

A bill to be entitled

An act relating to certificates of need; amending s. 408.032, F.S.; revising definitions; amending s. 408.034, F.S.; revising duties and responsibilities of the Agency for Health Care Administration in the exercise of its authority to issue licenses to health care facilities and health service providers; amending s. 408.035, F.S.; revising review criteria for applications for certificate-of-need determinations for health care facilities and health services; excluding general hospitals from such review; amending s. 408.036, F.S.; revising health-care-related projects subject to review for a certificate of need and exemptions therefrom; amending s. 408.037, F.S.; revising content requirements with respect to an application for a certificate of need; amending s. 408.039, F.S.; revising the review process for certificates of need; amending s. 408.043, F.S.; revising special provisions to eliminate provisions relating to osteopathic acute care hospitals; amending s. 395.605, F.S.; conforming a reference; providing an effective date.

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

Section 1. Subsections (8) through (17) of section

27 408.032, Florida Statutes, are amended to read:

28 408.032 Definitions relating to Health Facility and
 29 Services Development Act.—As used in ss. 408.031-408.045, the
 30 term:

31 (8) "Health care facility" means a ~~hospital, long-term~~
 32 ~~care hospital,~~ skilled nursing facility, hospice, or
 33 intermediate care facility for the developmentally disabled. A
 34 facility relying solely on spiritual means through prayer for
 35 healing is not included as a health care facility.

36 ~~(9) "Health services" means inpatient diagnostic,~~
 37 ~~curative, or comprehensive medical rehabilitative services and~~
 38 ~~includes mental health services. Obstetric services are not~~
 39 ~~health services for purposes of ss. 408.031-408.045.~~

40 (9)~~(10)~~ "Hospice" or "hospice program" means a hospice as
 41 defined in part IV of chapter 400.

42 ~~(11) "Hospital" means a health care facility licensed~~
 43 ~~under chapter 395.~~

44 (10)~~(12)~~ "Intermediate care facility for the
 45 developmentally disabled" means a residential facility licensed
 46 under part VIII of chapter 400.

47 ~~(13) "Long-term care hospital" means a hospital licensed~~
 48 ~~under chapter 395 which meets the requirements of 42 C.F.R. s.~~
 49 ~~412.23(e) and seeks exclusion from the acute care Medicare~~
 50 ~~prospective payment system for inpatient hospital services.~~

51 ~~(14) "Mental health services" means inpatient services~~
 52 ~~provided in a hospital licensed under chapter 395 and listed on~~

53 ~~the hospital license as psychiatric beds for adults; psychiatric~~
 54 ~~beds for children and adolescents; intensive residential~~
 55 ~~treatment beds for children and adolescents; substance abuse~~
 56 ~~beds for adults; or substance abuse beds for children and~~
 57 ~~adolescents.~~

58 (11)~~(15)~~ "Nursing home geographically underserved area"
 59 means:

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

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

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

68 (12)~~(16)~~ "Skilled nursing facility" means an institution,
 69 or a distinct part of an institution, which is primarily engaged
 70 in providing, to inpatients, skilled nursing care and related
 71 services for patients who require medical or nursing care, or
 72 rehabilitation services for the rehabilitation of injured,
 73 disabled, or sick persons.

74 ~~(17) "Tertiary health service" means a health service~~
 75 ~~which, due to its high level of intensity, complexity,~~
 76 ~~specialized or limited applicability, and cost, should be~~
 77 ~~limited to, and concentrated in, a limited number of hospitals~~
 78 ~~to ensure the quality, availability, and cost-effectiveness of~~

79 ~~such service. Examples of such service include, but are not~~
 80 ~~limited to, pediatric cardiac catheterization, pediatric open-~~
 81 ~~heart surgery, organ transplantation, neonatal intensive care~~
 82 ~~units, comprehensive rehabilitation, and medical or surgical~~
 83 ~~services which are experimental or developmental in nature to~~
 84 ~~the extent that the provision of such services is not yet~~
 85 ~~contemplated within the commonly accepted course of diagnosis or~~
 86 ~~treatment for the condition addressed by a given service. The~~
 87 ~~agency shall establish by rule a list of all tertiary health~~
 88 ~~services.~~

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

91 408.034 Duties and responsibilities of agency; rules.—

92 (2) In the exercise of its authority to issue licenses to
 93 health care facilities and health service providers, as provided
 94 under chapter ~~chapters~~ 393 and ~~395~~ and parts II, IV, and VIII of
 95 chapter 400, the agency may not issue a license to any health
 96 care facility or health service provider that fails to receive a
 97 certificate of need or an exemption for the licensed facility or
 98 service.

