



Health Innovation Subcommittee

**Tuesday, January 19, 2016
1:30 PM – 3:30 PM
306 HOB**

**Steve Crisafulli
Speaker**

**Kenneth Roberson
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health Innovation Subcommittee

Start Date and Time: Tuesday, January 19, 2016 01:30 pm
End Date and Time: Tuesday, January 19, 2016 03:30 pm
Location: 306 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 233 Abortion Clinics by Trujillo
HB 885 Residential Facilities by Avila

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Friday, January 15, 2016.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Friday, January 15, 2016.

NOTICE FINALIZED on 01/14/2016 3:34PM by Ellerkamp.Donna

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 233 Abortion Clinics
SPONSOR(S): Trujillo
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		McElroy <i>CM</i>	Poche <i>(M)</i>
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

HB 233 amends ch. 390, F.S., to require abortion clinics to meet the general licensure requirements for hospitals and other licensed facilities under part I, ch. 395, F.S. The bill allows the Agency for Health Care Administration (AHCA) to adopt standards for abortion clinics. Pursuant to s. 395.1055(7), F.S., existing abortion clinics will have up to one year to meet any new standards.

The bill also requires abortion clinics to submit all construction plans and specifications to AHCA for review and approval. As a result, AHCA must ensure that the design, construction, erection, alteration, modification, repair, and demolition of all abortion clinics comply with the Florida Building Code and Florida Fire Prevention Code.

The bill requires all abortion clinics providing elective surgical abortions, regardless of the trimester in which the abortion is performed, to comply with the above requirements.

The bill appears to have a negative fiscal impact on state government and does not appear to have a fiscal impact on local government.

The bill provides an effective date of January 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Case Law on Abortion

Right to Abortion

In 1973, the foundation of modern abortion jurisprudence, *Roe v. Wade*¹, was decided by the U.S. Supreme Court. Using strict scrutiny, the Court determined that a woman's right to an abortion is part of a fundamental right to privacy guaranteed under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution. Further, the Court reasoned that state regulation limiting the exercise of this right must be justified by a compelling state interest, and must be narrowly drawn.² In 1992, the fundamental holding of *Roe* was upheld by the U.S. Supreme Court in *Planned Parenthood v. Casey*.³

The Viability Standard

In *Roe v. Wade*, the U.S. Supreme Court established a rigid trimester framework dictating when, if ever, states can regulate abortion.⁴ The Court held that states could not regulate abortions during the first trimester of pregnancy. With respect to the second trimester, the Court held that states could only enact regulations aimed at protecting the mother's health, not the fetus's life. Therefore, no ban on abortions is permitted during the second trimester. The state's interest in the life of the fetus becomes sufficiently compelling only at the beginning of the third trimester, allowing it to prohibit abortions. Even then, the Court requires states to permit an abortion in circumstances necessary to preserve the health or life of the mother.⁵

The current viability standard is set forth in *Planned Parenthood v. Casey*.⁶ Recognizing that medical advancements in neonatal care can advance viability to a point somewhat earlier than the third trimester, the U.S. Supreme Court rejected the trimester framework and, instead, limited the states' ability to regulate abortion pre-viability. Thus, while upholding the underlying holding in *Roe*, which authorizes states to "[r]egulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother[,]"⁷ the Court determined that the line for this authority should be drawn at "viability," because "..... there may be some medical developments that affect the precise point of viability...but this is an imprecision with tolerable limits given that the medical community and all those who must apply its discoveries will continue to explore the matter."⁸ Furthermore, the Court recognized that "in some broad sense, it might be said that a woman who fails to act before viability has consented to the State's intervention on behalf of the developing child."⁹

¹ *Roe v. Wade*, 410 U.S. 113 (1973).

² *Id.*

³ *Casey*, 505 U.S. 833 (1992).

⁴ *Roe*, 410 U.S. 113 (1973).

⁵ *Id.* at 164-165.

⁶ *Supra*, FN 3.

⁷ *See Roe*, 410 U.S. at 164-65.

⁸ *See Casey*, 505 U.S. at 870.

⁹ *Id.*

Undue Burden

In *Planned Parenthood v. Casey*, the U.S. Supreme Court established the undue burden standard for determining whether a law places an impermissible obstacle to a woman's right to an abortion. The Court held that health regulations which impose undue burdens on the right to abortion are invalid.¹⁰ State regulation imposes an "undue burden" on a woman's decision to have an abortion if it has the purpose or effect of placing a substantial obstacle in the path of the woman who seeks the abortion of a nonviable fetus.¹¹ However, not every law, which makes the right to an abortion more difficult to exercise, is an infringement of that right.¹²

Florida Law on Abortion

Abortion Rights

Florida affords greater privacy rights to its citizens than those provided under the U.S. Constitution. While the federal Constitution traditionally shields enumerated and implied individual liberties from state or federal intrusion, the federal Court has long held that the state constitutions may provide even greater protections.¹³ In 1980, Florida amended its Constitution to include Article I, s. 23 which creates an express right to privacy:¹⁴

Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

This amendment is an independent, freestanding constitutional provision which declares the fundamental right to privacy and provides greater privacy rights than those implied by the federal Constitution.¹⁵

The Florida Supreme Court has recognized Florida's constitutional right to privacy "is clearly implicated in a woman's decision whether or not to continue her pregnancy."¹⁶ In *In re T.W.*, the Florida Supreme Court ruled that¹⁷:

[P]rior to the end of the first trimester, the abortion decision must be left to the woman and may not be significantly restricted by the state. Following this point, the state may impose significant restrictions only in the least intrusive manner designed to safeguard the health of the mother. Insignificant burdens during either period must substantially further important state interests....Under our Florida Constitution, the state's interest becomes compelling upon viability....Viability under Florida law occurs at that point in time when the fetus becomes capable of meaningful life outside the womb through standard medical procedures.

