

By the Committee on Health Care Licensing & Regulation and
Representatives Minton, Tullis, Johnson and Greenstein

1 A bill to be entitled
2 An act relating to health care services;
3 amending s. 400.471, F.S.; deleting the
4 certificate-of-need requirement for licensure
5 of Medicare-certified home health agencies;
6 amending s. 400.606, F.S.; conforming to the
7 act provisions relating to certificate-of-need
8 requirements for hospice licensure; amending s.
9 408.032, F.S.; adding definitions of
10 "exemption" and "mental health services";
11 deleting the definitions of "home health
12 agency," "institutional health service,"
13 "intermediate care facility," "multifacility
14 project," and "respite care"; amending s.
15 408.033, F.S.; deleting references to the state
16 health plan; amending s. 408.034, F.S.;
17 deleting a reference to licensing of home
18 health agencies by the Agency for Health Care
19 Administration; amending s. 408.035, F.S.;
20 deleting obsolete certificate-of-need review
21 criteria and revising other criteria; amending
22 s. 408.036, F.S.; revising provisions relating
23 to projects subject to review; deleting
24 references to Medicare-certified home health
25 agencies; deleting the review of certain
26 acquisitions; specifying the types of bed
27 increases subject to review; deleting cost
28 overruns from review; deleting review of
29 combinations or division of nursing home
30 certificates of need; providing for expedited
31 review of certain conversions of licensed

1 hospital beds; deleting the requirement for an
2 exemption for initiation or expansion of
3 obstetric services, provision of respite care
4 services, establishment of a Medicare-certified
5 home health agency, or provision of a health
6 service exclusively on an outpatient basis;
7 providing a sunset date for review of the
8 establishment of a hospice program or hospice
9 inpatient facility; providing exemptions for
10 combinations or divisions of nursing home
11 certificates of need and additions of certain
12 hospital beds and nursing home beds within
13 specified limitations; requiring a fee for each
14 request for exemption; amending s. 408.037,
15 F.S.; deleting reference to the state health
16 plan; amending ss. 408.038, 408.039, 408.044,
17 and 408.045, F.S.; replacing "department" with
18 "agency"; clarifying the opportunity to
19 challenge an intended award of a certificate of
20 need; amending s. 408.040, F.S.; deleting an
21 obsolete reference; revising the format of
22 conditions related to Medicaid; creating a
23 certificate-of-need workgroup within the Agency
24 for Health Care Administration; providing for
25 expenses; providing membership, duties, and
26 meetings; providing for termination; amending
27 s. 401.25, F.S.; providing that certain
28 municipalities may issue the certificate of
29 public convenience and necessity required for
30 licensure as a basic or an advanced life
31 support service; repealing s. 400.464(3), F.S.,

1 relating to home health agency licenses
2 provided to certificate-of-need exempt
3 entities; providing effective dates.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Subsections (2) and (11) of section
8 400.471, Florida Statutes, are amended to read:

9 400.471 Application for license; fee; provisional
10 license; temporary permit.--

11 (2) The applicant must file with the application
12 satisfactory proof that the home health agency is in
13 compliance with this part and applicable rules, including:

14 (a) A listing of services to be provided, either
15 directly by the applicant or through contractual arrangements
16 with existing providers;

17 (b) The number and discipline of professional staff to
18 be employed; and

19 (c) Proof of financial ability to operate.
20

21 ~~If the applicant has applied for a certificate of need under~~
22 ~~ss. 408.0331-408.045 within the preceding 12 months, the~~
23 ~~applicant may submit the proof required during the~~
24 ~~certificate-of-need process along with an attestation that~~
25 ~~there has been no substantial change in the facts and~~
26 ~~circumstances underlying the original submission.~~

27 (11) The agency may not issue a license designated as
28 certified to a home health agency that fails to ~~receive a~~
29 ~~certificate of need under ss. 408.031-408.045 or that fails to~~
30 satisfy the requirements of a Medicare certification survey
31 from the agency.

1 Section 2. Subsections (5) and (6) of section 400.606,
2 Florida Statutes, are amended to read:

3 400.606 License; application; renewal; conditional
4 license or permit; certificate of need.--

5 (5) The agency shall not issue a license to a hospice
6 that fails to receive a certificate of need if required under
7 the provisions of ss. 408.031-408.045. A licensed hospice is a
8 health care facility as that term is used in s. 408.039(5) and
9 is entitled to initiate or intervene in an administrative
10 hearing.

11 (6) A freestanding hospice facility that is primarily
12 engaged in providing inpatient and related services and that
13 is not otherwise licensed as a health care facility shall ~~be~~
14 ~~required to~~ obtain a certificate of need if required under the
15 provisions of ss. 408.031-408.045. However, a freestanding
16 hospice facility with six or fewer beds shall not be required
17 to comply with institutional standards such as, but not
18 limited to, standards requiring sprinkler systems, emergency
19 electrical systems, or special lavatory devices.

20 Section 3. Section 408.032, Florida Statutes, is
21 amended to read:

22 408.032 Definitions.--As used in ss. 408.031-408.045,
23 the term:

24 (1) "Agency" means the Agency for Health Care
25 Administration.

26 (2) "Capital expenditure" means an expenditure,
27 including an expenditure for a construction project undertaken
28 by a health care facility as its own contractor, which, under
29 generally accepted accounting principles, is not properly
30 chargeable as an expense of operation and maintenance, which
31 is made to change the bed capacity of the facility, or

1 substantially change the services or service area of the
2 health care facility, health service provider, or hospice, and
3 which includes the cost of the studies, surveys, designs,
4 plans, working drawings, specifications, initial financing
5 costs, and other activities essential to acquisition,
6 improvement, expansion, or replacement of the plant and
7 equipment.

8 (3) "Certificate of need" means a written statement
9 issued by the agency evidencing community need for a new,
10 converted, expanded, or otherwise significantly modified
11 health care facility, health service, or hospice.

12 (4) "Commenced construction" means initiation of and
13 continuous activities beyond site preparation associated with
14 erecting or modifying a health care facility, including
15 procurement of a building permit applying the use of
16 agency-approved construction documents, proof of an executed
17 owner/contractor agreement or an irrevocable or binding forced
18 account, and actual undertaking of foundation forming with
19 steel installation and concrete placing.

20 (5) "District" means a health service planning
21 district composed of the following counties:

22 District 1.--Escambia, Santa Rosa, Okaloosa, and Walton
23 Counties.

24 District 2.--Holmes, Washington, Bay, Jackson,
25 Franklin, Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla,
26 Jefferson, Madison, and Taylor Counties.

27 District 3.--Hamilton, Suwannee, Lafayette, Dixie,
28 Columbia, Gilchrist, Levy, Union, Bradford, Putnam, Alachua,
29 Marion, Citrus, Hernando, Sumter, and Lake Counties.

