

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

13

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

15

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

18 400.471 Application for license; fee; provisional
19 license; temporary permit.--

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

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

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

28 (c) Proof of financial ability to operate.

29

30 ~~If the applicant has applied for a certificate of need under~~
31 ~~ss. 408.0331-408.045 within the preceding 12 months, the~~

1 ~~applicant may submit the proof required during the~~
2 ~~certificate-of-need process along with an attestation that~~
3 _____
4 ~~circumstances underlying the original submission.~~

6 certified to a home health agency that fails to ~~receive a~~
7 ~~certificate of need under ss. 408.031-408.045 or that fails to~~
8 satisfy the requirements of a Medicare certification survey

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

13 license or permit; certificate of need.--

14 (5) The agency shall not issue a license to a hospice
_____ if required under

17 health care facility as that term is used in s. 408.039(5) and
18 is entitled to initiate or intervene in an administrative

20 (6) A freestanding hospice facility that is primarily
21 engaged in providing inpatient and related services and that
_____ be

23 _____ obtain a certificate of need if required under the
provisions of ss. 408.031-408.045. However, a freestanding

26 to comply with institutional standards such as, but not
27 limited to, standards requiring sprinkler systems, emergency

29 Section 3. Section 408.032, Florida Statutes, is
30 amended to read:

1 408.032 Definitions.--As used in ss. 408.031-408.045,
2 the term:

3 (1) "Agency" means the Agency for Health Care
4 Administration.

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

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

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

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

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

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

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

9 District 4.--Baker, Nassau, Duval, Clay, St. Johns,
10 Flagler, and Volusia Counties.

11 District 5.--Pasco and Pinellas Counties.

12 District 6.--Hillsborough, Manatee, Polk, Hardee, and
13 Highlands Counties.

14 District 7.--Seminole, Orange, Osceola, and Brevard
15 Counties.

16 District 8.--Sarasota, DeSoto, Charlotte, Lee, Glades,
17 Hendry, and Collier Counties.

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

20 District 10.--Broward County.

21 District 11.--Dade and Monroe Counties.

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

25 (7)~~(6)~~ "Expedited review" means the process by which
26 certain types of applications are not subject to the review
27 cycle requirements contained in s. 408.039(1), and the letter
28 of intent requirements contained in s. 408.039(2).

29 (8)~~(7)~~ "Health care facility" means a hospital,
30 long-term care hospital, skilled nursing facility, hospice,
31 ~~intermediate care facility,~~ or intermediate care facility for

1 the developmentally disabled. A facility relying solely on
2 spiritual means through prayer for healing is not included as

4 (9)— "Health services" means diagnostic, curative,
5 or rehabilitative services and includes _____
6 ~~drug abuse treatment, and~~ Obstetric
7 _____
8 408.031-408.045.

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

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

14 (11) "Hospital" means a health care facility licensed
15 under chapter 395.

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

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

28 (12)(14) "Intermediate care facility for the
29 developmentally disabled" means a residential facility
30 licensed under chapter 393 and certified by the Federal
31 Government pursuant to the Social Security Act as a provider

2 who have a related condition.

3 ~~_____ (15)~~ "Long-term care hospital" means a hospital

5 C.F.R. s. 412.23(e) and seeks exclusion from the Medicare
6 prospective payment system for inpatient hospital services.

(14) "Mental health services" means inpatient services

8 _____
9 on the hospital license as psychiatric beds for adults;
psychiatric beds for children and adolescents; intensive

11 _____
12 substance abuse beds for adults; or substance abuse beds for
children and adolescents.

14 _____
15 ~~residential and health care facility consisting of independent~~
~~living units, assisted living facility units, and nursing home~~

17 _____
18 ~~(a) The aggregate total number of independent living~~
~~units and assisted living facility units exceeds the number of~~

20 _____
21 ~~(b) The developer of the project has expended the sum~~
~~of \$500,000 or more on the certificated and noncertificated~~

23 _____
24 ~~the conclusion of the 18th month of the life of the~~
~~certificate of need.~~

26 _____
27 ~~certificated element of the project, when combined with other,~~
~~noncertificated elements, is \$10 million or more.~~

29 _____
30 ~~immediately adjacent to each other and construction of all~~
~~elements will be continuous.~~

1 (15)~~(17)~~ "Nursing home geographically underserved
2 area" means:

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

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

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

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

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

22 (17)~~(20)~~ "Tertiary health service" means a health
23 service which, due to its high level of intensity, complexity,
24 specialized or limited applicability, and cost, should be
25 limited to, and concentrated in, a limited number of hospitals
26 to ensure the quality, availability, and cost-effectiveness of
27 such service. Examples of such service include, but are not
28 limited to, organ transplantation, specialty burn units,
29 neonatal intensive care units, comprehensive rehabilitation,
30 and medical or surgical services which are experimental or
31 developmental in nature to the extent that the provision of

1 such services is not yet contemplated within the commonly
2 accepted course of diagnosis or treatment for the condition
3 addressed by a given service. The agency shall establish by
4 rule a list of all tertiary health services.

