

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. 408.036, F.S.;
 10 exempting a nursing home that is created by combining
 11 certain licensed beds from requirements for obtaining a
 12 certificate of need from the Agency for Health Care
 13 Administration; amending s. 408.040, F.S.; authorizing
 14 nursing homes in certain counties to request a reduction
 15 in their annual Medicaid patient days; requiring the
 16 Agency for Health Care Administration to automatically
 17 grant such a request if the nursing home meets certain
 18 conditions; providing for future repeal; providing an
 19 effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Section 651.1185, Florida Statutes, is
 24 transferred, renumbered as section 408.0435, Florida Statutes,
 25 and amended to read:

26 408.0435 ~~651.1185~~ Moratorium on nursing home certificates
 27 of need.--

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

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

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

47 (4) (a) The moratorium on certificates of need does not
48 apply and a certificate of need for additional community nursing
49 home beds may be approved for a county that meets the following
50 circumstances:

- 51 1. The county has no community nursing home beds; and
- 52 2. The lack of community nursing home beds occurs because
- 53 all nursing home beds in the county that were licensed on July
- 54 1, 2001, have subsequently closed.

55 (b) The certificate-of-need review for such circumstances
56 shall be subject to the comparative review process consistent
57 with the provisions of s. 408.039, and the number of beds may
58 not exceed the number of beds lost by the county after July 1,
59 2001.

60
61 This subsection shall be repealed upon the expiration of the
62 moratorium established in subsection (1).

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

71 (a) Certify that the facility has not had any class I or
72 class II deficiencies within the 30 months preceding the request
73 for addition.

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

78 (c) For a facility that has been licensed for less than 24
79 months, certify that the prior 6-month average occupancy rate
80 for the nursing home beds at the facility meets or exceeds 94

81 percent and that the facility has not had any class I or class
82 II deficiencies since its initial licensure.

83
84 This subsection shall be repealed upon the expiration of the
85 moratorium established in subsection (1).

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

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

95 1. The facility has not had any class I or class II
96 deficiencies within the 30 months preceding the request for
97 addition;

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

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

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

105 (b) A nursing home may request additional beds under this
106 subsection as an exemption from the provisions of s. 408.036(1).
107 The timeframes and monitoring process specified in s.

108 408.040(2)(a)-(c) apply to any exemption issued under this
109 subsection.

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

113
114 This subsection shall be repealed upon the expiration of the
115 moratorium established in subsection (1).

116 Section 2. Present paragraphs (f)-(s) of subsection (3) of
117 section 408.036, Florida Statutes, are redesignated as
118 paragraphs (g)-(t), respectively, and a new paragraph (f) is
119 added to that subsection, to read:

120 408.036 Projects subject to review; exemptions.--

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

123 (f) For the creation of a single nursing home within a
124 district by combining licensed beds from two or more licensed
125 nursing homes within such district, regardless of subdistrict
126 boundaries, where 50 percent of the beds in the created nursing
127 home are transferred from the only nursing home in a county and
128 its utilization data demonstrate that it had an occupancy rate
129 of less than 75 percent for the 12-month period ending 90 days
130 before the request for the exemption.

131 Section 3. Paragraph (d) of subsection (1) of section
132 408.040, Florida Statutes, is redesignated as paragraph (e), and
133 a new paragraph (d) is added to that subsection to read:

134 408.040 Conditions and monitoring.--

135 (1)

136 (d) If a nursing home is located in a county in which a
137 long-term care community diversion pilot project has been
138 implemented under s. 430.705 or in a county in which an
139 integrated, fixed-payment delivery system for Medicaid
140 recipients who are 60 years of age or older has been implemented
141 under s. 409.912(5), the nursing home may request a reduction in
142 the percentage of annual patient days used by residents who are
143 eligible for care under Title XIX of the Social Security Act,
144 which is a condition of the nursing home's certificate of need.
145 The agency shall automatically grant the nursing home's request
146 if the reduction is not more than 15 percent of the nursing
147 home's annual Medicaid-patient-days condition. A nursing home
148 may submit only one request every 2 years for an automatic
149 reduction. A requesting nursing home must notify the agency in
150 writing at least 60 days in advance of its intent to reduce its
151 annual Medicaid-patient-days condition by not more than 15
152 percent. The agency must acknowledge the request in writing and
153 must change its records to reflect the revised certificate-of-
154 need condition. This paragraph expires June 30, 2011.

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