

By Representative Mackey

1 A bill to be entitled
2 An act relating to certificates of need;
3 amending s. 395.003, F.S.; requiring the Agency
4 for Health Care Administration to adopt a rule
5 methodology for separate evaluation of
6 certificate-of-need applications for skilled
7 nursing beds in facilities licensed under ch.
8 395, F.S.; limiting certain comparative review
9 and standing to challenge applications;
10 providing standards and criteria for evaluating
11 need; amending s. 408.036, F.S.; providing an
12 exemption from certificate-of-need review for
13 certain conversions of licensed acute care
14 hospital beds to skilled nursing beds;
15 providing for expiration of the exemption;
16 requiring the agency to adopt a rule
17 methodology for separate evaluation of
18 applications for skilled nursing beds in
19 facilities licensed under ch. 395, F.S.;
20 limiting certain comparative review and
21 standing to challenge applications; providing
22 standards and criteria for evaluating need;
23 providing an exemption from review under
24 certain circumstances; amending s. 408.039,
25 F.S.; restricting who may challenge or
26 intervene in an administrative proceeding
27 relating to issuance or denial of a certificate
28 of need; providing an effective date.
29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Subsections (5), (6), (7), and (8) of
2 section 395.003, Florida Statutes, are renumbered as
3 subsections (6), (7), (8), and (9), respectively, and a new
4 subsection (5) is added to said section to read:

5 395.003 Licensure; issuance, renewal, denial, and
6 revocation.--

7 (5) By October 1, 1998, the agency shall adopt a rule
8 methodology which provides for the separate evaluation of
9 applications for skilled nursing beds in facilities licensed
10 pursuant to chapter 395 and which encourages continuity of
11 care. Such applications shall not be subject to comparative
12 review with facilities licensed pursuant to chapter 400, and
13 facilities licensed pursuant to chapter 400 shall not have
14 standing to challenge any application filed pursuant to this
15 agency rule. The methodology shall include as criteria a
16 minimum volume threshold of the 10 diagnostic-related groups
17 identified as the principal diagnoses for admission to a
18 hospital-based skilled nursing unit in the final report of the
19 panel created pursuant to s. 142 of chapter 95-418, Laws of
20 Florida. The methodology may also utilize other standards and
21 criteria which are reasonable and appropriate for evaluating
22 the need for skilled nursing home beds in a hospital-based
23 setting, including demonstrating a minimum volume of cases
24 sufficient to attain an average annual occupancy of 75 percent
25 within the skilled nursing unit within 24 months after
26 initiating the service.

27 Section 2. Paragraph (o) is added to subsection (3) of
28 section 408.036, Florida Statutes, and subsection (4) is added
29 to said section, to read:

30 408.036 Projects subject to review.--

1 (3) EXEMPTIONS.--Upon request, supported by such
2 documentation as the agency requires, the agency shall grant
3 an exemption from the provisions of subsection (1):

4 (o) For the conversion of licensed acute care hospital
5 beds to skilled nursing beds, provided the conversion of beds
6 does not require the construction of new facilities. The total
7 number of acute care beds converted to skilled nursing beds
8 pursuant to this paragraph shall not exceed 16 in a hospital
9 with 200 or fewer licensed beds, nor 24 in a hospital with
10 more than 200 licensed beds. This exemption shall expire on
11 December 31, 1999, or the date on which a rule methodology is
12 adopted pursuant to subsection (4), whichever is later.

13
14 A request for exemption under this subsection may be made at
15 any time and is not subject to the batching requirements of
16 this section.