5 (18)~~(21)~~ "Regional area" means any of those regional
6 health planning areas established by the agency to which local
7 and district health planning funds are directed to local
8 health councils through the General Appropriations Act.

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

12 408.033 Local and state health planning.--

13 (1) LOCAL HEALTH COUNCILS.--

14 (b) Each local health council may:

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

1 which are necessary to the review of certificate-of-need
2 applications for proposed projects within the district may be
3 adopted by the agency as a part of its rules.

4 2. Advise the agency on health care issues and
5 resource allocations.

6 3. Promote public awareness of community health needs,
7 emphasizing health promotion and cost-effective health service
8 selection.

9 4. Collect data and conduct analyses and studies
10 related to health care needs of the district, including the
11 needs of medically indigent persons, and assist the agency and
12 other state agencies in carrying out data collection
13 activities that relate to the functions in this subsection.

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

17 6. Advise and assist any regional planning councils
18 within each district that have elected to address health
19 issues in their strategic regional policy plans with the
20 development of the health element of the plans to address the
21 health goals and policies in the State Comprehensive Plan.

22 7. Advise and assist local governments within each
23 district on the development of an optional health plan element
24 of the comprehensive plan provided in chapter 163, to assure
25 compatibility with the health goals and policies in the State
26 Comprehensive Plan and district health plan. To facilitate
27 the implementation of this section, the local health council
28 shall annually provide the local governments in its service
29 area, upon request, with:

30 a. A copy and appropriate updates of the district
31 health plan;

1 b. A report of hospital and nursing home utilization
2 statistics for facilities within the local government
3 jurisdiction; and

4 c. Applicable agency rules and calculated need
5 methodologies for health facilities and services regulated
6 under s. 408.034 for the district served by the local health
7 council.

8 8. Monitor and evaluate the adequacy, appropriateness,
9 and effectiveness, within the district, of local, state,
10 federal, and private funds distributed to meet the needs of
11 the medically indigent and other underserved population
12 groups.

13 9. In conjunction with the Agency for Health Care
14 Administration, plan for services at the local level for
15 persons infected with the human immunodeficiency virus.

16 10. Provide technical assistance to encourage and
17 support activities by providers, purchasers, consumers, and
18 local, regional, and state agencies in meeting the health care
19 goals, objectives, and policies adopted by the local health
20 council.

21 11. Provide the agency with data required by rule for
22 the review of certificate-of-need applications and the
23 projection of need for health services and facilities in the
24 district.

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

26 (a) The agency, in conjunction with the local health
27 councils, is responsible for the coordinated planning of ~~all~~
28 health care services in the state ~~and for the preparation of~~
29 ~~the state health plan.~~

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

1 408.034 Duties and responsibilities of agency;
2 rules.--

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

10 Section 6. Section 408.035, Florida Statutes, is
11 amended to read:

12 408.035 Review criteria.--

13 ~~(1)~~ The agency shall determine the reviewability of
14 applications and shall review applications for
15 certificate-of-need determinations for health care facilities
16 and health services in context with the following criteria:

17 (1)~~(a)~~ The need for the health care facilities and
18 health services being proposed in relation to the applicable
19 district health plan, ~~except in emergency circumstances that~~
20 ~~pose a threat to the public health.~~

21 (2)~~(b)~~ The availability, quality of care, ~~efficiency,~~
22 ~~appropriateness,~~accessibility, and extent of utilization of,
23 ~~and adequacy of like and~~ existing health care facilities and
24 health services in the service district of the applicant.

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

28 ~~(d) The availability and adequacy of other health care~~
29 ~~facilities and health services in the service district of the~~
30 ~~applicant, such as outpatient care and ambulatory or home care~~
31 ~~services, which may serve as alternatives for the health care~~

1 ~~facilities and health services to be provided by the~~
2 ~~applicant.~~

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

6 (4)(f) The need in the service district of the
7 applicant for special health care ~~equipment and~~ services that
8 are not reasonably and economically accessible in adjoining
9 areas.

10 (5)(g) The needs of need for research and educational
11 facilities, including, but not limited to, facilities with
12 institutional training programs and community training
13 programs for health care practitioners and for doctors of
14 osteopathic medicine and medicine at the student, internship,
15 and residency training levels.

