

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.; revising definitions; amending
10 s. 408.033, F.S.; deleting references to the
11 state health plan; amending s. 408.034, F.S.;
12 deleting a reference to licensing of home
13 health agencies by the Agency for Health Care
14 Administration; amending s. 408.035, F.S.;
15 deleting obsolete certificate-of-need review
16 criteria and revising other criteria; amending
17 s. 408.036, F.S.; revising provisions relating
18 to projects subject to review; deleting
19 references to Medicare-certified home health
20 agencies; deleting the review of certain
21 acquisitions; specifying the types of bed
22 increases subject to review; deleting cost
23 overruns from review; deleting review of
24 combinations or division of nursing home
25 certificates of need; providing for expedited
26 review of certain conversions of licensed
27 hospital beds; deleting the requirement for an
28 exemption for initiation or expansion of
29 obstetric services, provision of respite care
30 services, establishment of a Medicare-certified
31 home health agency, or provision of a health

1 service exclusively on an outpatient basis;
2 providing exemption for combinations or
3 divisions of nursing home certificates of need
4 and additions of certain hospital beds and
5 nursing home beds within specified limitations;
6 providing an additional exemption for
7 construction of certain skilled nursing
8 facilities; requiring a fee for each request
9 for exemption; amending s. 408.037, F.S.;
10 deleting reference to the state health plan;
11 amending ss. 408.038, 408.039, 408.044, and
12 408.045, F.S.; replacing "department" with
13 "agency"; clarifying the opportunity to
14 challenge an intended award of a certificate of
15 need; amending s. 408.040, F.S.; deleting an
16 obsolete reference; revising the format of
17 conditions related to Medicaid; creating a
18 certificate-of-need workgroup within the Agency
19 for Health Care Administration; providing for
20 expenses; providing membership, duties, and
21 meetings; providing for termination; amending
22 s. 651.118, F.S.; excluding a specified number
23 of beds from a time limit imposed on extension
24 of authorization for continuing care
25 residential community providers to use
26 sheltered beds for nonresidents; requiring a
27 facility to report such use after the
28 expiration of the extension; creating the
29 Public Cord Blood Tissue Bank as a statewide
30 consortium; providing purposes, membership, and
31 duties of the consortium; providing duties of

1 the Agency for Health Care Administration;
2 providing requirements of specified
3 state-funded health care programs; providing an
4 exception from provisions of the act; requiring
5 specified written disclosure by certain health
6 care facilities and providers; specifying that
7 donation under the act is voluntary;
8 authorizing the consortium to charge fees;
9 repealing s. 400.464(3), F.S., relating to home
10 health agency licenses provided to
11 certificate-of-need exempt entities; reducing
12 allocation of positions and funds; providing
13 effective dates.

14

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

16

17 Section 1. Subsections (2) and (11) of section
18 400.471, Florida Statutes, are amended to read:

19 400.471 Application for license; fee; provisional
20 license; temporary permit.--

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

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

27 (b) The number and discipline of professional staff to
28 be employed; and

29 (c) Proof of financial ability to operate.

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1 ~~if the applicant has applied for a certificate of need under~~
2 ~~ss. 408.0331-408.045 within the preceding 12 months, the~~
3 ~~applicant may submit the proof required during the~~
4 ~~certificate-of-need process along with an attestation that~~
5 ~~there has been no substantial change in the facts and~~
6 ~~circumstances underlying the original submission.~~

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

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

14 400.606 License; application; renewal; conditional
15 license or permit; certificate of need.--

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

22 (6) A freestanding hospice facility that is primarily
23 engaged in providing inpatient and related services and that
24 is not otherwise licensed as a health care facility shall ~~be~~
25 ~~required to~~ obtain a certificate of need if required under the
26 provisions of ss. 408.031-408.045. However, a freestanding
27 hospice facility with six or fewer beds shall not be required
28 to comply with institutional standards such as, but not
29 limited to, standards requiring sprinkler systems, emergency
30 electrical systems, or special lavatory devices.

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1 Section 3. Section 408.032, Florida Statutes, is
2 amended to read:

3 408.032 Definitions.--As used in ss. 408.031-408.045,
4 the term:

5 (1) "Agency" means the Agency for Health Care
6 Administration.

7 (2) "Capital expenditure" means an expenditure,
8 including an expenditure for a construction project undertaken
9 by a health care facility as its own contractor, which, under
10 generally accepted accounting principles, is not properly
11 chargeable as an expense of operation and maintenance, which
12 is made to change the bed capacity of the facility, or
13 substantially change the services or service area of the
14 health care facility, health service provider, or hospice, and
15 which includes the cost of the studies, surveys, designs,
16 plans, working drawings, specifications, initial financing
17 costs, and other activities essential to acquisition,
18 improvement, expansion, or replacement of the plant and
19 equipment.

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

24 (4) "Commenced construction" means initiation of and
25 continuous activities beyond site preparation associated with
26 erecting or modifying a health care facility, including
27 procurement of a building permit applying the use of
28 agency-approved construction documents, proof of an executed
29 owner/contractor agreement or an irrevocable or binding forced
30 account, and actual undertaking of foundation forming with
31 steel installation and concrete placing.

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

3 District 1.--Escambia, Santa Rosa, Okaloosa, and Walton
4 Counties.

5 District 2.--Holmes, Washington, Bay, Jackson,
6 Franklin, Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla,
7 Jefferson, Madison, and Taylor Counties.

