

Bill No. CS/HB 339, 2nd Eng.

Amendment No. Barcode 151040

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Klein moved the following substitute for amendment
12 (880602):

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14 **Senate Amendment (with title amendment)**
15 Delete everything after the enacting clause

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17 and insert:

18 Section 1. The certificate-of-need workgroup created
19 by section 15 of Chapter 2000-318, Laws of Florida, shall
20 include in its report the issue of access to open heart
21 surgery services in areas currently lacking programs or deemed
22 underserved. In evaluating access to open heart surgery, the
23 work group shall consider the restriction of angioplasty to
24 hospitals providing open heart surgery and recommend ways to
25 improve access to primary angioplasty while assuring patient
26 safety and quality of care. The workgroup shall submit its
27 final recommendations on or before January 1, 2002.

28 Section 2. Paragraph (r) is added to subsection (3) of
29 section 408.036, Florida Statutes, to read:

30 408.036 Projects subject to review.--

31 (3) EXEMPTIONS.--Upon request, the following projects

Bill No. CS/HB 339, 2nd Eng.

Amendment No. ____ Barcode 151040

1 are subject to exemption from the provisions of subsection
2 (1):

3 (r) For the conversion of hospital-based Medicare and
4 Medicaid certified skilled nursing beds to acute care beds, if
5 the conversion does not involve the construction of new
6 facilities.

7 Section 3. Paragraph (c) of subsection (5) of section
8 408.039, Florida Statutes, is amended to read:

9 408.039 Review process.--The review process for
10 certificates of need shall be as follows:

11 (5) ADMINISTRATIVE HEARINGS.--

12 (c) In administrative proceedings challenging the
13 issuance or denial of a certificate of need, only applicants
14 considered by the agency in the same batching cycle are
15 entitled to a comparative hearing on their applications.
16 Existing health care facilities may initiate or intervene in
17 an administrative hearing only upon a showing that an
18 established program will be substantially affected by the
19 issuance of any certificate of need, whether reviewed under s.
20 408.036(1) or (2), to a competing proposed facility or program
21 within the same district. Any party challenging an order
22 approving or denying a certificate of need in an
23 administrative or judicial action shall place in escrow an
24 amount equal to the proposed project cost or \$500,000,
25 whichever amount is less. If any party challenging the order
26 fails in the challenge, that party shall pay all costs of
27 litigation, including treble attorney fees, of the party that
28 was issued the certificate of need. Such amounts shall be
29 taken first from the escrow account established for this
30 purpose, the balance to be considered enforceable as an
31 obligation created by final order of the agency. The

Bill No. CS/HB 339, 2nd Eng.

Amendment No. ____ Barcode 151040

1 challenging facility may satisfy the escrow requirement with a
2 bond of sufficient type and amount.

3 Section 4. Effective July 1, 2001, section 15 of
4 chapter 2000-318, Laws of Florida, is amended to read:

5 Section 15.

6 (1)(a) There is created a certificate-of-need
7 workgroup staffed by the Agency for Health Care
8 Administration.

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

14 (2) The workgroup shall consist of 7 ~~30~~ members, ~~10~~
15 ~~appointed by the Governor, 10 appointed by the President of~~
16 ~~the Senate, and 10 appointed by the Speaker of the House of~~
17 ~~Representatives.~~ The Governor shall appoint 1 member
18 representing hospitals, 1 member representing hospice, 1
19 member representing nursing homes, and 2 members representing
20 the Agency for Health Care Administration. The President of
21 the Senate shall appoint 1 member of the Senate. The Speaker
22 of the House of Representatives shall appoint 1 member of the
23 House of Representatives. The workgroup chairperson shall be
24 selected by majority vote of a quorum present. Four ~~Sixteen~~
25 members shall constitute a quorum. ~~The membership shall~~
26 ~~include, but not be limited to, representatives from health~~
27 ~~care provider organizations, health care facilities,~~
28 ~~individual health care practitioners, local health councils,~~
29 ~~and consumer organizations, and persons with health care~~
30 ~~market expertise as a private sector consultant.~~

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

Bill No. CS/HB 339, 2nd Eng.

Amendment No. ____ Barcode 151040

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

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

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

31 (4) The workgroup shall develop a plan for the reform

Bill No. CS/HB 339, 2nd Eng.

Amendment No. ____ Barcode 151040

1 or elimination of the certificate of need program, which shall
2 include recommendations for recommended legislative action and
3 agency rule making. No plan shall be implemented sooner than
4 the effective date of any rules necessary for its
5 implementation. In developing the plan, the workgroup shall
6 seek input from all classes of health care consumers, health
7 care providers and health care facilities subject to
8 certificate of need review. All agencies, including, but not
9 limited to, the Agency for Health Care Administration and the
10 Department of Elder Affairs, shall provide assistance to the
11 workgroup, upon request.~~The workgroup shall study issues~~
12 ~~pertaining to the certificate-of-need program, including the~~
13 ~~impact of trends in health care delivery and financing. The~~
14 ~~workgroup shall study issues relating to implementation of the~~
15 ~~certificate-of-need program.~~

16 (5) ~~The workgroup shall meet at least annually, at the~~
17 ~~request of the chairperson. The workgroup shall submit an~~
18 ~~interim report by December 31, 2001, and a final report by~~
19 ~~December 31, 2002.~~The workgroup is abolished effective July
20 1, 2003.

21 Section 5. This act shall take effect upon becoming a
22 law.

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25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete everything before the enacting clause

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29 and insert:

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A bill to be entitled

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An act relating to certificate of need;

Bill No. CS/HB 339, 2nd Eng.

Amendment No. ____ Barcode 151040

1 requiring the certificate-of-need workgroup to
2 address open heart surgery services in its
3 report; requiring final recommendations to be
4 submitted by January 1, 2002; amending s.
5 408.036, F.S.; providing an exemption from
6 review for the conversion of certain skilled
7 nursing beds to acute care beds; amending s.
8 408.039, F.S.; revising the review process for
9 certificates of need; amending s. 15 of ch.
10 2000-318, Laws of Florida; providing for
11 membership of the certificate-of-need
12 workgroup; amending the scope of responsibility
13 for the workgroup; providing an effective date.

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