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

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

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

31

2 ~~(j) The special needs and circumstances of health~~
3 ~~(k) The needs and circumstances of those entities that~~
4 ~~provide a substantial portion of their services or resources,~~
5 ~~in which the entities are located or in adjacent service~~
6 ~~districts. Such entities may include medical and other health~~
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1 (12)(p) The applicant's designation as a Gold Seal
2 Program nursing facility pursuant to s. 400.235, when the
3 applicant is requesting additional nursing home beds at that
4 facility.

5 ~~(2) In cases of capital expenditure proposals for the~~
6 ~~provision of new health services to inpatients, the agency~~
7 ~~shall also reference each of the following in its findings of~~
8 ~~fact:~~

9 ~~(a) That less costly, more efficient, or more~~
10 ~~appropriate alternatives to such inpatient services are not~~
11 ~~available and the development of such alternatives has been~~
12 ~~studied and found not practicable.~~

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

16 ~~(c) In the case of new construction or replacement~~
17 ~~construction, that alternatives to the construction, for~~
18 ~~example, modernization or sharing arrangements, have been~~
19 ~~considered and have been implemented to the maximum extent~~
20 ~~practicable.~~

21 ~~(d) That patients will experience serious problems in~~
22 ~~obtaining inpatient care of the type proposed, in the absence~~
23 ~~of the proposed new service.~~

24 ~~(e) In the case of a proposal for the addition of beds~~
25 ~~for the provision of skilled nursing or intermediate care~~
26 ~~services, that the addition will be consistent with the plans~~
27 ~~of other agencies of the state responsible for the provision~~
28 ~~and financing of long-term care, including home health~~
29 ~~services.~~

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

1 408.036 Projects subject to review.--

2 (1) APPLICABILITY.--Unless exempt under subsection
3 (3), all health-care-related projects, as described in
4 paragraphs (a)-~~(h)~~(~~k~~), are subject to review and must file an
5 application for a certificate of need with the agency. The
6 agency is exclusively responsible for determining whether a
7 health-care-related project is subject to review under ss.
8 408.031-408.045.

9 (a) The addition of beds by new construction or
10 alteration.

11 (b) The new construction or establishment of
12 additional health care facilities, including a replacement
13 health care facility when the proposed project site is not
14 located on the same site as the existing health care facility.

15 (c) ~~The conversion from one type of health care~~
16 ~~facility to another, including the conversion from one level~~
17 ~~of care to another, in a skilled or intermediate nursing~~
18 ~~facility, if the conversion effects a change in the level of~~
19 ~~care of 10 beds or 10 percent of total bed capacity of the~~
20 ~~skilled or intermediate nursing facility within a 2-year~~
21 ~~period. If the nursing facility is certified for both skilled~~
22 ~~and intermediate nursing care, the provisions of this~~
23 ~~paragraph do not apply.~~

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

26 ~~(e) Subject to the provisions of paragraph (3)(i), the~~
27 ~~establishment of a Medicare-certified home health agency, The~~
28 ~~establishment of a hospice or hospice inpatient facility, or~~
29 ~~the direct provision of such services by a health care~~
30 ~~facility or health maintenance organization for those other~~
31 ~~than the subscribers of the health maintenance organization;~~

1 ~~except that this paragraph does not apply to the establishment~~

2 _____
3 described in paragraph (3)(h)

4 ~~(f) An acquisition by or on behalf of a health care~~
5 ~~facility or health maintenance organization, by any means,~~

6 _____
7 acquisition had been by purchase.

8 ~~(f)(g)~~
9 health services by a health care facility, or a substantial
10 change in such services.

11 ~~(h) The acquisition by any means of an existing health~~
12 _____
13 agency with at least 30 days' written notice of the proposed
14 acquisition, which notice is to include the services to be

15 _____
16 agency does not determine, within 30 days after receipt of
17 such notice, that the services to be provided and the bed

18 _____
19 ~~(i) An increase in the cost of a project for which a~~
20 ~~certificate of need has been issued when the increase in cost~~
21 _____
22 project, except that a cost overrun review is not necessary
23 when the cost overrun is less than \$20,000.

24 ~~(j) An increase in the number of _____~~
25 ~~care, specialty burn units, neonatal intensive care units,~~
26 ~~comprehensive rehabilitation, mental health services, or~~
27 _____
28 long-term care hospital psychiatric or rehabilitation beds.

29 ~~(h)(k)~~

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

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

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

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

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

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

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

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

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

28 (f) The conversion of mental health services beds
29 licensed under chapter 395 or hospital-based distinct part
30 skilled nursing unit beds to general acute care beds; the
31 conversion of mental health services beds between or among the

1 licensed bed categories defined as beds for mental health
2 services; or the conversion of general acute care beds to beds
3 for mental health services.

