

HB 0267

2004

1 A bill to be entitled

2 An act relating to health care facilities; creating s.
3 400.244, F.S.; allowing nursing homes to convert beds to
4 alternative uses as specified; providing restrictions on
5 uses of funding under assisted-living Medicaid waivers;
6 providing procedures; providing for the applicability of
7 certain fire and life safety codes; providing
8 applicability of certain laws; requiring a nursing home to
9 submit to the Agency for Health Care Administration a
10 written request for permission to convert beds to
11 alternative uses; providing conditions for disapproving
12 such a request; providing for periodic review; providing
13 for retention of nursing home licensure for converted
14 beds; providing for reconversion of the beds; providing
15 applicability of licensure fees; requiring quarterly
16 reports to the agency relating to patient days; amending
17 s. 400.021, F.S.; redefining the term "resident care
18 plan," as used in part II of ch. 400, F.S.; amending s.
19 400.23, F.S.; providing that certain information from the
20 Agency for Health Care Administration must reflect the
21 most current agency actions; amending s. 400.211, F.S.;
22 revising inservice training requirements for persons
23 employed as nursing assistants in a nursing home facility;
24 amending s. 408.034, F.S.; requiring the nursing-home-bed-
25 need methodology established by the Agency for Health Care
26 Administration by rule to include a goal of maintaining a
27 specified district average occupancy rate; amending s.
28 408.036, F.S., relating to health-care-related projects
29 subject to review for a certificate of need; subjecting

HB 0267

2004

30 certain projects relating to replacement of a nursing home
 31 and relocation of nursing home beds to expedited review;
 32 revising requirements for certain projects relating to the
 33 addition of nursing home beds which are exempt from
 34 review; exempting from review certain projects relating to
 35 provision of percutaneous coronary intervention for
 36 certain emergency patients, replacement of a licensed
 37 nursing home bed on the same site or nearby, and
 38 consolidation or combination of licensed nursing homes or
 39 transfer of beds between licensed nursing homes within the
 40 same planning subdistrict; providing rulemaking authority;
 41 providing for assessment of exemption-request fees;
 42 amending s. 52, ch. 2001-45, Laws of Florida; specifying
 43 nonapplication of a moratorium on certificates of need and
 44 authorizing approval of certain certificates of need for
 45 certain counties under certain circumstances; providing
 46 review requirements and bed limitations; providing an
 47 effective date.

48
 49 Be It Enacted by the Legislature of the State of Florida:

50
 51 Section 1. Section 400.244, Florida Statutes, is created
 52 to read:

53 400.244 Alternative uses of nursing home beds; funding
 54 limitations; applicable codes and requirements; procedures;
 55 reconversion; quarterly reports.--

56 (1) It is the intent of the Legislature to allow nursing
 57 home facilities to use licensed nursing home facility beds for

HB 0267

2004

58 alternative uses other than nursing home care for extended
59 periods of time exceeding 48 hours.

60 (2) A nursing home may use a contiguous portion of the
61 nursing home facility to meet the needs of the elderly through
62 the use of less restrictive and less institutional methods of
63 long-term care, including, but not limited to, adult day care,
64 assisted living, extended congregate care, or limited nursing
65 services.

66 (3) Funding under assisted-living Medicaid waivers for
67 nursing home facility beds that are used to provide extended
68 congregate care or limited nursing services under this section
69 may be provided only for residents who have resided in the
70 nursing home facility for a minimum of 90 consecutive days.

71 (4) Nursing home facility beds that are used in providing
72 alternative services may share common areas, services, and staff
73 with beds that are designated for nursing home care. Fire codes
74 and life safety codes applicable to nursing home facilities also
75 apply to beds used for alternative purposes under this section.
76 Any alternative use must meet other requirements specified by
77 law for that use.

78 (5) In order to take beds out of service for nursing home
79 care and use them to provide alternative services under this
80 section, a nursing home must submit a written request for
81 approval to the Agency for Health Care Administration in a
82 format specified by the agency. The agency shall approve the
83 request unless it determines that such action will adversely
84 affect access to nursing home care in the geographical area in
85 which the nursing home is located. The agency shall, in its
86 review, consider a district average occupancy of 94 percent or

HB 0267

2004

87 greater at the time of the application as an indicator of an
 88 adverse impact. The agency shall review the request for
 89 alternative use at each annual license renewal.