8 District 3.--Hamilton, Suwannee, Lafayette, Dixie,
9 Columbia, Gilchrist, Levy, Union, Bradford, Putnam, Alachua,
10 Marion, Citrus, Hernando, Sumter, and Lake Counties.

11 District 4.--Baker, Nassau, Duval, Clay, St. Johns,
12 Flagler, and Volusia Counties.

13 District 5.--Pasco and Pinellas Counties.

14 District 6.--Hillsborough, Manatee, Polk, Hardee, and
15 Highlands Counties.

16 District 7.--Seminole, Orange, Osceola, and Brevard
17 Counties.

18 District 8.--Sarasota, DeSoto, Charlotte, Lee, Glades,
19 Hendry, and Collier Counties.

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

22 District 10.--Broward County.

23 District 11.--Dade and Monroe Counties.

24 (6) "Exemption" means the process by which a proposal
25 that would otherwise require a certificate of need may proceed
26 without a certificate of need.

27 ~~(7)~~(6) "Expedited review" means the process by which
28 certain types of applications are not subject to the review
29 cycle requirements contained in s. 408.039(1), and the letter
30 of intent requirements contained in s. 408.039(2).

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1 (8)~~(7)~~ "Health care facility" means a hospital,
2 long-term care hospital, skilled nursing facility, hospice,
3 ~~intermediate care facility,~~ or intermediate care facility for
4 the developmentally disabled. A facility relying solely on
5 spiritual means through prayer for healing is not included as
6 a health care facility.

7 (9)~~(8)~~ "Health services" means diagnostic, curative,
8 or rehabilitative services and includes ~~alcohol treatment,~~
9 ~~drug abuse treatment,~~ and mental health services. Obstetric
10 services are not health services for purposes of ss.
11 408.031-408.045.

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

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

17 (11) "Hospital" means a health care facility licensed
18 under chapter 395.

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

24 ~~(13) "Intermediate care facility" means an institution~~
25 ~~which provides, on a regular basis, health-related care and~~
26 ~~services to individuals who do not require the degree of care~~
27 ~~and treatment which a hospital or skilled nursing facility is~~
28 ~~designed to provide, but who, because of their mental or~~
29 ~~physical condition, require health-related care and services~~
30 ~~above the level of room and board.~~

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1 ~~(12)(14)~~ "Intermediate care facility for the
2 developmentally disabled" means a residential facility
3 licensed under chapter 393 and certified by the Federal
4 Government pursuant to the Social Security Act as a provider
5 of Medicaid services to persons who are mentally retarded or
6 who have a related condition.

7 ~~(13)(15)~~ "Long-term care hospital" means a hospital
8 licensed under chapter 395 which meets the requirements of 42
9 C.F.R. s. 412.23(e) and seeks exclusion from the Medicare
10 prospective payment system for inpatient hospital services.

11 (14) "Mental health services" means inpatient services
12 provided in a hospital licensed under chapter 395 and listed
13 on the hospital license as psychiatric beds for adults;
14 psychiatric beds for children and adolescents; intensive
15 residential treatment beds for children and adolescents;
16 substance abuse beds for adults; or substance abuse beds for
17 children and adolescents.

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

22 ~~(a) The aggregate total number of independent living~~
23 ~~units and assisted living facility units exceeds the number of~~
24 ~~nursing home beds.~~

25 ~~(b) The developer of the project has expended the sum~~
26 ~~of \$500,000 or more on the certificated and noncertificated~~
27 ~~elements of the project combined, exclusive of land costs, by~~
28 ~~the conclusion of the 18th month of the life of the~~
29 ~~certificate of need.~~

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

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

7 (15)~~(17)~~ "Nursing home geographically underserved
8 area" means:

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

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

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

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

22 (16)~~(19)~~ "Skilled nursing facility" means an
23 institution, or a distinct part of an institution, which is
24 primarily engaged in providing, to inpatients, skilled nursing
25 care and related services for patients who require medical or
26 nursing care, or rehabilitation services for the
27 rehabilitation of injured, disabled, or sick persons.

28 (17)~~(20)~~ "Tertiary health service" means a health
29 service which, due to its high level of intensity, complexity,
30 specialized or limited applicability, and cost, should be
31 limited to, and concentrated in, a limited number of hospitals

1 to ensure the quality, availability, and cost-effectiveness of
2 such service. Examples of such service include, but are not
3 limited to, organ transplantation, specialty burn units,
4 neonatal intensive care units, comprehensive rehabilitation,
5 and medical or surgical services which are experimental or
6 developmental in nature to the extent that the provision of
7 such services is not yet contemplated within the commonly
8 accepted course of diagnosis or treatment for the condition
9 addressed by a given service. The agency shall establish by
10 rule a list of all tertiary health services.

11 (18)~~(21)~~ "Regional area" means any of those regional
12 health planning areas established by the agency to which local
13 and district health planning funds are directed to local
14 health councils through the General Appropriations Act.