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

7 2. Beds converted under this paragraph must be
8 licensed and operational for at least 12 months before the
9 hospital may apply for additional conversion affecting beds of
10 the same type.

11
12 The agency shall develop rules to implement the provisions for
13 expedited review, including time schedule, application content
14 which may be reduced from the full requirements of s.
15 408.037(1), and application processing.

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

20 ~~(a) For the initiation or expansion of obstetric~~
21 ~~services.~~

22 (a)(b) For replacement of any expenditure to replace
23 or renovate any part of a licensed health care facility on the
24 same site, provided that the number of licensed beds in each
25 licensed bed category will not increase and, in the case of a
26 replacement facility, the project site is the same as the
27 facility being replaced.

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

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

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

19 (d)~~(f)~~ For the addition of nursing home beds at a
 20 skilled nursing facility that is part of a retirement
 21 community that provides a variety of residential settings and
 22 supportive services and that has been incorporated and
 23 operated in this state for at least 65 years on or before July
 24 1, 1994. All nursing home beds must not be available to the
 25 public but must be for the exclusive use of the community
 26 residents.

27 (e)~~(g)~~ For an increase in the bed capacity of a
 28 nursing facility licensed for at least 50 beds as of January
 29 1, 1994, under part II of chapter 400 which is not part of a
 30 continuing care facility if, after the increase, the total
 31 licensed bed capacity of that facility is not more than 60

1 beds and if the facility has been continuously licensed since
2 1950 and has received a superior rating on each of its two

4 ~~(h) For the establishment of a Medicare-certified home
health agency by a facility certified under chapter 651; a
6 _____
7 residential facility that serves only retired military
personnel, their dependents, and the surviving dependents of
9 _____
10 services provided through such agency shall be offered
exclusively to residents of the facility or retirement
12 _____
13 communities owned, operated, or managed by the same corporate
entity. Each visit made to deliver Medicare-reimbursable home
15 _____
16 service, is not a resident of the facility or retirement
community shall be a deceptive and unfair trade practice and
18 _____~~

19 ~~(i) For the establishment of a Medicare-certified home
health agency. This paragraph shall take effect 90 days after
21 _____
22 Legislature occurring after the legislative session in which
the Legislature receives a report from the Director of Health
24 _____
25 Financing Administration has implemented a per-episode
prospective pay system for Medicare-certified home health
27 _____~~

28 (f) For an inmate health care facility built by or
29 for the exclusive use of the Department of Corrections as
31 facility is converted to other uses.

1 ~~(k) For an expenditure by or on behalf of a health~~
2 ~~care facility to provide a health service exclusively on an~~
3 ~~outpatient basis.~~

4 (g)(1) For the termination of an inpatient a health
5 care service, upon 30 days' written notice to the agency.

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

11 (i)(n) For the provision of adult inpatient diagnostic
12 cardiac catheterization services in a hospital.

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

16 a. The applicant must certify it will not provide
17 therapeutic cardiac catheterization pursuant to the grant of
18 the exemption.

19 b. The applicant must certify it will meet and
20 continuously maintain the minimum licensure requirements
21 adopted by the agency governing such programs pursuant to
22 subparagraph 2.

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

26 2. The agency shall adopt licensure requirements by
27 rule which govern the operation of adult inpatient diagnostic
28 cardiac catheterization programs established pursuant to the
29 exemption provided in this paragraph. The rules shall ensure
30 that such programs:

31

1 a. Perform only adult inpatient diagnostic cardiac
2 catheterization services authorized by the exemption and will
3 not provide therapeutic cardiac catheterization or any other
4 services not authorized by the exemption.

5 b. Maintain sufficient appropriate equipment and
6 health personnel to ensure quality and safety.

7 c. Maintain appropriate times of operation and
8 protocols to ensure availability and appropriate referrals in
9 the event of emergencies.

10 d. Maintain appropriate program volumes to ensure
11 quality and safety.

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

14 3.a. The exemption provided by this paragraph shall
15 not apply unless the agency determines that the program is in
16 compliance with the requirements of subparagraph 1. and that
17 the program will, after beginning operation, continuously
18 comply with the rules adopted pursuant to subparagraph 2. The
19 agency shall monitor such programs to ensure compliance with
20 the requirements of subparagraph 2.

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

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

28 (III) If the exemption for a program expires pursuant
29 to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
30 agency shall not grant an exemption pursuant to this paragraph
31 for an adult inpatient diagnostic cardiac catheterization

1 program located at the same hospital until 2 years following
 2 the date of the determination by the agency that the program
 3 failed to comply with the rules adopted pursuant to
 4 subparagraph 2.