99 Section 3. Section 408.035, Florida Statutes, is amended
 100 to read:

101 408.035 Review criteria.—

102 ~~(1)~~ The agency shall determine the reviewability of
 103 applications and shall review applications for certificate-of-
 104 need determinations for health care facilities and health

105 services in context with the following criteria, ~~except for~~
 106 ~~general hospitals as defined in s. 395.002:~~

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

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

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

114 (4) ~~(d)~~ The availability of resources, including health
 115 personnel, management personnel, and funds for capital and
 116 operating expenditures, for project accomplishment and
 117 operation.

118 (5) ~~(e)~~ The extent to which the proposed services will
 119 enhance access to health care for residents of the service
 120 district.

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

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

125 (8) ~~(h)~~ The costs and methods of the proposed construction,
 126 including the costs and methods of energy provision and the
 127 availability of alternative, less costly, or more effective
 128 methods of construction.

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

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

135 ~~(2) For a general hospital, the agency shall consider only~~
 136 ~~the criteria specified in paragraph (1) (a), paragraph (1) (b),~~
 137 ~~except for quality of care in paragraph (1) (b), and paragraphs~~
 138 ~~(1) (e), (g), and (i).~~

139 Section 4. Section 408.036, Florida Statutes, is amended
 140 to read:

141 408.036 Projects subject to review; exemptions.—

142 (1) APPLICABILITY.—Unless exempt under subsection (3), all
 143 health-care-related projects, as described in this subsection
 144 ~~paragraphs (a)–(g)~~, are subject to review and must file an
 145 application for a certificate of need with the agency. The
 146 agency is exclusively responsible for determining whether a
 147 health-care-related project is subject to review under ss.
 148 408.031–408.045.

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

152 (b) The new construction or establishment of additional
 153 health care facilities, including a replacement health care
 154 facility when the proposed project site is not located on the

155 same site as or within 1 mile of the existing health care
156 facility, if the number of beds in each licensed bed category
157 will not increase.

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

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

163 (e) An increase in the number of beds for comprehensive
164 rehabilitation.

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

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

170 (a) A transfer of a certificate of need, ~~except that when~~
171 ~~an existing hospital is acquired by a purchaser, all~~
172 ~~certificates of need issued to the hospital which are not yet~~
173 ~~operational shall be acquired by the purchaser, without need for~~
174 ~~a transfer.~~

175 (b) Replacement of a nursing home within the same
176 district, if the proposed project site is located within a
177 geographic area that contains at least 65 percent of the
178 facility's current residents and is within a 30-mile radius of
179 the replaced nursing home.

180 (c) Relocation of a portion of a nursing home's licensed

181 beds to a facility within the same district, if the relocation
182 is within a 30-mile radius of the existing facility and the
183 total number of nursing home beds in the district does not
184 increase.

185 (d) The new construction of a community nursing home in a
186 retirement community as further provided in this paragraph.

187 1. Expedited review under this paragraph is available if
188 all of the following criteria are met:

189 a. The residential use area of the retirement community is
190 deed-restricted as housing for older persons as defined in s.
191 760.29(4)(b).

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

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

200 d. The retirement community has a population of at least
201 8,000 residents within the county, based on a population data
202 source accepted by the agency.

203 e. The number of proposed community nursing home beds in
204 an application does not exceed the projected bed need after
205 applying the rate of 16.1 beds per 1,000 persons aged 65 years
206 and older projected for the county 3 years into the future using

207 the estimates adopted by the agency, after subtracting the
208 inventory of licensed and approved community nursing home beds
209 in the county per the agency's most recent published inventory.

210 2. No more than 120 community nursing home beds shall be
211 approved for a qualified retirement community under each request
212 for application for expedited review. Subsequent requests for
213 expedited review under this process shall not be made until 2
214 years after construction of the facility has commenced or 1 year
215 after the beds approved through the initial request are
216 licensed, whichever occurs first.

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

222 4. Each nursing home facility approved under this
223 paragraph shall be dually certified for participation in the
224 Medicare and Medicaid programs.

225 5. Each nursing home facility approved under this
226 paragraph shall be at least 1 mile from an existing approved and
227 licensed community nursing home, measured over publicly owned
228 roadways.

