 400.6105, F.S.; requiring a hospice to use trained volunteers and to document and report certain volunteer information; requiring the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature; providing legislative intent; requiring the Department of Elderly Affairs, in conjunction with the agency, to develop certain outcome measures; providing for adoption of national initiatives; requiring an annual report; providing for severability; providing an effective date.

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

Section 1. Subsection (3) of section 400.601, Florida Statutes, is amended to read:

400.601 Definitions.—As used in this part, the term:

(3) “Hospice” means a centrally administered corporation ~~not for profit, as defined in chapter 617~~, providing a continuum of palliative and supportive care for the terminally ill patient and his or her family.

Section 2. Section 400.602, Florida Statutes, is amended to read:

400.602 Licensure required; prohibited acts; exemptions; display, transferability of license.—

(1)(a) It is unlawful to operate or maintain a hospice without first obtaining a license from the agency.

(b) It is unlawful for any person or legal entity not licensed as a hospice under this part to use the word “hospice” in its name, or to offer or advertise hospice services or hospice-like services in such a way as to mislead a person to believe that the offeror is a hospice licensed under this part.

(c) It is unlawful for any person or legal entity offering, describing, or advertising hospice services or hospice-like services or otherwise holding itself out as a hospice to do so without stating the year of initial licensure as a hospice in the state or the year of initial licensure of the hospice entity or affiliate based in the state that owns the hospice. At a minimum, the year of initial licensure must be stated directly beneath the name of the licensed entity in a type no less than 25 percent of the size of the type used for the

name or other indication of hospice services or hospice-like services and must be prominently stated at least one time on any document, item, or other medium offering, describing, or advertising hospice services or hospice-like services. This requirement excludes any materials relating to the care and treatment of an existing hospice patient.

(2) Services provided by a hospital, nursing home, or other health care facility, health care provider, or caregiver, or under the Community Care for the Elderly Act, do not constitute a hospice unless the facility, provider, or caregiver establishes a separate and distinct administrative program to provide home, residential, and homelike inpatient hospice services.

(3)(a) A separately licensed hospice may not use a name which is substantially the same as the name of another hospice licensed under this part.

(b) A licensed hospice which intends to change its name or address must notify the agency at least 60 days before making the change.

(4) The license shall be displayed in a conspicuous place inside the hospice program office; shall be valid only in the possession of the person or public agency to which it is issued; shall not be subject to sale, assignment, or other transfer, voluntary or involuntary; and shall not be valid for any hospice other than the hospice for which originally issued.

~~(5) Notwithstanding s. 400.601(3), any hospice operating in corporate form exclusively as a hospice, incorporated on or before July 1, 1978, may be transferred to a for-profit or not-for-profit entity, and may transfer the license to that entity.~~

~~(6) Notwithstanding s. 400.601(3), at any time after July 1, 1995, any entity entitled to licensure under subsection (5) may obtain a license for up to two additional hospices in accordance with the other requirements of this part and upon receipt of any certificate of need that may be required under the provisions of ss. 408.031-408.045.~~

Section 3. Subsection (7) is added to section 400.606, Florida Statutes, to read:

400.606 License; application; renewal; conditional license or permit; certificate of need.—

(7) The agency may deny a license to an applicant that fails to meet any condition for the provision of hospice care or services imposed by the agency on a certificate of need by final agency action, unless the applicant can demonstrate that good cause exists for the applicant's failure to meet such condition.

Section 4. Subsection (4) of section 400.6105, Florida Statutes, is amended to read:

400.6105 Staffing and personnel.—

(4) A hospice must maintain a trained volunteer staff for the purpose of providing both administrative support and direct patient care. A hospice

must use trained volunteers who work in defined roles and under the supervision of a designated hospice employee for an amount of time that equals at least 5 percent of the total patient care or administrative hours provided by all paid hospice employees and contract staff in the aggregate. The hospice shall document and report the use of volunteers, including maintaining a record of the number of volunteers, the number of hours worked by each volunteer, and the tasks performed by each volunteer.

Section 5. No later than January 1, 2010, the Office of Program Policy Analysis and Government Accountability shall submit to the President of the Senate and the Speaker of the House of Representatives a report analyzing the impact of for-profit hospices on the delivery of care to terminally ill patients and include in the report a review of the quality of care offered by for-profit hospices, changes in the competitive marketplace in hospice service areas, and any other information deemed pertinent.

Section 6. To protect the citizens of the state, it is the intent of the Legislature that no change in law be made to the hospice licensure and certificate-of-need provisions until the year 2012 to correctly analyze and evaluate the impact of this act on the quality of hospice care in the state.

Section 7. (1) No later than December 31, 2007, the Department of Elderly Affairs, in conjunction with the Agency for Health Care Administration, shall develop outcome measures to determine the quality and effectiveness of hospice care for hospices licensed in the state. At a minimum, these outcome measures shall include a requirement that 50 percent of patients who report severe pain on a 0-to-10 scale must report a reduction to 5 or less by the end of the 4th day of care on the hospice program.

(2) For hospices licensed in the state, the Department of Elderly Affairs, in conjunction with the Agency for Health Care Administration, shall:

(a) Consider and adopt national initiatives, such as those developed by the National Hospice and Palliative Care Organization, to set benchmarks for measuring the quality of hospice care provided in the state.

(b) Develop an annual report that analyzes and evaluates the information collected under this act and any other data collection or reporting provisions of law.

Section 8. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 9. This act shall take effect July 1, 2006.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.