5 ~~4. The agency shall not grant any exemption under this~~
 6 ~~paragraph until the adoption of the rules required under this~~
 7 ~~paragraph, or until March 1, 1998, whichever comes first.~~
 8 ~~However, if final rules have not been adopted by March 1,~~
 9 ~~1998, the proposed rules governing the exemptions shall be~~
 10 ~~used by the agency to grant exemptions under the provisions of~~
 11 ~~this paragraph until final rules become effective.~~

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

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

24 (l) For combination within one nursing home facility
 25 of the beds or services authorized by two or more certificates
 26 of need issued in the same planning subdistrict. An exemption
 27 granted under this paragraph shall extend the validity period
 28 of the certificates of need to be consolidated by the length
 29 of the period beginning upon submission of the exemption
 30 request and ending with issuance of the exemption. The

31

1 longest validity period among the certificates shall be
2 applicable to each of the combined certificates.

3 (m) For division into two or more nursing home
4 facilities of beds or services authorized by one certificate
5 of need issued in the same planning subdistrict. An exemption
6 granted under this paragraph shall extend the validity period
7 of the certificate of need to be divided by the length of the
8 period beginning upon submission of the exemption request and
9 ending with issuance of the exemption.

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

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

22 a. Certify that the prior 12-month average occupancy
23 rate for the category of licensed beds being expanded at the
24 facility meets or exceeds 80 percent or, for a hospital-based
25 distinct part skilled nursing unit, the prior 12-month average
26 occupancy rate meets or exceeds 96 percent.

27 b. Certify that any beds of the same type authorized
28 for the facility under this paragraph before the date of the
29 current request for an exemption have been licensed and
30 operational for at least 12 months.

31

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

4 3. The agency shall count beds authorized under this
5 paragraph as approved beds in the published inventory of
6 hospital beds until the beds are licensed.

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

14 (p) For the addition of nursing home beds licensed
15 under chapter 400 in a number not exceeding 10 total beds or
16 10 percent of the number of beds licensed in the facility
17 being expanded, whichever is greater.

18 1. In addition to any other documentation required by
19 the agency, a request for exemption submitted under this
20 paragraph must:

21 a. Certify that the facility has not had any class I
22 or class II deficiencies within the 30 months preceding the
23 request for addition.

24 b. Certify that the prior 12-month average occupancy
25 rate for the nursing home beds at the facility meets or
26 exceeds 96 percent.

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

31

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

4 3. The agency shall count beds authorized under this
5 paragraph as approved beds in the published inventory of
6 nursing home beds until the beds are licensed.

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

13 (4) A request for exemption under ~~this~~ subsection(3)
14 may be made at any time and is not subject to the batching
15 requirements of this section. The request shall be supported
16 by such documentation as the agency requires by rule. The
17 agency shall assess a fee of \$250 for each request for
18 exemption submitted under subsection (3).

19 Section 8. Paragraph (a) of subsection (1) of section
20 408.037, Florida Statutes, is amended to read:

21 408.037 Application content.--

22 (1) An application for a certificate of need must
23 contain:

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

27 Section 9. Section 408.038, Florida Statutes, is
28 amended to read:

29 408.038 Fees.--The agency ~~department~~ shall assess fees
30 on certificate-of-need applications. Such fees shall be for
31 the purpose of funding the functions of the local health

1 councils and the activities of the agency ~~department~~ and shall
2 be allocated as provided in s. 408.033. The fee shall be
3 determined as follows:

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

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

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

11 408.039 Review process.--The review process for
12 certificates of need shall be as follows:

13 (3) APPLICATION PROCESSING.--

14 (a) An applicant shall file an application with the
15 agency ~~department~~, and shall furnish a copy of the application
16 to the local health council and the agency ~~department~~. Within
17 15 days after the applicable application filing deadline
18 established by agency ~~department~~ rule, the staff of the agency
19 ~~department~~ shall determine if the application is complete. If
20 the application is incomplete, the staff shall request
21 specific information from the applicant necessary for the
22 application to be complete; however, the staff may make only
23 one such request. If the requested information is not filed
24 with the agency ~~department~~ within 21 days of the receipt of
25 the staff's request, the application shall be deemed
26 incomplete and deemed withdrawn from consideration.

27 (b) Upon the request of any applicant or substantially
28 affected person within 14 days after notice that an
29 application has been filed, a public hearing may be held at
30 the agency's ~~department's~~ discretion if the agency ~~department~~
31 determines that a proposed project involves issues of great

1 local public interest. The public hearing shall allow
2 applicants and other interested parties reasonable time to
3 present their positions and to present rebuttal information. A
4 recorded verbatim record of the hearing shall be maintained.
5 The public hearing shall be held at the local level within 21
6 days after the application is deemed complete.

