

By Senator Posey

15-549-01

See HB 243

1 A bill to be entitled
 2 An act relating to health care; repealing ss.
 3 408.031, 408.032, 408.033, 408.034, 408.035,
 4 408.036, 408.0361, 408.037, 408.038, 408.039,
 5 408.040, 408.041, 408.042, 408.043, 408.044,
 6 408.045, 408.0455, 651.118, F.S., relating to
 7 requirements for certificate-of-need review and
 8 approval for health care facilities and
 9 services; repealing s. 154.245, F.S., relating
 10 to certificates of need required as a condition
 11 of certain bond validation; amending ss. 20.42,
 12 154.205, 154.213, 154.219, 159.27, 164.1031,
 13 186.503, 186.507, 186.511, 189.415, 383.216,
 14 395.0191, 395.1055, 395.603, 395.604, 395.605,
 15 400.071, 400.23, 400.602, 400.606, 400.6085,
 16 408.05, 408.061, 408.063, 408.07, 408.09,
 17 408.18, 409.9117, 430.705, 430.708, 458.345,
 18 459.021, 641.60, 651.021, F.S., to conform to
 19 the repeal of certificate-of-need requirements
 20 and the process of certificate-of-need review,
 21 and the health planning process related
 22 thereto; providing an effective date.

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

25
 26 Section 1. Sections 154.245, 408.031, 408.032,
 27 408.033, 408.034, 408.035, 408.036, 408.0361, 408.037,
 28 408.038, 408.039, 408.040, 408.041, 408.042, 408.043, 408.044,
 29 408.045, 408.0455, and 651.118, Florida Statutes, are
 30 repealed.

31

1 Section 2. Subsection (3) of section 20.42, Florida
2 Statutes, is amended to read:

3 20.42 Agency for Health Care Administration.--

4 (3) The department shall be the chief health policy
5 and planning entity for the state. The department is
6 responsible for health facility licensure, inspection, and
7 regulatory enforcement; investigation of consumer complaints
8 related to health care facilities and managed care plans; ~~the~~
9 ~~implementation of the certificate of need program~~the
10 operation of the State Center for Health Statistics; the
11 administration of the Medicaid program; the administration of
12 the contracts with the Florida Healthy Kids Corporation; the
13 certification of health maintenance organizations and prepaid
14 health clinics as set forth in part III of chapter 641; and
15 any other duties prescribed by statute or agreement.

16 Section 3. Subsection (4) of section 154.205, Florida
17 Statutes, is amended to read:

18 154.205 Definitions.--The following terms, whenever
19 used in this part, shall have the following meanings unless a
20 different meaning clearly appears from the context:

21 ~~(4) "Certificate of need" means a written advisory~~
22 ~~statement issued by the Agency for Health Care Administration,~~
23 ~~having as its basis a written advisory statement issued by an~~
24 ~~areawide council and, where there is no council, by the Agency~~
25 ~~for Health Care Administration, evidencing community need for~~
26 ~~a new, converted, expanded, or otherwise significantly~~
27 ~~modified health facility.~~

28 Section 4. Section 154.213, Florida Statutes, is
29 amended to read:

30 154.213 Agreements of lease.--In undertaking any
31 project pursuant to this part, the authority shall first

1 ~~obtain a valid certificate of need evidencing need for the~~
2 ~~project and~~ a statement that the project serves a public
3 purpose by advancing the commerce, welfare, and prosperity of
4 the local agency and its people. No project financed under
5 the provisions of this part shall be operated by the authority
6 or any other governmental agency; however, the authority may
7 temporarily operate or cause to be operated all or any part of
8 a project to protect its interest therein pending any leasing
9 of such project in accordance with the provisions of this
10 part. The authority may lease a project or projects to a
11 health facility for operation and maintenance in such manner
12 as to effectuate the purposes of this part under an agreement
13 of lease in form and substance not inconsistent herewith.

14 (1) Any such agreement of lease may provide, among
15 other provisions, that:

16 (a) The lessee shall at its own expense operate,
17 repair, and maintain the project or projects leased
18 thereunder.

19 (b) The rent payable under the lease shall in the
20 aggregate be not less than an amount sufficient to pay all of
21 the interest, principal, and redemption premiums, if any, on
22 the bonds that shall be issued by the authority to pay the
23 cost of the project or projects leased thereunder.

24 (c) The lessee shall pay all costs incurred by the
25 authority in connection with the acquisition, financing,
26 construction, and administration of the project or projects
27 leased, except as may be paid out of the proceeds of bonds or
28 otherwise, including, but without being limited to: Insurance
29 costs, the cost of administering the bond resolution
30 authorizing such bonds and any trust agreement securing the
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1 bonds, and the fees and expenses of trustees, paying agents,
2 attorneys, consultants, and others.

3 (d) The terms of the lease shall terminate not earlier
4 than the date on which all such bonds and all other
5 obligations incurred by the authority in connection with the
6 project or projects leased thereunder shall be paid in full,
7 including interest, principal, and redemption premiums, if
8 any, or adequate funds for such payment shall be deposited in
9 trust.

10 (e) The lessee's obligation to pay rent shall not be
11 subject to cancellation, termination, or abatement by the
12 lessee until such payment of the bonds or provision for such
13 payment shall be made.