90 (6) A nursing home facility that converts beds to an
 91 alternative use under this section retains its license for all
 92 of the nursing home facility beds and may return those beds to
 93 nursing home operation upon 60 days' written notice to the
 94 agency unless notice requirements are specified elsewhere in
 95 law. The nursing home facility shall continue to pay all
 96 licensure fees as required by s. 400.062 and applicable rules
 97 but is not required to pay any other state licensure fee for the
 98 alternative use.

99 (7) Within 45 days after the end of each calendar quarter,
 100 each facility that has nursing home facility beds licensed under
 101 this chapter shall report to the agency or its designee the
 102 total number of patient days that occurred in each month of the
 103 quarter and the number of such days that were Medicaid patient
 104 days.

105 Section 2. Subsection (17) of section 400.021, Florida
 106 Statutes, is amended to read:

107 400.021 Definitions.--When used in this part, unless the
 108 context otherwise requires, the term:

109 (17) "Resident care plan" means a written plan developed,
 110 maintained, and reviewed not less than quarterly by a registered
 111 nurse, with participation from other facility staff and the
 112 resident or his or her designee or legal representative, which
 113 includes a comprehensive assessment of the needs of an
 114 individual resident; the type and frequency of services required
 115 to provide the necessary care for the resident to attain or

HB 0267

2004

116 maintain the highest practicable physical, mental, and
 117 psychosocial well-being; a listing of services provided within
 118 or outside the facility to meet those needs; and an explanation
 119 of service goals. The resident care plan must be signed by the
 120 director of nursing or another registered nurse employed by the
 121 facility to whom institutional responsibilities have been
 122 delegated and by the resident, the resident's designee, or the
 123 resident's legal representative. The facility may not use an
 124 agency or temporary registered nurse to satisfy the foregoing
 125 requirement and must document the institutional responsibilities
 126 that have been delegated to the registered nurse.

127 Section 3. Subsection (10) is added to section 400.23,
 128 Florida Statutes, to read:

129 400.23 Rules; evaluation and deficiencies; licensure
 130 status.--

131 (10) Agency records, reports, ranking systems, Internet
 132 information, and publications must reflect the most current
 133 agency actions.

134 Section 4. Subsection (4) of section 400.211, Florida
 135 Statutes, is amended to read:

136 400.211 Persons employed as nursing assistants;
 137 certification requirement.--

138 (4) When employed by a nursing home facility for a 12-
 139 month period or longer, a nursing assistant, to maintain
 140 certification, shall submit to a performance review every 12
 141 months and must receive regular inservice education based on the
 142 outcome of such reviews. The inservice training must:

143 (a) Be sufficient to ensure the continuing competence of
 144 nursing assistants and must meet the standard specified in s.

HB 0267

2004

145 ~~464.203(7), must be at least 18 hours per year, and may include~~
 146 ~~hours accrued under s. 464.203(8);~~

147 (b) Include, at a minimum:

148 1. Techniques for assisting with eating and proper
 149 feeding;

150 2. Principles of adequate nutrition and hydration;

151 3. Techniques for assisting and responding to the
 152 cognitively impaired resident or the resident with difficult
 153 behaviors;

154 4. Techniques for caring for the resident at the end-of-
 155 life; and

156 5. Recognizing changes that place a resident at risk for
 157 pressure ulcers and falls; and

158 (c) Address areas of weakness as determined in nursing
 159 assistant performance reviews and may address the special needs
 160 of residents as determined by the nursing home facility staff.

161
 162 Costs associated with this training may not be reimbursed from
 163 additional Medicaid funding through interim rate adjustments.

164 Section 5. Subsection (5) of section 408.034, Florida
 165 Statutes, is amended to read:

166 408.034 Duties and responsibilities of agency; rules.--

167 (5) The agency shall establish by rule a nursing-home-bed-
 168 need methodology that has a goal of maintaining a district
 169 average occupancy rate of 94 percent and that reduces the
 170 community nursing home bed need for the areas of the state where
 171 the agency establishes pilot community diversion programs
 172 through the Title XIX aging waiver program.