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

18 408.033 Local and state health planning.--

19 (1) LOCAL HEALTH COUNCILS.--

20 (b) Each local health council may:

21 1. Develop a district or regional area health plan
22 that permits ~~is consistent with the objectives and strategies~~
23 ~~in the state health plan, but that shall permit~~ each local
24 health council to develop strategies and set priorities for
25 implementation based on its unique local health needs. The
26 district or regional area health plan must contain preferences
27 for the development of health services and facilities, which
28 may be considered by the agency in its review of
29 certificate-of-need applications. The district health plan
30 shall be submitted to the agency and updated periodically. The
31 district health plans shall use a uniform format and be

1 submitted to the agency according to a schedule developed by
2 the agency in conjunction with the local health councils. The
3 schedule must provide for ~~coordination between the development~~
4 ~~of the state health plan and the district health plans and for~~
5 the development of district health plans by major sections
6 over a multiyear period. The elements of a district plan
7 which are necessary to the review of certificate-of-need
8 applications for proposed projects within the district may be
9 adopted by the agency as a part of its rules.

10 2. Advise the agency on health care issues and
11 resource allocations.

12 3. Promote public awareness of community health needs,
13 emphasizing health promotion and cost-effective health service
14 selection.

15 4. Collect data and conduct analyses and studies
16 related to health care needs of the district, including the
17 needs of medically indigent persons, and assist the agency and
18 other state agencies in carrying out data collection
19 activities that relate to the functions in this subsection.

20 5. Monitor the onsite construction progress, if any,
21 of certificate-of-need approved projects and report council
22 findings to the agency on forms provided by the agency.

23 6. Advise and assist any regional planning councils
24 within each district that have elected to address health
25 issues in their strategic regional policy plans with the
26 development of the health element of the plans to address the
27 health goals and policies in the State Comprehensive Plan.

28 7. Advise and assist local governments within each
29 district on the development of an optional health plan element
30 of the comprehensive plan provided in chapter 163, to assure
31 compatibility with the health goals and policies in the State

1 Comprehensive Plan and district health plan. To facilitate
2 the implementation of this section, the local health council
3 shall annually provide the local governments in its service
4 area, upon request, with:

5 a. A copy and appropriate updates of the district
6 health plan;

7 b. A report of hospital and nursing home utilization
8 statistics for facilities within the local government
9 jurisdiction; and

10 c. Applicable agency rules and calculated need
11 methodologies for health facilities and services regulated
12 under s. 408.034 for the district served by the local health
13 council.

14 8. Monitor and evaluate the adequacy, appropriateness,
15 and effectiveness, within the district, of local, state,
16 federal, and private funds distributed to meet the needs of
17 the medically indigent and other underserved population
18 groups.

19 9. In conjunction with the Agency for Health Care
20 Administration, plan for services at the local level for
21 persons infected with the human immunodeficiency virus.

22 10. Provide technical assistance to encourage and
23 support activities by providers, purchasers, consumers, and
24 local, regional, and state agencies in meeting the health care
25 goals, objectives, and policies adopted by the local health
26 council.

27 11. Provide the agency with data required by rule for
28 the review of certificate-of-need applications and the
29 projection of need for health services and facilities in the
30 district.

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

1 (a) The agency, in conjunction with the local health
2 councils, is responsible for the coordinated planning of ~~all~~
3 health care services in the state ~~and for the preparation of~~
4 ~~the state health plan.~~

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

7 408.034 Duties and responsibilities of agency;
8 rules.--

9 (2) In the exercise of its authority to issue licenses
10 to health care facilities and health service providers, as
11 provided under chapters 393, 395, and parts II, ~~IV,~~ and VI of
12 chapter 400, the agency may not issue a license to any health
13 care facility, health service provider, hospice, or part of a
14 health care facility which fails to receive a certificate of
15 need or an exemption for the licensed facility or service.

16 Section 6. Section 408.035, Florida Statutes, is
17 amended to read:

18 408.035 Review criteria.--

19 ~~(1)~~ The agency shall determine the reviewability of
20 applications and shall review applications for
21 certificate-of-need determinations for health care facilities
22 and health services in context with the following criteria:

23 (1)~~(a)~~ The need for the health care facilities and
24 health services being proposed in relation to the applicable
25 district health plan, ~~except in emergency circumstances that~~
26 ~~pose a threat to the public health.~~

27 (2)~~(b)~~ The availability, quality of care, ~~efficiency,~~
28 ~~appropriateness,~~ accessibility, and extent of utilization of,
29 ~~and adequacy of like and~~ existing health care facilities and
30 health services in the service district of the applicant.

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

4 ~~(d)~~ ~~The availability and adequacy of other health care~~
5 ~~facilities and health services in the service district of the~~
6 ~~applicant, such as outpatient care and ambulatory or home care~~
7 ~~services, which may serve as alternatives for the health care~~
8 ~~facilities and health services to be provided by the~~
9 ~~applicant.~~

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

13 ~~(4)(f)~~ The need in the service district of the
14 applicant for special health care ~~equipment and~~ services that
15 are not reasonably and economically accessible in adjoining
16 areas.

17 ~~(5)(g)~~ The needs of ~~need for~~ research and educational
18 facilities, including, but not limited to, facilities with
19 institutional training programs and community training
20 programs for health care practitioners and for doctors of
21 osteopathic medicine and medicine at the student, internship,
22 and residency training levels.