14 (2) Such lease agreement may contain such additional
15 provisions as in the determination of the authority are
16 necessary or convenient to effectuate the purposes of this
17 part, including provisions for extensions of the term and
18 renewals of the lease and vesting in the lessee an option to
19 purchase the project leased thereunder pursuant to such terms
20 and conditions consistent with this part as shall be
21 prescribed in the lease. Except as may otherwise be expressly
22 stated in the agreement of lease, to provide for any
23 contingencies involving the damaging, destruction, or
24 condemnation of the project leased or any substantial portion
25 thereof, such option to purchase may not be exercised unless
26 all bonds issued for such project, including all principal,
27 interest, and redemption premiums, if any, and all other
28 obligations incurred by the authority in connection with such
29 project, shall have been paid in full or sufficient funds
30 shall have been deposited in trust for such payment. The
31 purchase price of such project shall not be less than an

1 amount sufficient to pay in full all of the bonds, including
2 all principal, interest, and redemption premiums, if any,
3 issued for the project then outstanding and all other
4 obligations incurred by the authority in connection with such
5 project.

6 Section 5. Subsection (1) of section 154.219, Florida
7 Statutes, is amended to read:

8 154.219 Revenue bonds.--

9 (1) The authority is authorized from time to time to
10 issue its negotiable revenue bonds ~~for the purpose of paying~~
11 ~~all or any part of the cost of any project or projects for~~
12 ~~which a certificate of need has been obtained, or pursuant to~~
13 subsections (12) and (13) of s. 154.209 for the purpose of
14 paying all or any part of the cost of acquiring existing or
15 completed health facilities projects. In anticipation of the
16 sale of such revenue bonds, the authority may issue negotiable
17 bond anticipation notes and may renew the same from time to
18 time, but the maximum maturity of any such note, including
19 renewals thereof, shall not exceed 5 years from the date of
20 issue of the original note. Such notes shall be paid from any
21 revenues of the authority available therefor and not otherwise
22 pledged or from the proceeds of sale of the revenue bonds of
23 the authority in anticipation of which they were issued. The
24 notes shall be issued in the same manner as the revenue bonds.
25 Such notes and the resolution or resolutions authorizing the
26 same may contain any provisions, conditions, or limitation
27 which a bond resolution of the authority may contain.

28 Section 6. Subsection (16) of section 159.27, Florida
29 Statutes, is amended to read:

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1 159.27 Definitions.--The following words and terms,
2 unless the context clearly indicates a different meaning,
3 shall have the following meanings:

4 (16) "Health care facility" means property operated in
5 the private sector, whether operated for profit or not, used
6 for or useful in connection with the diagnosis, treatment,
7 therapy, rehabilitation, housing, or care of or for aged,
8 sick, ill, injured, infirm, impaired, disabled, or handicapped
9 persons, without discrimination among such persons due to
10 race, religion, or national origin; or for the prevention,
11 detection, and control of disease, including, without
12 limitation thereto, hospital, clinic, emergency, outpatient,
13 and intermediate care, including, but not limited to,
14 facilities for the elderly such as assisted living facilities,
15 facilities defined in s. 154.205(7)(~~8~~), day care and
16 share-a-home facilities, nursing homes, and the following
17 related property when used for or in connection with the
18 foregoing: laboratory; research; pharmacy; laundry; health
19 personnel training and lodging; patient, guest, and health
20 personnel food service facilities; and offices and office
21 buildings for persons engaged in health care professions or
22 services; ~~provided, if required by ss. 400.601-400.611 and ss.~~
23 ~~408.031-408.045, a certificate of need therefor is obtained~~
24 ~~prior to the issuance of the bonds.~~

25 Section 7. Subsection (2) of section 164.1031, Florida
26 Statutes, is amended to read:

27 164.1031 Definitions.--For purposes of this act:

28 (2) "Regional governmental entities" includes regional
29 planning councils, metropolitan planning organizations, water
30 supply authorities that include more than one county, ~~local~~
31 ~~health councils~~, water management districts, and other

1 regional entities that are authorized and created by general
2 or special law that have duties or responsibilities extending
3 beyond the jurisdiction of a single county.

4 Section 8. Subsection (7) of section 186.503, Florida
5 Statutes, is amended to read:

6 186.503 Definitions relating to Florida Regional
7 Planning Council Act.--As used in this act, the term:

8 ~~(7) "Local health council" means a regional agency~~
9 ~~established pursuant to s. 408.033.~~

10 Section 9. Subsection (10) of section 186.507, Florida
11 Statutes, is amended to read:

12 186.507 Strategic regional policy plans.--

13 ~~(10) Each regional planning council shall enter into a~~
14 ~~memorandum of agreement with each local health council in its~~
15 ~~comprehensive planning district to ensure the coordination of~~
16 ~~health planning, if the regional planning council elects to~~
17 ~~address health issues in its strategic regional policy plan.~~
18 ~~The memorandum of agreement shall specify the manner in which~~
19 ~~each regional planning council and local health council will~~
20 ~~coordinate their activities.~~

21 Section 10. Section 186.511, Florida Statutes, is
22 amended to read:

23 186.511 Evaluation of strategic regional policy plan;
24 changes in plan.--The regional planning process shall be a
25 continuous and ongoing process. Each regional planning
26 council shall prepare an evaluation and appraisal report on
27 its strategic regional policy plan at least once every 5
28 years; assess the successes or failures of the plan; address
29 changes to the state comprehensive plan; and prepare and adopt
30 by rule amendments, revisions, or updates to the plan as
31 needed. ~~Each regional planning council shall involve the~~

1 ~~appropriate local health councils in its region if the~~
2 ~~regional planning council elects to address regional health~~
3 ~~issues.~~ The evaluation and appraisal report shall be prepared
4 and submitted for review on a schedule established by the
5 Executive Office of the Governor. The schedule shall
6 facilitate and be coordinated with, to the maximum extent
7 feasible, the evaluation and revision of local comprehensive
8 plans pursuant to s. 163.3191 for the local governments within
9 each comprehensive planning district.

