



LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/3R	.	Floor: CA
05/03/2013 11:09 AM	.	05/03/2013 05:53 PM
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Senator Hays moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (a) of subsection (7) and subsection  
(14) of section 395.4001, Florida Statutes, are amended to read:

395.4001 Definitions.—As used in this part, the term:

(7) "Level II trauma center" means a trauma center that:

(a) Is verified by the department to be in substantial  
compliance with Level II trauma center standards and has been  
approved by the department to operate as a Level II trauma  
center or is designated pursuant to s. 395.4025(14).



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13 (14) "Trauma center" means a hospital that has been  
14 verified by the department to be in substantial compliance with  
15 the requirements in s. 395.4025 and has been approved by the  
16 department to operate as a Level I trauma center, Level II  
17 trauma center, or pediatric trauma center, or is designated by  
18 the department as a Level II trauma center pursuant to s.  
19 395.4025(14).

20 Section 2. Paragraph (k) of subsection (1) of section  
21 395.401, Florida Statutes, is amended to read:

22 395.401 Trauma services system plans; approval of trauma  
23 centers and pediatric trauma centers; procedures; renewal.-

24 (1)

25 (k) It is unlawful for any hospital or other facility to  
26 hold itself out as a trauma center unless it has been so  
27 verified or designated pursuant to s. 395.4025(14).

28 Section 3. Subsection (14) of section 395.4025, Florida  
29 Statutes, is amended to read:

30 395.4025 Trauma centers; selection; quality assurance;  
31 records.-

32 (14) Notwithstanding the procedures established pursuant to  
33 subsections (1) through (13) in this section, hospitals located  
34 in areas with limited access to trauma center services shall be  
35 designated by the department as Level II trauma centers based on  
36 documentation of a valid certificate of trauma center  
37 verification from the American College of Surgeons. Areas with  
38 limited access to trauma center services are defined by the  
39 following criteria:

40 (a) The hospital is located in a trauma service area with a  
41 population greater than 600,000 persons but a population density



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42 of less than 225 persons per square mile; and

43 (b) The hospital is located in a county with no verified  
44 trauma center; and

45 (c) The hospital is located at least 15 miles or 20 minutes  
46 travel time by ground transport from the nearest verified trauma  
47 center ~~any other provisions of this section and rules adopted~~  
48 ~~pursuant to this section, until the department has conducted the~~  
49 ~~review provided under s. 395.402, only hospitals located in~~  
50 ~~trauma services areas where there is no existing trauma center~~  
51 ~~may apply.~~

52 Section 4. Paragraphs (l) and (m) of subsection (4) of  
53 section 400.9905, Florida Statutes, are amended to read:

54 400.9905 Definitions.—

55 (4) "Clinic" means an entity where health care services are  
56 provided to individuals and which tenders charges for  
57 reimbursement for such services, including a mobile clinic and a  
58 portable equipment provider. As used in this part, the term does  
59 not include and the licensure requirements of this part do not  
60 apply to:

61 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or  
62 perinatology clinical facilities or anesthesia clinical  
63 facilities that are not otherwise exempt under paragraph (a) or  
64 paragraph (k) and that are a publicly traded corporation or ~~that~~  
65 are wholly owned, directly or indirectly, by a publicly traded  
66 corporation. As used in this paragraph, a publicly traded  
67 corporation is a corporation that issues securities traded on an  
68 exchange registered with the United States Securities and  
69 Exchange Commission as a national securities exchange.

70 (m) Entities that are owned by a corporation that has \$250



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71 million or more in total annual sales of health care services  
72 provided by licensed health care practitioners where one or more  
73 of the persons responsible for the operations of the entity are  
74 ~~owners~~ is a health care practitioner who is licensed in this  
75 state and who is responsible for supervising the business  
76 activities of the entity and is ~~legally~~ responsible for the  
77 entity's compliance with state law for purposes of this part.  
78

79 Notwithstanding this subsection, an entity shall be deemed a  
80 clinic and must be licensed under this part in order to receive  
81 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.  
82 627.730-627.7405, unless exempted under s. 627.736(5)(h).

