

1                                   A bill to be entitled  
 2           An act relating to certificates of need; transferring,  
 3           renumbering, and amending s. 651.1185, F.S.; extending the  
 4           moratorium on certificates of need for additional  
 5           community nursing home beds until July 1, 2011; specifying  
 6           nonapplication of a moratorium for the addition of nursing  
 7           home beds in certain specified facilities; providing  
 8           requirements and limitations; providing for repeal upon  
 9           expiration of the moratorium; amending s. 408.040, F.S.;  
 10          authorizing nursing homes in certain counties to request a  
 11          reduction in their annual Medicaid patient days; requiring  
 12          the Agency for Health Care Administration to automatically  
 13          grant such a request if the nursing home meets certain  
 14          conditions; providing for future repeal; providing an  
 15          effective date.

16  
 17 Be It Enacted by the Legislature of the State of Florida:

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 19           Section 1. Section 651.1185, Florida Statutes, is  
 20          transferred, renumbered as section 408.0435, Florida Statutes,  
 21          and amended to read:

22           408.0435 ~~651.1185~~ Moratorium on nursing home certificates  
 23          of need.--

24           (1) Notwithstanding the establishment of need as provided  
 25          for in this chapter ~~408~~, a ~~no~~ certificate of need for additional  
 26          community nursing home beds may not ~~shall~~ be approved by the  
 27          agency until July 1, 2011 ~~2006~~.

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28 (2) The Legislature finds that the continued growth in the  
29 Medicaid budget for nursing home care has constrained the  
30 ability of the state to meet the needs of its elderly residents  
31 through the use of less restrictive and less institutional  
32 methods of long-term care. It is therefore the intent of the  
33 Legislature to limit the increase in Medicaid nursing home  
34 expenditures in order to provide funds to invest in long-term  
35 care that is community-based and provides supportive services in  
36 a manner that is both more cost-effective and more in keeping  
37 with the wishes of the elderly residents of this state.

38 (3) This moratorium on certificates of need shall not  
39 apply to sheltered nursing home beds in a continuing care  
40 retirement community certified by the former Department of  
41 Insurance or by the Office of Insurance Regulation pursuant to  
42 chapter 651.

43 (4) (a) The moratorium on certificates of need does not  
44 apply and a certificate of need for additional community nursing  
45 home beds may be approved for a county that meets the following  
46 circumstances:

- 47 1. The county has no community nursing home beds; and
- 48 2. The lack of community nursing home beds occurs because  
49 all nursing home beds in the county that were licensed on July  
50 1, 2001, have subsequently closed.

51 (b) The certificate-of-need review for such circumstances  
52 shall be subject to the comparative review process consistent  
53 with the provisions of s. 408.039, and the number of beds may

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54 | not exceed the number of beds lost by the county after July 1,  
55 | 2001.

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57 | This subsection shall be repealed upon the expiration of the  
58 | moratorium established in subsection (1).

59 |       (5) The moratorium on certificates of need does not apply  
60 | for the addition of nursing home beds licensed under chapter 400  
61 | to a nursing home located in a county having up to 50,000  
62 | residents, in a number not exceeding 10 total beds or 10 percent  
63 | of the number of beds licensed in the facility being expanded,  
64 | whichever is greater. In addition to any other documentation  
65 | required by the agency, a request submitted under this  
66 | subsection must:

67 |       (a) Certify that the facility has not had any class I or  
68 | class II deficiencies within the 30 months preceding the request  
69 | for addition.

70 |       (b) Certify that the prior 12-month average occupancy rate  
71 | for the nursing home beds at the facility meets or exceeds 94  
72 | percent and the facility had not had any class I or class II  
73 | deficiencies since its initial licensure.

74 |       (c) For a facility that has been licensed for less than 24  
75 | months, certify that the prior 6-month average occupancy rate  
76 | for the nursing home beds at the facility meets or exceeds 94  
77 | percent and that the facility has not had any class I or class  
78 | II deficiencies since its initial licensure.

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80 This subsection shall be repealed upon the expiration of the  
81 moratorium established in subsection (1).

82 (6) The moratorium on certificates of need does not apply  
83 for the addition of nursing home beds licensed under chapter 400  
84 in a number not exceeding 10 total beds or 10 percent of the  
85 number of beds licensed in the facility being expanded,  
86 whichever is greater, if the facility meets the requirements of  
87 paragraph (a).

88 (a) In addition to any other documentation required by the  
89 agency, a request for the addition of beds under this subsection  
90 must certify that:

91 1. The facility has not had any class I or class II  
92 deficiencies within the 30 months preceding the request for  
93 addition;

94 2. The prior 12-month average occupancy rate for the  
95 nursing home beds at the facility meets or exceeds 96 percent;

96 3. The occupancy rate for nursing home beds in the  
97 subdistrict is 94 percent or greater; and

98 4. Any beds authorized for the facility under this  
99 subsection before the date of the current request for additional  
100 beds have been licensed and operational for at least 12 months.

101 (b) A nursing home may request additional beds under this  
102 subsection as an exemption from the provisions of s. 408.036(1).  
103 The timeframes and monitoring process specified in s.  
104 408.040(2)(a)-(c) apply to any exemption issued under this  
105 subsection.

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106        (c) The agency shall count beds authorized under this  
107 subsection as approved beds in the published inventory of  
108 nursing home beds until the beds are licensed.

109  
110 This subsection shall be repealed upon the expiration of the  
111 moratorium established in subsection (1).

112        Section 2. Paragraph (d) of subsection (1) of section  
113 408.040, Florida Statutes, is redesignated as paragraph (e), and  
114 a new paragraph (d) is added to that subsection to read:

115        408.040 Conditions and monitoring.--

116        (1)

117        (d) If a nursing home is located in a county in which a  
118 long-term care community diversion pilot project has been  
119 implemented under s. 430.705 or in a county in which an  
120 integrated, fixed-payment delivery system for Medicaid  
121 recipients who are 60 years of age or older has been implemented  
122 under s. 409.912(5), the nursing home may request a reduction in  
123 the percentage of annual patient days used by residents who are  
124 eligible for care under Title XIX of the Social Security Act,  
125 which is a condition of the nursing home's certificate of need.  
126 The agency shall automatically grant the nursing home's request  
127 if the reduction is not more than 15 percent of the nursing  
128 home's annual Medicaid-patient-days condition. A nursing home  
129 may submit only one request every 2 years for an automatic  
130 reduction. A requesting nursing home must notify the agency in  
131 writing at least 60 days in advance of its intent to reduce its  
132 annual Medicaid-patient-days condition by not more than 15

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133 | percent. The agency must acknowledge the request in writing and  
134 | must change its records to reflect the revised certificate-of-  
135 | need condition. This paragraph expires June 30, 2011.

136 | Section 3. This act shall take effect upon becoming a law.