23 ~~(6)(h)~~ The availability of resources, including health
24 personnel, management personnel, and funds for capital and
25 operating expenditures, for project accomplishment and
26 operation. ~~the effects the project will have on clinical~~
27 ~~needs of health professional training programs in the service~~
28 ~~district; the extent to which the services will be accessible~~
29 ~~to schools for health professions in the service district for~~
30 ~~training purposes if such services are available in a limited~~
31

1 ~~number of facilities; the availability of alternative uses of~~
2 ~~such resources for the provision of other health services; and~~

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

6 (8)(i) The immediate and long-term financial
7 feasibility of the proposal.

8 ~~(j) The special needs and circumstances of health~~
9 ~~maintenance organizations.~~

10 ~~(k) The needs and circumstances of those entities that~~
11 ~~provide a substantial portion of their services or resources,~~
12 ~~or both, to individuals not residing in the service district~~
13 ~~in which the entities are located or in adjacent service~~
14 ~~districts. Such entities may include medical and other health~~
15 ~~professions, schools, multidisciplinary clinics, and specialty~~
16 ~~services such as open-heart surgery, radiation therapy, and~~
17 ~~renal transplantation.~~

18 (9)(l) The extent to which the proposal will foster
19 competition that promotes quality and cost-effectiveness. ~~The~~
20 ~~probable impact of the proposed project on the costs of~~
21 ~~providing health services proposed by the applicant, upon~~
22 ~~consideration of factors including, but not limited to, the~~
23 ~~effects of competition on the supply of health services being~~
24 ~~proposed and the improvements or innovations in the financing~~
25 ~~and delivery of health services which foster competition and~~
26 ~~service to promote quality assurance and cost-effectiveness.~~

27 (10)(m) The costs and methods of the proposed
28 construction, including the costs and methods of energy
29 provision and the availability of alternative, less costly, or
30 more effective methods of construction.

31

1 (11)~~(n)~~ The applicant's past and proposed provision of
2 health care services to Medicaid patients and the medically
3 indigent.

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

9 (12)~~(p)~~ The applicant's designation as a Gold Seal
10 Program nursing facility pursuant to s. 400.235, when the
11 applicant is requesting additional nursing home beds at that
12 facility.

13 ~~(2) In cases of capital expenditure proposals for the~~
14 ~~provision of new health services to inpatients, the agency~~
15 ~~shall also reference each of the following in its findings of~~
16 ~~fact:~~

17 ~~(a) That less costly, more efficient, or more~~
18 ~~appropriate alternatives to such inpatient services are not~~
19 ~~available and the development of such alternatives has been~~
20 ~~studied and found not practicable.~~

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

24 ~~(c) In the case of new construction or replacement~~
25 ~~construction, that alternatives to the construction, for~~
26 ~~example, modernization or sharing arrangements, have been~~
27 ~~considered and have been implemented to the maximum extent~~
28 ~~practicable.~~

29 ~~(d) That patients will experience serious problems in~~
30 ~~obtaining inpatient care of the type proposed, in the absence~~
31 ~~of the proposed new service.~~

1 ~~(e) In the case of a proposal for the addition of beds~~
2 ~~for the provision of skilled nursing or intermediate care~~
3 ~~services, that the addition will be consistent with the plans~~
4 ~~of other agencies of the state responsible for the provision~~
5 ~~and financing of long-term care, including home health~~
6 ~~services.~~

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

9 408.036 Projects subject to review.--

10 (1) APPLICABILITY--Unless exempt under subsection
11 (3), all health-care-related projects, as described in
12 paragraphs (a)-~~(h)~~~~(k)~~, are subject to review and must file an
13 application for a certificate of need with the agency. The
14 agency is exclusively responsible for determining whether a
15 health-care-related project is subject to review under ss.
16 408.031-408.045.

17 (a) The addition of beds by new construction or
18 alteration.

19 (b) The new construction or establishment of
20 additional health care facilities, including a replacement
21 health care facility when the proposed project site is not
22 located on the same site as the existing health care facility.

23 (c) The conversion from one type of health care
24 facility to another, ~~including the conversion from one level~~
25 ~~of care to another, in a skilled or intermediate nursing~~
26 ~~facility, if the conversion effects a change in the level of~~
27 ~~care of 10 beds or 10 percent of total bed capacity of the~~
28 ~~skilled or intermediate nursing facility within a 2-year~~
29 ~~period. If the nursing facility is certified for both skilled~~
30 ~~and intermediate nursing care, the provisions of this~~
31 ~~paragraph do not apply.~~

1 (d) An Any increase in the total licensed bed capacity
2 of a health care facility.

3 ~~(e) Subject to the provisions of paragraph (3)(i), the~~
4 ~~establishment of a Medicare-certified home health agency, The~~
5 ~~establishment of a hospice or hospice inpatient facility, or~~
6 ~~the direct provision of such services by a health care~~
7 ~~facility or health maintenance organization for those other~~
8 ~~than the subscribers of the health maintenance organization;~~
9 ~~except that this paragraph does not apply to the establishment~~
10 ~~of a Medicare-certified home health agency by a facility~~
11 ~~described in paragraph (3)(h).~~

12 ~~(f) An acquisition by or on behalf of a health care~~
13 ~~facility or health maintenance organization, by any means,~~
14 ~~which acquisition would have required review if the~~
15 ~~acquisition had been by purchase.~~

16 ~~(f)(g)~~ The establishment of inpatient institutional
17 health services by a health care facility, or a substantial
18 change in such services.

