



1 A bill to be entitled
2 An act relating to certificates of need for hospitals;
3 amending s. 408.032, F.S.; revising definitions;
4 amending s. 408.034, F.S.; revising duties and
5 responsibilities of the Agency for Health Care
6 Administration in the exercise of its authority to
7 issue licenses to health care facilities and health
8 service providers; amending s. 408.035, F.S.; revising
9 review criteria for applications for certificate-of-
10 need determinations for health care facilities and
11 health services; excluding general hospitals from such
12 review; amending s. 408.036, F.S.; revising health-
13 care-related projects subject to review for a
14 certificate of need and exemptions therefrom; amending
15 s. 408.037, F.S.; revising content requirements with
16 respect to an application for a certificate of need;
17 amending s. 408.039, F.S.; revising the review process
18 for certificates of need; amending s. 408.043, F.S.;
19 revising special provisions to eliminate provisions
20 relating to osteopathic acute care hospitals; amending
21 s. 395.1055, F.S.; revising the agency's rulemaking
22 authority with respect to minimum standards for
23 hospitals; requiring hospitals that provide certain
24 services to meet specified licensure requirements;
25 deleting requirements for submitting data by hospitals
26 for certificate-of-need reviews, to conform to changes



27 | made by the act; amending ss. 395.604 and 395.605,
 28 | F.S.; conforming references; providing for
 29 | construction of the act in pari materia with laws
 30 | enacted during the 2015 Regular Session of the
 31 | Legislature; providing effective dates.

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

35 | Section 1. Subsections (8) through (17) of section
 36 | 408.032, Florida Statutes, are amended to read:

37 | 408.032 Definitions relating to Health Facility and
 38 | Services Development Act.—As used in ss. 408.031-408.045, the
 39 | term:

40 | (8) "Health care facility" means a ~~hospital, long-term~~
 41 | ~~care hospital,~~ skilled nursing facility, hospice, or
 42 | intermediate care facility for the developmentally disabled. A
 43 | facility relying solely on spiritual means through prayer for
 44 | healing is not included as a health care facility.

45 | ~~(9) "Health services" means inpatient diagnostic,~~
 46 | ~~curative, or comprehensive medical rehabilitative services and~~
 47 | ~~includes mental health services. Obstetric services are not~~
 48 | ~~health services for purposes of ss. 408.031-408.045.~~

49 | (9) ~~(10)~~ "Hospice" or "hospice program" means a hospice as
 50 | defined in part IV of chapter 400.

51 | ~~(11) "Hospital" means a health care facility licensed~~
 52 | ~~under chapter 395.~~



53 (10)~~(12)~~ "Intermediate care facility for the
54 developmentally disabled" means a residential facility licensed
55 under part VIII of chapter 400.

56 ~~(13) "Long-term care hospital" means a hospital licensed~~
57 ~~under chapter 395 which meets the requirements of 42 C.F.R. s.~~
58 ~~412.23(e) and seeks exclusion from the acute care Medicare~~
59 ~~prospective payment system for inpatient hospital services.~~

60 ~~(14) "Mental health services" means inpatient services~~
61 ~~provided in a hospital licensed under chapter 395 and listed on~~
62 ~~the hospital license as psychiatric beds for adults; psychiatric~~
63 ~~beds for children and adolescents; intensive residential~~
64 ~~treatment beds for children and adolescents; substance abuse~~
65 ~~beds for adults; or substance abuse beds for children and~~
66 ~~adolescents.~~

67 (11)~~(15)~~ "Nursing home geographically underserved area"
68 means:

69 (a) A county in which there is no existing or approved
70 nursing home;

71 (b) An area with a radius of at least 20 miles in which
72 there is no existing or approved nursing home; or

73 (c) An area with a radius of at least 20 miles in which
74 all existing nursing homes have maintained at least a 95 percent
75 occupancy rate for the most recent 6 months or a 90 percent
76 occupancy rate for the most recent 12 months.

77 (12)~~(16)~~ "Skilled nursing facility" means an institution,
78 or a distinct part of an institution, which is primarily engaged



CS/CS/HB 31A, Engrossed 1

2015A

79 in providing, to inpatients, skilled nursing care and related
80 services for patients who require medical or nursing care, or
81 rehabilitation services for the rehabilitation of injured,
82 disabled, or sick persons.

83 ~~(17) "Tertiary health service" means a health service~~
84 ~~which, due to its high level of intensity, complexity,~~
85 ~~specialized or limited applicability, and cost, should be~~
86 ~~limited to, and concentrated in, a limited number of hospitals~~
87 ~~to ensure the quality, availability, and cost-effectiveness of~~
88 ~~such service. Examples of such service include, but are not~~
89 ~~limited to, pediatric cardiac catheterization, pediatric open-~~
90 ~~heart surgery, organ transplantation, neonatal intensive care~~
91 ~~units, comprehensive rehabilitation, and medical or surgical~~
92 ~~services which are experimental or developmental in nature to~~
93 ~~the extent that the provision of such services is not yet~~
94 ~~contemplated within the commonly accepted course of diagnosis or~~
95 ~~treatment for the condition addressed by a given service. The~~
96 ~~agency shall establish by rule a list of all tertiary health~~
97 ~~services.~~

98 Section 2. Subsection (2) of section 408.034, Florida
99 Statutes, is amended to read:

100 408.034 Duties and responsibilities of agency; rules.—

101 (2) In the exercise of its authority to issue licenses to
102 health care facilities and health service providers, as provided
103 under chapter ~~chapters~~ 393 and ~~395~~ and parts II, IV, and VIII of
104 chapter 400, the agency may not issue a license to any health



105 care facility or health service provider that fails to receive a
106 certificate of need or an exemption for the licensed facility or
107 service.