229 6. Section 408.0435 does not apply to this paragraph.

230 7. A retirement community requesting expedited review
231 under this paragraph shall submit a written request to the
232 agency for an expedited review. The request shall include the

233 number of beds to be added and provide evidence of compliance
234 with the criteria specified in subparagraph 1.

235 8. After verifying that the retirement community meets the
236 criteria for expedited review specified in subparagraph 1., the
237 agency shall publicly notice in the Florida Administrative
238 Register that a request for an expedited review has been
239 submitted by a qualifying retirement community and that the
240 qualifying retirement community intends to make land available
241 for the construction and operation of a community nursing home.
242 The agency's notice shall identify where potential applicants
243 can obtain information describing the sales price of, or terms
244 of the land lease for, the property on which the project will be
245 located and the requirements established by the retirement
246 community. The agency notice shall also specify the deadline for
247 submission of any certificate-of-need application, which shall
248 not be earlier than the 91st day and not be later than the 125th
249 day after the date the notice appears in the Florida
250 Administrative Register.

251 9. The qualified retirement community shall make land
252 available to applicants it deems to have met its requirements
253 for the construction and operation of a community nursing home
254 but will sell or lease the land only to the applicant that is
255 issued a certificate of need by the agency under the provisions
256 of this paragraph.

257 a. A certificate of need application submitted pursuant to
258 this paragraph shall identify the intended site for the project

259 within the retirement community and the anticipated costs for
260 the project based on that site. The application shall also
261 include written evidence that the retirement community has
262 determined that the provider submitting the application and the
263 project proposed by that provider satisfies its requirements for
264 the project.

265 b. The retirement community's determination that more than
266 one provider satisfies its requirements for the project does not
267 preclude the retirement community from notifying the agency of
268 the provider it prefers.

269 10. Each application submitted shall be reviewed by the
270 agency. If multiple applications are submitted for the project
271 as published pursuant to subparagraph 8., then the competing
272 applications shall be reviewed by the agency.

273
274 The agency shall develop rules to implement the provisions for
275 expedited review, including time schedule, application content
276 which may be reduced from the full requirements of s.
277 408.037(1), and application processing.

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

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

283 ~~(b) For the conversion of licensed acute care hospital~~
284 ~~beds to Medicare and Medicaid certified skilled nursing beds in~~

285 ~~a rural hospital, as defined in s. 395.602, so long as the~~
286 ~~conversion of the beds does not involve the construction of new~~
287 ~~facilities. The total number of skilled nursing beds, including~~
288 ~~swing beds, may not exceed one-half of the total number of~~
289 ~~licensed beds in the rural hospital as of July 1, 1993.~~
290 ~~Certified skilled nursing beds designated under this paragraph,~~
291 ~~excluding swing beds, shall be included in the community nursing~~
292 ~~home bed inventory. A rural hospital that subsequently~~
293 ~~decertifies any acute care beds exempted under this paragraph~~
294 ~~shall notify the agency of the decertification, and the agency~~
295 ~~shall adjust the community nursing home bed inventory~~
296 ~~accordingly.~~

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

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

308 (d) ~~(e)~~ For mobile surgical facilities and related health
309 care services provided under contract with the Department of
310 Corrections or a private correctional facility operating

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311 pursuant to chapter 957.

312 (e)~~(f)~~ For the creation of a single nursing home within a
313 district by combining licensed beds from two or more licensed
314 nursing homes within such district, regardless of subdistrict
315 boundaries, if 50 percent of the beds in the created nursing
316 home are transferred from the only nursing home in a county and
317 its utilization data demonstrate that it had an occupancy rate
318 of less than 75 percent for the 12-month period ending 90 days
319 before the request for the exemption. This paragraph is repealed
320 upon the expiration of the moratorium established in s.
321 408.0435(1).

322 (f)~~(g)~~ For state veterans' nursing homes operated by or on
323 behalf of the Florida Department of Veterans' Affairs in
324 accordance with part II of chapter 296 for which at least 50
325 percent of the construction cost is federally funded and for
326 which the Federal Government pays a per diem rate not to exceed
327 one-half of the cost of the veterans' care in such state nursing
328 homes. These beds shall not be included in the nursing home bed
329 inventory.