¹⁰ Id. at 878.

¹¹ Id. at 877.

¹² Id. at 873.

¹³ *In re T.W.*, 551 So.2d 1186, 1191 (Fla. 1989).

¹⁴ Id.

¹⁵ Id at 1191-1192.

¹⁶ Id at 1192.

¹⁷ Id at 1193.

Abortion Regulation

In Florida, abortion is defined as the termination of a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus.¹⁸ An abortion must be performed by a physician¹⁹ licensed under ch. 458, F.S., or ch. 459, F.S., or a physician practicing medicine or osteopathic medicine in the employment of the United States.²⁰

Florida law prohibits abortions after viability, as well as during the third trimester, unless a medical exception exists. Section 390.1112(1), F.S., prohibits an abortion from being performed if a physician determines that, in reasonable medical judgment, the fetus has achieved viability. Viability is defined as the stage of fetal development when the life of a fetus is sustainable outside the womb through standard medical measures.²¹ Section 390.0111, F.S., prohibits an abortion from being performed during the third trimester.²² Exceptions to both of these prohibitions exist if:

- Two physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman's life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition; or
- One physician certifies in writing that, in reasonable medical judgment, there is a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman's life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition, and another physician is not available for consultation.²³

A physician must obtain an informed and voluntary consent for an abortion from a woman before an abortion is performed, unless an emergency exists. Consent is considered voluntary and informed if the physician who is to perform the procedure, orally and in person and at least 24 hours before the procedure²⁴, informs the woman of the nature and medical risks of an abortion, the risk of continued pregnancy, and the gestational age of the fetus.²⁵ The probable gestational age must be verified by an ultrasound.²⁶ The woman must be offered the opportunity to view the images and hear an explanation of them.²⁷ If the woman refuses this right, she must acknowledge the refusal in writing.²⁸ The woman must acknowledge, in writing and prior to the abortion, that she has been provided with all information consistent with these requirements.²⁹

Anyone who violates laws applicable to an abortion during viability or in the third trimester commits a third degree felony.³⁰ Additionally, any health care practitioner who fails to comply with such laws is subject to disciplinary action under the applicable practice act and under s. 456.072, F.S.³¹

¹⁸ Section 390.011(1), F.S.

¹⁹ Section 390.0111(2), F.S.

²⁰ Section 390.011(8), F.S.

²¹ Section 390.011(12), F.S.

²² Section 390.011(9), F.S., defines the third trimester to mean the weeks of pregnancy after the 24th week of pregnancy.

²³ Sections 390.0111(1)(a) and (b) and 390.01112(1)(a) and (b), F.S.

²⁴ The 24 hour informed consent requirement is currently enjoined while litigation is pending in *Gainesville Woman Care, LLC v. State*, in the Circuit Court of the Second Judicial Circuit in and for Leon County, case number 2015 CA 001323.

²⁵ Section 390.0111(3)(a), F.S. This requirement applies except in the case of a medical emergency.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 390.0111(10)(a), F.S.

The Agency for Health Care Administration (AHCA) licenses and regulates abortion clinics in the state, pursuant to ch. 390, F.S., and part II of ch. 408, F.S.³² All abortion clinics and physicians performing abortions are subject to the following requirements:

- An abortion may only be performed in a validly licensed hospital, abortion clinic, or in a physician's office;³³
- An abortion clinic must be operated by a person with a valid and current license;³⁴
- A third trimester abortion may only be performed in a hospital;³⁵
- Proper medical care must be given and used for a fetus when an abortion is performed during viability;³⁶
- Experimentation on a fetus is prohibited;³⁷
- Except when there is a medical emergency, an abortion may only be performed after a patient has given voluntary and written informed consent;³⁸
- Consent is obtained after verification of the fetal age via ultrasound imaging;³⁹
- Fetal remains are to be disposed of in a sanitary and appropriate manner;⁴⁰ and
- Parental notice must be given 48 hours before performing an abortion on a minor,⁴¹ unless waived by a parent or otherwise ordered by a judge.

Florida law permits only minimal regulation of first trimester abortions. These regulations consist of requiring first trimester abortions performed by a licensed physician at a licensed facility and minimal record-keeping requirements.⁴² Several other regulations related to first trimester abortions have been held unconstitutional, including rules which required abortion clinics and the physicians who perform first trimester abortions to:⁴³

- Maintain specified equipment in the clinic;
- Prepare a written pamphlet outlining post-operative treatment;
- Perform specified tests prior to the abortion procedure;
- Make available certain medications for post-operative treatment;
- Establish procedures to maintain proper sanitation; and
- Dispose of fetal remains in a nuisance-free manner.

Pursuant to s. 390.012, F.S., AHCA must adopt rules for abortion clinics that perform abortions after the first trimester, which must prescribe standards for:

- Adequate private space for interviewing, counseling, and medical evaluations;
- Dressing rooms for staff and patients;
- Appropriate lavatory areas;
- Areas for pre-procedure hand-washing;

³¹ Section 390.0111(13), F.S. The Department of Health and its professional boards regulate health care practitioners under ch. 456, F.S., and various individual practice acts. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

³² Section 408.802(3) provides for the applicability of the Health Care Licensing Procedures Act to abortion clinics.

³³ Section 797.03 (1), F.S.

³⁴ Section 797.03 (2), F.S.

³⁵ Section 797.03(3), F.S. The violation of any of these provisions is a second degree misdemeanor.

³⁶ Section 390.0111(4), F.S.

³⁷ Section 390.0111(6), F.S.

³⁸ Section 390.0111(3), F.S. A physician violating this provision is subject to disciplinary action.

³⁹ Section 390.0111(3)(a)1.b., F.S.