HB 0267

2004

173 Section 6. Section 408.036, Florida Statutes, is amended
 174 to read:

175 408.036 Projects subject to review; exemptions.--

176 (1) APPLICABILITY.--Unless exempt under subsection (3),
 177 all health-care-related projects, as described in paragraphs
 178 (a)-(h), are subject to review and must file an application for
 179 a certificate of need with the agency. The agency is exclusively
 180 responsible for determining whether a health-care-related
 181 project is subject to review under ss. 408.031-408.045.

182 (a) The addition of beds by new construction or
 183 alteration.

184 (b) The new construction or establishment of additional
 185 health care facilities, including a replacement health care
 186 facility when the proposed project site is not located on the
 187 same site as the existing health care facility.

188 (c) The conversion from one type of health care facility
 189 to another.

190 (d) An increase in the total licensed bed capacity of a
 191 health care facility.

192 (e) The establishment of a hospice or hospice inpatient
 193 facility, except as provided in s. 408.043.

194 (f) The establishment of inpatient health services by a
 195 health care facility, or a substantial change in such services.

196 (g) An increase in the number of beds for acute care,
 197 nursing home care beds, specialty burn units, neonatal intensive
 198 care units, comprehensive rehabilitation, mental health
 199 services, or hospital-based distinct part skilled nursing units,
 200 or at a long-term care hospital.

201 (h) The establishment of tertiary health services.

HB 0267

2004

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

205 (a) Research, education, and training programs.

206 (b) Shared services contracts or projects.

207 (c) A transfer of a certificate of need.

208 (d) A 50-percent increase in nursing home beds for a
 209 facility incorporated and operating in this state for at least
 210 60 years on or before July 1, 1988, which has a licensed nursing
 211 home facility located on a campus providing a variety of
 212 residential settings and supportive services. The increased
 213 nursing home beds shall be for the exclusive use of the campus
 214 residents. Any application on behalf of an applicant meeting
 215 this requirement shall be subject to the base fee of \$5,000
 216 provided in s. 408.038.

217 (e) Replacement of a health care facility when the
 218 proposed project site is located in the same district and within
 219 a 1-mile radius of the replaced health care facility.

220 (f) The conversion of mental health services beds licensed
 221 under chapter 395 or hospital-based distinct part skilled
 222 nursing unit beds to general acute care beds; the conversion of
 223 mental health services beds between or among the licensed bed
 224 categories defined as beds for mental health services; or the
 225 conversion of general acute care beds to beds for mental health
 226 services.

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

HB 0267

2004

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

233 (g) Replacement of a nursing home within the same
 234 district, provided the proposed project site is located within a
 235 geographic area that contains at least 65 percent of the
 236 facility's current residents and is within a 30-mile radius of
 237 the replaced nursing home.

238 (h) Relocation of a portion of a nursing home's licensed
 239 beds to a facility within the same district, provided the
 240 relocation is within a 30-mile radius of the existing facility
 241 and the total number of nursing home beds in the district does
 242 not increase.

243
 244 The agency shall develop rules to implement the provisions for
 245 expedited review, including time schedule, application content
 246 which may be reduced from the full requirements of s.
 247 408.037(1), and application processing.

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

250 (a) For replacement of a licensed health care facility on
 251 the same site, provided that the number of beds in each licensed
 252 bed category will not increase.

253 (b) For hospice services or for swing beds in a rural
 254 hospital, as defined in s. 395.602, in a number that does not
 255 exceed one-half of its licensed beds.

256 (c) For the conversion of licensed acute care hospital
 257 beds to Medicare and Medicaid certified skilled nursing beds in
 258 a rural hospital, as defined in s. 395.602, so long as the

HB 0267

2004

259 conversion of the beds does not involve the construction of new
 260 facilities. The total number of skilled nursing beds, including
 261 swing beds, may not exceed one-half of the total number of
 262 licensed beds in the rural hospital as of July 1, 1993.
 263 Certified skilled nursing beds designated under this paragraph,
 264 excluding swing beds, shall be included in the community nursing
 265 home bed inventory. A rural hospital which subsequently
 266 decertifies any acute care beds exempted under this paragraph
 267 shall notify the agency of the decertification, and the agency
 268 shall adjust the community nursing home bed inventory
 269 accordingly.

