

By Representative Mackey

1                                   A bill to be entitled  
2           An act relating to health care facilities;  
3           amending s. 408.039, F.S.; restricting who may  
4           challenge or intervene in an administrative  
5           proceeding relating to issuance or denial of a  
6           certificate of need; providing an effective  
7           date.

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

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11           Section 1. Paragraph (b) of subsection (5) of section  
12   408.039, Florida Statutes, 1996 Supplement, is amended to  
13   read:

14           408.039 Review process.--The review process for  
15   certificates of need shall be as follows:

16           (5) ADMINISTRATIVE HEARINGS.--

17           (b) Hearings shall be held in Tallahassee unless the  
18   administrative law judge determines that changing the location  
19   will facilitate the proceedings. In administrative  
20   proceedings challenging the issuance or denial of a  
21   certificate of need, only applicants considered by the  
22   department in the same batching cycle are entitled to a  
23   comparative hearing on their applications. Existing health  
24   care facilities may initiate or intervene in such  
25   administrative hearing upon a showing that an established  
26   program will be substantially affected by the issuance of a  
27   certificate of need to a competing proposed facility or  
28   program within the same district, provided that existing  
29   health care providers, other than the applicant, have no  
30   standing or right to initiate or intervene in an  
31   administrative hearing involving a health care project which

1 is subject to certificate-of-need review solely on the basis  
2 of s. 408.036(1)(c). A facility does not have standing to  
3 challenge or intervene in an administrative proceeding  
4 involving another facility unless both facilities are licensed  
5 under the same licensing chapter.The department shall assign  
6 proceedings requiring hearings to the Division of  
7 Administrative Hearings of the Department of Management  
8 Services within 10 days after the time has run to request a  
9 hearing. Except upon unanimous consent of the parties or upon  
10 the granting by the administrative law judge of a motion of  
11 continuance, hearings shall commence within 60 days after the  
12 administrative law judge has been assigned. All  
13 non-state-agency parties shall bear their own expense of  
14 preparing a transcript. In any application for a certificate  
15 of need which is referred to the Division of Administrative  
16 Hearings for hearing, the administrative law judge shall  
17 complete and submit to the parties a recommended order as  
18 provided in ss. 120.569 and 120.57. The recommended order  
19 shall be issued within 30 days after the receipt of the  
20 proposed recommended orders or the deadline for submission of  
21 such proposed recommended orders, whichever is earlier. The  
22 division shall adopt procedures for administrative hearings  
23 which shall maximize the use of stipulated facts and shall  
24 provide for the admission of prepared testimony.

25 Section 2. This act shall take effect July 1, 1997.

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HOUSE SUMMARY

With respect to administrative proceedings relating to issuance or denial of a certificate of need, provides that a facility does not have standing to challenge or intervene in a proceeding involving another facility unless both facilities are licensed under the same licensing chapter.