⁴⁰ Section 390.0111(8), F.S. A person who improperly disposes of fetal remains commits a second degree misdemeanor.

⁴¹ Section 390.01114(3), F.S. A physician who violates this provision is subject to disciplinary action.

⁴² *Florida Women's Medical Clinic, Inc. v. Smith*, 536 F.Supp. 1048 (S.D. Fla. 1982).

⁴³ *Id.*

- Private procedure rooms;
- Adequate lighting and ventilation for procedures;
- Surgical or gynecological examination tables and other fixed equipment;
- Post-procedure recovery rooms that are equipped to meet the patients' needs;
- Emergency exits to accommodate a stretcher or gurney;
- Areas for cleaning and sterilizing instruments;
- Adequate areas for the secure storage of medical records and necessary equipment; and
- Conspicuous display of the clinic's license.⁴⁴

Both the Department of Health (DOH) and AHCA have authority to take licensure action against individuals and clinics that are in violation of statutes or rules.⁴⁵

The design, construction, erection, alteration, modification, repair, and demolition of all public and private health care facilities, including abortion clinics, are governed by the Florida Building Code and the Florida Fire Prevention Code.⁴⁶ Except where specifically authorized otherwise, each local government and each statutorily authorized enforcement district are responsible for the enforcement of the regulations contained within the Building Code.⁴⁷ The Division of State Fire Marshal within the Department of Financial Services is responsible for the enforcement of the Florida Fire Prevention Code.⁴⁸ AHCA is not authorized to inspect, investigate or approve any abortion clinic construction plans or specifications to ensure clinics comply with the Florida Building Code and Florida Fire Prevention Code.

Florida Abortion Statistics

The director of any medical facility in which any pregnancy is terminated is required to submit a monthly report to AHCA which contains the number of procedures performed, the reason for same, and the period of gestation at the time such procedures were performed.⁴⁹ There is no reporting requirement for the type of abortion performed including whether the abortion was surgical or drug-induced or whether a patient needed to be admitted to a hospital.

In 2014, DOH reported that there were 220,138 live births in Florida.⁵⁰ In the same year, AHCA reported that there were 72,073 abortion procedures performed in the state. Of those performed:⁵¹

- 65,902 were performed in the first trimester (12 weeks and under);
- 6,171 were performed in the second trimester (13 to 24 weeks); and
- None were performed in the third trimester (25 weeks and over).

The majority of the procedures (65,210) were elective.⁵² The remainder of the abortions were performed due to:⁵³

- Emotional or psychological health of the mother (76);

⁴⁴ Section 390.012(3)(a)1., F.S. Rules related to abortion are found in Chapter 59A-9, F.A.C.

⁴⁵ Section 390.018, F.S.

⁴⁶ Section 395.0163, F.S.

⁴⁷ Section 553.80, F.S.

⁴⁸ Section 633.104, F.S.

⁴⁹ Section 390.0112(1), F.S.

⁵⁰ Correspondence from the Department of Health to the House of Representatives Health Quality Subcommittee dated February 26, 2015, on file with Health Innovation Subcommittee Staff.

⁵¹ Reported Induced Terminations of Pregnancy (ITOP) by Reason, By Weeks of Gestation for Calendar Year 2014, AHCA, on file with the Health Innovation Subcommittee Staff.

⁵² Id.

⁵³ Id.

- Physical health of the mother that was not life endangering (158);
- Life endangering physical condition (69);
- Rape (749);
- Serious fetal genetic defect, deformity, or abnormality (560); and
- Social or economic reasons (5,115).

There are currently 65 licensed abortion clinics in Florida, of which 44 are licensed to provide both first and second trimester abortions and 21 are licensed to provide only first trimester abortions.

Licensure Requirements for Hospitals and Other Licensed Facilities

Part I, ch. 395, F.S., establishes the licensure requirements for hospitals and other licensed facilities, including ambulatory surgical centers (ASC) and mobile surgical facilities. AHCA is authorized to adopt rules for all licensed facilities. Separate standards may be provided for general and specialty hospitals, ASCs, mobile surgical facilities, and statutory rural hospitals, but the rules for all licensed facilities must include minimum standards ensuring that⁵⁴:

- A sufficient number of qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care;
- Infection control, housekeeping, sanitary conditions, and medical record procedures are established and implemented to adequately protect patients;
- A comprehensive emergency management plan is prepared and updated annually;
- Licensed facilities are established, organized, and operated consistent with established standards and rules;
- Licensed facility beds conform to minimum space, equipment, and furnishing standards;
- Data is submitted as necessary to conduct certificate-of-need reviews required under part I of chapter 408;
- A quality improvement program designed according to standards established by the current accrediting organization of the facility is in place; and
- Licensed facilities make available on their Internet websites and in a hard copy format, upon request, a description of and a link to the patient charge and performance outcome data collected from the facility.

Approval for Design and Construction of Hospitals and Other Licensed Facilities

AHCA is responsible for the inspection, investigation and approval of the construction plans or specifications for hospitals and ASCs.⁵⁵ AHCA must ensure that the design, construction, erection, alteration, modification, repair, and demolition of hospitals and ASCs comply with the Florida Building Code and Florida Fire Prevention Code. This requirement is in addition to the review and enforcement of the Building Code regulations by local government and statutorily authorized enforcement districts under ch. 553, F.S. AHCA is authorized to collect from the hospital or ASC:⁵⁶

- An initial, nonrefundable fee of \$2,000 for the review of plans and construction on all projects;
- A fee, not to exceed 1 percent of the estimated construction cost or the actual cost of review, for the portion of the review which encompasses initial review through the initial revised construction document review; and
- Actual costs on all subsequent portions of the review and construction inspections.