270 (d) For the addition of nursing home beds at a skilled
 271 nursing facility that is part of a retirement community that
 272 provides a variety of residential settings and supportive
 273 services and that has been incorporated and operated in this
 274 state for at least 65 years on or before July 1, 1994. All
 275 nursing home beds must not be available to the public but must
 276 be for the exclusive use of the community residents.

277 (e) For an increase in the bed capacity of a nursing
 278 facility licensed for at least 50 beds as of January 1, 1994,
 279 under part II of chapter 400 which is not part of a continuing
 280 care facility if, after the increase, the total licensed bed
 281 capacity of that facility is not more than 60 beds and if the
 282 facility has been continuously licensed since 1950 and has
 283 received a superior rating on each of its two most recent
 284 licensure surveys.

285 (f) For an inmate health care facility built by or for the
 286 exclusive use of the Department of Corrections as provided in

HB 0267

2004

287 chapter 945. This exemption expires when such facility is
 288 converted to other uses.

289 (g) For the termination of an inpatient health care
 290 service, upon 30 days' written notice to the agency.

291 (h) For the delicensure of beds, upon 30 days' written
 292 notice to the agency. A request for exemption submitted under
 293 this paragraph must identify the number, the category of beds,
 294 and the name of the facility in which the beds to be delicensed
 295 are located.

296 (i) For the provision of adult inpatient diagnostic
 297 cardiac catheterization services in a hospital.

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

301 a. The applicant must certify it will not provide
 302 therapeutic cardiac catheterization pursuant to the grant of the
 303 exemption.

304 b. The applicant must certify it will meet and
 305 continuously maintain the minimum licensure requirements adopted
 306 by the agency governing such programs pursuant to subparagraph
 307 2.

308 c. The applicant must certify it will provide a minimum of
 309 2 percent of its services to charity and Medicaid patients.

310 2. The agency shall adopt licensure requirements by rule
 311 which govern the operation of adult inpatient diagnostic cardiac
 312 catheterization programs established pursuant to the exemption
 313 provided in this paragraph. The rules shall ensure that such
 314 programs:

HB 0267

2004

315 a. Perform only adult inpatient diagnostic cardiac
316 catheterization services authorized by the exemption and will
317 not provide therapeutic cardiac catheterization or any other
318 services not authorized by the exemption.

319 b. Maintain sufficient appropriate equipment and health
320 personnel to ensure quality and safety.

321 c. Maintain appropriate times of operation and protocols
322 to ensure availability and appropriate referrals in the event of
323 emergencies.

324 d. Maintain appropriate program volumes to ensure quality
325 and safety.

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

328 3.a. The exemption provided by this paragraph shall not
329 apply unless the agency determines that the program is in
330 compliance with the requirements of subparagraph 1. and that the
331 program will, after beginning operation, continuously comply
332 with the rules adopted pursuant to subparagraph 2. The agency
333 shall monitor such programs to ensure compliance with the
334 requirements of subparagraph 2.

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

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

342 (III) If the exemption for a program expires pursuant to
343 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the

HB 0267

2004

344 agency shall not grant an exemption pursuant to this paragraph
 345 for an adult inpatient diagnostic cardiac catheterization
 346 program located at the same hospital until 2 years following the
 347 date of the determination by the agency that the program failed
 348 to comply with the rules adopted pursuant to subparagraph 2.