10 Section 11. Subsection (3) of section 189.415, Florida
11 Statutes, is amended to read:

12 189.415 Special district public facilities report.--

13 ~~(3) A special district proposing to build, improve, or~~
14 ~~expand a public facility which requires a certificate of need~~
15 ~~pursuant to chapter 408 shall elect to notify the appropriate~~
16 ~~local general-purpose government of its plans either in its~~
17 ~~5-year plan or at the time the letter of intent is filed with~~
18 ~~the Agency for Health Care Administration pursuant to s.~~
19 ~~408.039.~~

20 Section 12. Subsection (1) of section 383.216, Florida
21 Statutes, is amended to read:

22 383.216 Community-based prenatal and infant health
23 care.--

24 (1) The Department of Health shall cooperate with
25 localities which wish to establish prenatal and infant health
26 care coalitions, and shall acknowledge and incorporate, if
27 appropriate, existing community children's services
28 organizations, pursuant to this section within the resources
29 allocated. The purpose of this program is to establish a
30 partnership among the private sector, the public sector, state
31 government, local government, community alliances, and

1 maternal and child health care providers, for the provision of
2 coordinated community-based prenatal and infant health care.
3 ~~The prenatal and infant health care coalitions must work in a~~
4 ~~coordinated, nonduplicative manner with local health planning~~
5 ~~councils established pursuant to s. 408.033.~~

6 Section 13. Subsection (10) of section 395.0191,
7 Florida Statutes, is amended to read:

8 395.0191 Staff membership and clinical privileges.--

9 ~~(10) Nothing herein shall be construed by the agency~~
10 ~~as requiring an applicant for a certificate of need to~~
11 ~~establish proof of discrimination in the granting of or denial~~
12 ~~of hospital staff membership or clinical privileges as a~~
13 ~~precondition to obtaining such certificate of need under the~~
14 ~~provisions of s. 408.043.~~

15 Section 14. Paragraph (h) of subsection (1) of section
16 395.1055, Florida Statutes, is amended to read:

17 395.1055 Rules and enforcement.--

18 (1) The agency shall adopt rules pursuant to ss.
19 120.536(1) and 120.54 to implement the provisions of this
20 part, which shall include reasonable and fair minimum
21 standards for ensuring that:

22 ~~(h) All hospitals submit such data as necessary to~~
23 ~~conduct certificate of need reviews required under ss.~~
24 ~~408.031-408.045. Such data shall include, but shall not be~~
25 ~~limited to, patient origin data, hospital utilization data,~~
26 ~~type of service reporting, and facility staffing data. The~~
27 ~~agency shall not collect data that identifies or could~~
28 ~~disclose the identity of individual patients. The agency shall~~
29 ~~utilize existing uniform statewide data sources when available~~
30 ~~and shall minimize reporting costs to hospitals.~~

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1 Section 15. Subsection (1) of section 395.603, Florida
2 Statutes, is amended to read:

3 395.603 Rules; rural hospital impact statement.--

4 (1) The agency shall establish, by rule, a process by
5 which a rural hospital, as defined in s. 395.602, that seeks
6 licensure as a rural primary care hospital or as an emergency
7 care hospital, or becomes a certified rural health clinic as
8 defined in Pub. L. No. 95-210, or becomes a primary care
9 program such as a county health department, community health
10 center, or other similar outpatient program that provides
11 preventive and curative services, may deactivate general
12 hospital beds. Rural primary care hospitals and emergency
13 care hospitals shall maintain the number of actively licensed
14 general hospital beds necessary for the facility to be
15 certified for Medicare reimbursement. Hospitals that
16 discontinue inpatient care to become rural health care clinics
17 or primary care programs shall deactivate all licensed general
18 hospital beds. All hospitals, clinics, and programs with
19 inactive beds shall provide 24-hour emergency medical care by
20 staffing an emergency room. Providers with inactive beds
21 shall be subject to the criteria in s. 395.1041. The agency
22 shall specify in rule requirements for making 24-hour
23 emergency care available. ~~Inactive general hospital beds
24 shall be included in the acute care bed inventory, maintained
25 by the agency for certificate-of-need purposes, for 10 years
26 from the date of deactivation of the beds. After 10 years have
27 elapsed, inactive beds shall be excluded from the inventory.~~
28 The agency shall, at the request of the licensee, reactivate
29 the inactive general beds upon a showing by the licensee that
30 licensure requirements for the inactive general beds are met.