30 District 4.--Baker, Nassau, Duval, Clay, St. Johns,
31 Flagler, and Volusia Counties.

1 District 5.--Pasco and Pinellas Counties.
2 District 6.--Hillsborough, Manatee, Polk, Hardee, and
3 Highlands Counties.

4 District 7.--Seminole, Orange, Osceola, and Brevard
5 Counties.

6 District 8.--Sarasota, DeSoto, Charlotte, Lee, Glades,
7 Hendry, and Collier Counties.

8 District 9.--Indian River, Okeechobee, St. Lucie,
9 Martin, and Palm Beach Counties.

10 District 10.--Broward County.

11 District 11.--Dade and Monroe Counties.

12 (6) "Exemption" means the process by which a proposal
13 that would otherwise require a certificate of need may proceed
14 without a certificate of need.

15 (7)~~(6)~~ "Expedited review" means the process by which
16 certain types of applications are not subject to the review
17 cycle requirements contained in s. 408.039(1), and the letter
18 of intent requirements contained in s. 408.039(2).

19 (8)~~(7)~~ "Health care facility" means a hospital,
20 long-term care hospital, skilled nursing facility, hospice,
21 ~~intermediate care facility,~~ or intermediate care facility for
22 the developmentally disabled. A facility relying solely on
23 spiritual means through prayer for healing is not included as
24 a health care facility.

25 (9)~~(8)~~ "Health services" means diagnostic, curative,
26 or rehabilitative services and includes ~~alcohol treatment,~~
27 ~~drug abuse treatment,~~ and mental health services.

28 ~~(9) "Home health agency" means an organization, as~~
29 ~~defined in s. 400.462(4), that is certified or seeks~~
30 ~~certification as a Medicare home health service provider.~~

31

1 (10) "Hospice" or "hospice program" means a hospice as
2 defined in part VI of chapter 400.

3 (11) "Hospital" means a health care facility licensed
4 under chapter 395.

5 ~~(12) "Institutional health service" means a health~~
6 ~~service which is provided by or through a health care facility~~
7 ~~and which entails an annual operating cost of \$500,000 or~~
8 ~~more. The agency shall, by rule, adjust the annual operating~~
9 ~~cost threshold annually using an appropriate inflation index.~~

10 ~~(13) "Intermediate care facility" means an institution~~
11 ~~which provides, on a regular basis, health-related care and~~
12 ~~services to individuals who do not require the degree of care~~
13 ~~and treatment which a hospital or skilled nursing facility is~~
14 ~~designed to provide, but who, because of their mental or~~
15 ~~physical condition, require health-related care and services~~
16 ~~above the level of room and board.~~

17 (12)~~(14)~~ "Intermediate care facility for the
18 developmentally disabled" means a residential facility
19 licensed under chapter 393 and certified by the Federal
20 Government pursuant to the Social Security Act as a provider
21 of Medicaid services to persons who are mentally retarded or
22 who have a related condition.

23 (13)~~(15)~~ "Long-term care hospital" means a hospital
24 licensed under chapter 395 which meets the requirements of 42
25 C.F.R. s. 412.23(e) and seeks exclusion from the Medicare
26 prospective payment system for inpatient hospital services.

27 (14) "Mental health services" means inpatient services
28 provided in a hospital licensed under chapter 395 and listed
29 on the hospital license as psychiatric beds for adults;
30 psychiatric beds for children and adolescents; intensive
31 residential treatment beds for children and adolescents;

1 substance abuse beds for adults; or substance abuse beds for
2 children and adolescents.

3 ~~(16) "Multifacility project" means an integrated~~
4 ~~residential and health care facility consisting of independent~~
5 ~~living units, assisted living facility units, and nursing home~~
6 ~~beds certificated on or after January 1, 1987, where:~~

7 ~~(a) The aggregate total number of independent living~~
8 ~~units and assisted living facility units exceeds the number of~~
9 ~~nursing home beds.~~

10 ~~(b) The developer of the project has expended the sum~~
11 ~~of \$500,000 or more on the certificated and noncertificated~~
12 ~~elements of the project combined, exclusive of land costs, by~~
13 ~~the conclusion of the 18th month of the life of the~~
14 ~~certificate of need.~~

15 ~~(c) The total aggregate cost of construction of the~~
16 ~~certificated element of the project, when combined with other,~~
17 ~~noncertificated elements, is \$10 million or more.~~

18 ~~(d) All elements of the project are contiguous or~~
19 ~~immediately adjacent to each other and construction of all~~
20 ~~elements will be continuous.~~

21 (15)~~(17)~~ "Nursing home geographically underserved
22 area" means:

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

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

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

31

1 ~~(18)~~ "Respite care" means short-term care in a
2 licensed health care facility which is personal or custodial
3 and is provided for chronic illness, physical infirmity, or
4 advanced age for the purpose of temporarily relieving family
5 members of the burden of providing care and attendance.

6 (16)~~(19)~~ "Skilled nursing facility" means an
7 institution, or a distinct part of an institution, which is
8 primarily engaged in providing, to inpatients, skilled nursing
9 care and related services for patients who require medical or
10 nursing care, or rehabilitation services for the
11 rehabilitation of injured, disabled, or sick persons.

12 (17)~~(20)~~ "Tertiary health service" means a health
13 service which, due to its high level of intensity, complexity,
14 specialized or limited applicability, and cost, should be
15 limited to, and concentrated in, a limited number of hospitals
16 to ensure the quality, availability, and cost-effectiveness of
17 such service. Examples of such service include, but are not
18 limited to, organ transplantation, specialty burn units,
19 neonatal intensive care units, comprehensive rehabilitation,
20 and medical or surgical services which are experimental or
21 developmental in nature to the extent that the provision of
22 such services is not yet contemplated within the commonly
23 accepted course of diagnosis or treatment for the condition
24 addressed by a given service. The agency shall establish by
25 rule a list of all tertiary health services.

26 (18)~~(21)~~ "Regional area" means any of those regional
27 health planning areas established by the agency to which local
28 and district health planning funds are directed to local
29 health councils through the General Appropriations Act.
30
31

1 Section 4. Paragraph (b) of subsection (1) and
2 paragraph (a) of subsection (3) of section 408.033, Florida
3 Statutes, are amended to read:

4 408.033 Local and state health planning.--

5 (1) LOCAL HEALTH COUNCILS.--

6 (b) Each local health council may:

7 1. Develop a district or regional area health plan
8 that permits ~~is consistent with the objectives and strategies~~
9 ~~in the state health plan, but that shall permit~~ each local
10 health council to develop strategies and set priorities for
11 implementation based on its unique local health needs. The
12 district or regional area health plan must contain preferences
13 for the development of health services and facilities, which
14 may be considered by the agency in its review of
15 certificate-of-need applications. The district health plan
16 shall be submitted to the agency and updated periodically. The
17 district health plans shall use a uniform format and be
18 submitted to the agency according to a schedule developed by
19 the agency in conjunction with the local health councils. The
20 schedule must provide for ~~coordination between the development~~
21 ~~of the state health plan and the district health plans and for~~
22 the development of district health plans by major sections
23 over a multiyear period. The elements of a district plan
24 which are necessary to the review of certificate-of-need
25 applications for proposed projects within the district may be
26 adopted by the agency as a part of its rules.