7 (4) STAFF RECOMMENDATIONS.--

8 (a) The agency's ~~department's~~ review of and final
9 agency action on applications shall be in accordance with the
10 district health plan, and statutory criteria, and the
11 implementing administrative rules. In the application review
12 process, the agency ~~department~~ shall give a preference, as
13 defined by rule of the agency ~~department~~, to an applicant
14 which proposes to develop a nursing home in a nursing home
15 geographically underserved area.

16 (b) Within 60 days after all the applications in a
17 review cycle are determined to be complete, the agency
18 ~~department~~ shall issue its State Agency Action Report and
19 Notice of Intent to grant a certificate of need for the
20 project in its entirety, to grant a certificate of need for
21 identifiable portions of the project, or to deny a certificate
22 of need. The State Agency Action Report shall set forth in
23 writing its findings of fact and determinations upon which its
24 decision is based. If a finding of fact or determination by
25 the agency ~~department~~ is counter to the district health plan
26 of the local health council, the agency ~~department~~ shall
27 provide in writing its reason for its findings, item by item,
28 to the local health council. If the agency ~~department~~ intends
29 to grant a certificate of need, the State Agency Action Report
30 or the Notice of Intent shall also include any conditions
31 which the agency ~~department~~ intends to attach to the

1 certificate of need. The agency ~~department~~ shall designate by
2 rule a senior staff person, other than the person who issues
3 the final order, to issue State Agency Action Reports and
4 Notices of Intent.

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

9 (d) If no administrative hearing is requested pursuant
10 to subsection (5), the State Agency Action Report and the
11 Notice of Intent shall become the final order of the agency
12 ~~department~~. The agency ~~department~~ shall provide a copy of the
13 final order to the appropriate local health council.

14 (5) ADMINISTRATIVE HEARINGS.--

15 (c) In administrative proceedings challenging the
16 issuance or denial of a certificate of need, only applicants
17 considered by the agency in the same batching cycle are
18 entitled to a comparative hearing on their applications.
19 Existing health care facilities may initiate or intervene in
20 an administrative hearing upon a showing that an established
21 program will be substantially affected by the issuance of any
22 certificate of need, whether reviewed under s. 408.036(1) or
23 (2), to a competing proposed facility or program within the
24 same district.

25 (6) JUDICIAL REVIEW.--

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

1 (b) In such judicial review, the court shall affirm
2 the final order of the agency ~~department~~, unless the decision
3 is arbitrary, capricious, or not in compliance with ss.
4 408.031-408.045.

5 Section 11. Subsections (1) and (2) of section
6 408.040, Florida Statutes, are amended to read:

7 408.040 Conditions and monitoring.--

8 (1)(a) The agency may issue a certificate of need
9 predicated upon statements of intent expressed by an applicant
10 in the application for a certificate of need. Any conditions
11 imposed on a certificate of need based on such statements of
12 intent shall be stated on the face of the certificate of need.

13 ~~1. Any certificate of need issued for construction of~~
14 ~~a new hospital or for the addition of beds to an existing~~
15 ~~hospital shall include a statement of the number of beds~~
16 ~~approved by category of service, including rehabilitation or~~
17 ~~psychiatric service, for which the agency has adopted by rule~~
18 ~~a specialty-bed-need methodology. All beds that are approved,~~
19 ~~but are not covered by any specialty-bed-need methodology,~~
20 ~~shall be designated as general.~~

21 ~~(b)2.~~ The agency may consider, in addition to the
22 other criteria specified in s. 408.035, a statement of intent
23 by the applicant that a specified ~~to designate~~ a percentage of
24 the annual patient days at beds ~~of the facility~~ will be
25 utilized for use by patients eligible for care under Title XIX
26 of the Social Security Act. Any certificate of need issued to
27 a nursing home in reliance upon an applicant's statements that
28 to provide a specified percentage number of annual patient
29 days will be utilized ~~beds for use~~ by residents eligible for
30 care under Title XIX of the Social Security Act must include a
31 statement that such certification is a condition of issuance

1 of the certificate of need. The certificate-of-need program
2 shall notify the Medicaid program office and the Department of
3 Elderly Affairs when it imposes conditions as authorized in
4 this paragraph ~~subparagraph~~ in an area in which a community
5 diversion pilot project is implemented.

6 (c)~~(b)~~ A certificateholder may apply to the agency for
7 a modification of conditions imposed under paragraph (a) or
8 paragraph (b). If the holder of a certificate of need
9 demonstrates good cause why the certificate should be
10 modified, the agency shall reissue the certificate of need
11 with such modifications as may be appropriate. The agency
12 shall by rule define the factors constituting good cause for
13 modification.