31

1 Section 16. Subsection (1) of section 395.604, Florida
2 Statutes, is amended to read:

3 395.604 Other rural hospital programs.--

4 (1) The agency may license rural primary care
5 hospitals subject to federal approval for participation in the
6 Medicare and Medicaid programs. Rural primary care hospitals
7 shall be treated in the same manner as emergency care
8 hospitals and rural hospitals with respect to s.
9 395.605(2)-(6)(a)~~ss. 395.605(2)-(8)(a), 408.033(2)(b)3., and~~
10 ~~408.038.~~

11 Section 17. Subsections (5) and (7) of section
12 395.605, Florida Statutes, are amended to read:

13 395.605 Emergency care hospitals.--

14 ~~(5) Rural hospitals that make application under the~~
15 ~~certificate-of-need program to be licensed as emergency care~~
16 ~~hospitals shall receive expedited review as defined in s.~~
17 ~~408.032. Emergency care hospitals seeking relicensure as acute~~
18 ~~care general hospitals shall also receive expedited review.~~

19 ~~(7) Emergency care hospitals are exempt from~~
20 ~~certificate-of-need requirements for home health and hospice~~
21 ~~services and for swing beds in a number that does not exceed~~
22 ~~one-half of the facility's licensed beds.~~

23 Section 18. Subsection (9) of section 400.071, Florida
24 Statutes, is amended to read:

25 400.071 Application for license.--

26 (9) ~~The agency may not issue a license to a nursing~~
27 ~~home that fails to receive a certificate of need under the~~
28 ~~provisions of ss. 408.031-408.045.~~ It is the intent of the
29 Legislature that, in reviewing an ~~a certificate-of-need~~
30 application to add beds to an existing nursing home facility,
31 preference be given to the application of a licensee who has

1 | been awarded a Gold Seal as provided for in s. 400.235, ~~if the~~
2 | ~~applicant otherwise meets the review criteria specified in s.~~
3 | ~~408.035.~~

4 | Section 19. Subsection (5) of section 400.23, Florida
5 | Statutes, is amended to read:

6 | 400.23 Rules; evaluation and deficiencies; licensure
7 | status.--

8 | (5) The agency, in collaboration with the Division of
9 | Children's Medical Services of the Department of Health, must,
10 | no later than December 31, 1993, adopt rules for minimum
11 | standards of care for persons under 21 years of age who reside
12 | in nursing home facilities. ~~The rules must include a~~
13 | ~~methodology for reviewing a nursing home facility under ss.~~
14 | ~~408.031-408.045 which serves only persons under 21 years of~~
15 | ~~age.~~A facility may be exempt from these standards for
16 | specific persons between 18 and 21 years of age, if the
17 | person's physician agrees that minimum standards of care based
18 | on age are not necessary.

19 | Section 20. Subsection (6) of section 400.602, Florida
20 | Statutes, is amended to read:

21 | 400.602 Licensure required; prohibited acts;
22 | exemptions; display, transferability of license.--

23 | (6) Notwithstanding s. 400.601(3), at any time after
24 | July 1, 1995, any entity entitled to licensure under
25 | subsection (5) may obtain a license for up to two additional
26 | hospices in accordance with the other requirements of this
27 | part ~~and upon receipt of any certificate of need that may be~~
28 | ~~required under the provisions of ss. 408.031-408.045.~~

29 | Section 21. Subsections (5) and (6) of section
30 | 400.606, Florida Statutes, are amended to read:

31 |

1 400.606 License; application; renewal; conditional
2 license or permit; ~~certificate of need.~~--

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

9 (5)(6) A freestanding hospice facility that is
10 primarily engaged in providing inpatient and related services
11 and that is not otherwise licensed as a health care facility
12 shall be required to obtain a certificate of need. However, A
13 freestanding hospice facility with six or fewer beds shall not
14 be required to comply with institutional standards such as,
15 but not limited to, standards requiring sprinkler systems,
16 emergency electrical systems, or special lavatory devices.

17 Section 22. Paragraph (b) of subsection (2) of section
18 400.6085, Florida Statutes, is amended to read:

19 400.6085 Contractual services.--A hospice may contract
20 out for some elements of its services. However, the core
21 services, as set forth in s. 400.609(1), with the exception of
22 physician services, shall be provided directly by the hospice.
23 Any contract entered into between a hospice and a health care
24 facility or service provider must specify that the hospice
25 retains the responsibility for planning, coordinating, and
26 prescribing hospice care and services for the hospice patient
27 and family. A hospice that contracts for any hospice service
28 is prohibited from charging fees for services provided
29 directly by the hospice care team that duplicate contractual
30 services provided to the patient and family.

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1 (2) With respect to contractual arrangements for
2 inpatient hospice care:

3 (b) Licensed beds designated for inpatient hospice
4 care through a contract ~~Hospices contracting for inpatient~~
5 ~~care beds shall not be required to obtain an additional~~
6 ~~certificate of need for the number of such designated beds.~~
7 ~~Such beds~~ shall remain licensed to the health care facility
8 and be subject to the appropriate inspections.

9 Section 23. Paragraph (d) of subsection (3) and
10 paragraph (a) of subsection (8) of section 408.05, Florida
11 Statutes, are amended to read:

12 408.05 State Center for Health Statistics.--

13 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.--In order
14 to produce comparable and uniform health information and
15 statistics, the agency shall perform the following functions:

16 (d) Develop written agreements with local, state, and
17 federal agencies for the sharing of health-care-related data
18 or using the facilities and services of such agencies. State
19 agencies, ~~local health councils,~~ and other agencies under
20 contract with the Department of Health shall assist the center
21 in obtaining, compiling, and transferring health-care-related
22 data maintained by state and local agencies. Written
23 agreements must specify the types, methods, and periodicity of
24 data exchanges and specify the types of data that will be
25 transferred to the center.

