

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

17

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

19

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

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 conversion of hospital-based Medicare and
6 Medicaid certified skilled nursing beds to acute care beds, if
7 the conversion does not involve the construction of new
8 facilities.

9 Section 3. Paragraph (c) of subsection (5) of section
10 408.039, Florida Statutes, is amended to read:

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

13 (5) ADMINISTRATIVE HEARINGS.--

14 (c) In administrative proceedings challenging the
15 issuance or denial of a certificate of need, only applicants
16 considered by the agency in the same batching cycle are
17 entitled to a comparative hearing on their applications.
18 Existing health care facilities may initiate or intervene in
19 an administrative hearing only upon a showing that an
20 established program will be substantially affected by the
21 issuance of any certificate of need, whether reviewed under s.
22 408.036(1) or (2), to a competing proposed facility or program
23 within the same district. Any party appealing a final order
24 approving or denying a certificate of need to a district court
25 of appeal shall place in escrow an amount equal to the
26 proposed project cost or \$500,000, whichever amount is less.
27 If any party appealing a final order fails in the appeal, that
28 party shall pay all costs of litigation, including treble
29 attorney fees, of the prevailing party. The Agency for Health
30 Care Administration shall not be subject to the provisions of
31 this paragraph except that it shall be entitled to all costs

1 of litigation, including treble attorney fees if it is the
2 prevailing party in an appeal of a final order. Such amounts
3 shall be taken first from the escrow account established for
4 this purpose, the balance to be considered enforceable as an
5 obligation created by final order of the agency. The
6 challenging facility may satisfy the escrow requirement with a
7 bond of sufficient type and amount.

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

10 Section 15.

11 (1)(a) There is created a certificate-of-need
12 workgroup staffed by the Agency for Health Care
13 Administration.

14 (b) Workgroup participants shall be responsible for
15 only the expenses that they generate individually through
16 workgroup participation. The agency shall be responsible for
17 expenses incidental to the production of any required data or
18 reports.

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

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

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, and a member of the Senate.

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, and a member of the
31 House.

1 (4) The workgroup shall develop a plan for the reform
2 or elimination of the certificate of need program, which shall
3 include recommendations for required legislative action and
4 agency rule making. Such plan shall be implemented not sooner
5 than the effective date of any rules necessary for its
6 implementation. In developing the plan, the workgroup shall
7 seek input from all classes of health care consumers, health
8 care providers and health care facilities subject to
9 certificate of need review. All agencies, including, but not
10 limited to, the Agency for Health Care Administration and the
11 Department of Elder Affairs, shall provide assistance to the
12 workgroup, upon request.~~The workgroup shall study issues~~
13 ~~pertaining to the certificate-of-need program, including the~~
14 ~~impact of trends in health care delivery and financing. The~~
15 ~~workgroup shall study issues relating to implementation of the~~
16 ~~certificate-of-need program.~~

17 (5) ~~The workgroup shall meet at least annually, at the~~
18 ~~request of the chairperson. The workgroup shall submit an~~
19 ~~interim report by December 31, 2001, and a final report by~~
20 ~~December 31, 2002.~~The workgroup is abolished effective July
21 1, 2003.

22 Section 5. This act shall take effect upon becoming a
23 law.
24
25
26
27
28
29
30
31