

1 A bill to be entitled
2 An act relating to certificate of need;
3 amending s. 408.043, F.S.; providing criteria
4 for review of a certificate-of-need application
5 for establishment of an adult open heart
6 surgery program in a county in which none of
7 the hospitals has an existing or approved adult
8 open heart surgery program; requiring an
9 agreement that a certain percent of Medicaid
10 and charity patients be served; requiring a
11 specified number of operations; amending s.
12 408.036, F.S.; authorizing certain facilities
13 to request exemption from the certificate of
14 need process; amending s. 15 of ch. 2000-318,
15 Laws of Florida; providing for additional
16 appointments to the workgroup; amending the
17 scope of responsibility for the workgroup;
18 providing new dates for final report to the
19 Governor and Legislature and termination of the
20 certificate-of-need workgroup; providing
21 effective dates.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (5) is added to section 408.043,
26 Florida Statutes, to read:

27 408.043 Special provisions.--

28 (5) OPEN HEART SURGERY.

29 (a) When an application is made for a certificate of
30 need to establish an adult open heart surgery program in a
31 county in which none of the hospitals has an existing or

1 approved adult open heart surgery program, need for one
2 program shall be evaluated under special circumstances to
3 promote reasonable access to such a program within the
4 county. The criteria on which the certificate of need is
5 reviewed in such circumstances shall favor approval in those
6 counties that can generate at least 1,200 annual hospital
7 discharges with a principal diagnosis of ischemic heart
8 disease. County-specific need identified under these
9 circumstances shall exist independently of and in addition to
10 any district need identified under the standard numeric need
11 formula.

12 (b) An applicant for an adult open heart surgery
13 program who meets the special circumstances in paragraph (a)
14 shall, as a condition for approval, agree that the percentage
15 of admissions to its program which are Medicaid patients shall
16 be at least as great as the average percentage of Medicaid
17 patients admitted to open heart surgery programs in the
18 applicant's district; and shall also agree that the percentage
19 of admissions to its program which are charity patients shall
20 be at least as great as the average percentage of charity
21 patients admitted to open heart surgery programs in the
22 applicant's district.

23 (c) An applicant approved for an adult open heart
24 surgery program consistent with this subsection shall perform
25 a 12-month total of at least 250 open heart surgery operations
26 during the third year that such procedures are being
27 performed. Failure to meet this requirement is subject to
28 agency action to terminate a hospital's authorization to
29 provide any open heart surgery operations.

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

1 408.036 Projects subject to review.--

2 (3) EXEMPTIONS.--Upon request, the following projects
3 are subject to exemption from the provisions of subsection
4 (1):

5 (r) For the provision of adult open heart surgery
6 services in a hospital, the request for an exemption must
7 comply with the following criteria:

8 1. The hospital must have at least 390 licensed beds
9 as of the date of the exemption request.

10 2. The hospital shall demonstrate, for the twelve
11 month period ending one month prior to the date of the
12 exemption request, at least 400 admissions to the hospital
13 through its emergency room of patients with the primary
14 diagnosis of acute myocardial infarction, and the performance
15 of at least 1,000 diagnostic and therapeutic cardiac
16 catheterizations.

17 3. The hospital shall certify that its provision of
18 open heart surgery services will be offered in conjunction
19 with a therapeutic cardiac catheterization program, will be
20 available to all patients without regard as to ability to pay,
21 will maintain sufficient and appropriate equipment and staff
22 to ensure quality and safety, will be available 24 hours a
23 day, 7 days a week, and will maintain appropriate volumes as
24 reasonably necessary to ensure quality and safety.

25 4. The exemption shall terminate if the agency
26 determines that the hospital has failed to comply with the
27 certifications set forth in subparagraph 3. In the event the
28 exemption terminates, the hospital will not again be eligible
29 to apply for an exemption until two years following the date
30 of termination.

31

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

3 Section 15.

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

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

12 (2) The workgroup shall consist of 32 ~~30~~ members, 10
13 appointed by the Governor, 11 ~~10~~ appointed by the President of
14 the Senate, and 11 ~~10~~ appointed by the Speaker of the House of
15 Representatives. The workgroup chairperson shall be selected
16 by majority vote of a quorum present. Sixteen members shall
17 constitute a quorum. The membership shall include, but not be
18 limited to, representatives from health care provider
19 organizations, health care facilities, individual health care
20 practitioners, local health councils, and consumer
21 organizations, and persons with health care market expertise
22 as a private-sector consultant.

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

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

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, and a member of the Senate.

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, and a member of the
23 House.

24 (4) The workgroup shall develop a plan for the reform
25 or elimination of the certificate of need program, which shall
26 include recommendations for required legislative action and
27 agency rule making. Such plan shall be implemented not sooner
28 than the effective date of any rules necessary for its
29 implementation. In developing the plan, the workgroup shall
30 seek input from all classes of health care consumers, health
31 care providers and health care facilities subject to

1 certificate of need review. All agencies, including, but not
2 limited to, the Agency for Health Care Administration and the
3 Department of Elder Affairs, shall provide assistance to the
4 workgroup, upon request.~~The workgroup shall study issues~~
5 ~~pertaining to the certificate of need program, including the~~
6 ~~impact of trends in health care delivery and financing. The~~
7 ~~workgroup shall study issues relating to implementation of the~~
8 ~~certificate of need program.~~

9 (5) The workgroup shall meet at least annually, at the
10 request of the chairperson. The workgroup shall submit ~~an~~
11 ~~interim report by December 31, 2001, and a final report to the~~
12 Governor, the President of the Senate, and the Speaker of the
13 House of Representatives by January 7, by December 31, 2002.
14 The workgroup is abolished effective May 3, 2002 ~~July 1, 2003.~~

15 Section 4. This act shall take effect upon becoming a
16 law.