27 2. Advise the agency on health care issues and
28 resource allocations.

29 3. Promote public awareness of community health needs,
30 emphasizing health promotion and cost-effective health service
31 selection.

- 1 4. Collect data and conduct analyses and studies
2 related to health care needs of the district, including the
3 needs of medically indigent persons, and assist the agency and
4 other state agencies in carrying out data collection
5 activities that relate to the functions in this subsection.
6 5. Monitor the onsite construction progress, if any,
7 of certificate-of-need approved projects and report council
8 findings to the agency on forms provided by the agency.
9 6. Advise and assist any regional planning councils
10 within each district that have elected to address health
11 issues in their strategic regional policy plans with the
12 development of the health element of the plans to address the
13 health goals and policies in the State Comprehensive Plan.
14 7. Advise and assist local governments within each
15 district on the development of an optional health plan element
16 of the comprehensive plan provided in chapter 163, to assure
17 compatibility with the health goals and policies in the State
18 Comprehensive Plan and district health plan. To facilitate
19 the implementation of this section, the local health council
20 shall annually provide the local governments in its service
21 area, upon request, with:
22 a. A copy and appropriate updates of the district
23 health plan;
24 b. A report of hospital and nursing home utilization
25 statistics for facilities within the local government
26 jurisdiction; and
27 c. Applicable agency rules and calculated need
28 methodologies for health facilities and services regulated
29 under s. 408.034 for the district served by the local health
30 council.
31

1 8. Monitor and evaluate the adequacy, appropriateness,
2 and effectiveness, within the district, of local, state,
3 federal, and private funds distributed to meet the needs of
4 the medically indigent and other underserved population
5 groups.

6 9. In conjunction with the Agency for Health Care
7 Administration, plan for services at the local level for
8 persons infected with the human immunodeficiency virus.

9 10. Provide technical assistance to encourage and
10 support activities by providers, purchasers, consumers, and
11 local, regional, and state agencies in meeting the health care
12 goals, objectives, and policies adopted by the local health
13 council.

14 11. Provide the agency with data required by rule for
15 the review of certificate-of-need applications and the
16 projection of need for health services and facilities in the
17 district.

18 (3) DUTIES AND RESPONSIBILITIES OF THE AGENCY.--

19 (a) The agency, in conjunction with the local health
20 councils, is responsible for the coordinated planning of ~~all~~
21 health care services in the state ~~and for the preparation of~~
22 ~~the state health plan.~~

23 Section 5. Subsection (2) of section 408.034, Florida
24 Statutes, is amended to read:

25 408.034 Duties and responsibilities of agency;
26 rules.--

27 (2) In the exercise of its authority to issue licenses
28 to health care facilities and health service providers, as
29 provided under chapters 393, 395, and parts II, ~~IV~~, and VI of
30 chapter 400, the agency may not issue a license to any health
31 care facility, health service provider, hospice, or part of a

1 health care facility which fails to receive a certificate of
2 need or an exemption for the licensed facility or service.

3 Section 6. Section 408.035, Florida Statutes, is
4 amended to read:

5 408.035 Review criteria.--

6 ~~(1)~~ The agency shall determine the reviewability of
7 applications and shall review applications for
8 certificate-of-need determinations for health care facilities
9 and health services in context with the following criteria:

10 (1)~~(a)~~ The need for the health care facilities and
11 health services being proposed in relation to the applicable
12 district health plan, ~~except in emergency circumstances that~~
13 ~~pose a threat to the public health.~~

14 (2)~~(b)~~ The availability, quality of care, ~~efficiency,~~
15 ~~appropriateness,~~accessibility, and extent of utilization of,
16 ~~and adequacy of like and~~ existing health care facilities and
17 health services in the service district of the applicant.

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

21 ~~(d)~~ ~~The availability and adequacy of other health care~~
22 ~~facilities and health services in the service district of the~~
23 ~~applicant, such as outpatient care and ambulatory or home care~~
24 ~~services, which may serve as alternatives for the health care~~
25 ~~facilities and health services to be provided by the~~
26 ~~applicant.~~

27 ~~(e)~~ ~~Probable economies and improvements in service~~
28 ~~which may be derived from operation of joint, cooperative, or~~
29 ~~shared health care resources.~~

30 (4)~~(f)~~ The need in the service district of the
31 applicant for special health care ~~equipment and~~ services that

1 are not reasonably and economically accessible in adjoining
2 areas.

3 ~~(5)(g)~~ The needs of ~~need for~~ research and educational
4 facilities, including, but not limited to, facilities with
5 institutional training programs and community training
6 programs for health care practitioners and for doctors of
7 osteopathic medicine and medicine at the student, internship,
8 and residency training levels.

9 ~~(6)(h)~~ The availability of resources, including health
10 personnel, management personnel, and funds for capital and
11 operating expenditures, for project accomplishment and
12 operation. ~~the effects the project will have on clinical~~
13 ~~needs of health professional training programs in the service~~
14 ~~district; the extent to which the services will be accessible~~
15 ~~to schools for health professions in the service district for~~
16 ~~training purposes if such services are available in a limited~~
17 ~~number of facilities; the availability of alternative uses of~~
18 ~~such resources for the provision of other health services; and~~

19 (7) The extent to which the proposed services will
20 enhance access to health care for ~~be accessible to all~~
21 residents of the service district.

22 ~~(8)(i)~~ The immediate and long-term financial
23 feasibility of the proposal.

24 ~~(j)~~ ~~The special needs and circumstances of health~~
25 ~~maintenance organizations.~~

26 ~~(k)~~ ~~The needs and circumstances of those entities that~~
27 ~~provide a substantial portion of their services or resources,~~
28 ~~or both, to individuals not residing in the service district~~
29 ~~in which the entities are located or in adjacent service~~
30 ~~districts. Such entities may include medical and other health~~
31 ~~professions, schools, multidisciplinary clinics, and specialty~~

1 ~~services such as open-heart surgery, radiation therapy, and~~
2 ~~renal transplantation.~~

3 (9)(1) The extent to which the proposal will foster
4 competition that promotes quality and cost-effectiveness.~~The~~
5 ~~probable impact of the proposed project on the costs of~~
6 ~~providing health services proposed by the applicant, upon~~
7 ~~consideration of factors including, but not limited to, the~~
8 ~~effects of competition on the supply of health services being~~
9 ~~proposed and the improvements or innovations in the financing~~
10 ~~and delivery of health services which foster competition and~~
11 ~~service to promote quality assurance and cost-effectiveness.~~

12 (10)(m) The costs and methods of the proposed
13 construction, including the costs and methods of energy
14 provision and the availability of alternative, less costly, or
15 more effective methods of construction.