14 (d)~~(c)~~ If the holder of a certificate of need fails to
15 comply with a condition upon which the issuance of the
16 certificate was predicated, the agency may assess an
17 administrative fine against the certificateholder in an amount
18 not to exceed \$1,000 per failure per day. In assessing the
19 penalty, the agency shall take into account as mitigation the
20 relative lack of severity of a particular failure. Proceeds
21 of such penalties shall be deposited in the Public Medical
22 Assistance Trust Fund.

23 (2)(a) Unless the applicant has commenced
24 construction, if the project provides for construction, unless
25 the applicant has incurred an enforceable capital expenditure
26 commitment for a project, if the project does not provide for
27 construction, or unless subject to paragraph (b), a
28 certificate of need shall terminate 18 months after the date
29 of issuance, ~~except in the case of a multifacility project, as~~
30 ~~defined in s. 408.032, where the certificate of need shall~~
31 ~~terminate 2 years after the date of issuance.~~ The agency shall

1 monitor the progress of the holder of the certificate of need
2 in meeting the timetable for project development specified in
3 the application with the assistance of the local health
4 council as specified in s. 408.033(1)(b)5., and may revoke the
5 certificate of need, if the holder of the certificate is not
6 meeting such timetable and is not making a good faith effort,
7 as defined by rule, to meet it.

8 (b) A certificate of need issued to an applicant
9 holding a provisional certificate of authority under chapter
10 651 shall terminate 1 year after the applicant receives a
11 valid certificate of authority from the Department of
12 Insurance.

13 (c) The certificate-of-need validity period for a
14 project shall be extended by the agency, to the extent that
15 the applicant demonstrates to the satisfaction of the agency
16 that good faith commencement of the project is being delayed
17 by litigation or by governmental action or inaction with
18 respect to regulations or permitting precluding commencement
19 of the project.

20 ~~(d) If an application is filed to consolidate two or~~
21 ~~more certificates as authorized by s. 408.036(2)(f) or to~~
22 ~~divide a certificate of need into two or more facilities as~~
23 ~~authorized by s. 408.036(2)(g), the validity period of the~~
24 ~~certificate or certificates of need to be consolidated or~~
25 ~~divided shall be extended for the period beginning upon~~
26 ~~submission of the application and ending when final agency~~
27 ~~action and any appeal from such action has been concluded.~~
28 ~~However, no such suspension shall be effected if the~~
29 ~~application is withdrawn by the applicant.~~

30 Section 12. Section 408.044, Florida Statutes, is
31 amended to read:

1 408.044 Injunction.--Notwithstanding the existence or
2 pursuit of any other remedy, the agency ~~department~~ may
3 maintain an action in the name of the state for injunction or
4 other process against any person to restrain or prevent the
5 pursuit of a project subject to review under ss.
6 408.031-408.045, in the absence of a valid certificate of
7 need.

8 Section 13. Section 408.045, Florida Statutes, is
9 amended to read:

10 408.045 Certificate of need; competitive sealed
11 proposals.--

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

16 (2) The agency ~~department~~ shall make a decision
17 regarding the issuance of the certificate of need in
18 accordance with the provisions of s. 287.057(15), rules
19 adopted by the agency ~~department~~ relating to intermediate care
20 facilities for the developmentally disabled, and the criteria
21 in s. 408.035, as further defined by rule.

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

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

28 (5) The agency ~~department~~ may use the competitive
29 sealed proposal procedure for determining a certificate of
30 need for other types of health care facilities and services if
31 the agency ~~department~~ identifies an unmet health care need and

1 when funding in whole or in part for such health care
2 facilities or services is authorized by the Legislature.

3 Section 14. (1)(a) There is created a
4 certificate-of-need workgroup staffed by the Agency for Health
5 Care Administration.

6 (b) Workgroup participants shall be responsible for
7 only the expenses that they generate individually through
8 workgroup participation. The agency shall be responsible for
9 expenses incidental to the production of any required data or
10 reports.

11 (2) The workgroup shall consist of 30 members, 10
12 appointed by the Governor, 10 appointed by the President of
13 the Senate, and 10 appointed by the Speaker of the House of
14 Representatives. The workgroup chair shall be selected by
15 majority vote of a quorum present. Sixteen members shall
16 constitute a quorum. The membership shall include, but not be
17 limited to, representatives from health care provider
18 organizations, health care facilities, individual health care
19 practitioners, local health councils, and consumer
20 organizations, and persons with health care market expertise
21 as private-sector consultants.

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

23 (a) The Governor shall appoint one representative each
24 from the hospital industry; nursing home industry; hospice
25 industry; local health councils; a consumer organization; and
26 three health care market consultants, one of whom is a
27 recognized expert on hospital markets, one of whom is a
28 recognized expert on nursing home or long-term-care markets,
29 and one of whom is a recognized expert on hospice markets; one
30 representative from the Medicaid program; and one

31

1 representative from a health care facility that provides a
2 tertiary service.