330 (g)~~(h)~~ For combination within one nursing home facility of
331 the beds or services authorized by two or more certificates of
332 need issued in the same planning subdistrict. An exemption
333 granted under this paragraph shall extend the validity period of
334 the certificates of need to be consolidated by the length of the
335 period beginning upon submission of the exemption request and
336 ending with issuance of the exemption. The longest validity

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337 period among the certificates shall be applicable to each of the
338 combined certificates.

339 (h)~~(i)~~ For division into two or more nursing home
340 facilities of beds or services authorized by one certificate of
341 need issued in the same planning subdistrict. An exemption
342 granted under this paragraph shall extend the validity period of
343 the certificate of need to be divided by the length of the
344 period beginning upon submission of the exemption request and
345 ending with issuance of the exemption.

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

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

353 ~~a. Certify that the prior 12-month average occupancy rate
354 for the licensed beds being expanded meets or exceeds 80
355 percent.~~

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

358 ~~2. The timeframes and monitoring process specified in s.
359 408.040(2)(a)-(c) apply to any exemption issued under this
360 paragraph.~~

361 ~~3. The agency shall count beds authorized under this
362 paragraph as approved beds in the published inventory of~~

363 ~~hospital beds until the beds are licensed.~~

364 (i)~~(k)~~ For the addition of nursing home beds licensed
365 under chapter 400 in a number not exceeding 10 total beds or 10
366 percent of the number of beds licensed in the facility being
367 expanded, whichever is greater; or, for the addition of nursing
368 home beds licensed under chapter 400 at a facility that has been
369 designated as a Gold Seal nursing home under s. 400.235 in a
370 number not exceeding 20 total beds or 10 percent of the number
371 of licensed beds in the facility being expanded, whichever is
372 greater.

373 1. In addition to any other documentation required by the
374 agency, a request for exemption submitted under this paragraph
375 must:

376 a. Certify that the facility has not had any class I or
377 class II deficiencies within the 30 months preceding the request
378 for addition.

379 b. Certify that the prior 12-month average occupancy rate
380 for the nursing home beds at the facility meets or exceeds 96
381 percent.

382 c. Certify that any beds authorized for the facility under
383 this paragraph before the date of the current request for an
384 exemption have been licensed and operational for at least 12
385 months.

386 2. The timeframes and monitoring process specified in s.
387 408.040(2)(a)-(c) apply to any exemption issued under this
388 paragraph.

389 3. The agency shall count beds authorized under this
 390 paragraph as approved beds in the published inventory of nursing
 391 home beds until the beds are licensed.

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

393 ~~1. A Level II neonatal intensive care unit with at least~~
 394 ~~10 beds, upon documentation to the agency that the applicant~~
 395 ~~hospital had a minimum of 1,500 births during the previous 12~~
 396 ~~months;~~

397 ~~2. A Level III neonatal intensive care unit with at least~~
 398 ~~15 beds, upon documentation to the agency that the applicant~~
 399 ~~hospital has a Level II neonatal intensive care unit of at least~~
 400 ~~10 beds and had a minimum of 3,500 births during the previous 12~~
 401 ~~months; or~~

402 ~~3. A Level III neonatal intensive care unit with at least~~
 403 ~~5 beds, upon documentation to the agency that the applicant~~
 404 ~~hospital is a verified trauma center pursuant to s.~~
 405 ~~395.4001(14), and has a Level II neonatal intensive care unit,~~
 406
 407 ~~if the applicant demonstrates that it meets the requirements for~~
 408 ~~quality of care, nurse staffing, physician staffing, physical~~
 409 ~~plant, equipment, emergency transportation, and data reporting~~
 410 ~~found in agency certificate-of-need rules for Level II and Level~~
 411 ~~III neonatal intensive care units and if the applicant commits~~
 412 ~~to the provision of services to Medicaid and charity patients at~~
 413 ~~a level equal to or greater than the district average. Such a~~
 414 ~~commitment is subject to s. 408.040.~~

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

428 ~~a. A hospital that has received a notice of intent to~~
429 ~~grant a certificate of need or a final order of the agency~~
430 ~~granting a certificate of need for the establishment of an open-~~
431 ~~heart surgery program is entitled to receive a letter of~~
432 ~~exemption for the establishment of an adult open-heart surgery~~
433 ~~program upon filing a request for exemption and complying with~~
434 ~~the criteria enumerated in sub-subparagraphs 2.a. h., and is~~
435 ~~entitled to immediately commence operation of the program.~~

