



HNF Stories

10:12 PM TUE JUNE 9, 2015

Hospital, Nurse, State Worker Bills Up Today

By [CAROL GENTRY](#) ([PEOPLE/CAROL-GENTRY](#))

A bill that would overturn 40 years of hospital regulation in Florida is one of four contentious issues scheduled for a key House committee this morning and a Senate workshop this afternoon.



Rep. Jason Brodeur
Credit Florida House of Representatives

HB 31A would abolish the requirement for a state-issued “Certificate of Need” (CON) before building or expanding a hospital. It’s likely to pass the House Health and Human Services Committee this morning, since its sponsor is the committee chairman, Rep. Jason Brodeur, R-Sanford.

This bill joins several other health policy topics that have reappeared during this month’s Legislative special session, including:

- Setting up a new licensure category for “recovery care.” Outpatient surgery centers say it would mean they wouldn’t have to send a patient home who wasn’t ready. It also could apply to chemotherapy patients, according to the bill analysis for [HB 23A](#) (<http://FileNumber=0023A.HHSC.DOCX&DocumentType=Analysis&BillNumber=0023A&Session=2015A>). Hospitals oppose the bill, saying recovery care centers would duplicate post-operative units at hospitals, without providing equal expertise.
- Allowing advance registered nurse-practitioners and physician assistants to prescribe controlled drugs. [HB 27A](#) (<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileNumber=0027A.HHSC.DOCX&DocumentType=Analysis&BillNumber=0027A&Session=2015A>) would bring Florida into conformance with other states, according to the staff analysis. The Florida Medical Association opposes it.
- Changing the way the state pays for employees’ health coverage to encourage cost-efficient choices and reward price transparency. The state wants to set up a tiered system of plans (platinum, gold, silver and bronze), similar to the Affordable Care Act plans sold on the federal Marketplace to individuals. State employees who opt for a plan with a lower actuarial value would receive other benefits, such as funds for a health savings account, according to a staff analysis of [HB 21A](#) (<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileNumber=0021A.HHSC.DOCX&DocumentType=Analysis&BillNumber=0021A&Session=2015A>). A 2010 Mercer Consulting study called the current system old-fashioned and paternalistic, in that workers who choose the HMO pay the same as those who sign up

for the PPO, even though the HMOs' benefits are greater.

Of the bills to get scrutiny today, the one with greatest impact involves Certificates of Need, and would overturn limits on hospitals that have governed the industry in Florida since 1973. It requires those who want to build hospitals, relocate to a more lucrative neighborhood or add certain high-risk programs to show there is a need that hasn't already been met.

It was developed to put caps on the supply of expensive services, since demand was thought to be unlimited. Patients weren't cost-conscious, as the government or employers paid most of the tab. But today, patients are forced to pay a larger share of costs, but they still lack the information to compare prices.

The CON requirement started as a federal law, but Congress repealed it in 1986, leaving planning in the hands of states. In Florida, the Agency for Health Care Administration is in charge.

On Tuesday, the CON bill passed the House Health Innovation Subcommittee by a 9-3 vote. The "no" votes all came from Democrats, who expressed concerns that safety-net hospitals would lose insured patients and no longer be able to cover the cost of caring for those who can't pay.

Rep. John Cortes, D-Kissimmee, said he worried that without the CON process to evaluate prospective hospital groups, bad actors would "cherry-pick" the most profitable patients and services.

Brodeur, the bill sponsor, said there are two protections against that. The state will not grant a license for specialty hospitals, such as one just for orthopedics. Also, federal law prohibits a hospital from turning away the uninsured in emergency situations, at least until they are stable.

"They're required to treat everyone who walks in the door," Brodeur said.

He said he hopes that lifting the CON requirement would lead to more access to care for Medicaid patients and the uninsured, as new entrants in the market create alternative models of service.

"I think if we get rid of Certificate of Need and allow for innovation to come in, allow for folks to start thinking about what a different model might look like, there would be a lot more access and opportunity for those populations," he said.

Cortes asked if opening the gates to all comers might reduce quality. Brodeur said a freer market in health care might lead to new quality measures that will help consumers choose wisely.

"Certainly what we've seen in every other industry, when you have a freer market you get a better product at a lower cost," he said.

The main opposition to the measure comes from the Florida Hospital Association. General Counsel Bill Bell told the House panel that CON helps protect access to care and contain costs. Without it, he said, there will be a proliferation of expensive and unnecessary services.

The majority of Florida hospital patients are covered by government programs, he said, so the rates are set. Another 20 percent of them can't pay, he said.

"No one wants to compete with us for uncompensated patients," Bell said. "They only want to treat the paying patients. They would siphon off the paying patients, increase our costs, and we would have to shift those costs back to paying patients and businesses."

Bell concluded that the CON requirement has "been around for a long time for a reason."

Rep. Jose Oliva, R-Hialeah, however, said it's time for the requirement to go.

"There is nowhere known where monopolies create quality. ...We've let this get completely out of control," he said. "So now what we have is government-granted monopolies."

Florida is not the first state to consider this. Fourteen states have repealed CON, according to a **January 2014 report** (http://hfsf.org/certificate_of_need.pdf) by researchers Marshall Kapp and Les Beitsch of Florida State University, published by the Health Foundation of South Florida.

Kapp and Beitsch say people they talked to in those states weren't sure whether the repeal had any effect. Comparisons with states that still have CON didn't show large differences, leading the authors to conclude there is not enough evidence to know what would happen if Florida acted.

Today in Florida, a CON is required for new or replacement hospitals, nursing homes, hospices, neonatal intensive care units, rehabilitation beds, pediatric heart surgery centers, organ transplant programs and a couple of other niche services.

Over the years, Florida has reduced the number of health services for which it requires a certificate of need. Among those that Florida has deregulated are obstetrics, high-tech machines and construction of outpatient centers.

Carol Gentry is a special correspondent for [WUSF](http://www.wusf.com) (<http://C:/Users/shedden/Desktop/wusfnews.org>) in Tampa. [WUSF is a part of Health News Florida](http://www.healthnewsflorida.com) (<http://C:/Users/shedden/Desktop/healthnewsflorida.org>), which receives support from the Corporation for Public Broadcasting.

TAGS: [certificate of need \(/term/certificate-need\)](#) [CON \(/term/con\)](#) [hospital growth \(/term/hospital-growth\)](#) [controlled substances \(/term/controlled-substances\)](#) [outpatient surgery centers \(/term/outpatient-surgery-centers\)](#) [Florida Legislature 2015 \(/term/florida-legislature-2015\)](#)