AHCA is prohibited from adopting any rule governing the design, construction, erection, alteration or modification of a hospital or ASC. However, AHCA may provide technical assistance to the Florida

⁵⁴ Section 395.1055, F.S.

⁵⁵ Section 395.0163, F.S.

⁵⁶ Section 395.0163 (2), F.S.

Building Commission and the State Fire Marshal if those entities elect to develop and adopt rules specifically for hospitals and ASCs.⁵⁷

Effect of Proposed Changes

HB 233 amends s. 395.002(3), F.S., to include "abortion clinics" within the definition of ASC and mobile surgical facility. The inclusion of this term subjects abortion clinics to the general licensure requirements for hospitals and other licensed facilities under part I, ch. 395, F.S., but does not require abortion clinics to specifically meet the licensure requirements for ASCs. Under the general licensure requirements of ch. 395, F.S., an abortion clinic would be required to not only meet the requirements of ch. 390, F.S., but also:⁵⁸

- Document satisfactory accreditation in lieu of AHCA's annual licensure inspections;
- Retain copies of inspection reports for at least five years;
- Provide for peer review of physicians who provide services at the clinic;
- Meet additional requirements related to staff membership and clinical privileges in a hospital;
- Establish an internal risk management program (including reporting of adverse incidents and annual reports) and hire a licensed risk manager;
- Adopt a patient safety plan and appoint a patient safety officer and patient safety committee;
- Notify patients of the right to an itemized bill;
- Furnish a good faith estimate upon written request;
- Provide records to verify patient bills;
- Establish a method for reviewing patient inquiries to itemized bills;
- Provide complete medical records to a patient upon request;
- Provide for disclosure of patient records without patient consent per s. 395.3025 (4), F.S.; and
- Include information required for fetal death certificates in the patient's clinical record.

The bill allows AHCA to adopt standards for abortion clinics. Pursuant to s. 395.1055(7), F.S., existing abortion clinics will have up to one year to meet any new standards.

The bill also requires abortion clinics to submit all construction plans and specifications to AHCA for review and approval. As a result, AHCA must ensure that the design, construction, erection, alteration, modification, repair, and demolition of all abortion clinics comply with the Florida Building Code and Florida Fire Prevention Code.

All of the above requirements would apply to all abortion clinics providing elective surgical abortions, regardless of the trimester in which the abortion is performed.

The bill provides an effective date of July 1, 2016.

B. SECTION DIRECTORY:

Section 1: Amending s. 390.014, F.S., relating to licenses; fees.

Section 2: Amending s. 390.015, F.S., relating to application for license.

Section 3: Amending s. 390.018, F.S., relating to administrative fine.

Section 4: Amending s. 395.001, F.S., relating to Legislative intent.

Section 5: Amending s. 395.002, F.S., relating to definitions.

Section 6: Amending s. 395.003, F.S., relating to licensure; denial, suspension and revocation.

Section 7: Amending s. 395.0163, F.S., relating to construction inspections; plan submission and approval; fees.

Section 8: Amending s. 395.1055, F.S., relating to rules and enforcement.

⁵⁷ Section 395.1055, F.S.

⁵⁸ 2016 Agency Legislative Bill Analysis for HB 233, AHCA, November 16, 2015.

Section 9: Amending s. 395.10973, F.S., relating to powers and duties of the agency.

Section 10: Amending s. 408.802, F.S., relating to applicability.

Section 11: Amending s. 408.820, F.S., relating to exemptions.

Section 12: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There are currently 65 licensed clinics that would potentially be subject to a \$40 annual life safety inspection fee currently imposed on ASCs (65 x \$40 = \$2,600). AHCA expects one new clinic every other year and would collect an estimated \$1,000 every other year for review of initial plans and construction. This would average to \$3,600 per year in revenues.

It is unclear whether the bill requires AHCA to review existing abortion clinics' construction plans. If so, each clinic to which the review requirement applies would pay the \$1,000 initial review fee and potentially additional review and inspection fees.

2. Expenditures:

The bill will require AHCA to hire one additional full-time equivalent (FTE) surveyor, Fire Protection Specialist, in order to conduct the potential 65 additional annual fire life safety surveys required by this bill. The surveyor would be based in an area requiring a competitive area differential in addition to base salary since 31 of the 65 clinics are located in Southeast Florida. Fire Protection Specialists require National Fire Protection Association (NFPA) code books, at a cost of \$495, and are issued a Surface Pro 3 tablet computer in order to complete their fieldwork. Required travel for a surveyor to conduct surveys and attend required training averages \$4,500 per year. The total estimated cost for the FTE for the first year is \$58,107, and the estimated recurring cost is \$51,780 per year.

It is unclear whether the bill requires AHCA to review existing abortion clinics' construction plans. Additional resources may be required if the Florida Building Code requirements apply to existing abortion clinics and if the inspection were required to be done on an expedited basis.

AHCA will also be required to create billing letters and tracking reports like those that currently exist for birth centers, ASCs, and hospitals related to the fire life safety surveys. Modifications would need to be made to OPC Track for tracking abortion clinic construction projects. The online adverse incident reporting system will need to be updated to include abortion clinics. Fiscal impact for this is anticipated to be minimal since these are primarily additions to existing systems.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires abortion clinics to comply with licensure requirements under part I, ch. 395, F.S. This includes the uniform standards for building and fire safety codes. Applicants for initial licensure would be charged a minimum of \$1,000 for the review of plans and construction. The clinics would also be subject to the \$40 annual life safety inspection fee currently imposed on ASCs.

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:

State and federal law permit only minimal regulation of first trimester abortions. In Florida, these regulations consist of requiring first trimester abortions be performed by a licensed physician at a licensed facility and minimal record-keeping requirements.⁵⁹ Previously enacted regulations which exceeded these minimal regulations were found to be unconstitutional.⁶⁰ The bill requires all abortion clinics, including those which only perform first trimester abortions, meet the licensure requirements of part I, ch. 395, F.S. This will be a significant increase in regulation of these clinics and will likely be challenged on constitutional grounds.