108 Section 3. Section 408.035, Florida Statutes, is amended
109 to read:

110 408.035 Review criteria.—

111 ~~(1)~~ The agency shall determine the reviewability of
112 applications and shall review applications for certificate-of-
113 need determinations for health care facilities and health
114 services in context with the following criteria, ~~except for~~
115 ~~general hospitals as defined in s. 395.002:~~

116 (1)~~(a)~~ The need for the health care facilities and health
117 services being proposed.

118 (2)~~(b)~~ The availability, quality of care, accessibility,
119 and extent of utilization of existing health care facilities and
120 health services in the service district of the applicant.

121 (3)~~(c)~~ The ability of the applicant to provide quality of
122 care and the applicant's record of providing quality of care.

123 (4)~~(d)~~ The availability of resources, including health
124 personnel, management personnel, and funds for capital and
125 operating expenditures, for project accomplishment and
126 operation.

127 (5)~~(e)~~ The extent to which the proposed services will
128 enhance access to health care for residents of the service
129 district.



CS/CS/HB 31A, Engrossed 1

2015A

130 (6)~~(f)~~ The immediate and long-term financial feasibility
131 of the proposal.

132 (7)~~(g)~~ The extent to which the proposal will foster
133 competition that promotes quality and cost-effectiveness.

134 (8)~~(h)~~ The costs and methods of the proposed construction,
135 including the costs and methods of energy provision and the
136 availability of alternative, less costly, or more effective
137 methods of construction.

138 (9)~~(i)~~ The applicant's past and proposed provision of
139 health care services to Medicaid patients and the medically
140 indigent.

141 (10)~~(j)~~ The applicant's designation as a Gold Seal Program
142 nursing facility pursuant to s. 400.235, when the applicant is
143 requesting additional nursing home beds at that facility.

144 ~~(2) For a general hospital, the agency shall consider only~~
145 ~~the criteria specified in paragraph (1)(a), paragraph (1)(b),~~
146 ~~except for quality of care in paragraph (1)(b), and paragraphs~~
147 ~~(1)(e), (g), and (i).~~

148 Section 4. Section 408.036, Florida Statutes, is amended
149 to read:

150 408.036 Projects subject to review; exemptions.—

151 (1) APPLICABILITY.—Unless exempt under subsection (3), all
152 health-care-related projects, as described in this subsection
153 ~~paragraphs (a)–(f)~~, are subject to review and must file an
154 application for a certificate of need with the agency. The
155 agency is exclusively responsible for determining whether a



156 health-care-related project is subject to review under ss.
 157 408.031-408.045.

158 (a) The addition of beds in community nursing homes or
 159 intermediate care facilities for the developmentally disabled by
 160 new construction or alteration.

161 (b) The new construction or establishment of additional
 162 health care facilities, including a replacement health care
 163 facility when the proposed project site is not located on the
 164 same site as or within 1 mile of the existing health care
 165 facility, if the number of beds in each licensed bed category
 166 will not increase.

167 (c) The conversion from one type of health care facility
 168 to another, ~~including the conversion from a general hospital, a~~
 169 ~~specialty hospital, or a long-term care hospital.~~

170 (d) The establishment of a hospice or hospice inpatient
 171 facility, except as provided in s. 408.043.

172 ~~(e) An increase in the number of beds for comprehensive~~
 173 ~~rehabilitation.~~

174 ~~(f) The establishment of tertiary health services,~~
 175 ~~including inpatient comprehensive rehabilitation services.~~

176 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt
 177 pursuant to subsection (3), the following projects are subject
 178 to expedited review:

179 (a) Transfer of a certificate of need, ~~except that when an~~
 180 ~~existing hospital is acquired by a purchaser, all certificates~~
 181 ~~of need issued to the hospital which are not yet operational~~



182 ~~shall be acquired by the purchaser without need for a transfer.~~

183 (b) Replacement of a nursing home, if the proposed project
184 site is within a 30-mile radius of the replaced nursing home. If
185 the proposed project site is outside the subdistrict where the
186 replaced nursing home is located, the prior 6-month occupancy
187 rate for licensed community nursing homes in the proposed
188 subdistrict must be at least 85 percent in accordance with the
189 agency's most recently published inventory.

190 (c) Replacement of a nursing home within the same
191 district, if the proposed project site is outside a 30-mile
192 radius of the replaced nursing home but within the same
193 subdistrict or a geographically contiguous subdistrict. If the
194 proposed project site is in the geographically contiguous
195 subdistrict, the prior 6-month occupancy rate for licensed
196 community nursing homes for that subdistrict must be at least 85
197 percent in accordance with the agency's most recently published
198 inventory.

199 (d) Relocation of a portion of a nursing home's licensed
200 beds to another facility or to establish a new facility within
201 the same district or within a geographically contiguous
202 district, if the relocation is within a 30-mile radius of the
203 existing facility and the total number of nursing home beds in
204 the state does not increase.

205 (e) New construction of a community nursing home in a
206 retirement community as further provided in this paragraph.

207 1. Expedited review under this paragraph is available if



208 all of the following criteria are met:

209 a. The residential use area of the retirement community is
210 deed-restricted as housing for older persons as defined in s.
211 760.29(4)(b).

212 b. The retirement community is located in a county in
213 which 25 percent or more of its population is age 65 and older.

214 c. The retirement community is located in a county that
215 has a rate of no more than 16.1 beds per 1,000 persons age 65
216 years or older. The rate shall be determined by using the
217 current number of licensed and approved community nursing home
218 beds in the county per the agency's most recent published
219 inventory.

220 d. The retirement community has a population of at least
221 8,000 residents within the county, based on a population data
222 source accepted by the agency.