349 (j) For the provision of percutaneous coronary
 350 intervention for patients presenting with emergency myocardial
 351 infarctions in a hospital without an approved adult open heart
 352 surgery program. In addition to any other documentation required
 353 by the agency, a request for an exemption submitted under this
 354 paragraph must comply with the following:

355 1. The applicant must certify that it will meet and
 356 continuously maintain the requirements adopted by the agency for
 357 the provision of these services. These licensure requirements
 358 are to be adopted by rule pursuant to ss. 120.536(1) and 120.54
 359 and are to be consistent with the guidelines published by the
 360 American College of Cardiology and the American Heart
 361 Association for the provision of percutaneous coronary
 362 interventions in hospitals without adult open heart services. At
 363 a minimum, the rules shall require the following:

364 a. Cardiologists must be experienced interventionalists
 365 who have performed a minimum of 75 interventions within the
 366 previous 12 months.

367 b. The hospital must provide a minimum of 36 emergency
 368 interventions annually in order to continue to provide the
 369 service.

370 c. The hospital must offer sufficient physician, nursing,
 371 and laboratory staff to provide the services 24 hours a day, 7
 372 days a week.

HB 0267

2004

373 d. Nursing and technical staff must have demonstrated
374 experience in handling acutely ill patients requiring
375 intervention based on previous experience in dedicated
376 interventional laboratories or surgical centers.

377 e. Cardiac care nursing staff must be adept in hemodynamic
378 monitoring and intra-aortic balloon pump (IABP) management.

379 f. Formalized written transfer agreements must be
380 developed with a hospital with an adult open heart surgery
381 program, and written transport protocols must be in place to
382 ensure safe and efficient transfer of a patient within 60
383 minutes. Transfer and transport agreements must be reviewed and
384 tested, with appropriate documentation maintained at least every
385 3 months.

386 g. Hospitals implementing the service must first undertake
387 a training program of 3 to 6 months that includes establishing
388 standards, testing logistics, creating quality assessment and
389 error management practices, and formalizing patient selection
390 criteria.

391 2. The applicant must certify that it will utilize at all
392 times the patient selection criteria for the performance of
393 primary angioplasty at hospitals without adult open heart
394 surgery programs issued by the American College of Cardiology
395 and the American Heart Association. At a minimum, these criteria
396 would provide for the following:

397 a. Avoidance of interventions in hemodynamically stable
398 patients presenting with identified symptoms or medical
399 histories.

HB 0267

2004

400 b. Transfer of patients presenting with a history of
401 coronary disease and clinical presentation of hemodynamic
402 instability.

403 3. The applicant must agree to submit a quarterly report
404 to the agency detailing patient characteristics, treatment, and
405 outcomes for all patients receiving emergency percutaneous
406 coronary interventions pursuant to this paragraph. This report
407 must be submitted within 15 days after the close of each
408 calendar quarter.

409 4. The exemption provided by this paragraph shall not
410 apply unless the agency determines that the hospital has taken
411 all necessary steps to be in compliance with all requirements of
412 this paragraph, including the training program required pursuant
413 to sub-subparagraph 1.g.

414 5. Failure of the hospital to continuously comply with the
415 requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.
416 and 3. will result in the immediate expiration of this
417 exemption.

418 6. Failure of the hospital to meet the volume requirements
419 of sub-subparagraphs 1.a.-b. within 18 months after the program
420 begins offering the service will result in the immediate
421 expiration of the exemption.

422 7. If the exemption for this service expires pursuant to
423 subparagraph 5. or subparagraph 6., the agency shall not grant
424 another exemption for this service to the same hospital for a
425 period of 2 years and then only upon a showing that the hospital
426 will remain in compliance with the requirements of this
427 paragraph through a demonstration of corrections to the
428 deficiencies that caused expiration of the exemption. Compliance

HB 0267

2004

429 with the requirements of this paragraph includes compliance with
 430 the rules adopted pursuant to this paragraph.

431 (k)~~(j)~~ For mobile surgical facilities and related health
 432 care services provided under contract with the Department of
 433 Corrections or a private correctional facility operating
 434 pursuant to chapter 957.

435 (l)~~(k)~~ For state veterans' nursing homes operated by or on
 436 behalf of the Florida Department of Veterans' Affairs in
 437 accordance with part II of chapter 296 for which at least 50
 438 percent of the construction cost is federally funded and for
 439 which the Federal Government pays a per diem rate not to exceed
 440 one-half of the cost of the veterans' care in such state nursing
 441 homes. These beds shall not be included in the nursing home bed
 442 inventory.