19 ~~(h) The acquisition by any means of an existing health~~
20 ~~care facility by any person, unless the person provides the~~
21 ~~agency with at least 30 days' written notice of the proposed~~
22 ~~acquisition, which notice is to include the services to be~~
23 ~~offered and the bed capacity of the facility, and unless the~~
24 ~~agency does not determine, within 30 days after receipt of~~
25 ~~such notice, that the services to be provided and the bed~~
26 ~~capacity of the facility will be changed.~~

27 ~~(i) An increase in the cost of a project for which a~~
28 ~~certificate of need has been issued when the increase in cost~~
29 ~~exceeds 20 percent of the originally approved cost of the~~
30 ~~project, except that a cost overrun review is not necessary~~
31 ~~when the cost overrun is less than \$20,000.~~

1 (g)(j) An increase in the number of beds for acute
2 care, specialty burn units, neonatal intensive care units,
3 comprehensive rehabilitation, mental health services, or
4 hospital-based distinct part skilled nursing units, or at a
5 long-term care hospital psychiatric or rehabilitation beds.

6 (h)(k) The establishment of tertiary health services.

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

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

11 (a)(b) Research, education, and training programs.

12 (b)(c) Shared services contracts or projects.

13 (c)(d) A transfer of a certificate of need.

14 (d)(e) A 50-percent increase in nursing home beds for
15 a facility incorporated and operating in this state for at
16 least 60 years on or before July 1, 1988, which has a licensed
17 nursing home facility located on a campus providing a variety
18 of residential settings and supportive services. The
19 increased nursing home beds shall be for the exclusive use of
20 the campus residents. Any application on behalf of an
21 applicant meeting this requirement shall be subject to the
22 base fee of \$5,000 provided in s. 408.038.

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

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

31

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

4 (f) The conversion of mental health services beds
5 licensed under chapter 395 or hospital-based distinct part
6 skilled nursing unit beds to general acute care beds; the
7 conversion of mental health services beds between or among the
8 licensed bed categories defined as beds for mental health
9 services; or the conversion of general acute care beds to beds
10 for mental health services.

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

14 2. Beds converted under this paragraph must be
15 licensed and operational for at least 12 months before the
16 hospital may apply for additional conversion affecting beds of
17 the same type.

18
19 The agency shall develop rules to implement the provisions for
20 expedited review, including time schedule, application content
21 which may be reduced from the full requirements of s.
22 408.037(1), and application processing.

23 (3) EXEMPTIONS.--Upon request, the following projects
24 are subject to supported by such documentation as the agency
25 requires, the agency shall grant an exemption from the
26 provisions of subsection (1):

27 ~~(a) For the initiation or expansion of obstetric~~
28 ~~services.~~

29 ~~(a)(b) For replacement of any expenditure to replace~~
30 ~~or renovate any part of a licensed health care facility on the~~
31 same site, provided that the number of licensed beds in each

1 licensed bed category will not increase ~~and, in the case of a~~
 2 ~~replacement facility, the project site is the same as the~~
 3 ~~facility being replaced.~~

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

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

12 (c)(e) For the conversion of licensed acute care
 13 hospital beds to Medicare and Medicaid certified skilled
 14 nursing beds in a rural hospital as defined in s. 395.602, so
 15 long as the conversion of the beds does not involve the
 16 construction of new facilities. The total number of skilled
 17 nursing beds, including swing beds, may not exceed one-half of
 18 the total number of licensed beds in the rural hospital as of
 19 July 1, 1993. Certified skilled nursing beds designated under
 20 this paragraph, excluding swing beds, shall be included in the
 21 community nursing home bed inventory. A rural hospital which
 22 subsequently decertifies any acute care beds exempted under
 23 this paragraph shall notify the agency of the decertification,
 24 and the agency shall adjust the community nursing home bed
 25 inventory accordingly.

26 (d)(f) For the addition of nursing home beds at a
 27 skilled nursing facility that is part of a retirement
 28 community that provides a variety of residential settings and
 29 supportive services and that has been incorporated and
 30 operated in this state for at least 65 years on or before July
 31 1, 1994. All nursing home beds must not be available to the

1 public but must be for the exclusive use of the community
2 residents.

3 (e)~~(g)~~ For an increase in the bed capacity of a
4 nursing facility licensed for at least 50 beds as of January
5 1, 1994, under part II of chapter 400 which is not part of a
6 continuing care facility if, after the increase, the total
7 licensed bed capacity of that facility is not more than 60
8 beds and if the facility has been continuously licensed since
9 1950 and has received a superior rating on each of its two
10 most recent licensure surveys.