17 (4) By October 1, 1998, the Agency for Health Care
18 Administration shall adopt a rule methodology which provides
19 for the separate evaluation of applications for skilled
20 nursing beds in facilities licensed pursuant to chapter 395
21 and which encourages continuity of care. Such applications
22 shall not be subject to comparative review with facilities
23 licensed pursuant to chapter 400, and facilities licensed
24 pursuant to chapter 400 shall not have standing to challenge
25 applications filed by facilities licensed pursuant to chapter
26 395, nor shall facilities licensed pursuant to chapter 395
27 have standing to challenge applications for skilled nursing
28 beds in facilities licensed pursuant to chapter 400. The
29 methodology shall include as criteria a minimum volume
30 threshold of the 10 diagnostic-related groups identified as
31 the principal diagnoses for admission to a hospital-based

1 skilled nursing unit in the final report of the panel created
2 pursuant to s. 142 of chapter 95-418, Laws of Florida. The
3 methodology may also utilize other standards and criteria
4 which are reasonable and appropriate for evaluating the need
5 for skilled nursing beds in a hospital-based setting. The need
6 for a hospital-based skilled nursing unit shall be presumed to
7 be met when 10 percent of the cases presenting for inpatient
8 acute admissions, excluding labor and delivery, fall within
9 these 10 diagnostic-related groups. When this minimum level is
10 met or exceeded, a hospital may convert up to 12 acute care
11 beds to skilled nursing beds if the hospital has 200 or fewer
12 licensed beds, and may convert up to 16 acute care beds if the
13 hospital has more than 200 licensed beds. The need shall be
14 presumed to be met for hospitals with existing skilled nursing
15 units if occupancy of the existing unit is in excess of 80
16 percent. If such occupancy is met, the hospital may convert a
17 minimum of 8 beds. If the agency fails to adopt the
18 methodology by rule by October 1, 1998, or if the rule is
19 declared invalid in a proceeding pursuant to s. 120.56,
20 hospitals with 200 or fewer licensed beds are exempt from
21 review for the conversion of 12 acute care beds to skilled
22 nursing beds and hospitals with more than 200 licensed beds
23 are exempt from review for the conversion of 16 acute care
24 beds to skilled nursing beds.

25 Section 3. Paragraph (c) of subsection (5) of section
26 408.039, Florida Statutes, is amended to read:

27 408.039 Review process.--The review process for
28 certificates of need shall be as follows:

29 (5) ADMINISTRATIVE HEARINGS.--

30 (c) In administrative proceedings challenging the
31 issuance or denial of a certificate of need, only applicants

1 considered by the agency in the same batching cycle are
2 entitled to a comparative hearing on their applications.
3 Existing health care facilities may initiate or intervene in
4 an administrative hearing upon a showing that an established
5 program will be substantially affected by the issuance of any
6 certificate of need to a competing proposed facility or
7 program within the same district. A facility does not have
8 standing to challenge or intervene in an administrative
9 proceeding involving another facility unless both facilities
10 are licensed under the same licensing chapter.

11 Section 4. This act shall take effect on July 1 of the
12 year in which enacted.

13
14 *****

15 HOUSE SUMMARY

16 Requires the Agency for Health Care Administration to
17 adopt, by October 1, 1998, a rule methodology for the
18 separate evaluation of certificate-of-need applications
19 for skilled nursing beds in facilities licensed under ch.
20 395, F.S. (Hospital Licensing and Regulation). Prohibits
21 comparative review of the applications of those
22 facilities and facilities licensed under ch. 400, F.S.
(Nursing Homes and Related Health Care Facilities), and
denies standing for applications challenges between such
types of facilities. Provides standards and criteria for
evaluating need under the rule methodology.

23 Exempts from certificate-of-need review conversions of up
24 to specified numbers of acute care hospital beds to
25 skilled nursing beds when no new facility construction is
26 required. Provides for expiration of the exemption on
27 December 31, 1999, or the date the agency adopts the
above rule methodology, whichever is later. Exempts from
review certain conversions if the rule is not adopted by
the date required or is declared invalid in an
administrative proceeding.

28 Provides that a health care facility does not have
29 standing to challenge or intervene in an administrative
30 proceeding relating to the issuance or denial of a
31 certificate of need which involves another facility
unless both facilities are licensed under the same
licensing chapter.