223 e. The number of proposed community nursing home beds in
224 an application does not exceed the projected bed need after
225 applying the rate of 16.1 beds per 1,000 persons aged 65 years
226 and older projected for the county 3 years into the future using
227 the estimates adopted by the agency reduced by the agency's most
228 recently published inventory of licensed and approved community
229 nursing home beds in the county.

230 2. No more than 120 community nursing home beds shall be
231 approved for a qualified retirement community under each request
232 for expedited review. Subsequent requests for expedited review
233 under this process may not be made until 2 years after



234 construction of the facility has commenced or 1 year after the
235 beds approved through the initial request are licensed,
236 whichever occurs first.

237 3. The total number of community nursing home beds which
238 may be approved for any single deed-restricted community
239 pursuant to this paragraph may not exceed 240, regardless of
240 whether the retirement community is located in more than one
241 qualifying county.

242 4. Each nursing home facility approved under this
243 paragraph must be dually certified for participation in the
244 Medicare and Medicaid programs.

245 5. Each nursing home facility approved under this
246 paragraph must be at least 1 mile, as measured over publicly
247 owned roadways, from an existing approved and licensed community
248 nursing home.

249 6. A retirement community requesting expedited review
250 under this paragraph shall submit a written request to the
251 agency for expedited review. The request must include the number
252 of beds to be added and provide evidence of compliance with the
253 criteria specified in subparagraph 1.

254 7. After verifying that the retirement community meets the
255 criteria for expedited review specified in subparagraph 1., the
256 agency shall publicly notice in the Florida Administrative
257 Register that a request for an expedited review has been
258 submitted by a qualifying retirement community and that the
259 qualifying retirement community intends to make land available



260 for the construction and operation of a community nursing home.
261 The agency's notice must identify where potential applicants can
262 obtain information describing the sales price of, or terms of
263 the land lease for, the property on which the project will be
264 located and the requirements established by the retirement
265 community. The agency notice must also specify the deadline for
266 submission of the certificate-of-need application, which may not
267 be earlier than the 91st day or later than the 125th day after
268 the date the notice appears in the Florida Administrative
269 Register.

270 8. The qualified retirement community shall make land
271 available to applicants it deems to have met its requirements
272 for the construction and operation of a community nursing home
273 but may sell or lease the land only to the applicant that is
274 issued a certificate of need by the agency under this paragraph.

275 a. A certificate-of-need application submitted under this
276 paragraph must identify the intended site for the project within
277 the retirement community and the anticipated costs for the
278 project based on that site. The application must also include
279 written evidence that the retirement community has determined
280 that both the provider submitting the application and the
281 project satisfy its requirements for the project.

282 b. If the retirement community determines that more than
283 one provider satisfies its requirements for the project, it may
284 notify the agency of the provider it prefers.

285 9. The agency shall review each submitted application. If



286 multiple applications are submitted for a project published
287 pursuant to subparagraph 7., the agency shall review the
288 competing applications.

289
290 The agency shall develop rules to implement the expedited review
291 process, including time schedule, application content that may
292 be reduced from the full requirements of s. 408.037(1), and
293 application processing.

294 (3) EXEMPTIONS.—Upon request, the following projects are
295 subject to exemption from the provisions of subsection (1):

296 (a) For hospice services or for swing beds in a rural
297 hospital, as defined in s. 395.602, in a number that does not
298 exceed one-half of its licensed beds.

299 ~~(b) For the conversion of licensed acute care hospital
300 beds to Medicare and Medicaid certified skilled nursing beds in
301 a rural hospital, as defined in s. 395.602, so long as the
302 conversion of the beds does not involve the construction of new
303 facilities. The total number of skilled nursing beds, including
304 swing beds, may not exceed one-half of the total number of
305 licensed beds in the rural hospital as of July 1, 1993.
306 Certified skilled nursing beds designated under this paragraph,
307 excluding swing beds, shall be included in the community nursing
308 home bed inventory. A rural hospital that subsequently
309 decertifies any acute care beds exempted under this paragraph
310 shall notify the agency of the decertification, and the agency
311 shall adjust the community nursing home bed inventory~~



312 accordingly.

313 (b)~~(e)~~ For the addition of nursing home beds at a skilled
314 nursing facility that is part of a retirement community that
315 provides a variety of residential settings and supportive
316 services and that has been incorporated and operated in this
317 state for at least 65 years on or before July 1, 1994. All
318 nursing home beds must not be available to the public but must
319 be for the exclusive use of the community residents.

320 (c)~~(d)~~ For an inmate health care facility built by or for
321 the exclusive use of the Department of Corrections as provided
322 in chapter 945. This exemption expires when such facility is
323 converted to other uses.

324 (d)~~(e)~~ For mobile surgical facilities and related health
325 care services provided under contract with the Department of
326 Corrections or a private correctional facility operating
327 pursuant to chapter 957.

328 (e)~~(f)~~ For the addition of nursing home beds licensed
329 under chapter 400 in a number not exceeding 30 total beds or 25
330 percent of the number of beds licensed in the facility being
331 replaced under paragraph (2)(b), paragraph (2)(c), or paragraph
332 (j)~~(p)~~, whichever is less.

333 (f)~~(g)~~ For state veterans' nursing homes operated by or on
334 behalf of the Florida Department of Veterans' Affairs in
335 accordance with part II of chapter 296 for which at least 50
336 percent of the construction cost is federally funded and for
337 which the Federal Government pays a per diem rate not to exceed



CS/CS/HB 31A, Engrossed 1

2015A

338 one-half of the cost of the veterans' care in such state nursing
339 homes. These beds shall not be included in the nursing home bed
340 inventory.