443 (m)~~(l)~~ For combination within one nursing home facility of
 444 the beds or services authorized by two or more certificates of
 445 need issued in the same planning subdistrict. An exemption
 446 granted under this paragraph shall extend the validity period of
 447 the certificates of need to be consolidated by the length of the
 448 period beginning upon submission of the exemption request and
 449 ending with issuance of the exemption. The longest validity
 450 period among the certificates shall be applicable to each of the
 451 combined certificates.

452 (n)~~(m)~~ For division into two or more nursing home
 453 facilities of beds or services authorized by one certificate of
 454 need issued in the same planning subdistrict. An exemption
 455 granted under this paragraph shall extend the validity period of
 456 the certificate of need to be divided by the length of the

HB 0267

2004

457 period beginning upon submission of the exemption request and
458 ending with issuance of the exemption.

459 (o)~~(n)~~ For the addition of hospital beds licensed under
460 chapter 395 for acute care, mental health services, or a
461 hospital-based distinct part skilled nursing unit in a number
462 that may not exceed 10 total beds or 10 percent of the licensed
463 capacity of the bed category being expanded, whichever is
464 greater. Beds for specialty burn units, neonatal intensive care
465 units, or comprehensive rehabilitation, or at a long-term care
466 hospital, may not be increased under this paragraph.

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

470 a. Certify that the prior 12-month average occupancy rate
471 for the category of licensed beds being expanded at the facility
472 meets or exceeds 80 percent or, for a hospital-based distinct
473 part skilled nursing unit, the prior 12-month average occupancy
474 rate meets or exceeds 96 percent.

475 b. Certify that any beds of the same type authorized for
476 the facility under this paragraph before the date of the current
477 request for an exemption have been licensed and operational for
478 at least 12 months.

479 2. The timeframes and monitoring process specified in s.
480 408.040(2)(a)-(c) apply to any exemption issued under this
481 paragraph.

482 3. The agency shall count beds authorized under this
483 paragraph as approved beds in the published inventory of
484 hospital beds until the beds are licensed.

HB 0267

2004

485 ~~(p)~~(e) For the addition of acute care beds, as authorized
 486 by rule consistent with s. 395.003(4), in a number that may not
 487 exceed 10 total beds or 10 percent of licensed bed capacity,
 488 whichever is greater, for temporary beds in a hospital that has
 489 experienced high seasonal occupancy within the prior 12-month
 490 period or in a hospital that must respond to emergency
 491 circumstances.

492 ~~(q)~~(p) For the addition of nursing home beds licensed
 493 under chapter 400 in a number not exceeding 10 total beds or 10
 494 percent of the number of beds licensed in the facility being
 495 expanded, whichever is greater, or for the addition of nursing
 496 home beds licensed under chapter 400 at a facility that has been
 497 designated as a Gold Seal nursing home under s. 400.235 in a
 498 number not exceeding 20 total beds or 10 percent of the number
 499 of beds licensed in the facility being expanded, whichever is
 500 greater.

501 1. In addition to any other documentation required by the
 502 agency, a request for exemption submitted under this paragraph
 503 must:

504 a. ~~Effective until June 30, 2001,~~ Certify that the
 505 facility has not had any class I or class II deficiencies within
 506 the 30 months preceding the request for addition.

507 b. ~~Effective on July 1, 2001, certify that the facility~~
 508 ~~has been designated as a Gold Seal nursing home under s.~~
 509 ~~400.235.~~

510 ~~b.e.~~ Certify that the prior 12-month average occupancy
 511 rate for the nursing home beds at the facility meets or exceeds
 512 96 percent.

HB 0267

2004

513 ~~c.d.~~ Certify that any beds authorized for the facility
 514 under this paragraph before the date of the current request for
 515 an exemption have been licensed and operational for at least 12
 516 months.

517 2. The timeframes and monitoring process specified in s.
 518 408.040(2)(a)-(c) apply to any exemption issued under this
 519 paragraph.

520 3. The agency shall count beds authorized under this
 521 paragraph as approved beds in the published inventory of nursing
 522 home beds until the beds are licensed.