436 ~~b. An otherwise eligible hospital that has not received a~~
437 ~~notice of intent to grant a certificate of need or a final order~~
438 ~~of the agency granting a certificate of need for the~~
439 ~~establishment of an open-heart surgery program is entitled to~~
440 ~~immediately receive a letter of exemption for the establishment~~

441 ~~of an adult open-heart-surgery program upon filing a request for~~
442 ~~exemption and complying with the criteria enumerated in sub-~~
443 ~~subparagraphs 2.a.-h., but is not entitled to commence operation~~
444 ~~of its program until December 31, 2006.~~

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

449 ~~a. The applicant must certify that it will meet and~~
450 ~~continuously maintain the minimum licensure requirements adopted~~
451 ~~by the agency governing adult open-heart programs, including the~~
452 ~~most current guidelines of the American College of Cardiology~~
453 ~~and American Heart Association Guidelines for Adult Open Heart~~
454 ~~Programs.~~

455 ~~b. The applicant must certify that it will maintain~~
456 ~~sufficient appropriate equipment and health personnel to ensure~~
457 ~~quality and safety.~~

458 ~~c. The applicant must certify that it will maintain~~
459 ~~appropriate times of operation and protocols to ensure~~
460 ~~availability and appropriate referrals in the event of~~
461 ~~emergencies.~~

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

466 ~~e. The applicant is a general acute care hospital that is~~

467 ~~in operation for 3 years or more.~~

468 ~~f. The applicant is performing more than 300 diagnostic~~
469 ~~cardiac catheterization procedures per year, combined inpatient~~
470 ~~and outpatient.~~

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

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

480 ~~3. By December 31, 2004, and annually thereafter, the~~
481 ~~agency shall submit a report to the Legislature providing~~
482 ~~information concerning the number of requests for exemption it~~
483 ~~has received under this paragraph during the calendar year and~~
484 ~~the number of exemptions it has granted or denied during the~~
485 ~~calendar year.~~

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

492 ~~1. The applicant must certify that it will meet and~~

493 ~~continuously maintain the requirements adopted by the agency for~~
494 ~~the provision of these services. These licensure requirements~~
495 ~~shall be adopted by rule and must be consistent with the~~
496 ~~guidelines published by the American College of Cardiology and~~
497 ~~the American Heart Association for the provision of percutaneous~~
498 ~~coronary interventions in hospitals without adult open-heart~~
499 ~~services. At a minimum, the rules must require the following:~~
500 ~~a. Cardiologists must be experienced interventionalists~~
501 ~~who have performed a minimum of 75 interventions within the~~
502 ~~previous 12 months.~~
503 ~~b. The hospital must provide a minimum of 36 emergency~~
504 ~~interventions annually in order to continue to provide the~~
505 ~~service.~~
506 ~~e. The hospital must offer sufficient physician, nursing,~~
507 ~~and laboratory staff to provide the services 24 hours a day, 7~~
508 ~~days a week.~~
509 ~~d. Nursing and technical staff must have demonstrated~~
510 ~~experience in handling acutely ill patients requiring~~
511 ~~intervention based on previous experience in dedicated~~
512 ~~interventional laboratories or surgical centers.~~
513 ~~e. Cardiac care nursing staff must be adept in hemodynamic~~
514 ~~monitoring and Intra-aortic Balloon Pump (IABP) management.~~
515 ~~f. Formalized written transfer agreements must be~~
516 ~~developed with a hospital with an adult open-heart surgery~~
517 ~~program, and written transport protocols must be in place to~~
518 ~~ensure safe and efficient transfer of a patient within 60~~

519 ~~minutes. Transfer and transport agreements must be reviewed and~~
520 ~~tested, with appropriate documentation maintained at least every~~
521 ~~3 months. However, a hospital located more than 100 road miles~~
522 ~~from the closest Level II adult cardiovascular services program~~
523 ~~does not need to meet the 60-minute transfer time protocol if~~
524 ~~the hospital demonstrates that it has a formalized, written~~
525 ~~transfer agreement with a hospital that has a Level II program.~~
526 ~~The agreement must include written transport protocols that~~
527 ~~ensure the safe and efficient transfer of a patient, taking into~~
528 ~~consideration the patient's clinical and physical~~
529 ~~characteristics, road and weather conditions, and viability of~~
530 ~~ground and air ambulance service to transfer the patient.~~