341 (g) ~~(h)~~ For combination within one nursing home facility of
342 the beds or services authorized by two or more certificates of
343 need issued in the same planning subdistrict. An exemption
344 granted under this paragraph shall extend the validity period of
345 the certificates of need to be consolidated by the length of the
346 period beginning upon submission of the exemption request and
347 ending with issuance of the exemption. The longest validity
348 period among the certificates shall be applicable to each of the
349 combined certificates.

350 (h) ~~(i)~~ For division into two or more nursing home
351 facilities of beds or services authorized by one certificate of
352 need issued in the same planning subdistrict. An exemption
353 granted under this paragraph shall extend the validity period of
354 the certificate of need to be divided by the length of the
355 period beginning upon submission of the exemption request and
356 ending with issuance of the exemption.

357 ~~(j) For the addition of hospital beds licensed under
358 chapter 395 for comprehensive rehabilitation in a number that
359 may not exceed 10 total beds or 10 percent of the licensed
360 capacity, whichever is greater.~~

361 ~~1. In addition to any other documentation otherwise
362 required by the agency, a request for exemption submitted under
363 this paragraph must:~~



364 ~~a. Certify that the prior 12-month average occupancy rate~~
365 ~~for the licensed beds being expanded meets or exceeds 80~~
366 ~~percent.~~

367 ~~b. Certify that the beds have been licensed and~~
368 ~~operational for at least 12 months.~~

369 ~~2. The timeframes and monitoring process specified in s.~~
370 ~~408.040(2)(a)-(c) apply to any exemption issued under this~~
371 ~~paragraph.~~

372 ~~3. The agency shall count beds authorized under this~~
373 ~~paragraph as approved beds in the published inventory of~~
374 ~~hospital beds until the beds are licensed.~~

375 (i)~~(k)~~ For the addition of nursing home beds licensed
376 under chapter 400 in a number not exceeding 10 total beds or 10
377 percent of the number of beds licensed in the facility being
378 expanded, whichever is greater; or, for the addition of nursing
379 home beds licensed under chapter 400 at a facility that has been
380 designated as a Gold Seal nursing home under s. 400.235 in a
381 number not exceeding 20 total beds or 10 percent of the number
382 of licensed beds in the facility being expanded, whichever is
383 greater.

384 1. In addition to any other documentation required by the
385 agency, a request for exemption submitted under this paragraph
386 must certify that:

387 a. The facility has not had any class I or class II
388 deficiencies within the 30 months preceding the request.

389 b. The prior 12-month average occupancy rate for the



CS/CS/HB 31A, Engrossed 1

2015A

390 nursing home beds at the facility meets or exceeds 94 percent.

391 c. Any beds authorized for the facility under this
392 paragraph before the date of the current request for an
393 exemption have been licensed and operational for at least 12
394 months.

395 2. The timeframes and monitoring process specified in s.
396 408.040(2)(a)-(c) apply to any exemption issued under this
397 paragraph.

398 3. The agency shall count beds authorized under this
399 paragraph as approved beds in the published inventory of nursing
400 home beds until the beds are licensed.

401 ~~(1) For the establishment of:~~

402 ~~1. A Level II neonatal intensive care unit with at least~~
403 ~~10 beds, upon documentation to the agency that the applicant~~
404 ~~hospital had a minimum of 1,500 births during the previous 12~~
405 ~~months;~~

406 ~~2. A Level III neonatal intensive care unit with at least~~
407 ~~15 beds, upon documentation to the agency that the applicant~~
408 ~~hospital has a Level II neonatal intensive care unit of at least~~
409 ~~10 beds and had a minimum of 3,500 births during the previous 12~~
410 ~~months; or~~

411 ~~3. A Level III neonatal intensive care unit with at least~~
412 ~~5 beds, upon documentation to the agency that the applicant~~
413 ~~hospital is a verified trauma center pursuant to s.~~
414 ~~395.4001(14), and has a Level II neonatal intensive care unit,~~

415



416 ~~if the applicant demonstrates that it meets the requirements for~~
417 ~~quality of care, nurse staffing, physician staffing, physical~~
418 ~~plant, equipment, emergency transportation, and data reporting~~
419 ~~found in agency certificate-of-need rules for Level II and Level~~
420 ~~III neonatal intensive care units and if the applicant commits~~
421 ~~to the provision of services to Medicaid and charity patients at~~
422 ~~a level equal to or greater than the district average. Such a~~
423 ~~commitment is subject to s. 408.040.~~

424 ~~(m)1. For the provision of adult open-heart services in a~~
425 ~~hospital located within the boundaries of a health service~~
426 ~~planning district, as defined in s. 408.032(5), which has~~
427 ~~experienced an annual net out migration of at least 600 open-~~
428 ~~heart surgery cases for 3 consecutive years according to the~~
429 ~~most recent data reported to the agency, and the district's~~
430 ~~population per licensed and operational open-heart programs~~
431 ~~exceeds the state average of population per licensed and~~
432 ~~operational open-heart programs by at least 25 percent. All~~
433 ~~hospitals within a health service planning district which meet~~
434 ~~the criteria reference in sub-subparagraphs 2.a.-h. shall be~~
435 ~~eligible for this exemption on July 1, 2004, and shall receive~~
436 ~~the exemption upon filing for it and subject to the following:~~

437 ~~a. A hospital that has received a notice of intent to~~
438 ~~grant a certificate of need or a final order of the agency~~
439 ~~granting a certificate of need for the establishment of an open-~~
440 ~~heart surgery program is entitled to receive a letter of~~
441 ~~exemption for the establishment of an adult open-heart surgery~~



442 ~~program upon filing a request for exemption and complying with~~
443 ~~the criteria enumerated in sub-subparagraphs 2.a.-h., and is~~
444 ~~entitled to immediately commence operation of the program.~~