16 (11)(n) The applicant's past and proposed provision of
17 health care services to Medicaid patients and the medically
18 indigent.

19 ~~(o) The applicant's past and proposed provision of~~
20 ~~services that promote a continuum of care in a multilevel~~
21 ~~health care system, which may include, but are not limited to,~~
22 ~~acute care, skilled nursing care, home health care, and~~
23 ~~assisted living facilities.~~

24 (12)(p) The applicant's designation as a Gold Seal
25 Program nursing facility pursuant to s. 400.235, when the
26 applicant is requesting additional nursing home beds at that
27 facility.

28 ~~(2) In cases of capital expenditure proposals for the~~
29 ~~provision of new health services to inpatients, the agency~~
30 ~~shall also reference each of the following in its findings of~~
31 ~~fact:~~

1 ~~(a) That less costly, more efficient, or more~~
2 ~~appropriate alternatives to such inpatient services are not~~
3 ~~available and the development of such alternatives has been~~
4 ~~studied and found not practicable.~~

5 ~~(b) That existing inpatient facilities providing~~
6 ~~inpatient services similar to those proposed are being used in~~
7 ~~an appropriate and efficient manner.~~

8 ~~(c) In the case of new construction or replacement~~
9 ~~construction, that alternatives to the construction, for~~
10 ~~example, modernization or sharing arrangements, have been~~
11 ~~considered and have been implemented to the maximum extent~~
12 ~~practicable.~~

13 ~~(d) That patients will experience serious problems in~~
14 ~~obtaining inpatient care of the type proposed, in the absence~~
15 ~~of the proposed new service.~~

16 ~~(e) In the case of a proposal for the addition of beds~~
17 ~~for the provision of skilled nursing or intermediate care~~
18 ~~services, that the addition will be consistent with the plans~~
19 ~~of other agencies of the state responsible for the provision~~
20 ~~and financing of long-term care, including home health~~
21 ~~services.~~

22 Section 7. Section 408.036, Florida Statutes, is
23 amended to read:

24 408.036 Projects subject to review.--

25 (1) APPLICABILITY.--Unless exempt under subsection
26 (3), all health-care-related projects, as described in
27 paragraphs (a)-~~(h)~~~~(*)~~, are subject to review and must file an
28 application for a certificate of need with the agency. The
29 agency is exclusively responsible for determining whether a
30 health-care-related project is subject to review under ss.
31 408.031-408.045.

- 1 (a) The addition of beds by new construction or
2 alteration.
- 3 (b) The new construction or establishment of
4 additional health care facilities, including a replacement
5 health care facility when the proposed project site is not
6 located on the same site as the existing health care facility.
- 7 (c) The conversion from one type of health care
8 facility to another, ~~including the conversion from one level~~
9 ~~of care to another, in a skilled or intermediate nursing~~
10 ~~facility, if the conversion effects a change in the level of~~
11 ~~care of 10 beds or 10 percent of total bed capacity of the~~
12 ~~skilled or intermediate nursing facility within a 2-year~~
13 ~~period. If the nursing facility is certified for both skilled~~
14 ~~and intermediate nursing care, the provisions of this~~
15 ~~paragraph do not apply.~~
- 16 (d) An ~~Any~~ increase in the total licensed bed capacity
17 of a health care facility.
- 18 (e) Subject to the provisions of paragraph (3)~~(f)(i)~~,
19 the establishment of a Medicare-certified home health agency,
20 ~~the establishment of a hospice or hospice inpatient facility,~~
21 ~~or the direct provision of such services by a health care~~
22 ~~facility or health maintenance organization for those other~~
23 ~~than the subscribers of the health maintenance organization,~~
24 ~~except that this paragraph does not apply to the establishment~~
25 ~~of a Medicare-certified home health agency by a facility~~
26 ~~described in paragraph (3)(h).~~
- 27 ~~(f) An acquisition by or on behalf of a health care~~
28 ~~facility or health maintenance organization, by any means,~~
29 ~~which acquisition would have required review if the~~
30 ~~acquisition had been by purchase.~~
- 31

1 ~~(f)~~(g) The establishment of inpatient institutional
2 health services by a health care facility, or a substantial
3 change in such services.

4 ~~(h)~~ ~~The acquisition by any means of an existing health~~
5 ~~care facility by any person, unless the person provides the~~
6 ~~agency with at least 30 days' written notice of the proposed~~
7 ~~acquisition, which notice is to include the services to be~~
8 ~~offered and the bed capacity of the facility, and unless the~~
9 ~~agency does not determine, within 30 days after receipt of~~
10 ~~such notice, that the services to be provided and the bed~~
11 ~~capacity of the facility will be changed.~~

12 ~~(i)~~ ~~An increase in the cost of a project for which a~~
13 ~~certificate of need has been issued when the increase in cost~~
14 ~~exceeds 20 percent of the originally approved cost of the~~
15 ~~project, except that a cost overrun review is not necessary~~
16 ~~when the cost overrun is less than \$20,000.~~

17 ~~(g)~~(j) An increase in the number of beds for acute
18 care, specialty burn units, neonatal intensive care units,
19 comprehensive rehabilitation, mental health services, or
20 hospital-based distinct part skilled nursing units, or at a
21 long-term care hospital ~~psychiatric or rehabilitation beds.~~

22 ~~(h)~~(k) The establishment of tertiary health services.

23 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless
24 exempt pursuant to subsection (3), projects subject to an
25 expedited review shall include, but not be limited to:

26 ~~(a)~~ ~~Cost overruns, as defined in paragraph (1)(i).~~

27 (a)~~(b)~~ Research, education, and training programs.

28 (b)~~(c)~~ Shared services contracts or projects.

29 (c)~~(d)~~ A transfer of a certificate of need.

30 (d)~~(e)~~ A 50-percent increase in nursing home beds for
31 a facility incorporated and operating in this state for at

1 least 60 years on or before July 1, 1988, which has a licensed
2 nursing home facility located on a campus providing a variety
3 of residential settings and supportive services. The
4 increased nursing home beds shall be for the exclusive use of
5 the campus residents. Any application on behalf of an
6 applicant meeting this requirement shall be subject to the
7 base fee of \$5,000 provided in s. 408.038.