B. RULE-MAKING AUTHORITY:

AHCA currently has rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill's language appears to create a legal distinction between abortion clinics which provide surgical abortions and those which perform drug-induced abortions. Under ch. 390, F.S., "abortion clinic" is defined as any facility in which abortions are performed.⁶¹ This definition includes both surgical and drug-induced abortions. However, the bill defines abortion clinics in ch. 395, F.S., as having the primary purpose of providing outpatient, elective surgical care. This definition seemingly functions to exclude nonsurgical clinics from the definition of abortion clinic.⁶² As such, abortion clinics primarily performing non-surgical abortions would only be subject to the requirements of chapters 390, F.S, and abortion clinics performing surgical abortions would be subject to the requirements in chapters 390 and 395, F.S. Abortion data reported to AHCA is limited and does not include the method of abortion.⁶³ As such, the number of clinics, if any, that this would effect is unknown.

The addition of clinics to chapter 395, part I, F.S., would also cause a conflict between s. 395.003(2)(a), F.S., which allows a single licensee to operate multiple facilities and s. 390.014(2), F.S., which requires a separate license for each abortion clinic location.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁵⁹ *Florida Women's Medical Clinic, Inc. v. Smith*, 536 F.Supp. 1048 (S.D. Fla. 1982).

⁶⁰ *Id.*

⁶¹ Section 390.011(2).

⁶² Section 395.002(3), F.S.

⁶³ Section 390.0112(1), F.S.

1 A bill to be entitled
2 An act relating to abortion clinics; amending ss.
3 390.014 and 390.015, F.S.; providing applicability to
4 abortion clinics of the licensing requirements for
5 hospitals, ambulatory surgical centers, and mobile
6 surgical facilities under part I of chapter 395, F.S.;
7 amending s. 390.018, F.S.; conforming provisions
8 relating to administrative fines; amending s. 395.001,
9 F.S.; revising legislative intent relating to
10 licensure of health facilities; amending s. 395.002,
11 F.S.; revising definitions; amending s. 395.003, F.S.;
12 providing applicability of licensing requirements of
13 chapter 395, F.S., to abortion clinics; amending s.
14 395.0163, F.S.; requiring abortion clinics to submit
15 construction plans to the Agency for Health Care
16 Administration for review; amending s. 395.1055, F.S.;
17 authorizing the agency to provide separate standards
18 relating to rulemaking for abortion clinics; providing
19 for preemption of authority with respect to
20 construction standards for abortion clinics to the
21 Florida Building Code; requiring the agency to provide
22 technical assistance to update certain construction
23 standards; amending s. 395.10973, F.S.; authorizing
24 the agency to enforce specified provisions of the
25 Florida Building Code; amending ss. 408.802 and
26 408.820, F.S.; providing conforming changes; providing

27 an effective date.

28

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

30

31 Section 1. Section 390.014, Florida Statutes, is amended
32 to read:

33 390.014 Licenses; fees.—

34 (1) The requirements of part II of chapter 408 shall apply
35 to the provision of services that require licensure pursuant to
36 part I of chapter 395 ss. 390.011-390.018 and part II of chapter
37 408 and to entities licensed by or applying for such licensure
38 from the Agency for Health Care Administration pursuant to part
39 I of chapter 395 ss. 390.011-390.018. A license issued by the
40 agency is required in order to operate a clinic in this state.

41 (2) A separate license shall be required for each clinic
42 maintained on separate premises, even though it is operated by
43 the same management as another clinic; but a separate license
44 shall not be required for separate buildings on the same
45 premises.

46 (3) In accordance with s. 408.805, an applicant or
47 licensee shall pay a fee for each license application submitted
48 under part I of chapter 395 ~~this chapter~~ and part II of chapter
49 408. The amount of the fee shall be established by rule and may
50 not be less than \$70 or more than \$500.

51 (4) Counties and municipalities applying for licenses
52 under this act shall be exempt from the payment of the license

53 fees.

54 Section 2. Section 390.015, Florida Statutes, is amended
55 to read:

56 390.015 Application for license.—In addition to the
57 requirements of part I of chapter 395 and part II of chapter
58 408, an application for a license to operate an abortion clinic
59 shall be made to the agency and must include the location of the
60 clinic for which application is made and a statement that local
61 zoning ordinances permit such location.

62 Section 3. Section 390.018, Florida Statutes, is amended
63 to read:

64 390.018 Administrative fine.—In addition to the
65 requirements of part I of chapter 395 and part II of chapter
66 408, the agency may impose a fine upon the clinic in an amount
67 not to exceed \$1,000 for each violation of any provision of this
68 chapter, part I of chapter 395, part II of chapter 408, or
69 applicable rules.

70 Section 4. Section 395.001, Florida Statutes, is amended
71 to read:

72 395.001 Legislative intent.—It is the intent of the
73 Legislature to provide for the protection of public health and
74 safety in the establishment, construction, maintenance, and
75 operation of hospitals, ambulatory surgical centers, abortion
76 clinics, and mobile surgical facilities by providing for
77 licensure of same and for the development, establishment, and
78 enforcement of minimum standards with respect thereto.