26 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
27 ADVISORY COUNCIL.--

28 (a) There is established in the agency the State
29 Comprehensive Health Information System Advisory Council to
30 assist the center in reviewing the comprehensive health
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1 information system and to recommend improvements for such
2 system. The council shall consist of the following members:

- 3 1. An employee of the Executive Office of the
4 Governor, to be appointed by the Governor.
- 5 2. An employee of the Department of Insurance, to be
6 appointed by the Insurance Commissioner.
- 7 3. An employee of the Department of Education, to be
8 appointed by the Commissioner of Education.
- 9 4. Ten persons, to be appointed by the Secretary of
10 Health Care Administration, representing other state and local
11 agencies, state universities, the Florida Association of
12 Business/Health Coalitions, ~~local health councils,~~
13 professional health-care-related associations, consumers, and
14 purchasers.

15 Section 24. Subsection (12) of section 408.061,
16 Florida Statutes, is amended to read:

17 408.061 Data collection; uniform systems of financial
18 reporting; information relating to physician charges;
19 confidential information; immunity.--

20 (12) The agency shall cooperate with ~~local health~~
21 ~~councils~~ and the state health planning agency with regard to
22 health care data collection and dissemination and shall
23 cooperate with state agencies in any efforts to establish an
24 integrated health care database.

25 Section 25. Subsection (1) of section 408.063, Florida
26 Statutes, is amended to read:

27 408.063 Dissemination of health care information.--

28 (1) The agency, relying on data collected pursuant to
29 this chapter, shall establish a reliable, timely, and
30 consistent information system that distributes information and
31 serves as the basis for the agency's public education

1 programs. The agency shall seek advice from consumers, health
2 care purchasers, health care providers, health care
3 facilities, and health insurers, ~~and local health councils~~ in
4 the development and implementation of its information system.
5 ~~Whenever appropriate, the agency shall use the local health~~
6 ~~councils for the dissemination of information and education of~~
7 ~~the public.~~

8 Section 26. Section 408.07, Florida Statutes, is
9 amended to read:

10 408.07 Definitions.--As used in this chapter, ~~with the~~
11 ~~exception of ss. 408.031-408.045,~~ the term:

12 (1) "Accepted" means that the agency has found that a
13 report or data submitted by a health care facility or a health
14 care provider contains all schedules and data required by the
15 agency and has been prepared in the format specified by the
16 agency, and otherwise conforms to applicable rule or Florida
17 Hospital Uniform Reporting System manual requirements
18 regarding reports in effect at the time such report was
19 submitted, and the data are mathematically reasonable and
20 accurate.

21 (2) "Adjusted admission" means the sum of acute and
22 intensive care admissions divided by the ratio of inpatient
23 revenues generated from acute, intensive, ambulatory, and
24 ancillary patient services to gross revenues. If a hospital
25 reports only subacute admissions, then "adjusted admission"
26 means the sum of subacute admissions divided by the ratio of
27 total inpatient revenues to gross revenues.

28 (3) "Agency" means the Agency for Health Care
29 Administration.

30 (4) "Alcohol or chemical dependency treatment center"
31 means an organization licensed under chapter 397.

1 (5) "Ambulatory care center" means an organization
2 which employs or contracts with licensed health care
3 professionals to provide diagnosis or treatment services
4 predominantly on a walk-in basis and the organization holds
5 itself out as providing care on a walk-in basis. Such an
6 organization is not an ambulatory care center if it is wholly
7 owned and operated by five or fewer health care providers.

8 (6) "Ambulatory surgical center" means a facility
9 licensed as an ambulatory surgical center under chapter 395.

10 (7) "Audited actual data" means information contained
11 within financial statements examined by an independent,
12 Florida-licensed, certified public accountant in accordance
13 with generally accepted auditing standards, but does not
14 include data within a financial statement about which the
15 certified public accountant does not express an opinion or
16 issues a disclaimer.

17 (8) "Birth center" means an organization licensed
18 under s. 383.305.

19 (9) "Cardiac catheterization laboratory" means a
20 freestanding facility that employs or contracts with licensed
21 health care professionals to provide diagnostic or therapeutic
22 services for cardiac conditions such as cardiac
23 catheterization or balloon angioplasty.

24 (10) "Case mix" means a calculated index for each
25 health care facility or health care provider, based on patient
26 data, reflecting the relative costliness of the mix of cases
27 to that facility or provider compared to a state or national
28 mix of cases.

29 (11) "Clinical laboratory" means a facility licensed
30 under s. 483.091, excluding: any hospital laboratory defined
31 under s. 483.041(6); any clinical laboratory operated by the

1 state or a political subdivision of the state; any blood or
2 tissue bank where the majority of revenues are received from
3 the sale of blood or tissue and where blood, plasma, or tissue
4 is procured from volunteer donors and donated, processed,
5 stored, or distributed on a nonprofit basis; and any clinical
6 laboratory which is wholly owned and operated by physicians
7 who are licensed pursuant to chapter 458 or chapter 459 and
8 who practice in the same group practice, and at which no
9 clinical laboratory work is performed for patients referred by
10 any health care provider who is not a member of that same
11 group practice.

12 (12) "Comprehensive rehabilitative hospital" or
13 "rehabilitative hospital" means a hospital licensed by the
14 agency as a specialty hospital as defined in s. 395.002;
15 provided that the hospital provides a program of comprehensive
16 medical rehabilitative services and is designed, equipped,
17 organized, and operated solely to deliver comprehensive
18 medical rehabilitative services, and further provided that all
19 licensed beds in the hospital are classified as "comprehensive
20 rehabilitative beds" pursuant to s. 395.003(4), and are not
21 classified as "general beds."