8 ~~(f) Combination within one nursing home facility of~~
9 ~~the beds or services authorized by two or more certificates of~~
10 ~~need issued in the same planning subdistrict.~~

11 ~~(g) Division into two or more nursing home facilities~~
12 ~~of beds or services authorized by one certificate of need~~
13 ~~issued in the same planning subdistrict. Such division shall~~
14 ~~not be approved if it would adversely affect the original~~
15 ~~certificate's approved cost.~~

16 ~~(e)(h)~~ Replacement of a health care facility when the
17 proposed project site is located in the same district and
18 within a 1-mile radius of the replaced health care facility.

19 (f) The conversion of mental health services beds
20 licensed under chapter 395 or hospital-based distinct part
21 skilled nursing unit beds to general acute care beds; the
22 conversion of mental health services beds between or among the
23 licensed bed categories defined as beds for mental health
24 services; or the conversion of general acute care beds to beds
25 for mental health services.

26 1. Conversion under this paragraph shall not establish
27 a new licensed bed category at the hospital but shall apply
28 only to categories of beds licensed at that hospital.

29 2. Beds converted under this paragraph must be
30 licensed and operational for at least 12 months before the
31

1 hospital may apply for additional conversion affecting beds of
2 the same type.

3
4 The agency shall develop rules to implement the provisions for
5 expedited review, including time schedule, application content
6 which may be reduced from the full requirements of s.
7 408.037(1), and application processing.

8 (3) EXEMPTIONS.--Upon request, the following projects
9 are subject to ~~supported by such documentation as the agency~~
10 ~~requires, the agency shall grant an exemption from the~~
11 provisions of subsection (1):

12 ~~(a) For the initiation or expansion of obstetric~~
13 ~~services.~~

14 ~~(a)(b) For replacement of any expenditure to replace~~
15 ~~or renovate any part of a licensed health care facility on the~~
16 ~~same site, provided that the number of licensed beds in each~~
17 ~~licensed bed category will not increase and, in the case of a~~
18 ~~replacement facility, the project site is the same as the~~
19 ~~facility being replaced.~~

20 ~~(c) For providing respite care services. An individual~~
21 ~~may be admitted to a respite care program in a hospital~~
22 ~~without regard to inpatient requirements relating to admitting~~
23 ~~order and attendance of a member of a medical staff.~~

24 ~~(b)(d) For hospice services or home health services~~
25 provided by a rural hospital, as defined in s. 395.602, or for
26 swing beds in such rural hospital in a number that does not
27 exceed one-half of its licensed beds.

28 ~~(c)(e) For the conversion of licensed acute care~~
29 hospital beds to Medicare and Medicaid certified skilled
30 nursing beds in a rural hospital as defined in s. 395.602, so
31 long as the conversion of the beds does not involve the

1 construction of new facilities. The total number of skilled
2 nursing beds, including swing beds, may not exceed one-half of
3 the total number of licensed beds in the rural hospital as of
4 July 1, 1993. Certified skilled nursing beds designated under
5 this paragraph, excluding swing beds, shall be included in the
6 community nursing home bed inventory. A rural hospital which
7 subsequently decertifies any acute care beds exempted under
8 this paragraph shall notify the agency of the decertification,
9 and the agency shall adjust the community nursing home bed
10 inventory accordingly.

11 (d)~~(f)~~ For the addition of nursing home beds at a
12 skilled nursing facility that is part of a retirement
13 community that provides a variety of residential settings and
14 supportive services and that has been incorporated and
15 operated in this state for at least 65 years on or before July
16 1, 1994. All nursing home beds must not be available to the
17 public but must be for the exclusive use of the community
18 residents.

19 (e)~~(g)~~ For an increase in the bed capacity of a
20 nursing facility licensed for at least 50 beds as of January
21 1, 1994, under part II of chapter 400 which is not part of a
22 continuing care facility if, after the increase, the total
23 licensed bed capacity of that facility is not more than 60
24 beds and if the facility has been continuously licensed since
25 1950 and has received a superior rating on each of its two
26 most recent licensure surveys.

27 ~~(h) For the establishment of a Medicare-certified home~~
28 ~~health agency by a facility certified under chapter 651; a~~
29 ~~retirement community, as defined in s. 400.404(2)(g); or a~~
30 ~~residential facility that serves only retired military~~
31 ~~personnel, their dependents, and the surviving dependents of~~

1 ~~deceased military personnel. Medicare-reimbursed home health~~
2 ~~services provided through such agency shall be offered~~
3 ~~exclusively to residents of the facility or retirement~~
4 ~~community or to residents of facilities or retirement~~
5 ~~communities owned, operated, or managed by the same corporate~~
6 ~~entity. Each visit made to deliver Medicare-reimbursable home~~
7 ~~health services to a home health patient who, at the time of~~
8 ~~service, is not a resident of the facility or retirement~~
9 ~~community shall be a deceptive and unfair trade practice and~~
10 ~~constitutes a violation of ss. 501.201-501.213.~~

11 (f)(i) For the establishment of a hospice or hospice
12 inpatient facility Medicare-certified home health agency. This
13 paragraph shall take effect July 1, 2003, with conforming
14 changes elsewhere in ss. 408.031-408.045 ~~90 days after the~~
15 ~~adjournment sine die of the next regular session of the~~
16 ~~Legislature occurring after the legislative session in which~~
17 ~~the Legislature receives a report from the Director of Health~~
18 ~~Care Administration certifying that the federal Health Care~~
19 ~~Financing Administration has implemented a per-episode~~
20 ~~prospective pay system for Medicare-certified home health~~
21 ~~agencies.~~

22 (g)(j) For an inmate health care facility built by or
23 for the exclusive use of the Department of Corrections as
24 provided in chapter 945. This exemption expires when such
25 facility is converted to other uses.

26 ~~(k) For an expenditure by or on behalf of a health~~
27 ~~care facility to provide a health service exclusively on an~~
28 ~~outpatient basis.~~

29 (h)(l) For the termination of an inpatient ~~a~~ health
30 care service, upon 30 days' written notice to the agency.