531 ~~g. Hospitals implementing the service must first undertake~~
532 ~~a training program of 3 to 6 months' duration, which includes~~
533 ~~establishing standards and testing logistics, creating quality~~
534 ~~assessment and error management practices, and formalizing~~
535 ~~patient-selection criteria.~~

536 ~~2. The applicant must certify that it will use at all~~
537 ~~times the patient-selection criteria for the performance of~~
538 ~~primary angioplasty at hospitals without adult open-heart-~~
539 ~~surgery programs issued by the American College of Cardiology~~
540 ~~and the American Heart Association. At a minimum, these criteria~~
541 ~~would provide for the following:~~

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

544 ~~b. Transfer of patients who have a history of coronary~~

545 ~~disease and clinical presentation of hemodynamic instability.~~

546 ~~3. The applicant must agree to submit a quarterly report~~
547 ~~to the agency detailing patient characteristics, treatment, and~~
548 ~~outcomes for all patients receiving emergency percutaneous~~
549 ~~coronary interventions pursuant to this paragraph. This report~~
550 ~~must be submitted within 15 days after the close of each~~
551 ~~calendar quarter.~~

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

557 ~~5. Failure of the hospital to continuously comply with the~~
558 ~~requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.~~
559 ~~and 3. will result in the immediate expiration of this~~
560 ~~exemption.~~

561 ~~6. Failure of the hospital to meet the volume requirements~~
562 ~~of sub-subparagraphs 1.a. and b. within 18 months after the~~
563 ~~program begins offering the service will result in the immediate~~
564 ~~expiration of the exemption.~~

565
566 ~~If the exemption for this service expires under subparagraph 5.~~
567 ~~or subparagraph 6., the agency may not grant another exemption~~
568 ~~for this service to the same hospital for 2 years and then only~~
569 ~~upon a showing that the hospital will remain in compliance with~~
570 ~~the requirements of this paragraph through a demonstration of~~

571 ~~corrections to the deficiencies that caused expiration of the~~
572 ~~exemption. Compliance with the requirements of this paragraph~~
573 ~~includes compliance with the rules adopted pursuant to this~~
574 ~~paragraph.~~

575 ~~(o) For the addition of mental health services or beds if~~
576 ~~the applicant commits to providing services to Medicaid or~~
577 ~~charity care patients at a level equal to or greater than the~~
578 ~~district average. Such a commitment is subject to s. 408.040.~~

579 (j)~~(p)~~ For replacement of a licensed nursing home on the
580 same site, or within 3 miles of the same site, if the number of
581 licensed beds does not increase.

582 (k)~~(q)~~ For consolidation or combination of licensed
583 nursing homes or transfer of beds between licensed nursing homes
584 within the same planning subdistrict, by providers that operate
585 multiple nursing homes within that planning subdistrict, if
586 there is no increase in the planning subdistrict total number of
587 nursing home beds and the site of the relocation is not more
588 than 30 miles from the original location.

589 (l)~~(r)~~ For beds in state mental health treatment
590 facilities defined in s. 394.455 and state mental health
591 forensic facilities operated under chapter 916.

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

594 (4) REQUESTS FOR EXEMPTION.—A request for exemption under
595 subsection (3) may be made at any time and is not subject to the
596 batching requirements of this section. The request shall be

597 supported by such documentation as the agency requires by rule.
 598 The agency shall assess a fee of \$250 for each request for
 599 exemption submitted under subsection (3).

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

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

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

608 (c) The addition or delicensure of beds.

609
 610 Notification under this subsection may be made by electronic,
 611 facsimile, or written means at any time before the described
 612 action has been taken.

613 Section 5. Section 408.037, Florida Statutes, is amended
 614 to read:

615 408.037 Application content.—

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

618 (a) A detailed description of the proposed project and
 619 statement of its purpose and need in relation to the district
 620 health plan.

621 (b) A statement of the financial resources needed by and
 622 available to the applicant to accomplish the proposed project.

623 This statement must include:

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

635 2. A detailed listing of the needed capital expenditures,
636 including sources of funds.

637 3. A detailed financial projection, including a statement
638 of the projected revenue and expenses for the first 2 years of
639 operation after completion of the proposed project. This
640 statement must include a detailed evaluation of the impact of
641 the proposed project on the cost of other services provided by
642 the applicant.