22 (13) "Consumer" means any person other than a person
23 who administers health activities, is a member of the
24 governing body of a health care facility, provides health
25 services, has a fiduciary interest in a health facility or
26 other health agency or its affiliated entities, or has a
27 material financial interest in the rendering of health
28 services.

29 (14) "Continuing care facility" means a facility
30 licensed under chapter 651.

31

1 (15) "Cross-subsidization" means that the revenues
2 from one type of hospital service are sufficiently higher than
3 the costs of providing such service as to offset some of the
4 costs of providing another type of service in the hospital.
5 Cross-subsidization results from the lack of a direct
6 relationship between charges and the costs of providing a
7 particular hospital service or type of service.

8 (16) "Deductions from gross revenue" or "deductions
9 from revenue" means reductions from gross revenue resulting
10 from inability to collect payment of charges. For hospitals,
11 such reductions include contractual adjustments; uncompensated
12 care; administrative, courtesy, and policy discounts and
13 adjustments; and other such revenue deductions, but also
14 includes the offset of restricted donations and grants for
15 indigent care.

16 (17) "Diagnostic-imaging center" means a freestanding
17 outpatient facility that provides specialized services for the
18 diagnosis of a disease by examination and also provides
19 radiological services. Such a facility is not a
20 diagnostic-imaging center if it is wholly owned and operated
21 by physicians who are licensed pursuant to chapter 458 or
22 chapter 459 and who practice in the same group practice and no
23 diagnostic-imaging work is performed at such facility for
24 patients referred by any health care provider who is not a
25 member of that same group practice.

26 (18) "FHURS" means the Florida Hospital Uniform
27 Reporting System developed by the agency.

28 (19) "Freestanding" means that a health facility bills
29 and receives revenue which is not directly subject to the
30 hospital assessment for the Public Medical Assistance Trust
31 Fund as described in s. 395.701.

1 (20) "Freestanding radiation therapy center" means a
2 facility where treatment is provided through the use of
3 radiation therapy machines that are registered under s. 404.22
4 and the provisions of the Florida Administrative Code
5 implementing s. 404.22. Such a facility is not a freestanding
6 radiation therapy center if it is wholly owned and operated by
7 physicians licensed pursuant to chapter 458 or chapter 459 who
8 practice within the specialty of diagnostic or therapeutic
9 radiology.

10 (21) "GRAA" means gross revenue per adjusted
11 admission.

12 (22) "Gross revenue" means the sum of daily hospital
13 service charges, ambulatory service charges, ancillary service
14 charges, and other operating revenue. Gross revenues do not
15 include contributions, donations, legacies, or bequests made
16 to a hospital without restriction by the donors.

17 (23) "Health care facility" means an ambulatory
18 surgical center, a hospice, a nursing home, a hospital, a
19 diagnostic-imaging center, a freestanding or hospital-based
20 therapy center, a clinical laboratory, a home health agency, a
21 cardiac catheterization laboratory, a medical equipment
22 supplier, an alcohol or chemical dependency treatment center,
23 a physical rehabilitation center, a lithotripsy center, an
24 ambulatory care center, a birth center, or a nursing home
25 component licensed under chapter 400 within a continuing care
26 facility licensed under chapter 651.

27 (24) "Health care provider" means a health care
28 professional licensed under chapter 458, chapter 459, chapter
29 460, chapter 461, chapter 463, chapter 464, chapter 465,
30 chapter 466, part I, part III, part IV, part V, or part X of
31

1 chapter 468, chapter 483, chapter 484, chapter 486, chapter
2 490, or chapter 491.

3 (25) "Health care purchaser" means an employer in the
4 state, other than a health care facility, health insurer, or
5 health care provider, who provides health care coverage for
6 her or his employees.

7 (26) "Health insurer" means any insurance company
8 authorized to transact health insurance in the state, any
9 insurance company authorized to transact health insurance or
10 casualty insurance in the state that is offering a minimum
11 premium plan or stop-loss coverage for any person or entity
12 providing health care benefits, any self-insurance plan as
13 defined in s. 624.031, any health maintenance organization
14 authorized to transact business in the state pursuant to part
15 I of chapter 641, any prepaid health clinic authorized to
16 transact business in the state pursuant to part II of chapter
17 641, any multiple-employer welfare arrangement authorized to
18 transact business in the state pursuant to ss. 624.436-624.45,
19 or any fraternal benefit society providing health benefits to
20 its members as authorized pursuant to chapter 632.

21 (27) "Home health agency" means an organization
22 licensed under part IV of chapter 400.

23 (28) "Hospice" means an organization licensed under
24 part VI of chapter 400.

25 (29) "Hospital" means a health care institution
26 licensed by the Agency for Health Care Administration as a
27 hospital under chapter 395.

28 (30) "Lithotripsy center" means a freestanding
29 facility that employs or contracts with licensed health care
30 professionals to provide diagnosis or treatment services using
31 electro-hydraulic shock waves.

1 ~~(31)~~ "Local health council" means the agency defined
2 in s. ~~408.033~~.

3 (31)~~(32)~~ "Market basket index" means the Florida
4 hospital input price index (FHIPI), which is a statewide
5 market basket index used to measure inflation in hospital
6 input prices weighted for the Florida-specific experience
7 which uses multistate regional and state-specific price
8 measures, when available. The index shall be constructed in
9 the same manner as the index employed by the Secretary of the
10 United States Department of Health and Human Services for
11 determining the inflation in hospital input prices for
12 purposes of Medicare reimbursement.