31

- 1 (i)~~(m)~~ For the delicensure of beds, upon 30 days'
2 written notice to the agency. A request for exemption ~~An~~
3 ~~application~~ submitted under this paragraph must identify the
4 number, the category of beds ~~classification~~, and the name of
5 the facility in which the beds to be delicensed are located.
- 6 (j)~~(n)~~ For the provision of adult inpatient diagnostic
7 cardiac catheterization services in a hospital.
- 8 1. In addition to any other documentation otherwise
9 required by the agency, a request for an exemption submitted
10 under this paragraph must comply with the following criteria:
- 11 a. The applicant must certify it will not provide
12 therapeutic cardiac catheterization pursuant to the grant of
13 the exemption.
- 14 b. The applicant must certify it will meet and
15 continuously maintain the minimum licensure requirements
16 adopted by the agency governing such programs pursuant to
17 subparagraph 2.
- 18 c. The applicant must certify it will provide a
19 minimum of 2 percent of its services to charity and Medicaid
20 patients.
- 21 2. The agency shall adopt licensure requirements by
22 rule which govern the operation of adult inpatient diagnostic
23 cardiac catheterization programs established pursuant to the
24 exemption provided in this paragraph. The rules shall ensure
25 that such programs:
- 26 a. Perform only adult inpatient diagnostic cardiac
27 catheterization services authorized by the exemption and will
28 not provide therapeutic cardiac catheterization or any other
29 services not authorized by the exemption.
- 30 b. Maintain sufficient appropriate equipment and
31 health personnel to ensure quality and safety.

1 c. Maintain appropriate times of operation and
2 protocols to ensure availability and appropriate referrals in
3 the event of emergencies.

4 d. Maintain appropriate program volumes to ensure
5 quality and safety.

6 e. Provide a minimum of 2 percent of its services to
7 charity and Medicaid patients each year.

8 3.a. The exemption provided by this paragraph shall
9 not apply unless the agency determines that the program is in
10 compliance with the requirements of subparagraph 1. and that
11 the program will, after beginning operation, continuously
12 comply with the rules adopted pursuant to subparagraph 2. The
13 agency shall monitor such programs to ensure compliance with
14 the requirements of subparagraph 2.

15 b.(I) The exemption for a program shall expire
16 immediately when the program fails to comply with the rules
17 adopted pursuant to sub-subparagraphs 2.a., b., and c.

18 (II) Beginning 18 months after a program first begins
19 treating patients, the exemption for a program shall expire
20 when the program fails to comply with the rules adopted
21 pursuant to sub-subparagraphs 2.d. and e.

22 (III) If the exemption for a program expires pursuant
23 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
24 agency shall not grant an exemption pursuant to this paragraph
25 for an adult inpatient diagnostic cardiac catheterization
26 program located at the same hospital until 2 years following
27 the date of the determination by the agency that the program
28 failed to comply with the rules adopted pursuant to
29 subparagraph 2.

30 ~~4. The agency shall not grant any exemption under this~~
31 ~~paragraph until the adoption of the rules required under this~~

1 ~~paragraph, or until March 1, 1998, whichever comes first.~~
2 ~~However, if final rules have not been adopted by March 1,~~
3 ~~1998, the proposed rules governing the exemptions shall be~~
4 ~~used by the agency to grant exemptions under the provisions of~~
5 ~~this paragraph until final rules become effective.~~

6 (k)~~(o)~~ For any expenditure to provide mobile surgical
7 facilities and related health care services provided under
8 contract with the Department of Corrections or a private
9 correctional facility operating pursuant to chapter 957.

10 (l)~~(p)~~ For state veterans' nursing homes operated by
11 or on behalf of the Florida Department of Veterans' Affairs in
12 accordance with part II of chapter 296 for which at least 50
13 percent of the construction cost is federally funded and for
14 which the Federal Government pays a per diem rate not to
15 exceed one-half of the cost of the veterans' care in such
16 state nursing homes. These beds shall not be included in the
17 nursing home bed inventory.

18 (m) For combination within one nursing home facility
19 of the beds or services authorized by two or more certificates
20 of need issued in the same planning subdistrict. An exemption
21 granted under this paragraph shall extend the validity period
22 of the certificates of need to be consolidated by the length
23 of the period beginning upon submission of the exemption
24 request and ending with issuance of the exemption. The
25 longest validity period among the certificates shall be
26 applicable to each of the combined certificates.

27 (n) For division into two or more nursing home
28 facilities of beds or services authorized by one certificate
29 of need issued in the same planning subdistrict. An exemption
30 granted under this paragraph shall extend the validity period
31 of the certificate of need to be divided by the length of the

1 period beginning upon submission of the exemption request and
2 ending with issuance of the exemption.

3 (o) For the addition of hospital beds licensed under
4 chapter 395 for acute care, mental health services, or a
5 hospital-based distinct part skilled nursing unit in a number
6 that may not exceed 10 total beds or 10 percent of the
7 licensed capacity of the bed category being expanded,
8 whichever is greater. Beds for specialty burn units, neonatal
9 intensive care units, or comprehensive rehabilitation, or at a
10 long-term care hospital, may not be increased under this
11 paragraph.

12 1. In addition to any other documentation otherwise
13 required by the agency, a request for exemption submitted
14 under this paragraph must:

15 a. Certify that the prior 12-month average occupancy
16 rate for the category of licensed beds being expanded at the
17 facility meets or exceeds 80 percent or, for a hospital-based
18 distinct part skilled nursing unit, the prior 12-month average
19 occupancy rate meets or exceeds 96 percent.

20 b. Certify that any beds of the same type authorized
21 for the facility under this paragraph before the date of the
22 current request for an exemption have been licensed and
23 operational for at least 12 months.

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

27 3. The agency shall count beds authorized under this
28 paragraph as approved beds in the published inventory of
29 hospital beds until the beds are licensed.

30 (p) For the addition of nursing home beds licensed
31 under chapter 400 in a number not exceeding 10 total beds or

1 10 percent of the number of beds licensed in the facility
2 being expanded, whichever is greater.

3 1. In addition to any other documentation required by
4 the agency, a request for exemption submitted under this
5 paragraph must:

6 a. Certify that the facility has been designated as a
7 Gold Seal nursing home under s. 400.235.

8 b. Certify that the prior 12-month average occupancy
9 rate for the nursing home beds at the facility meets or
10 exceeds 96 percent.

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

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

18 3. The agency shall count beds authorized under this
19 paragraph as approved beds in the published inventory of
20 nursing home beds until the beds are licensed.

21 (4) A request for exemption under ~~this~~ subsection(3)
22 may be made at any time and is not subject to the batching
23 requirements of this section. The request shall be supported
24 by such documentation as the agency requires by rule. The
25 agency shall assess a fee of \$250 for each request for
26 exemption submitted under subsection (3).

27 Section 8. Paragraph (a) of subsection (1) of section
28 408.037, Florida Statutes, is amended to read:
29 408.037 Application content.--
30 (1) An application for a certificate of need must
31 contain:

1 (a) A detailed description of the proposed project and
2 statement of its purpose and need in relation to the district
3 ~~local~~ health plan ~~and the state health plan~~.

4 Section 9. Section 408.038, Florida Statutes, is
5 amended to read:

6 408.038 Fees.--The agency ~~department~~ shall assess fees
7 on certificate-of-need applications. Such fees shall be for
8 the purpose of funding the functions of the local health
9 councils and the activities of the agency ~~department~~ and shall
10 be allocated as provided in s. 408.033. The fee shall be
11 determined as follows:

12 (1) A minimum base fee of \$5,000.