3 (b) The President of the Senate shall appoint a
4 representative of a for-profit hospital, a representative of a
5 not-for-profit hospital, a representative of a public
6 hospital, two representatives of the nursing home industry,
7 two representatives of the hospice industry, a representative
8 of a consumer organization, a representative from the
9 Department of Elderly Affairs involved with the implementation
10 of a long-term-care community diversion program, and a health
11 care market consultant with expertise in health care
12 economics.

13 (c) The Speaker of the House of Representatives shall
14 appoint a representative from the Florida Hospital
15 Association, a representative of the Association of Community
16 Hospitals and Health Systems of Florida, a representative of
17 the Florida League of Health Systems, a representative of the
18 Florida Health Care Association, a representative of the
19 Florida Association of Homes for the Aging, three
20 representatives of Florida Hospices and Palliative Care, one
21 representative of local health councils, and one
22 representative of a consumer organization.

23 (4) The workgroup shall study issues pertaining to the
24 certificate-of-need program, including the impact of trends in
25 health care delivery and financing. The workgroup shall study
26 issues relating to implementation of the certificate-of-need
27 program.

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

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

3 651.118 Agency for Health Care Administration;
4 certificates of need; sheltered beds; community beds.--

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

18 (a) The facility has a net loss for the most recent
19 fiscal year as determined under generally accepted accounting
20 principles, excluding the effects of extraordinary or unusual
21 items, as demonstrated in the most recently audited financial
22 statement; or

23 (b) The facility would have had a pro forma loss for
24 the most recent fiscal year, excluding the effects of
25 extraordinary or unusual items, if revenues were reduced by
26 the amount of revenues from persons in sheltered beds who were
27 not residents, as reported on by a certified public
28 accountant.

29
30 The agency shall be authorized to grant an extension to the
31 provider based on the evidence required in this subsection.

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

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

21 (1) There is established a statewide consortium to be
22 known as the Public Cord Blood Tissue Bank. The Public Cord
23 Blood Tissue Bank is established as a nonprofit legal entity
24 to collect, screen for infectious and genetic diseases,
25 perform tissue typing, cryopreserve, and store umbilical cord
26 blood as a resource to the public. The University of Florida,
27 the University of South Florida, the University of Miami, and
28 the Mayo Clinic, Jacksonville shall jointly form the
29 collaborative consortium, each working with community
30 resources such as regional blood banks, hospitals, and other
31 health care providers to develop local and regional coalitions

1 for the purposes set forth in this act. The consortium
2 participants shall align their outreach programs and
3 activities to all geographic areas of the state, covering the
4 entire state. The consortium is encouraged to conduct
5 outreach and research for Hispanics, African Americans, Native
6 Americans, and other ethnic and racial minorities.

7 (2) The Agency for Health Care Administration and the
8 Department of Health shall encourage health care providers,
9 including, but not limited to, hospitals, birthing facilities,
10 county health departments, physicians, midwives, and nurses,
11 to disseminate information about the Public Cord Blood Tissue
12 Bank.

13 (3) Nothing in this section creates a requirement of
14 any health care or services program that is directly
15 affiliated with a bona fide religious denomination that
16 includes as an integral part of its beliefs and practices the
17 tenet that blood transfer is contrary to the moral principles
18 the denomination considers to be an essential part of its
19 beliefs.

20 (4) Any health care facility or health care provider
21 receiving financial remuneration for the collection of
22 umbilical cord blood shall provide written disclosure of this
23 information to any woman postpartum or parent of a newborn
24 from whom the umbilical cord blood is collected prior to the
25 harvesting of the umbilical cord blood.

26 (5) A woman admitted to a hospital or birthing
27 facility for obstetrical services may be offered the
28 opportunity to donate umbilical cord blood to the Public Cord
29 Blood Tissue Bank. A woman may not be required to make such a
30 donation.

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1 (6) The consortium may charge reasonable rates and
2 fees to recipients of cord blood tissue bank products.

3 (7) In order to fund the provisions of this section
4 the consortium participants, the Agency for Health Care
5 Administration, and the Department of Health shall seek
6 private or federal funds to initiate program actions for
7 fiscal year 2000-2001.

8 Section 17. Subsection (3) of section 400.464, Florida
9 Statutes, is repealed.

10 Section 18. The General Appropriations Act for Fiscal
11 Year 2000-2001 shall be reduced by 4 full time equivalent
12 positions and \$260,719 from the Health Care Trust Fund in the
13 Agency for Health Care Administration for purposes of
14 implementing the provisions of this act.

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

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