445 ~~b. An otherwise eligible hospital that has not received a~~
446 ~~notice of intent to grant a certificate of need or a final order~~
447 ~~of the agency granting a certificate of need for the~~
448 ~~establishment of an open-heart surgery program is entitled to~~
449 ~~immediately receive a letter of exemption for the establishment~~
450 ~~of an adult open-heart-surgery program upon filing a request for~~
451 ~~exemption and complying with the criteria enumerated in sub-~~
452 ~~subparagraphs 2.a.-h., but is not entitled to commence operation~~
453 ~~of its program until December 31, 2006.~~

454 ~~2. A hospital shall be exempt from the certificate of need~~
455 ~~review for the establishment of an open-heart-surgery program~~
456 ~~when the application for exemption submitted under this~~
457 ~~paragraph complies with the following criteria:~~

458 ~~a. The applicant must certify that it will meet and~~
459 ~~continuously maintain the minimum licensure requirements adopted~~
460 ~~by the agency governing adult open-heart programs, including the~~
461 ~~most current guidelines of the American College of Cardiology~~
462 ~~and American Heart Association Guidelines for Adult Open Heart~~
463 ~~Programs.~~

464 ~~b. The applicant must certify that it will maintain~~
465 ~~sufficient appropriate equipment and health personnel to ensure~~
466 ~~quality and safety.~~

467 ~~e. The applicant must certify that it will maintain~~



468 ~~appropriate times of operation and protocols to ensure~~
469 ~~availability and appropriate referrals in the event of~~
470 ~~emergencies.~~

471 ~~d. The applicant can demonstrate that it has discharged at~~
472 ~~least 300 inpatients with a principal diagnosis of ischemic~~
473 ~~heart disease for the most recent 12-month period as reported to~~
474 ~~the agency.~~

475 ~~e. The applicant is a general acute care hospital that is~~
476 ~~in operation for 3 years or more.~~

477 ~~f. The applicant is performing more than 300 diagnostic~~
478 ~~cardiac catheterization procedures per year, combined inpatient~~
479 ~~and outpatient.~~

480 ~~g. The applicant's payor mix at a minimum reflects the~~
481 ~~community average for Medicaid, charity care, and self-pay~~
482 ~~patients or the applicant must certify that it will provide a~~
483 ~~minimum of 5 percent of Medicaid, charity care, and self-pay to~~
484 ~~open-heart-surgery patients.~~

485 ~~h. If the applicant fails to meet the established criteria~~
486 ~~for open-heart programs or fails to reach 300 surgeries per year~~
487 ~~by the end of its third year of operation, it must show cause~~
488 ~~why its exemption should not be revoked.~~

489 ~~3. By December 31, 2004, and annually thereafter, the~~
490 ~~agency shall submit a report to the Legislature providing~~
491 ~~information concerning the number of requests for exemption it~~
492 ~~has received under this paragraph during the calendar year and~~
493 ~~the number of exemptions it has granted or denied during the~~



494 ~~calendar year.~~

495 ~~(n) For the provision of percutaneous coronary~~
496 ~~intervention for patients presenting with emergency myocardial~~
497 ~~infarctions in a hospital without an approved adult open-heart-~~
498 ~~surgery program. In addition to any other documentation required~~
499 ~~by the agency, a request for an exemption submitted under this~~
500 ~~paragraph must comply with the following:~~

501 ~~1. The applicant must certify that it will meet and~~
502 ~~continuously maintain the requirements adopted by the agency for~~
503 ~~the provision of these services. These licensure requirements~~
504 ~~shall be adopted by rule and must be consistent with the~~
505 ~~guidelines published by the American College of Cardiology and~~
506 ~~the American Heart Association for the provision of percutaneous~~
507 ~~coronary interventions in hospitals without adult open-heart~~
508 ~~services. At a minimum, the rules must require the following:~~

509 ~~a. Cardiologists must be experienced interventionalists~~
510 ~~who have performed a minimum of 75 interventions within the~~
511 ~~previous 12 months.~~

512 ~~b. The hospital must provide a minimum of 36 emergency~~
513 ~~interventions annually in order to continue to provide the~~
514 ~~service.~~

515 ~~c. The hospital must offer sufficient physician, nursing,~~
516 ~~and laboratory staff to provide the services 24 hours a day, 7~~
517 ~~days a week.~~

518 ~~d. Nursing and technical staff must have demonstrated~~
519 ~~experience in handling acutely ill patients requiring~~



520 ~~intervention based on previous experience in dedicated~~
521 ~~interventional laboratories or surgical centers.~~

522 ~~e. Cardiac care nursing staff must be adept in hemodynamic~~
523 ~~monitoring and Intra-aortic Balloon Pump (IABP) management.~~

524 ~~f. Formalized written transfer agreements must be~~
525 ~~developed with a hospital with an adult open-heart-surgery~~
526 ~~program, and written transport protocols must be in place to~~
527 ~~ensure safe and efficient transfer of a patient within 60~~
528 ~~minutes. Transfer and transport agreements must be reviewed and~~
529 ~~tested, with appropriate documentation maintained at least every~~
530 ~~3 months. However, a hospital located more than 100 road miles~~
531 ~~from the closest Level II adult cardiovascular services program~~
532 ~~does not need to meet the 60-minute transfer time protocol if~~
533 ~~the hospital demonstrates that it has a formalized, written~~
534 ~~transfer agreement with a hospital that has a Level II program.~~
535 ~~The agreement must include written transport protocols that~~
536 ~~ensure the safe and efficient transfer of a patient, taking into~~
537 ~~consideration the patient's clinical and physical~~
538 ~~characteristics, road and weather conditions, and viability of~~
539 ~~ground and air ambulance service to transfer the patient.~~