83 Section 5. Subsection (2) of section 408.036, Florida  
84 Statutes, is amended to read:

85 408.036 Projects subject to review; exemptions.—

86 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt  
87 pursuant to subsection (3), projects subject to an expedited  
88 review shall include, but not be limited to:

89 (a) A transfer of a certificate of need, except that when  
90 an existing hospital is acquired by a purchaser, all  
91 certificates of need issued to the hospital which are not yet  
92 operational shall be acquired by the purchaser, without need for  
93 a transfer.

94 (b) Replacement of a nursing home within the same district,  
95 if the proposed project site is located within a geographic area  
96 that contains at least 65 percent of the facility's current  
97 residents and is within a 30-mile radius of the replaced nursing  
98 home.

99 (c) Relocation of a portion of a nursing home's licensed



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100 beds to a facility within the same district, if the relocation  
101 is within a 30-mile radius of the existing facility and the  
102 total number of nursing home beds in the district does not  
103 increase.

104 (d) The new construction of a community nursing home in a  
105 retirement community as further provided in this paragraph.

106 1. Expedited review under this paragraph is available if  
107 all of the following criteria are met:

108 a. The residential use area of the retirement community is  
109 deed-restricted as housing for older persons as defined in s.  
110 760.29(4)(b).

111 b. The retirement community is located in a county in which  
112 25 percent or more of its population is age 65 and older.

113 c. The retirement community is located in a county that has  
114 a rate of no more than 16.1 beds per 1,000 persons age 65 years  
115 or older. The rate shall be determined by using the current  
116 number of licensed and approved community nursing home beds in  
117 the county per the agency's most recent published inventory.

118 d. The retirement community has a population of at least  
119 8,000 residents within the county, based on a population data  
120 source accepted by the agency.

121 e. The number of proposed community nursing home beds in an  
122 application does not exceed the projected bed need after  
123 applying the rate of 16.1 beds per 1,000 persons aged 65 years  
124 and older projected for the county 3 years into the future using  
125 the estimates adopted by the agency, after subtracting the  
126 inventory of licensed and approved community nursing home beds  
127 in the county per the agency's most recent published inventory.

128 2. No more than 120 community nursing home beds shall be



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129 approved for a qualified retirement community under each request  
130 for application for expedited review. Subsequent requests for  
131 expedited review under this process shall not be made until 2  
132 years after construction of the facility has commenced or 1 year  
133 after the beds approved through the initial request are  
134 licensed, whichever occurs first.

135 3. The total number of community nursing home beds which  
136 may be approved for any single deed-restricted community  
137 pursuant to this paragraph shall not exceed 240, regardless of  
138 whether the retirement community is located in more than one  
139 qualifying county.

140 4. Each nursing home facility approved under this paragraph  
141 shall be dually certified for participation in the Medicare and  
142 Medicaid programs.

143 5. Each nursing home facility approved under this paragraph  
144 shall be at least one mile from an existing approved and  
145 licensed community nursing home, measured over publicly owned  
146 roadways.

147 6. Section 408.0435 does not apply to this paragraph.

148 7. A retirement community requesting expedited review under  
149 this paragraph shall submit a written request to the agency for  
150 an expedited review. The request shall include the number of  
151 beds to be added and provide evidence of compliance with the  
152 criteria specified in subparagraph 1.

153 8. After verifying that the retirement community meets the  
154 criteria for expedited review specified in subparagraph 1., the  
155 agency shall publicly notice in the Florida Administrative  
156 Register that a request for an expedited review has been  
157 submitted by a qualifying retirement community and that the



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158 qualifying retirement community intends to make land available  
159 for the construction and operation of a community nursing home.  
160 The agency's notice shall identify where potential applicants  
161 can obtain information describing the sales price of, or terms  
162 of the land lease for, the property on which the project will be  
163 located and the requirements established by the retirement  
164 community. The agency notice shall also specify the deadline for  
165 submission of any certificate-of-need application, which shall  
166 not be earlier than the 91st day and not be later than the 125th  
167 day after the date the notice appears in the Florida  
168 Administrative Register.