643 (c) An audited financial statement of the applicant or the
644 applicant's parent corporation if audited financial statements
645 of the applicant do not exist. In an application submitted by an
646 existing health care facility, health maintenance organization,
647 or hospice, financial condition documentation must include, but
648 need not be limited to, a balance sheet and a profit-and-loss

649 statement of the 2 previous fiscal years' operation.

650 ~~(2) An application for a certificate of need for a general~~
651 ~~hospital must contain a detailed description of the proposed~~
652 ~~general hospital project and a statement of its purpose and the~~
653 ~~needs it will meet. The proposed project's location, as well as~~
654 ~~its primary and secondary service areas, must be identified by~~
655 ~~zip code. Primary service area is defined as the zip codes from~~
656 ~~which the applicant projects that it will draw 75 percent of its~~
657 ~~discharges. Secondary service area is defined as the zip codes~~
658 ~~from which the applicant projects that it will draw its~~
659 ~~remaining discharges. If, subsequent to issuance of a final~~
660 ~~order approving the certificate of need, the proposed location~~
661 ~~of the general hospital changes or the primary service area~~
662 ~~materially changes, the agency shall revoke the certificate of~~
663 ~~need. However, if the agency determines that such changes are~~
664 ~~deemed to enhance access to hospital services in the service~~
665 ~~district, the agency may permit such changes to occur. A party~~
666 ~~participating in the administrative hearing regarding the~~
667 ~~issuance of the certificate of need for a general hospital has~~
668 ~~standing to participate in any subsequent proceeding regarding~~
669 ~~the revocation of the certificate of need for a hospital for~~
670 ~~which the location has changed or for which the primary service~~
671 ~~area has materially changed. In addition, the application for~~
672 ~~the certificate of need for a general hospital must include a~~
673 ~~statement of intent that, if approved by final order of the~~
674 ~~agency, the applicant shall within 120 days after issuance of~~

675 ~~the final order or, if there is an appeal of the final order,~~
676 ~~within 120 days after the issuance of the court's mandate on~~
677 ~~appeal, furnish satisfactory proof of the applicant's financial~~
678 ~~ability to operate. The agency shall establish documentation~~
679 ~~requirements, to be completed by each applicant, which show~~
680 ~~anticipated provider revenues and expenditures, the basis for~~
681 ~~financing the anticipated cash-flow requirements of the~~
682 ~~provider, and an applicant's access to contingency financing. A~~
683 ~~party participating in the administrative hearing regarding the~~
684 ~~issuance of the certificate of need for a general hospital may~~
685 ~~provide written comments concerning the adequacy of the~~
686 ~~financial information provided, but such party does not have~~
687 ~~standing to participate in an administrative proceeding~~
688 ~~regarding proof of the applicant's financial ability to operate.~~
689 ~~The agency may require a licensee to provide proof of financial~~
690 ~~ability to operate at any time if there is evidence of financial~~
691 ~~instability, including, but not limited to, unpaid expenses~~
692 ~~necessary for the basic operations of the provider.~~

693 (2)~~(3)~~ The applicant must certify that it will license and
694 operate the health care facility. For an existing health care
695 facility, the applicant must be the licenseholder of the
696 facility.

697 Section 6. Paragraphs (c) and (d) of subsection (3),
698 paragraphs (b) and (c) of subsection (5), and paragraph (d) of
699 subsection (6) of section 408.039, Florida Statutes, are amended
700 to read:

701 408.039 Review process.—The review process for
702 certificates of need shall be as follows:

703 (3) APPLICATION PROCESSING.—

704 ~~(c) Except for competing applicants, in order to be~~
705 ~~eligible to challenge the agency decision on a general hospital~~
706 ~~application under review pursuant to paragraph (5) (c), existing~~
707 ~~hospitals must submit a detailed written statement of opposition~~
708 ~~to the agency and to the applicant. The detailed written~~
709 ~~statement must be received by the agency and the applicant~~
710 ~~within 21 days after the general hospital application is deemed~~
711 ~~complete and made available to the public.~~

712 ~~(d) In those cases where a written statement of opposition~~
713 ~~has been timely filed regarding a certificate of need~~
714 ~~application for a general hospital, the applicant for the~~
715 ~~general hospital may submit a written response to the agency.~~
716 ~~Such response must be received by the agency within 10 days of~~
717 ~~the written statement due date.~~