540 ~~g. Hospitals implementing the service must first undertake~~
541 ~~a training program of 3 to 6 months' duration, which includes~~
542 ~~establishing standards and testing logistics, creating quality~~
543 ~~assessment and error management practices, and formalizing~~
544 ~~patient-selection criteria.~~

545 ~~2. The applicant must certify that it will use at all~~



546 ~~times the patient-selection criteria for the performance of~~
547 ~~primary angioplasty at hospitals without adult open-heart-~~
548 ~~surgery programs issued by the American College of Cardiology~~
549 ~~and the American Heart Association. At a minimum, these criteria~~
550 ~~would provide for the following:~~

551 ~~a. Avoidance of interventions in hemodynamically stable~~
552 ~~patients who have identified symptoms or medical histories.~~

553 ~~b. Transfer of patients who have a history of coronary~~
554 ~~disease and clinical presentation of hemodynamic instability.~~

555 ~~3. The applicant must agree to submit a quarterly report~~
556 ~~to the agency detailing patient characteristics, treatment, and~~
557 ~~outcomes for all patients receiving emergency percutaneous~~
558 ~~coronary interventions pursuant to this paragraph. This report~~
559 ~~must be submitted within 15 days after the close of each~~
560 ~~calendar quarter.~~

561 ~~4. The exemption provided by this paragraph does not apply~~
562 ~~unless the agency determines that the hospital has taken all~~
563 ~~necessary steps to be in compliance with all requirements of~~
564 ~~this paragraph, including the training program required under~~
565 ~~sub-subparagraph 1.g.~~

566 ~~5. Failure of the hospital to continuously comply with the~~
567 ~~requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.~~
568 ~~and 3. will result in the immediate expiration of this~~
569 ~~exemption.~~

570 ~~6. Failure of the hospital to meet the volume requirements~~
571 ~~of sub-subparagraphs 1.a. and b. within 18 months after the~~



572 ~~program begins offering the service will result in the immediate~~
573 ~~expiration of the exemption.~~

574
575 ~~If the exemption for this service expires under subparagraph 5.~~
576 ~~or subparagraph 6., the agency may not grant another exemption~~
577 ~~for this service to the same hospital for 2 years and then only~~
578 ~~upon a showing that the hospital will remain in compliance with~~
579 ~~the requirements of this paragraph through a demonstration of~~
580 ~~corrections to the deficiencies that caused expiration of the~~
581 ~~exemption. Compliance with the requirements of this paragraph~~
582 ~~includes compliance with the rules adopted pursuant to this~~
583 ~~paragraph.~~

584 ~~(e) For the addition of mental health services or beds if~~
585 ~~the applicant commits to providing services to Medicaid or~~
586 ~~charity care patients at a level equal to or greater than the~~
587 ~~district average. Such a commitment is subject to s. 408.040.~~

588 (j) ~~(p)~~ For replacement of a licensed nursing home on the
589 same site, or within 5 miles of the same site if within the same
590 subdistrict, if the number of licensed beds does not increase
591 except as permitted under paragraph (e) ~~(f)~~.

592 (k) ~~(q)~~ For consolidation or combination of licensed
593 nursing homes or transfer of beds between licensed nursing homes
594 within the same planning district, by nursing homes with any
595 shared controlled interest within that planning district, if
596 there is no increase in the planning district total number of
597 nursing home beds and the site of the relocation is not more



CS/CS/HB 31A, Engrossed 1

2015A

598 than 30 miles from the original location.

599 (1)~~(r)~~ For beds in state mental health treatment
600 facilities defined in s. 394.455 and state mental health
601 forensic facilities operated under chapter 916.

602 (m)~~(s)~~ For beds in state developmental disabilities
603 centers as defined in s. 393.063.

604 (4) REQUESTS FOR EXEMPTION.—A request for exemption under
605 subsection (3) may be made at any time and is not subject to the
606 batching requirements of this section. The request shall be
607 supported by such documentation as the agency requires by rule.
608 The agency shall assess a fee of \$250 for each request for
609 exemption submitted under subsection (3).

610 (5) NOTIFICATION.—Health care facilities and providers
611 must provide to the agency notification of:

612 (a) Replacement of a health care facility when the
613 proposed project site is located in the same district and on the
614 existing site or within a 1-mile radius of the replaced health
615 care facility, if the number and type of beds do not increase.

616 (b) The termination of a health care service, upon 30
617 days' written notice to the agency.

618 (c) The addition or delicensure of beds.

619
620 Notification under this subsection may be made by electronic,
621 facsimile, or written means at any time before the described
622 action has been taken.

623 Section 5. Section 408.037, Florida Statutes, is amended



624 to read:

625 408.037 Application content.—

626 (1) ~~Except as provided in subsection (2) for a general~~
627 ~~hospital,~~ An application for a certificate of need must contain:

628 (a) A detailed description of the proposed project and
629 statement of its purpose and need in relation to the district
630 health plan.

631 (b) A statement of the financial resources needed by and
632 available to the applicant to accomplish the proposed project.
633 This statement must include:

634 1. A complete listing of all capital projects, including
635 new health facility development projects and health facility
636 acquisitions applied for, pending, approved, or underway in any
637 state at the time of application, regardless of whether or not
638 that state has a certificate-of-need program or a capital
639 expenditure review program pursuant to s. 1122 of the Social
640 Security Act. The agency may, by rule, require less-detailed
641 information from major health care providers. This listing must
642 include the applicant's actual or proposed financial commitment
643 to those projects and an assessment of their impact on the
644 applicant's ability to provide the proposed project.

645 2. A detailed listing of the needed capital expenditures,
646 including sources of funds.