13 (32)~~(33)~~ "Medical equipment supplier" means an
14 organization that provides medical equipment and supplies used
15 by health care providers and health care facilities in the
16 diagnosis or treatment of disease.

17 (33)~~(34)~~ "Net revenue" means gross revenue minus
18 deductions from revenue.

19 (34)~~(35)~~ "New hospital" means a hospital in its
20 initial year of operation as a licensed hospital and does not
21 include any facility which has been in existence as a licensed
22 hospital, regardless of changes in ownership, for over 1
23 calendar year.

24 (35)~~(36)~~ "Nursing home" means a facility licensed
25 under s. 400.062 or, for resident level and financial data
26 collection purposes only, any institution licensed under
27 chapter 395 and which has a Medicare or Medicaid certified
28 distinct part used for skilled nursing home care, but does not
29 include a facility licensed under chapter 651.

30 (36)~~(37)~~ "Operating expenses" means total expenses
31 excluding income taxes.

1 ~~(37)~~(38) "Other operating revenue" means all revenue
2 generated from hospital operations other than revenue directly
3 associated with patient care.

4 ~~(38)~~(39) "Physical rehabilitation center" means an
5 organization that employs or contracts with health care
6 professionals licensed under part I or part III of chapter 468
7 or chapter 486 to provide speech, occupational, or physical
8 therapy services on an outpatient or ambulatory basis.

9 ~~(39)~~(40) "Prospective payment arrangement" means a
10 financial agreement negotiated between a hospital and an
11 insurer, health maintenance organization, preferred provider
12 organization, or other third-party payor which contains, at a
13 minimum, the elements provided for in s. 408.50.

14 ~~(40)~~(41) "Rate of return" means the financial
15 indicators used to determine or demonstrate reasonableness of
16 the financial requirements of a hospital. Such indicators
17 shall include, but not be limited to: return on assets,
18 return on equity, total margin, and debt service coverage.

19 ~~(41)~~(42) "Rural hospital" means an acute care hospital
20 licensed under chapter 395, having 100 or fewer licensed beds
21 and an emergency room, and which is:

22 (a) The sole provider within a county with a
23 population density of no greater than 100 persons per square
24 mile;

25 (b) An acute care hospital, in a county with a
26 population density of no greater than 100 persons per square
27 mile, which is at least 30 minutes of travel time, on normally
28 traveled roads under normal traffic conditions, from another
29 acute care hospital within the same county;

30
31

1 (c) A hospital supported by a tax district or
2 subdistrict whose boundaries encompass a population of 100
3 persons or fewer per square mile;

4 (d) A hospital with a service area that has a
5 population of 100 persons or fewer per square mile. As used
6 in this paragraph, the term "service area" means the fewest
7 number of zip codes that account for 75 percent of the
8 hospital's discharges for the most recent 5-year period, based
9 on information available from the hospital inpatient discharge
10 database in the State Center for Health Statistics at the
11 Agency for Health Care Administration; or

12 (e) A hospital designated as a Critical Access
13 Hospital by the Department of Health in accordance with
14 federal regulations and state requirements.

15
16 Population densities used in this subsection must be based
17 upon the most recently completed United States census.

18 (42)~~(43)~~ "Special study" means a nonrecurring
19 data-gathering and analysis effort designed to aid the agency
20 in meeting its responsibilities pursuant to this chapter.

21 (43)~~(44)~~ "Teaching hospital" means any Florida
22 hospital officially affiliated with an accredited Florida
23 medical school which exhibits activity in the area of graduate
24 medical education as reflected by at least seven different
25 graduate medical education programs accredited by the
26 Accreditation Council for Graduate Medical Education or the
27 Council on Postdoctoral Training of the American Osteopathic
28 Association and the presence of 100 or more full-time
29 equivalent resident physicians. The Director of the Agency for
30 Health Care Administration shall be responsible for
31 determining which hospitals meet this definition.

1 Section 27. Subsection (4) of section 408.09, Florida
2 Statutes, is amended to read:

3 408.09 Assistance on cost containment strategies.--The
4 agency shall:

5 (4) Assist existing health coalitions ~~and local health~~
6 ~~councils~~ as needed in carrying out their ~~respective~~ goals in
7 an efficient and effective manner.

8 Section 28. Subsection (8) of section 408.18, Florida
9 Statutes, is amended to read:

10 408.18 Health Care Community Antitrust Guidance Act;
11 antitrust no-action letter; market-information collection and
12 education.--

13 (8) The Agency for Health Care Administration shall
14 coordinate all existing data received, such as the hospital
15 patient discharge database, ambulatory patient database,
16 ambulatory facilities' financial data, health facility
17 licensure and certification tracking system, health facility
18 plans and construction data, ~~local health council data,~~
19 Medicaid data, provider claims data, psychiatric hospital
20 discharge data, pharmaceutical data, licensure data of health
21 maintenance organizations, licensure data of health insurers,
22 health care practitioner licensure data, hospital financial
23 database, health facility utilization and projected need data,
24 nursing home financial database, nursing home patient
25 database, and joint venture database. This information shall
26 be made available to the Attorney General's office, as needed.