79 Section 5. Subsections (3), (16), and (23) of section
 80 395.002, Florida Statutes, are amended to read:

81 395.002 Definitions.—As used in this chapter:

82 (3) "Ambulatory surgical center," "abortion clinic," or
 83 "mobile surgical facility" means a facility the primary purpose
 84 of which is to provide elective surgical care, in which the
 85 patient is admitted to and discharged from such facility within
 86 the same working day and is not permitted to stay overnight, and
 87 which is not part of a hospital. However, ~~a facility existing~~
 88 ~~for the primary purpose of performing terminations of pregnancy,~~
 89 an office maintained by a physician for the practice of
 90 medicine, or an office maintained for the practice of dentistry
 91 may shall not be construed to be an ambulatory surgical center.
 92 An, ~~provided that any facility or office that~~ which is certified
 93 or seeks certification as a Medicare ambulatory surgical center
 94 shall be licensed as an ambulatory surgical center pursuant to
 95 s. 395.003. Any structure or vehicle in which a physician
 96 maintains an office and practices surgery, and which can appear
 97 to the public to be a mobile office because the structure or
 98 vehicle operates at more than one address, shall be construed to
 99 be a mobile surgical facility.

100 (16) "Licensed facility" means a hospital, ambulatory
 101 surgical center, abortion clinic, or mobile surgical facility
 102 licensed in accordance with this chapter.

103 (23) "Premises" means those buildings, beds, and equipment
 104 located at the address of the licensed facility and all other

105 buildings, beds, and equipment for the provision of hospital,
 106 ambulatory surgical, or mobile surgical care or for the
 107 performance of abortions located in such reasonable proximity to
 108 the address of the licensed facility as to appear to the public
 109 to be under the dominion and control of the licensee. For any
 110 licensee that is a teaching hospital as defined in s.
 111 408.07(45), reasonable proximity includes any buildings, beds,
 112 services, programs, and equipment under the dominion and control
 113 of the licensee that are located at a site with a main address
 114 that is within 1 mile of the main address of the licensed
 115 facility; and all such buildings, beds, and equipment may, at
 116 the request of a licensee or applicant, be included on the
 117 facility license as a single premises.

118 Section 6. Paragraphs (a) and (b) of subsection (1) of
 119 section 395.003, Florida Statutes, are amended to read:

120 395.003 Licensure; denial, suspension, and revocation.—

121 (1)(a) The requirements of part II of chapter 408 apply to
 122 the provision of services that require licensure pursuant to ss.
 123 395.001-395.1065 and part II of chapter 408 and to entities
 124 licensed by or applying for such licensure from the Agency for
 125 Health Care Administration pursuant to ss. 395.001-395.1065. A
 126 license issued by the agency is required in order to operate a
 127 hospital, ambulatory surgical center, abortion clinic, or mobile
 128 surgical facility in this state.

129 (b)1. It is unlawful for a person to use or advertise to
 130 the public, in any way or by any medium whatsoever, any facility

131 as a "hospital," "ambulatory surgical center," "abortion
 132 clinic," or "mobile surgical facility" unless such facility has
 133 first secured a license under the provisions of this part.

134 2. This part does not apply to veterinary hospitals or to
 135 commercial business establishments using the word "hospital,"
 136 "ambulatory surgical center," "abortion clinic," or "mobile
 137 surgical facility" as a part of a trade name if no treatment of
 138 human beings is performed on the premises of such
 139 establishments.

140 Section 7. Paragraph (b) of subsection (1) of section
 141 395.0163, Florida Statutes, is amended to read:

142 395.0163 Construction inspections; plan submission and
 143 approval; fees.—

144 (1)

145 (b) All outpatient facilities that provide surgical
 146 treatments requiring general anesthesia or IV conscious
 147 sedation, that provide cardiac catheterization services, or that
 148 are to be licensed as ambulatory surgical centers or abortion
 149 clinics shall submit plans and specifications to the agency for
 150 review under this section. All other outpatient facilities must
 151 be reviewed under this section, except that those that are
 152 physically detached from, and have no utility connections with,
 153 the hospital and that do not block emergency egress from or
 154 create a fire hazard to the hospital are exempt from review
 155 under this section. This paragraph applies to applications for
 156 which review is pending on or after July 1, 1998.

157 Section 8. Subsections (2) and (8) of section 395.1055,
 158 Florida Statutes, are amended to read:

159 395.1055 Rules and enforcement.—

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

164 (8) The agency may not adopt any rule governing the
 165 design, construction, erection, alteration, modification,
 166 repair, or demolition of any public or private hospital,
 167 intermediate residential treatment facility, ~~or~~ ambulatory
 168 surgical center, or abortion clinic. It is the intent of the
 169 Legislature to preempt that function to the Florida Building
 170 Commission and the State Fire Marshal through adoption and
 171 maintenance of the Florida Building Code and the Florida Fire
 172 Prevention Code. However, the agency shall provide technical
 173 assistance to the commission and the State Fire Marshal in
 174 updating the construction standards of the Florida Building Code
 175 and the Florida Fire Prevention Code which govern hospitals,
 176 intermediate residential treatment facilities, ~~and~~ ambulatory
 177 surgical centers, and abortion clinics.

178 Section 9. Subsection (8) of section 395.10973, Florida
 179 Statutes, is amended to read:

180 395.10973 Powers and duties of the agency.—It is the
 181 function of the agency to:

182 (8) Enforce the special-occupancy provisions of the

183 Florida Building Code which apply to hospitals, intermediate
 184 residential treatment facilities, ~~and~~ ambulatory surgical
 185 centers, and abortion clinics in conducting any inspection
 186 authorized by this chapter and part II of chapter 408.

187 Section 10. Subsection (3) of section 408.802, Florida
 188 Statutes, is amended to read:

189 408.802 Applicability.—The provisions of this part apply
 190 to the provision of services that require licensure as defined
 191 in this part and to the following entities licensed, registered,
 192 or certified by the agency, as described in chapters 112, 383,
 193 390, 394, 395, 400, 429, 440, 483, and 765:

194 (3) Abortion clinics, as provided under part I of chapter
 195 395 ~~chapter 390~~.