718 (5) ADMINISTRATIVE HEARINGS.—

719 (b) Hearings shall be held in Tallahassee unless the
720 administrative law judge determines that changing the location
721 will facilitate the proceedings. The agency shall assign
722 proceedings requiring hearings to the Division of Administrative
723 Hearings of the Department of Management Services within 10 days
724 after the time has expired for requesting a hearing. Except upon
725 unanimous consent of the parties or upon the granting by the
726 administrative law judge of a motion of continuance, hearings

727 shall commence within 60 days after the administrative law judge
728 has been assigned. ~~For an application for a general hospital,~~
729 ~~administrative hearings shall commence within 6 months after the~~
730 ~~administrative law judge has been assigned, and a continuance~~
731 ~~may not be granted absent a finding of extraordinary~~
732 ~~circumstances by the administrative law judge.~~ All parties,
733 except the agency, shall bear their own expense of preparing a
734 transcript. In any application for a certificate of need which
735 is referred to the Division of Administrative Hearings for
736 hearing, the administrative law judge shall complete and submit
737 to the parties a recommended order as provided in ss. 120.569
738 and 120.57. The recommended order shall be issued within 30 days
739 after the receipt of the proposed recommended orders or the
740 deadline for submission of such proposed recommended orders,
741 whichever is earlier. The division shall adopt procedures for
742 administrative hearings which shall maximize the use of
743 stipulated facts and shall provide for the admission of prepared
744 testimony.

745 (c) In administrative proceedings challenging the issuance
746 or denial of a certificate of need, only applicants considered
747 by the agency in the same batching cycle are entitled to a
748 comparative hearing on their applications. Existing health care
749 facilities may initiate or intervene in an administrative
750 hearing upon a showing that an established program will be
751 substantially affected by the issuance of any certificate of
752 need, whether reviewed under s. 408.036(1) or (2), to a

753 competing proposed facility or program within the same district.
754 ~~With respect to an application for a general hospital, competing~~
755 ~~applicants and only those existing hospitals that submitted a~~
756 ~~detailed written statement of opposition to an application as~~
757 ~~provided in this paragraph may initiate or intervene in an~~
758 ~~administrative hearing. Such challenges to a general hospital~~
759 ~~application shall be limited in scope to the issues raised in~~
760 ~~the detailed written statement of opposition that was provided~~
761 ~~to the agency. The administrative law judge may, upon a motion~~
762 ~~showing good cause, expand the scope of the issues to be heard~~
763 ~~at the hearing. Such motion shall include substantial and~~
764 ~~detailed facts and reasons for failure to include such issues in~~
765 ~~the original written statement of opposition.~~

766 (6) JUDICIAL REVIEW.—

767 ~~(d) The party appealing a final order that grants a~~
768 ~~general hospital certificate of need shall pay the appellee's~~
769 ~~attorney's fees and costs, in an amount up to \$1 million, from~~
770 ~~the beginning of the original administrative action if the~~
771 ~~appealing party loses the appeal, subject to the following~~
772 ~~limitations and requirements:~~

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

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

778 Section 7. Subsection (1) of section 408.043, Florida

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779 Statutes, is amended to read:

780 408.043 Special provisions.—

781 ~~(1) OSTEOPATHIC ACUTE CARE HOSPITALS. When an application~~
782 ~~is made for a certificate of need to construct or to expand an~~
783 ~~osteopathic acute care hospital, the need for such hospital~~
784 ~~shall be determined on the basis of the need for and~~
785 ~~availability of osteopathic services and osteopathic acute care~~
786 ~~hospitals in the district. When a prior certificate of need to~~
787 ~~establish an osteopathic acute care hospital has been issued in~~
788 ~~a district, and the facility is no longer used for that purpose,~~
789 ~~the agency may continue to count such facility and beds as an~~
790 ~~existing osteopathic facility in any subsequent application for~~
791 ~~construction of an osteopathic acute care hospital.~~

792 Section 8. Subsection (5) of section 395.605, Florida
793 Statutes, is amended to read:

794 395.605 Emergency care hospitals.—

795 ~~(5) Rural hospitals that make application under the~~
796 ~~certificate of need program to be licensed as emergency care~~
797 ~~hospitals shall receive expedited review as defined in s.~~
798 ~~408.032. Emergency care hospitals seeking relicensure as acute~~
799 ~~care general hospitals shall also receive expedited review.~~

800 Section 9. This act shall take effect July 1, 2014.