11 ~~(h) For the establishment of a Medicare-certified home
12 health agency by a facility certified under chapter 651; a
13 retirement community, as defined in s. 400.404(2)(g); or a
14 residential facility that serves only retired military
15 personnel, their dependents, and the surviving dependents of
16 deceased military personnel. Medicare-reimbursed home health
17 services provided through such agency shall be offered
18 exclusively to residents of the facility or retirement
19 community or to residents of facilities or retirement
20 communities owned, operated, or managed by the same corporate
21 entity. Each visit made to deliver Medicare-reimbursable home
22 health services to a home health patient who, at the time of
23 service, is not a resident of the facility or retirement
24 community shall be a deceptive and unfair trade practice and
25 constitutes a violation of ss. 501.201-501.213.~~

26 ~~(i) For the establishment of a Medicare-certified home
27 health agency. This paragraph shall take effect 90 days after
28 the adjournment sine die of the next regular session of the
29 Legislature occurring after the legislative session in which
30 the Legislature receives a report from the Director of Health
31 Care Administration certifying that the federal Health Care~~

1 ~~Financing Administration has implemented a per-episode~~
2 ~~prospective pay system for Medicare-certified home health~~
3 ~~agencies.~~

4 ~~(f)(j)~~ For an inmate health care facility built by or
5 for the exclusive use of the Department of Corrections as
6 provided in chapter 945. This exemption expires when such
7 facility is converted to other uses.

8 ~~(k)~~ ~~For an expenditure by or on behalf of a health~~
9 ~~care facility to provide a health service exclusively on an~~
10 ~~outpatient basis.~~

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

13 ~~(h)(m)~~ For the delicensure of beds, upon 30 days'
14 written notice to the agency. A request for exemption An
15 application submitted under this paragraph must identify the
16 number, the category of beds classification, and the name of
17 the facility in which the beds to be delicensed are located.

18 ~~(i)(n)~~ For the provision of adult inpatient diagnostic
19 cardiac catheterization services in a hospital.

20 1. In addition to any other documentation otherwise
21 required by the agency, a request for an exemption submitted
22 under this paragraph must comply with the following criteria:

23 a. The applicant must certify it will not provide
24 therapeutic cardiac catheterization pursuant to the grant of
25 the exemption.

26 b. The applicant must certify it will meet and
27 continuously maintain the minimum licensure requirements
28 adopted by the agency governing such programs pursuant to
29 subparagraph 2.

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1 c. The applicant must certify it will provide a
2 minimum of 2 percent of its services to charity and Medicaid
3 patients.

4 2. The agency shall adopt licensure requirements by
5 rule which govern the operation of adult inpatient diagnostic
6 cardiac catheterization programs established pursuant to the
7 exemption provided in this paragraph. The rules shall ensure
8 that such programs:

9 a. Perform only adult inpatient diagnostic cardiac
10 catheterization services authorized by the exemption and will
11 not provide therapeutic cardiac catheterization or any other
12 services not authorized by the exemption.

13 b. Maintain sufficient appropriate equipment and
14 health personnel to ensure quality and safety.

15 c. Maintain appropriate times of operation and
16 protocols to ensure availability and appropriate referrals in
17 the event of emergencies.

18 d. Maintain appropriate program volumes to ensure
19 quality and safety.

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

22 3.a. The exemption provided by this paragraph shall
23 not apply unless the agency determines that the program is in
24 compliance with the requirements of subparagraph 1. and that
25 the program will, after beginning operation, continuously
26 comply with the rules adopted pursuant to subparagraph 2. The
27 agency shall monitor such programs to ensure compliance with
28 the requirements of subparagraph 2.

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

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

5 (III) If the exemption for a program expires pursuant
6 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
7 agency shall not grant an exemption pursuant to this paragraph
8 for an adult inpatient diagnostic cardiac catheterization
9 program located at the same hospital until 2 years following
10 the date of the determination by the agency that the program
11 failed to comply with the rules adopted pursuant to
12 subparagraph 2.

13 ~~4. The agency shall not grant any exemption under this~~
14 ~~paragraph until the adoption of the rules required under this~~
15 ~~paragraph, or until March 1, 1998, whichever comes first.~~
16 ~~However, if final rules have not been adopted by March 1,~~
17 ~~1998, the proposed rules governing the exemptions shall be~~
18 ~~used by the agency to grant exemptions under the provisions of~~
19 ~~this paragraph until final rules become effective.~~

20 ~~(j)(o)~~ For ~~any expenditure to provide~~ mobile surgical
21 facilities and related health care services provided under
22 contract with the Department of Corrections or a private
23 correctional facility operating pursuant to chapter 957.

24 ~~(k)(p)~~ For state veterans' nursing homes operated by
25 or on behalf of the Florida Department of Veterans' Affairs in
26 accordance with part II of chapter 296 for which at least 50
27 percent of the construction cost is federally funded and for
28 which the Federal Government pays a per diem rate not to
29 exceed one-half of the cost of the veterans' care in such
30 state nursing homes. These beds shall not be included in the
31 nursing home bed inventory.

1 (l) For combination within one nursing home facility
2 of the beds or services authorized by two or more certificates
3 of need issued in the same planning subdistrict. An exemption
4 granted under this paragraph shall extend the validity period
5 of the certificates of need to be consolidated by the length
6 of the period beginning upon submission of the exemption
7 request and ending with issuance of the exemption. The
8 longest validity period among the certificates shall be
9 applicable to each of the combined certificates.

10 (m) For division into two or more nursing home
11 facilities of beds or services authorized by one certificate
12 of need issued in the same planning subdistrict. An exemption
13 granted under this paragraph shall extend the validity period
14 of the certificate of need to be divided by the length of the
15 period beginning upon submission of the exemption request and
16 ending with issuance of the exemption.