523 ~~(r)(g)~~ For establishment of a specialty hospital offering
 524 a range of medical service restricted to a defined age or gender
 525 group of the population or a restricted range of services
 526 appropriate to the diagnosis, care, and treatment of patients
 527 with specific categories of medical illnesses or disorders,
 528 through the transfer of beds and services from an existing
 529 hospital in the same county.

530 ~~(s)(r)~~ For the conversion of hospital-based Medicare and
 531 Medicaid certified skilled nursing beds to acute care beds, if
 532 the conversion does not involve the construction of new
 533 facilities.

534 ~~(t)(s)~~1. For an adult open-heart-surgery program to be
 535 located in a new hospital provided the new hospital is being
 536 established in the location of an existing hospital with an
 537 adult open-heart-surgery program, the existing hospital and the
 538 existing adult open-heart-surgery program are being relocated to
 539 a replacement hospital, and the replacement hospital will
 540 utilize a closed-staff model. A hospital is exempt from the
 541 certificate-of-need review for the establishment of an open-

HB 0267

2004

542 heart-surgery program if the application for exemption submitted
543 under this paragraph complies with the following criteria:

544 a. The applicant must certify that it will meet and
545 continuously maintain the minimum Florida Administrative Code
546 and any future licensure requirements governing adult open-heart
547 programs adopted by the agency, including the most current
548 guidelines of the American College of Cardiology and American
549 Heart Association Guidelines for Adult Open Heart Programs.

550 b. The applicant must certify that it will maintain
551 sufficient appropriate equipment and health personnel to ensure
552 quality and safety.

553 c. The applicant must certify that it will maintain
554 appropriate times of operation and protocols to ensure
555 availability and appropriate referrals in the event of
556 emergencies.

557 d. The applicant is a newly licensed hospital in a
558 physical location previously owned and licensed to a hospital
559 performing more than 300 open-heart procedures each year,
560 including heart transplants.

561 e. The applicant must certify that it can perform more
562 than 300 diagnostic cardiac catheterization procedures per year,
563 combined inpatient and outpatient, by the end of the third year
564 of its operation.

565 f. The applicant's payor mix at a minimum reflects the
566 community average for Medicaid, charity care, and self-pay
567 patients or the applicant must certify that it will provide a
568 minimum of 5 percent of Medicaid, charity care, and self-pay to
569 open-heart-surgery patients.

HB 0267

2004

570 g. If the applicant fails to meet the established criteria
 571 for open-heart programs or fails to reach 300 surgeries per year
 572 by the end of its third year of operation, it must show cause
 573 why its exemption should not be revoked.

574 h. In order to ensure continuity of available services,
 575 the applicant of the newly licensed hospital may apply for this
 576 certificate-of-need before taking possession of the physical
 577 facilities. The effective date of the certificate-of-need will
 578 be concurrent with the effective date of the newly issued
 579 hospital license.

580 2. By December 31, 2004, and annually thereafter, the
 581 agency shall submit a report to the Legislature providing
 582 information concerning the number of requests for exemption
 583 received under this paragraph and the number of exemptions
 584 granted or denied.

585 3. This paragraph is repealed effective January 1, 2008.

586 (u)~~(t)~~1. For the provision of adult open-heart services in
 587 a hospital located within the boundaries of Palm Beach, Polk,
 588 Martin, St. Lucie, and Indian River Counties if the following
 589 conditions are met: The exemption must be based upon objective
 590 criteria and address and solve the twin problems of geographic
 591 and temporal access. A hospital shall be exempt from the
 592 certificate-of-need review for the establishment of an open-
 593 heart-surgery program when the application for exemption
 594 submitted under this paragraph complies with the following
 595 criteria:

596 a. The applicant must certify that it will meet and
 597 continuously maintain the minimum licensure requirements adopted
 598 by the agency governing adult open-heart programs, including the

HB 0267

2004

599 most current guidelines of the American College of Cardiology
600 and American Heart Association Guidelines for Adult Open Heart
601 Programs.

602 b. The applicant must certify that it will maintain
603 sufficient appropriate equipment and health personnel to ensure
604 quality and safety.