27 Section 29. Paragraph (j) of subsection (2) of section
28 409.9117, Florida Statutes, is amended to read:

29 409.9117 Primary care disproportionate share
30 program.--

31

1 (2) In the establishment and funding of this program,
2 the agency shall use the following criteria in addition to
3 those specified in s. 409.911, payments may not be made to a
4 hospital unless the hospital agrees to:

5 ~~(j) Work with the local health council to develop a~~
6 ~~plan for promoting access to affordable health care services~~
7 ~~for all persons who reside within the area, including, but not~~
8 ~~limited to, public health services, primary care services,~~
9 ~~inpatient services, and affordable health insurance generally.~~

10
11 Any hospital that fails to comply with any of the provisions
12 of this subsection, or any other contractual condition, may
13 not receive payments under this section until full compliance
14 is achieved.

15 Section 30. Paragraph (b) of subsection (5) of section
16 430.705, Florida Statutes, is amended to read:

17 430.705 Implementation of the long-term care community
18 diversion pilot projects.--

19 (5) In selecting the pilot project area, the
20 department shall consider the following factors in the area:

21 ~~(b) The number of certificates of need awarded for~~
22 ~~nursing home beds for which renovation, expansion, or~~
23 ~~construction has not begun.~~

24 Section 31. Section 430.708, Florida Statutes, is
25 amended to read:

26 430.708 Implementation of Medicaid community diversion
27 pilot projects ~~Certificate of need.~~--To ensure that Medicaid
28 community diversion pilot projects result in a reduction in
29 the projected average monthly nursing home caseload, the
30 agency shall, ~~in accordance with the provisions of s.~~
31 ~~408.034(4):~~

1 ~~(1) Reduce the projected nursing home bed need in each~~
2 ~~certificate-of-need batching cycle in the community diversion~~
3 ~~pilot project areas.~~

4 (1)~~(2)~~ Reduce the conditions imposed on existing
5 nursing homes or those to be constructed, in accordance with
6 the number of projected community diversion slots.

7 (2)~~(3)~~ Adopt rules to reduce the number of beds in
8 Medicaid-participating nursing homes eligible for Medicaid,
9 through a Medicaid-selective contracting process or some other
10 appropriate method.

11 ~~(4) Determine the feasibility of increasing the~~
12 ~~nursing home occupancy threshold used in determining nursing~~
13 ~~home bed needs under the certificate-of-need process.~~

14 Section 32. Subsection (1) of section 458.345, Florida
15 Statutes, is amended to read:

16 458.345 Registration of resident physicians, interns,
17 and fellows; list of hospital employees; prescribing of
18 medicinal drugs; penalty.--

19 (1) Any person desiring to practice as a resident
20 physician, assistant resident physician, house physician,
21 intern, or fellow in fellowship training which leads to
22 subspecialty board certification in this state, or any person
23 desiring to practice as a resident physician, assistant
24 resident physician, house physician, intern, or fellow in
25 fellowship training in a teaching hospital in this state as
26 defined in s. 408.07(43)~~(44)~~ or s. 395.805(2), who does not
27 hold a valid, active license issued under this chapter shall
28 apply to the department to be registered and shall remit a fee
29 not to exceed \$300 as set by the board. The department shall
30 register any applicant the board certifies has met the
31 following requirements:

1 (a) Is at least 21 years of age.

2 (b) Has not committed any act or offense within or
3 without the state which would constitute the basis for refusal
4 to certify an application for licensure pursuant to s.
5 458.331.

6 (c) Is a graduate of a medical school or college as
7 specified in s. 458.311(1)(f).

8 Section 33. Subsection (1) of section 459.021, Florida
9 Statutes, is amended to read:

10 459.021 Registration of resident physicians, interns,
11 and fellows; list of hospital employees; penalty.--

12 (1) Any person who holds a degree of Doctor of
13 Osteopathic Medicine from a college of osteopathic medicine
14 recognized and approved by the American Osteopathic
15 Association who desires to practice as a resident physician,
16 assistant resident physician, house physician, intern, or
17 fellow in fellowship training which leads to subspecialty
18 board certification in this state, or any person desiring to
19 practice as a resident physician, assistant resident
20 physician, house physician, intern, or fellow in fellowship
21 training in a teaching hospital in this state as defined in s.
22 408.07(43)~~(44)~~ or s. 395.805(2), who does not hold an active
23 license issued under this chapter shall apply to the
24 department to be registered, on an application provided by the
25 department, within 30 days of commencing such a training
26 program and shall remit a fee not to exceed \$300 as set by the
27 board.

28 Section 34. Paragraph (c) of subsection (1) of section
29 641.60, Florida Statutes, is amended to read:

30 641.60 Statewide Managed Care Ombudsman Committee.--

31 (1) As used in ss. 641.60-641.75:

1 ~~(c) "District" means one of the health service~~
2 ~~planning districts as defined in s. 408.032.~~

3 Section 35. Paragraph (a) of subsection (2) of section
4 651.021, Florida Statutes, is amended to read:

5 651.021 Certificate of authority required.--

6 (2)(a) Before commencement of construction or
7 marketing for any expansion of a certificated facility
8 equivalent to the addition of at least 20 percent of existing
9 units, written approval must be obtained from the department.
10 ~~This provision does not apply to construction for which a~~
11 ~~certificate of need from the Agency for Health Care~~
12 ~~Administration is required.~~

13 Section 36. This act shall take effect July 1, 2001.

14
15 *****

16 LEGISLATIVE SUMMARY

17 Repeals the "Health Facility and Services Development
18 Act." Removes requirements for certificate-of-need
19 review and approval for health facilities and services.
20 Conforms provisions relating to health planning and
21 certificate-of-need review of proposed and existing
22 health facilities and services.
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