17 (n) For the addition of hospital beds licensed under
18 chapter 395 for acute care, mental health services, or a
19 hospital-based distinct part skilled nursing unit in a number
20 that may not exceed 10 total beds or 10 percent of the
21 licensed capacity of the bed category being expanded,
22 whichever is greater. Beds for specialty burn units, neonatal
23 intensive care units, or comprehensive rehabilitation, or at a
24 long-term care hospital, may not be increased under this
25 paragraph.

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

29 a. Certify that the prior 12-month average occupancy
30 rate for the category of licensed beds being expanded at the
31 facility meets or exceeds 80 percent or, for a hospital-based

1 distinct part skilled nursing unit, the prior 12-month average
2 occupancy rate meets or exceeds 96 percent.

3 b. Certify that any beds of the same type authorized
4 for the facility under this paragraph before the date of the
5 current request for an exemption have been licensed and
6 operational for at least 12 months.

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

10 3. The agency shall count beds authorized under this
11 paragraph as approved beds in the published inventory of
12 hospital beds until the beds are licensed.

13 (o) For the addition of acute care beds, as authorized
14 by rule consistent with s. 395.003(4), in a number that may
15 not exceed 10 total beds or 10 percent of licensed bed
16 capacity, whichever is greater, for temporary beds in a
17 hospital which has experienced high seasonal occupancy within
18 the prior 12-month period or in a hospital that must respond
19 to emergency circumstances.

20 (p) For the addition of nursing home beds licensed
21 under chapter 400 in a number not exceeding 10 total beds or
22 10 percent of the number of beds licensed in the facility
23 being expanded, whichever is greater.

24 1. In addition to any other documentation required by
25 the agency, a request for exemption submitted under this
26 paragraph must:

27 a. Certify that the facility has not had any class I
28 or class II deficiencies within the 30 months preceding the
29 request for addition.

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1 b. Certify that the prior 12-month average occupancy
2 rate for the nursing home beds at the facility meets or
3 exceeds 96 percent.

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

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

11 3. The agency shall count beds authorized under this
12 paragraph as approved beds in the published inventory of
13 nursing home beds until the beds are licensed.

14 (q) For the construction of a skilled nursing facility
15 of up to 60 beds to be used to serve only retired or disabled
16 military personnel and their surviving spouses. The facility
17 must be constructed by a foundation that was incorporated and
18 operating in this state on or before December 19, 1997, to
19 serve the same population.

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

26 Section 8. Paragraph (a) of subsection (1) of section
27 408.037, Florida Statutes, is amended to read:

28 408.037 Application content.--

29 (1) An application for a certificate of need must
30 contain:

31

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 staffed by 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 30 members, 10
22 appointed by the Governor, 10 appointed by the President of
23 the Senate, and 10 appointed by the Speaker of the House of
24 Representatives. The workgroup chair shall be selected by
25 majority vote of a quorum present. Sixteen members shall
26 constitute a quorum. The membership shall include, but not be
27 limited to, representatives from health care provider
28 organizations, health care facilities, individual health care
29 practitioners, local health councils, and consumer
30 organizations, and persons with health care market expertise
31 as private-sector consultants.

1 (3) Appointment to the workgroup shall be as follows:

2 (a) The Governor shall appoint one representative each
3 from the hospital industry; nursing home industry; hospice
4 industry; local health councils; a consumer organization; and
5 three health care market consultants, one of whom is a
6 recognized expert on hospital markets, one of whom is a
7 recognized expert on nursing home or long-term-care markets,
8 and one of whom is a recognized expert on hospice markets; one
9 representative from the Medicaid program; and one
10 representative from a health care facility that provides a
11 tertiary service.

12 (b) The President of the Senate shall appoint a
13 representative of a for-profit hospital, a representative of a
14 not-for-profit hospital, a representative of a public
15 hospital, two representatives of the nursing home industry,
16 two representatives of the hospice industry, a representative
17 of a consumer organization, a representative from the
18 Department of Elderly Affairs involved with the implementation
19 of a long-term-care community diversion program, and a health
20 care market consultant with expertise in health care
21 economics.

22 (c) The Speaker of the House of Representatives shall
23 appoint a representative from the Florida Hospital
24 Association, a representative of the Association of Community
25 Hospitals and Health Systems of Florida, a representative of
26 the Florida League of Health Systems, a representative of the
27 Florida Health Care Association, a representative of the
28 Florida Association of Homes for the Aging, three
29 representatives of Florida Hospices and Palliative Care, one
30 representative of local health councils, and one
31 representative of a consumer organization.

1 (4) The workgroup shall study issues pertaining to the
2 certificate-of-need program, including the impact of trends in
3 health care delivery and financing. The workgroup shall study
4 issues relating to implementation of the certificate-of-need
5 program.

6 (5) The workgroup shall meet at least annually, at the
7 request of the chair. The workgroup shall submit an interim
8 report by December 31, 2001, and a final report by December
9 31, 2002. The workgroup is abolished effective July 1, 2003.