647 3. A detailed financial projection, including a statement
648 of the projected revenue and expenses for the first 2 years of
649 operation after completion of the proposed project. This



650 statement must include a detailed evaluation of the impact of
651 the proposed project on the cost of other services provided by
652 the applicant.

653 (c) An audited financial statement of the applicant or the
654 applicant's parent corporation if audited financial statements
655 of the applicant do not exist. In an application submitted by an
656 existing health care facility, health maintenance organization,
657 or hospice, financial condition documentation must include, but
658 need not be limited to, a balance sheet and a profit-and-loss
659 statement of the 2 previous fiscal years' operation.

660 ~~(2) An application for a certificate of need for a general~~
661 ~~hospital must contain a detailed description of the proposed~~
662 ~~general hospital project and a statement of its purpose and the~~
663 ~~needs it will meet. The proposed project's location, as well as~~
664 ~~its primary and secondary service areas, must be identified by~~
665 ~~zip code. Primary service area is defined as the zip codes from~~
666 ~~which the applicant projects that it will draw 75 percent of its~~
667 ~~discharges. Secondary service area is defined as the zip codes~~
668 ~~from which the applicant projects that it will draw its~~
669 ~~remaining discharges. If, subsequent to issuance of a final~~
670 ~~order approving the certificate of need, the proposed location~~
671 ~~of the general hospital changes or the primary service area~~
672 ~~materially changes, the agency shall revoke the certificate of~~
673 ~~need. However, if the agency determines that such changes are~~
674 ~~deemed to enhance access to hospital services in the service~~
675 ~~district, the agency may permit such changes to occur. A party~~



676 ~~participating in the administrative hearing regarding the~~
677 ~~issuance of the certificate of need for a general hospital has~~
678 ~~standing to participate in any subsequent proceeding regarding~~
679 ~~the revocation of the certificate of need for a hospital for~~
680 ~~which the location has changed or for which the primary service~~
681 ~~area has materially changed. In addition, the application for~~
682 ~~the certificate of need for a general hospital must include a~~
683 ~~statement of intent that, if approved by final order of the~~
684 ~~agency, the applicant shall within 120 days after issuance of~~
685 ~~the final order or, if there is an appeal of the final order,~~
686 ~~within 120 days after the issuance of the court's mandate on~~
687 ~~appeal, furnish satisfactory proof of the applicant's financial~~
688 ~~ability to operate. The agency shall establish documentation~~
689 ~~requirements, to be completed by each applicant, which show~~
690 ~~anticipated provider revenues and expenditures, the basis for~~
691 ~~financing the anticipated cash-flow requirements of the~~
692 ~~provider, and an applicant's access to contingency financing. A~~
693 ~~party participating in the administrative hearing regarding the~~
694 ~~issuance of the certificate of need for a general hospital may~~
695 ~~provide written comments concerning the adequacy of the~~
696 ~~financial information provided, but such party does not have~~
697 ~~standing to participate in an administrative proceeding~~
698 ~~regarding proof of the applicant's financial ability to operate.~~
699 ~~The agency may require a licensee to provide proof of financial~~
700 ~~ability to operate at any time if there is evidence of financial~~
701 ~~instability, including, but not limited to, unpaid expenses~~



702 ~~necessary for the basic operations of the provider.~~

703 (2)~~(3)~~ The applicant must certify that it will license and
704 operate the health care facility. For an existing health care
705 facility, the applicant must be the licenseholder of the
706 facility.

707 Section 6. Paragraphs (c) and (d) of subsection (3),
708 paragraphs (b) and (c) of subsection (5), and paragraph (d) of
709 subsection (6) of section 408.039, Florida Statutes, are amended
710 to read:

711 408.039 Review process.—The review process for
712 certificates of need shall be as follows:

713 (3) APPLICATION PROCESSING.—

714 ~~(c) Except for competing applicants, in order to be~~
715 ~~eligible to challenge the agency decision on a general hospital~~
716 ~~application under review pursuant to paragraph (5) (c), existing~~
717 ~~hospitals must submit a detailed written statement of opposition~~
718 ~~to the agency and to the applicant. The detailed written~~
719 ~~statement must be received by the agency and the applicant~~
720 ~~within 21 days after the general hospital application is deemed~~
721 ~~complete and made available to the public.~~

722 ~~(d) In those cases where a written statement of opposition~~
723 ~~has been timely filed regarding a certificate of need~~
724 ~~application for a general hospital, the applicant for the~~
725 ~~general hospital may submit a written response to the agency.~~
726 ~~Such response must be received by the agency within 10 days of~~
727 ~~the written statement due date.~~



728 (5) ADMINISTRATIVE HEARINGS.—
729 (b) Hearings shall be held in Tallahassee unless the
730 administrative law judge determines that changing the location
731 will facilitate the proceedings. The agency shall assign
732 proceedings requiring hearings to the Division of Administrative
733 Hearings of the Department of Management Services within 10 days
734 after the time has expired for requesting a hearing. Except upon
735 unanimous consent of the parties or upon the granting by the
736 administrative law judge of a motion of continuance, hearings
737 shall commence within 60 days after the administrative law judge
738 has been assigned. ~~For an application for a general hospital,~~
739 ~~administrative hearings shall commence within 6 months after the~~
740 ~~administrative law judge has been assigned, and a continuance~~
741 ~~may not be granted absent a finding of extraordinary~~
742 ~~circumstances by the administrative law judge.~~ All parties,
743 except the agency, shall bear their own expense of preparing a
744 transcript. In any application for a certificate of need which
745 is referred to the Division of Administrative Hearings for
746 hearing, the administrative law judge shall complete and submit
747 to the parties a recommended order as provided in ss. 120.569
748 and 120.57. The recommended order shall be issued within 30 days
749 after the receipt of the proposed recommended orders or the
750 deadline for submission of such proposed recommended orders,
751 whichever is earlier. The division shall adopt procedures for
752 administrative hearings which shall maximize the use of
753 stipulated facts and shall provide for the admission of prepared



754 testimony.