13 (2) In addition to the base fee of \$5,000, 0.015 of
14 each dollar of proposed expenditure, except that a fee may not
15 exceed \$22,000.

16 Section 10. Subsections (3) and (4), paragraph (c) of
17 subsection (5), and paragraphs (a) and (b) of subsection (6)
18 of section 408.039, Florida Statutes, are amended to read:

19 408.039 Review process.--The review process for
20 certificates of need shall be as follows:

21 (3) APPLICATION PROCESSING.--

22 (a) An applicant shall file an application with the
23 agency ~~department~~, and shall furnish a copy of the application
24 to the local health council and the agency ~~department~~. Within
25 15 days after the applicable application filing deadline
26 established by agency ~~department~~ rule, the staff of the agency
27 ~~department~~ shall determine if the application is complete. If
28 the application is incomplete, the staff shall request
29 specific information from the applicant necessary for the
30 application to be complete; however, the staff may make only
31 one such request. If the requested information is not filed

1 with the agency ~~department~~ within 21 days of the receipt of
2 the staff's request, the application shall be deemed
3 incomplete and deemed withdrawn from consideration.

4 (b) Upon the request of any applicant or substantially
5 affected person within 14 days after notice that an
6 application has been filed, a public hearing may be held at
7 the agency's ~~department's~~ discretion if the agency ~~department~~
8 determines that a proposed project involves issues of great
9 local public interest. The public hearing shall allow
10 applicants and other interested parties reasonable time to
11 present their positions and to present rebuttal information. A
12 recorded verbatim record of the hearing shall be maintained.
13 The public hearing shall be held at the local level within 21
14 days after the application is deemed complete.

15 (4) STAFF RECOMMENDATIONS.--

16 (a) The agency's ~~department's~~ review of and final
17 agency action on applications shall be in accordance with the
18 district health plan, and statutory criteria, and the
19 implementing administrative rules. In the application review
20 process, the agency ~~department~~ shall give a preference, as
21 defined by rule of the agency ~~department~~, to an applicant
22 which proposes to develop a nursing home in a nursing home
23 geographically underserved area.

24 (b) Within 60 days after all the applications in a
25 review cycle are determined to be complete, the agency
26 ~~department~~ shall issue its State Agency Action Report and
27 Notice of Intent to grant a certificate of need for the
28 project in its entirety, to grant a certificate of need for
29 identifiable portions of the project, or to deny a certificate
30 of need. The State Agency Action Report shall set forth in
31 writing its findings of fact and determinations upon which its

1 decision is based. If a finding of fact or determination by
2 the ~~agency department~~ is counter to the district health plan
3 of the local health council, the ~~agency department~~ shall
4 provide in writing its reason for its findings, item by item,
5 to the local health council. If the ~~agency department~~ intends
6 to grant a certificate of need, the State Agency Action Report
7 or the Notice of Intent shall also include any conditions
8 which the ~~agency department~~ intends to attach to the
9 certificate of need. The ~~agency department~~ shall designate by
10 rule a senior staff person, other than the person who issues
11 the final order, to issue State Agency Action Reports and
12 Notices of Intent.

13 (c) The ~~agency department~~ shall publish its proposed
14 decision set forth in the Notice of Intent in the Florida
15 Administrative Weekly within 14 days after the Notice of
16 Intent is issued.

17 (d) If no administrative hearing is requested pursuant
18 to subsection (5), the State Agency Action Report and the
19 Notice of Intent shall become the final order of the agency
20 ~~department~~. The ~~agency department~~ shall provide a copy of the
21 final order to the appropriate local health council.

22 (5) ADMINISTRATIVE HEARINGS.--

23 (c) In administrative proceedings challenging the
24 issuance or denial of a certificate of need, only applicants
25 considered by the agency in the same batching cycle are
26 entitled to a comparative hearing on their applications.
27 Existing health care facilities may initiate or intervene in
28 an administrative hearing upon a showing that an established
29 program will be substantially affected by the issuance of any
30 certificate of need, whether reviewed under s. 408.036(1) or
31

1 (2), to a competing proposed facility or program within the
2 same district.

3 (6) JUDICIAL REVIEW.--

4 (a) A party to an administrative hearing for an
5 application for a certificate of need has the right, within
6 not more than 30 days after the date of the final order, to
7 seek judicial review in the District Court of Appeal pursuant
8 to s. 120.68. The agency ~~department~~ shall be a party in any
9 such proceeding.

10 (b) In such judicial review, the court shall affirm
11 the final order of the agency ~~department~~, unless the decision
12 is arbitrary, capricious, or not in compliance with ss.
13 408.031-408.045.

14 Section 11. Subsections (1) and (2) of section
15 408.040, Florida Statutes, are amended to read:

16 408.040 Conditions and monitoring.--

17 (1)(a) The agency may issue a certificate of need
18 predicated upon statements of intent expressed by an applicant
19 in the application for a certificate of need. Any conditions
20 imposed on a certificate of need based on such statements of
21 intent shall be stated on the face of the certificate of need.

22 ~~1. Any certificate of need issued for construction of~~
23 ~~a new hospital or for the addition of beds to an existing~~
24 ~~hospital shall include a statement of the number of beds~~
25 ~~approved by category of service, including rehabilitation or~~
26 ~~psychiatric service, for which the agency has adopted by rule~~
27 ~~a specialty-bed-need methodology. All beds that are approved,~~
28 ~~but are not covered by any specialty-bed-need methodology,~~
29 ~~shall be designated as general.~~

30 (b)2. The agency may consider, in addition to the
31 other criteria specified in s. 408.035, a statement of intent

1 by the applicant that a specified ~~to designate~~ a percentage of
2 the annual patient days at beds of the facility will be
3 utilized ~~for use~~ by patients eligible for care under Title XIX
4 of the Social Security Act. Any certificate of need issued to
5 a nursing home in reliance upon an applicant's statements that
6 ~~to provide~~ a specified percentage number of annual patient
7 days will be utilized ~~beds for use~~ by residents eligible for
8 care under Title XIX of the Social Security Act must include a
9 statement that such certification is a condition of issuance
10 of the certificate of need. The certificate-of-need program
11 shall notify the Medicaid program office and the Department of
12 Elderly Affairs when it imposes conditions as authorized in
13 this paragraph ~~subparagraph~~ in an area in which a community
14 diversion pilot project is implemented.

15 (c)~~(b)~~ A certificateholder may apply to the agency for
16 a modification of conditions imposed under paragraph (a) or
17 paragraph (b). If the holder of a certificate of need
18 demonstrates good cause why the certificate should be
19 modified, the agency shall reissue the certificate of need
20 with such modifications as may be appropriate. The agency
21 shall by rule define the factors constituting good cause for
22 modification.