10 Section 15. Subsection (7) of section 651.118, Florida
11 Statutes, is amended to read:

12 651.118 Agency for Health Care Administration;
13 certificates of need; sheltered beds; community beds.--

14 (7) Notwithstanding the provisions of subsection (2),
15 at the discretion of the continuing care provider, sheltered
16 nursing home beds may be used for persons who are not
17 residents of the facility and who are not parties to a
18 continuing care contract for a period of up to 5 years after
19 the date of issuance of the initial nursing home license. A
20 provider whose 5-year period has expired or is expiring may
21 request the Agency for Health Care Administration for an
22 extension, not to exceed 30 percent of the total sheltered
23 nursing home beds, if the utilization by residents of the
24 facility in the sheltered beds will not generate sufficient
25 income to cover facility expenses, as evidenced by one of the
26 following:

27 (a) The facility has a net loss for the most recent
28 fiscal year as determined under generally accepted accounting
29 principles, excluding the effects of extraordinary or unusual
30 items, as demonstrated in the most recently audited financial
31 statement; or

1 (b) The facility would have had a pro forma loss for
2 the most recent fiscal year, excluding the effects of
3 extraordinary or unusual items, if revenues were reduced by
4 the amount of revenues from persons in sheltered beds who were
5 not residents, as reported on by a certified public
6 accountant.

7
8 The agency shall be authorized to grant an extension to the
9 provider based on the evidence required in this subsection.

10 The agency may request a facility to use up to 25 percent of
11 the patient days generated by new admissions of nonresidents
12 during the extension period to serve Medicaid recipients for
13 those beds authorized for extended use if there is a
14 demonstrated need in the respective service area and if funds
15 are available. A provider who obtains an extension is
16 prohibited from applying for additional sheltered beds under
17 the provision of subsection (2), unless additional residential
18 units are built or the provider can demonstrate need by
19 facility residents to the Agency for Health Care
20 Administration. The 5-year limit does not apply to up to 5
21 sheltered beds designated for inpatient hospice care as part
22 of a contractual arrangement with a hospice licensed under
23 part VI of chapter 400. A facility that uses such beds after
24 the 5-year period shall report such use to the Agency for
25 Health Care Administration. For purposes of this subsection,
26 "resident" means a person who, upon admission to the facility,
27 initially resides in a part of the facility not licensed under
28 part II of chapter 400.

29 Section 16. PUBLIC CORD BLOOD TISSUE BANK.--

30 (1) There is established a statewide consortium to be
31 known as the Public Cord Blood Tissue Bank. The Public Cord

1 Blood Tissue Bank is established as a nonprofit legal entity
2 to collect, screen for infectious and genetic diseases,
3 perform tissue typing, cryopreserve, and store umbilical cord
4 blood as a resource to the public. The University of Florida,
5 the University of South Florida, the University of Miami, and
6 the Mayo Clinic, Jacksonville shall jointly form the
7 collaborative consortium, each working with community
8 resources such as regional blood banks, hospitals, and other
9 health care providers to develop local and regional coalitions
10 for the purposes set forth in this act. The consortium
11 participants shall align their outreach programs and
12 activities to all geographic areas of the state, covering the
13 entire state. The consortium is encouraged to conduct
14 outreach and research for Hispanics, African Americans, Native
15 Americans, and other ethnic and racial minorities.

16 (2) The Agency for Health Care Administration shall
17 develop and make available to all health care providers
18 information relating to and standardized release forms for
19 donation of umbilical cord blood. The agency and the
20 Department of Health shall encourage health care providers,
21 including, but not limited to, hospitals, birthing facilities,
22 county health departments, physicians, midwives, and nurses,
23 to disseminate information about the Public Cord Blood Tissue
24 Bank.

25 (3) The Agency for Health Care Administration shall
26 develop training materials for agencies and state employees
27 working with pregnant women to educate and inform pregnant
28 women about the public cord blood tissue bank program.

29 (4) All state-funded health care programs providing
30 education or services to pregnant women shall provide
31 information on the Public Cord Blood Tissue Bank program.

1 Information regarding this program shall be provided by, but
2 not be limited to, the Healthy Start program, county health
3 departments, Medicaid, and MediPass.

4 (5) Nothing in this act creates a requirement of any
5 health care or services program that is directly affiliated
6 with a bona fide religious denomination that includes as an
7 integral part of its beliefs and practices the tenet that
8 blood transfer is contrary to the moral principles the
9 denomination considers to be an essential part of its beliefs.

10 (6) Any health care facility or health care provider
11 receiving financial remuneration for the collection of
12 umbilical cord blood shall provide written disclosure of this
13 information to any woman postpartum or parent of a newborn
14 from whom the umbilical cord blood is collected prior to the
15 harvesting of the umbilical cord blood.

16 (7) All women admitted to a hospital or birthing
17 facility for obstetrical services may be offered the
18 opportunity to donate umbilical cord blood to the Public Cord
19 Blood Tissue Bank. No woman shall be required to make such a
20 donation.

21 (8) The consortium may charge reasonable rates and
22 fees to recipients of cord blood tissue bank products.

23 (9) In order to fund the provisions of this section
24 the consortium participants and the Agency for Health Care
25 Administration shall seek private or federal funds or utilize
26 existing budgetary resources to the extent possible to
27 initiate program actions for fiscal year 2000-2001.

28 Section 17. Subsection (3) of section 400.464, Florida
29 Statutes, is repealed.

30 Section 18. The General Appropriations Act for Fiscal
31 Year 2000-2001 shall be reduced by 4 full time equivalent

1 positions and \$260,719 from the Health Care Trust Fund in the
2 Agency for Health Care Administration for purposes of
3 implementing the provisions of this act.

4 Section 19. Except as otherwise provided herein, this
5 act shall take effect July 1, 2000.

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