196 Section 11. Subsection (3) of section 408.820, Florida
 197 Statutes, is amended to read:

198 408.820 Exemptions.—Except as prescribed in authorizing
 199 statutes, the following exemptions shall apply to specified
 200 requirements of this part:

201 (3) Abortion clinics, as provided under part I of chapter
 202 395 ~~chapter 390~~, are exempt from s. 408.810(7)-(10).

203 Section 12. This act shall take effect July 1, 2016.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health Innovation
 2 Subcommittee
 3 Representative Trujillo offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (i) and (j) are added to subsection
(3) of section 390.012, Florida Statutes, to read:

390.012 Powers of agency; rules; disposal of fetal
remains.-

(3) For clinics that perform or claim to perform abortions
after the first trimester of pregnancy, the agency shall adopt
rules pursuant to ss. 120.536(1) and 120.54 to implement the
provisions of this chapter, including the following:

(i) On or after September 1, 2017, rules establishing the
minimum standards for an abortion clinic which are equivalent to
or more stringent than the standards applicable to an ambulatory



Amendment No.

18 surgical center adopted by the agency pursuant to part I of
19 chapter 395. If there is an abortion clinic standard for which
20 there is not an ambulatory surgical center standard, the
21 abortion clinic standard applies.

22 (j) Rules requiring an abortion clinic to comply with all
23 requirements applicable to ambulatory surgical centers set forth
24 in s. 395.0163.

25 Section 2. This act shall take effect July 1, 2016.

26
27

28 -----

29 **T I T L E A M E N D M E N T**

30 Remove everything before the enacting clause and insert:
31 An act relating to abortion clinics; amending s. 390.012, F.S.;
32 requiring the Agency for Health Care Administration to establish
33 minimum standards for clinics that perform or claim to perform
34 abortions after the first trimester of pregnancy that are
35 equivalent to or more stringent than the standards applicable to
36 ambulatory surgery centers licensed under chapter 395; providing
37 for application of an abortion clinic standard if no
38 corresponding ambulatory surgical center standard exists;
39 requiring the agency to establish rules requiring an abortion
40 clinic to comply with s. 395.0163, F.S.; providing an effective
41 date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 885 Residential Facilities
SPONSOR(S): Avila
TIED BILLS: IDEN./SIM. BILLS: SB 1174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		McElroy <i>h</i>	Poche <i>(MP)</i>
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

A community residential home is a home consisting of 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Pursuant to s. 419.001(3)(c), F.S., a community residential home may not be constructed within a radius of 1,200 feet of another such home or within a radius of 500 feet of an area of single-family zoning. Similarly, pursuant to 419.001(2), F.S., a home of six or fewer residents which otherwise meets the definition of a community residential home may not be constructed within a radius of 1,000 feet of another such home. The statute, however, is silent as to which zoning requirement applies when determining the proper distance between a community residential home and a home of six or fewer residents which otherwise meets the definition of a community residential home.

HB 885 amends s. 419.001, F.S., and requires the greater distance requirement (within a radius of 1,200 feet) to apply when determining the proper distance between a community residential home and a home of six or fewer residents which otherwise meets the definition of a community residential home. The bill expressly states that this requirement is to be applied to prospectively. The bill also requires all licensing entities to utilize the statutory method for measuring distances established in s. 419.001(5), F.S., when determining whether a home meets zoning requirements.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Community Residential Homes

Historically, community housing options for persons with disabilities, frail elderly persons, dependent or delinquent children, and persons with mental illnesses have been limited. Although the transition from providing services in large institutions to community-based programs began in the 1970's¹, the availability of safe, appropriate, and affordable housing in Florida has been an ongoing challenge. The primary obstacle was the opposition to establishing affordable housing or housing for persons with disabilities or special needs in residential neighborhoods. In an attempt to address this issue the Legislature enacted s. 419.01, F.S., which establishes the siting requirements applicable to local governments for community residential homes.

A community residential home is a home consisting of 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.² Residency in a community residential home is limited to individuals who qualify as:

- "Developmentally disabled," as defined in s.393.063, F.S., which includes a person with a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely;
- A "frail elder" as defined in s. 429.65(9), F.S., which includes a functionally impaired elderly person who is 60 years of age or older and who has physical or mental limitations that restrict the person's ability to perform the normal activities of daily living and that impede the person's capacity to live independently;
- "Handicapped" pursuant to s. 760.22(7)(a), F.S., which includes a person who has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment;
- A nondangerous person who has a "mental illness" as defined in s. 394.455(18), F.S., which includes an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living; or
- A child who is found to be dependent by the court pursuant to ss. 39.01(14), and 984.03 F.S., and a "child in need of services" as defined in ss. 984.03(9) and 985.03(8), F.S.

Community residential homes must be licensed by the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Families, or the Agency for Health Care Administration (collectively the "licensing entity").³

¹ Normalization and deinstitutionalization have long been held to provide benefits to individuals with special needs. Normalization is a social science theory based upon the proposition "that the quality of life increases as an individual's access to culturally typical activities and settings increases." Deinstitutionalization seeks to remove individuals from placement in the more restrictive environment of institutions to the less restrictive environment of mainstream society. Working in concert these two principles encourage the development of community-based living arrangements for individuals with special needs. *Normalization and Deinstitutionalization of Mentally Retarded Individuals: Controversy and Facts*, *American Psychologist*, August 1987, Vol 42, No. 8,809-816.

² Section 419.001, F.S.

³ Section 419.001(1)(b), F.S.