605 c. The applicant must certify that it will maintain
606 appropriate times of operation and protocols to ensure
607 availability and appropriate referrals in the event of
608 emergencies.

609 d. The applicant can demonstrate that it is referring 300
610 or more patients per year from the hospital, including the
611 emergency room, for cardiac services at a hospital with cardiac
612 services, or that the average wait for transfer for 50 percent
613 or more of the cardiac patients exceeds 4 hours.

614 e. The applicant is a general acute care hospital that is
615 in operation for 3 years or more.

616 f. The applicant is performing more than 300 diagnostic
617 cardiac catheterization procedures per year, combined inpatient
618 and outpatient.

619 g. The applicant's payor mix at a minimum reflects the
620 community average for Medicaid, charity care, and self-pay
621 patients or the applicant must certify that it will provide a
622 minimum of 5 percent of Medicaid, charity care, and self-pay to
623 open-heart-surgery patients.

624 h. If the applicant fails to meet the established criteria
625 for open-heart programs or fails to reach 300 surgeries per year
626 by the end of its third year of operation, it must show cause
627 why its exemption should not be revoked.

HB 0267

2004

628 2. By December 31, 2004, and annually thereafter, the
629 Agency for Health Care Administration shall submit a report to
630 the Legislature providing information concerning the number of
631 requests for exemption received under this paragraph and the
632 number of exemptions granted or denied.

633 (v) For replacement of a licensed nursing home on the same
634 site, or within 3 miles of the same site, provided the number of
635 licensed beds does not increase.

636 (w) For consolidation or combination of licensed nursing
637 homes or transfer of beds between licensed nursing homes within
638 the same planning subdistrict, by providers that operate
639 multiple nursing homes within that planning subdistrict,
640 provided there is no increase in the planning subdistrict total
641 of nursing home beds and the relocation does not exceed 30 miles
642 from the original location.

643 (4) A request for exemption under subsection (3) may be
644 made at any time and is not subject to the batching requirements
645 of this section. The request shall be supported by such
646 documentation as the agency requires by rule. The agency shall
647 assess a fee of \$250 for each request for exemption submitted
648 under subsection (3).

649 Section 7. Section 52 of chapter 2001-45, Laws of Florida,
650 as amended by section 1693 of chapter 2003-261, Laws of Florida,
651 is amended to read:

652 Section 52. (1) Notwithstanding the establishment of need
653 as provided for in chapter 408, Florida Statutes, no certificate
654 of need for additional community nursing home beds shall be
655 approved by the agency until July 1, 2006.

HB 0267

2004

656 (2) The Legislature finds that the continued growth in the
 657 Medicaid budget for nursing home care has constrained the
 658 ability of the state to meet the needs of its elderly residents
 659 through the use of less restrictive and less institutional
 660 methods of long-term care. It is therefore the intent of the
 661 Legislature to limit the increase in Medicaid nursing home
 662 expenditures in order to provide funds to invest in long-term
 663 care that is community-based and provides supportive services in
 664 a manner that is both more cost-effective and more in keeping
 665 with the wishes of the elderly residents of this state.

666 (3) This moratorium on certificates of need shall not
 667 apply to sheltered nursing home beds in a continuing care
 668 retirement community certified by the former Department of
 669 Insurance or by the Office of Insurance Regulation pursuant to
 670 chapter 651, Florida Statutes.

671 (4)(a) This moratorium on certificates of need shall not
 672 apply, and a certificate of need for additional community
 673 nursing home beds may be approved, for a county that meets the
 674 following circumstances:

- 675 1. The county has no community nursing home beds.
- 676 2. The lack of community nursing home beds occurs because
 677 all nursing home beds in the county that were licensed on July
 678 1, 2001, have subsequently closed.

679 (b) The certificate-of-need review for such circumstances
 680 shall be subject to the comparative review process consistent
 681 with the provisions of s. 408.039, Florida Statutes, and the
 682 number of beds may not exceed the number of beds lost by the
 683 county after July 1, 2001.

684 Section 8. This act shall take effect upon becoming a law.