23 (d)~~(c)~~ If the holder of a certificate of need fails to
24 comply with a condition upon which the issuance of the
25 certificate was predicated, the agency may assess an
26 administrative fine against the certificateholder in an amount
27 not to exceed \$1,000 per failure per day. In assessing the
28 penalty, the agency shall take into account as mitigation the
29 relative lack of severity of a particular failure. Proceeds
30 of such penalties shall be deposited in the Public Medical
31 Assistance Trust Fund.

1 (2)(a) Unless the applicant has commenced
2 construction, if the project provides for construction, unless
3 the applicant has incurred an enforceable capital expenditure
4 commitment for a project, if the project does not provide for
5 construction, or unless subject to paragraph (b), a
6 certificate of need shall terminate 18 months after the date
7 of issuance, ~~except in the case of a multifacility project, as~~
8 ~~defined in s. 408.032, where the certificate of need shall~~
9 ~~terminate 2 years after the date of issuance.~~ The agency shall
10 monitor the progress of the holder of the certificate of need
11 in meeting the timetable for project development specified in
12 the application with the assistance of the local health
13 council as specified in s. 408.033(1)(b)5., and may revoke the
14 certificate of need, if the holder of the certificate is not
15 meeting such timetable and is not making a good faith effort,
16 as defined by rule, to meet it.

17 (b) A certificate of need issued to an applicant
18 holding a provisional certificate of authority under chapter
19 651 shall terminate 1 year after the applicant receives a
20 valid certificate of authority from the Department of
21 Insurance.

22 (c) The certificate-of-need validity period for a
23 project shall be extended by the agency, to the extent that
24 the applicant demonstrates to the satisfaction of the agency
25 that good faith commencement of the project is being delayed
26 by litigation or by governmental action or inaction with
27 respect to regulations or permitting precluding commencement
28 of the project.

29 ~~(d) If an application is filed to consolidate two or~~
30 ~~more certificates as authorized by s. 408.036(2)(f) or to~~
31 ~~divide a certificate of need into two or more facilities as~~

1 ~~authorized by s. 408.036(2)(g), the validity period of the~~
2 ~~certificate or certificates of need to be consolidated or~~
3 ~~divided shall be extended for the period beginning upon~~
4 ~~submission of the application and ending when final agency~~
5 ~~action and any appeal from such action has been concluded.~~
6 ~~However, no such suspension shall be effected if the~~
7 ~~application is withdrawn by the applicant.~~

8 Section 12. Section 408.044, Florida Statutes, is
9 amended to read:

10 408.044 Injunction.--Notwithstanding the existence or
11 pursuit of any other remedy, the agency department may
12 maintain an action in the name of the state for injunction or
13 other process against any person to restrain or prevent the
14 pursuit of a project subject to review under ss.
15 408.031-408.045, in the absence of a valid certificate of
16 need.

17 Section 13. Section 408.045, Florida Statutes, is
18 amended to read:

19 408.045 Certificate of need; competitive sealed
20 proposals.--

21 (1) The application, review, and issuance procedures
22 for a certificate of need for an intermediate care facility
23 for the developmentally disabled may be made by the agency
24 ~~department~~ by competitive sealed proposals.

25 (2) The agency department shall make a decision
26 regarding the issuance of the certificate of need in
27 accordance with the provisions of s. 287.057(15), rules
28 adopted by the agency department relating to intermediate care
29 facilities for the developmentally disabled, and the criteria
30 in s. 408.035, as further defined by rule.

31

1 (3) Notification of the decision shall be issued to
2 all applicants not later than 28 calendar days after the date
3 responses to a request for proposal are due.

4 (4) The procedures provided for under this section are
5 exempt from the batching cycle requirements and the public
6 hearing requirement of s. 408.039.

7 (5) The agency ~~department~~ may use the competitive
8 sealed proposal procedure for determining a certificate of
9 need for other types of health care facilities and services if
10 the agency ~~department~~ identifies an unmet health care need and
11 when funding in whole or in part for such health care
12 facilities or services is authorized by the Legislature.

13 Section 14. (1)(a) There is created a
14 certificate-of-need workgroup within the Agency for Health
15 Care Administration.

16 (b) Workgroup participants shall be responsible for
17 only the expenses that they generate individually through
18 workgroup participation. The agency shall be responsible for
19 expenses incidental to the production of any required data or
20 reports.

21 (2) The workgroup shall consist of not more than 30
22 members, appointed by the Director of Health Care
23 Administration based on their interest in the
24 certificate-of-need program authorized by ss. 408.031-408.045,
25 Florida Statutes. The membership shall include, but not be
26 limited to, representatives from health care provider
27 organizations, health care facilities, the Senate, the House
28 of Representatives, and individual health care practitioners.

29 (3) The workgroup shall advise the agency about issues
30 pertaining to the certificate-of-need program, including the
31 impact of trends in health care delivery and financing. The

1 agency shall seek workgroup advice on issues relating to
2 implementation of the program.

3 (4) The workgroup shall meet at least annually, at
4 times determined by the agency. The workgroup shall be
5 abolished effective July 1, 2003.

6 Section 15. Effective upon becoming a law, paragraph
7 (d) of subsection (2) and subsection (6) of section 401.25,
8 Florida Statutes, are amended to read:

9 401.25 Licensure as a basic life support or an
10 advanced life support service.--

11 (2) The department shall issue a license for operation
12 to any applicant who complies with the following requirements:

13 (d) The applicant has obtained a certificate of public
14 convenience and necessity from each county in which the
15 applicant will operate or, if the applicant will operate in a
16 municipality with a population greater than 30,000, from that
17 municipality. In issuing the certificate of public convenience
18 and necessity, the governing body of each county shall
19 consider the recommendations of municipalities within its
20 jurisdiction, and the governing body of a municipality shall
21 consider the recommendations of appropriate agencies under its
22 jurisdiction.

23 (6) The governing body of each county, and each
24 municipality with a population greater than 30,000, may adopt
25 ordinances that provide reasonable standards for certificates
26 of public convenience and necessity for basic or advanced life
27 support services and air ambulance services. In developing
28 standards for certificates of public convenience and
29 necessity, the governing body of the ~~each~~ county or
30 municipality must consider state guidelines and
31 recommendations of the local or regional trauma agency created

1 under chapter 395, the governing body of a county must
2 consider ~~and~~ the recommendations of municipalities within its
3 jurisdiction, and the governing body of a municipality must
4 consider the recommendations of appropriate agencies under its
5 jurisdiction.

6 Section 16. Subsection (3) of section 400.464, Florida
7 Statutes, is repealed.

8 Section 17. Except as otherwise provided herein, this
9 act shall take effect July 1, 2000.

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