Local Government Approval of Proposed Community Residential Homes

Local government is responsible for the site approval of a proposed community residential home. A sponsoring agency⁴ is required to notify the chief executive officer of the local government in writing when a site for a community residential home has been selected in an area zoned for multifamily use.⁵ The notice must include the address of the site, the residential licensing category, the number of residents, and the community support requirements of the program.⁶ The notice must also contain a statement from the licensing entity indicating the need for the proposed home, the licensing status of the home, and how the home meets applicable licensing criteria for the safe care and supervision of the residents.⁷ The sponsoring agency must provide the local government with the most recently published data that identifies all community residential homes in the district in which the proposed site is to be located.⁸ The local government reviews the notification from the sponsoring agency in accordance with the zoning ordinance of the jurisdiction in which the community residential home is located.⁹ The local government then has up to 60 days to respond, and if no response is given within 60 days, the sponsoring agency may establish the home at the site in question.¹⁰

A local government may not deny the siting of a community residential home unless the site selected:¹¹

- Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area;
- Does not meet licensing criteria ; or
- Would substantially alter the nature and character of the area by being located within a radius of:
 - 1,200 feet of another existing community residential home or
 - 500 feet of an area of single-family zoning.

Section 419.001, F.S. additionally addresses siting requirements for homes with six or fewer residents which otherwise meet the definition of a community residential home. These homes are considered a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances.¹² These homes are allowed in a single- or multi-family zoned area without approval by the local government provided:¹³

- The home does not exist within a radius of 1,000 feet of another such home; and
- The sponsoring agency notifies the local government at the time of occupancy that the home is licensed.

Section 419.001, F.S., is silent as to which zoning requirement (within a radius of 1,200 feet or within a radius of 1,000 feet) applies when determining the proper distance between a community residential home and a home with six or fewer residents which otherwise meets the definition of a community residential home.

⁴ Section 419.001(1)(e), F.S., defines "sponsoring agency" as an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

⁵ Section 419.001(3)(a), F.S.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Section 419.001(3)(b), F.S.

¹¹ Section 419.001(3)(c), F.S.

¹² Section 419.001(2), F.S.

¹³ Id.

Effect of Proposed Changes

HB 885 amends s. 419.001, F.S., and requires the greater distance requirement (within a radius of 1,200 feet) to apply when determining the proper distance between a community residential home and a home of six or fewer residents which otherwise meets the definition of a community residential home. The bill expressly states that, for purposes of local land use and zoning determinations, the greater distance provision in the bill does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016, which "grandfathers in" those community residential homes and homes with six or fewer residents which otherwise meets the definition of a community residential home existing prior to the effective date of the bill.

The bill also requires all licensing entities to utilize the statutory method for measuring distances established in s. 419.001(5), F.S., when determining whether a home meets zoning requirements.

B. SECTION DIRECTORY:

Section 1: Amends s. 419.001, F.S., relating to site selection of community residential homes.

Section 2: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill states that “when one home has 6 or fewer residents and another home has 7 to 14 residents, the greater distance requirement applies.” The “greater distance requirement” refers to the requirement for community residential homes which prohibits the siting of a proposed home within a radius of 1,200 feet of an existing home. It is recommended that the precise distance (within a radius of 1,200 feet) be used instead of the “greater distance requirement” to provide clarity to the statute.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to residential facilities; amending s.
 3 419.001, F.S.; specifying applicability of siting
 4 requirements for community residential homes;
 5 providing applicability with respect to local land use
 6 and zoning; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (5) of section 419.001, Florida
 11 Statutes, is amended to read:

12 419.001 Site selection of community residential homes.—

13 (5) All distance requirements in this section shall be
 14 measured from the nearest point of the existing home or area of
 15 single-family zoning to the nearest point of the proposed home.
 16 When one home has 6 or fewer residents and another home has 7 to
 17 14 residents, the greater distance requirement applies.
 18 Distances between community residential homes shall be measured
 19 according to the requirements of this section regardless of
 20 which agency, as specified in paragraph (1)(a), serves the
 21 clients housed therein. For purposes of local land use and
 22 zoning determinations, this paragraph does not affect the legal
 23 nonconforming use status of any community residential home
 24 lawfully permitted and operating as of July 1, 2016.

25 Section 2. This act shall take effect July 1, 2016.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health Innovation
 2 Subcommittee

3 Representative Avila offered the following:

4

5 **Amendment**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (2) of section 419.001, Florida

8 Statutes, is amended to read:

9 419.001 Site selection of community residential homes.—

10 (2) Homes of six or fewer residents which otherwise meet
 11 the definition of a community residential home shall be deemed a
 12 single-family unit and a noncommercial, residential use for the
 13 purpose of local laws and ordinances. Homes of six or fewer
 14 residents which otherwise meet the definition of a community
 15 residential home shall be allowed in single-family or
 16 multifamily zoning without approval by the local government,
 17 provided that such homes shall not be located within a radius of



Amendment No.

18 1,000 feet of another existing such home with six or fewer
19 residents or within a radius of 1,200 feet of another existing
20 community residential home. Such homes with six or fewer
21 residents shall not be required to comply with the notification
22 provisions of this section; provided that, prior to licensure,
23 the sponsoring agency provides the local government with the
24 most recently published data compiled from the licensing
25 entities that identifies all community residential homes within
26 the jurisdictional limits of the local government in which the
27 proposed site is to be located in order to show that ~~no other~~
28 there is neither a home of six or fewer residents which
29 otherwise meets the definition of a community residential home
30 ~~is~~ within a radius of 1,000 feet nor a community residential
31 home within a radius of 1,200 feet of the proposed home ~~with six~~
32 ~~or fewer residents~~. At the time of home occupancy, the
33 sponsoring agency must notify the local government that the home
34 is licensed by the licensing entity. For purposes of local land
35 use and zoning determinations, this subsection does not affect
36 the legal nonconforming use status of any community residential
37 home lawfully permitted and operating as of July 1, 2016.

38 Section 2. This act shall take effect July 1, 2016.

39