755 (c) In administrative proceedings challenging the issuance
756 or denial of a certificate of need, only applicants considered
757 by the agency in the same batching cycle are entitled to a
758 comparative hearing on their applications. Existing health care
759 facilities may initiate or intervene in an administrative
760 hearing upon a showing that an established program will be
761 substantially affected by the issuance of any certificate of
762 need, whether reviewed under s. 408.036(1) or (2), to a
763 competing proposed facility or program within the same district.
764 ~~With respect to an application for a general hospital, competing~~
765 ~~applicants and only those existing hospitals that submitted a~~
766 ~~detailed written statement of opposition to an application as~~
767 ~~provided in this paragraph may initiate or intervene in an~~
768 ~~administrative hearing. Such challenges to a general hospital~~
769 ~~application shall be limited in scope to the issues raised in~~
770 ~~the detailed written statement of opposition that was provided~~
771 ~~to the agency. The administrative law judge may, upon a motion~~
772 ~~showing good cause, expand the scope of the issues to be heard~~
773 ~~at the hearing. Such motion shall include substantial and~~
774 ~~detailed facts and reasons for failure to include such issues in~~
775 ~~the original written statement of opposition.~~

776 (6) JUDICIAL REVIEW.—

777 ~~(d) The party appealing a final order that grants a~~
778 ~~general hospital certificate of need shall pay the appellee's~~
779 ~~attorney's fees and costs, in an amount up to \$1 million, from~~



780 ~~the beginning of the original administrative action if the~~
781 ~~appealing party loses the appeal, subject to the following~~
782 ~~limitations and requirements:~~

783 ~~1. The party appealing a final order must post a bond in~~
784 ~~the amount of \$1 million in order to maintain the appeal.~~

785 ~~2. Except as provided under s. 120.595(5), in no event~~
786 ~~shall the agency be held liable for any other party's attorney's~~
787 ~~fees or costs.~~

788 Section 7. Subsection (1) of section 408.043, Florida
789 Statutes, is amended to read:

790 408.043 Special provisions.—

791 ~~(1) OSTEOPATHIC ACUTE CARE HOSPITALS. When an application~~
792 ~~is made for a certificate of need to construct or to expand an~~
793 ~~osteopathic acute care hospital, the need for such hospital~~
794 ~~shall be determined on the basis of the need for and~~
795 ~~availability of osteopathic services and osteopathic acute care~~
796 ~~hospitals in the district. When a prior certificate of need to~~
797 ~~establish an osteopathic acute care hospital has been issued in~~
798 ~~a district, and the facility is no longer used for that purpose,~~
799 ~~the agency may continue to count such facility and beds as an~~
800 ~~existing osteopathic facility in any subsequent application for~~
801 ~~construction of an osteopathic acute care hospital.~~

802 Section 8. Effective July 1, 2015, paragraph (f) of
803 subsection (1) of section 395.1055, Florida Statutes, is amended
804 to read:

805 395.1055 Rules and enforcement.—



806 (1) The agency shall adopt rules pursuant to ss.
807 120.536(1) and 120.54 to implement the provisions of this part,
808 which shall include reasonable and fair minimum standards for
809 ensuring that:

810 (f) All hospitals providing pediatric cardiac
811 catheterization, pediatric open-heart surgery, organ
812 transplantation, neonatal intensive care services, psychiatric
813 services, or comprehensive medical rehabilitation meet the
814 minimum licensure requirements adopted by the agency. Such
815 licensure requirements shall include quality of care, nurse
816 staffing, physician staffing, physical plant, equipment,
817 emergency transportation, and data reporting standards ~~submit~~
818 ~~such data as necessary to conduct certificate of need reviews~~
819 ~~required under part I of chapter 408. Such data shall include,~~
820 ~~but shall not be limited to, patient origin data, hospital~~
821 ~~utilization data, type of service reporting, and facility~~
822 ~~staffing data. The agency may not collect data that identifies~~
823 ~~or could disclose the identity of individual patients. The~~
824 ~~agency shall utilize existing uniform statewide data sources~~
825 ~~when available and shall minimize reporting costs to hospitals.~~

826 Section 9. Subsection (1) of section 395.604, Florida
827 Statutes, is amended to read:

828 395.604 Other rural hospital programs.—

829 (1) The agency may license rural primary care hospitals
830 subject to federal approval for participation in the Medicare
831 and Medicaid programs. Rural primary care hospitals shall be



832 treated in the same manner as emergency care hospitals and rural
833 hospitals with respect to ss. 395.605(2)-(7)(a) ~~395.605(2)-~~
834 ~~(8)(a)~~, 408.033(2)(b)3., and 408.038.

835 Section 10. Subsection (5) of section 395.605, Florida
836 Statutes, is amended to read:

837 395.605 Emergency care hospitals.—

838 ~~(5) Rural hospitals that make application under the~~
839 ~~certificate of need program to be licensed as emergency care~~
840 ~~hospitals shall receive expedited review as defined in s.~~
841 ~~408.032. Emergency care hospitals seeking relicensure as acute~~
842 ~~care general hospitals shall also receive expedited review.~~

843 Section 11. If any law amended by this act was also
844 amended by a law enacted during the 2015 Regular Session of the
845 Legislature, such laws shall be construed as if enacted during
846 the same session of the Legislature, and full effect shall be
847 given to each if possible.

848 Section 12. Except as otherwise expressly provided in this
849 act and except for this section, which shall take effect upon
850 this act becoming a law, this act shall take effect January 1,
851 2016.