169 9. The qualified retirement community shall make land  
170 available to applicants it deems to have met its requirements  
171 for the construction and operation of a community nursing home  
172 but will sell or lease the land only to the applicant that is  
173 issued a certificate of need by the agency under the provisions  
174 of this paragraph.

175 a. A certificate of need application submitted pursuant to  
176 this paragraph shall identify the intended site for the project  
177 within the retirement community and the anticipated costs for  
178 the project based on that site. The application shall also  
179 include written evidence that the retirement community has  
180 determined that the provider submitting the application and the  
181 project proposed by that provider satisfies its requirements for  
182 the project.

183 b. The retirement community's determination that more than  
184 one provider satisfies its requirements for the project does not  
185 preclude the retirement community from notifying the agency of  
186 the provider it prefers.



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187           10. Each application submitted shall be reviewed by the  
188 agency. If multiple applications are submitted for the project  
189 as published pursuant to subparagraph 8. above, then the  
190 competing applications shall be reviewed by the agency.  
191

192 The agency shall develop rules to implement the provisions for  
193 expedited review, including time schedule, application content  
194 which may be reduced from the full requirements of s.  
195 408.037(1), and application processing.

196           Section 6. Paragraph (b) of subsection (2), subsection  
197 (10), and paragraph (c) of subsection (11) of section 893.055,  
198 Florida Statutes, is amended to read:

199           893.055 Prescription drug monitoring program.—

200           (2)

201           (b) ~~The department, when the direct support organization~~  
202 ~~receives at least \$20,000 in nonstate moneys or the state~~  
203 ~~receives at least \$20,000 in federal grants for the prescription~~  
204 ~~drug monitoring program,~~ shall adopt rules as necessary  
205 concerning the reporting, accessing the database, evaluation,  
206 management, development, implementation, operation, security,  
207 and storage of information within the system, including rules  
208 for when patient advisory reports are provided to pharmacies and  
209 prescribers. The patient advisory report shall be provided in  
210 accordance with s. 893.13(7) (a)8. The department shall work with  
211 the professional health care licensure boards, such as the Board  
212 of Medicine, the Board of Osteopathic Medicine, and the Board of  
213 Pharmacy; other appropriate organizations, such as the Florida  
214 Pharmacy Association, the Florida Medical Association, the  
215 Florida Retail Federation, and the Florida Osteopathic Medical





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216 Association, including those relating to pain management; and  
217 the Attorney General, the Department of Law Enforcement, and the  
218 Agency for Health Care Administration to develop rules  
219 appropriate for the prescription drug monitoring program.

220 (10) All costs incurred by the department in administering  
221 the prescription drug monitoring program shall be funded through  
222 state funds, federal grants, or private funding applied for or  
223 received by the state. The department may not commit funds for  
224 the monitoring program without ensuring funding is available.

225 ~~The prescription drug monitoring program and the implementation~~  
226 ~~thereof are contingent upon receipt of the nonstate funding.~~ The  
227 department and state government shall cooperate with the direct-  
228 support organization established pursuant to subsection (11) in  
229 seeking state funds, federal grant funds, other nonstate grant  
230 funds, gifts, donations, or other private moneys for the  
231 department if so long as the costs of doing so are not  
232 considered material. Nonmaterial costs for this purpose include,  
233 but are not limited to, the costs of mailing and personnel  
234 assigned to research or apply for a grant. Notwithstanding the  
235 exemptions to competitive-solicitation requirements under s.  
236 287.057(3)(f), the department shall comply with the competitive-  
237 solicitation requirements under s. 287.057 for the procurement  
238 of any goods or services required by this section. ~~Funds~~  
239 ~~provided, directly or indirectly, by prescription drug~~  
240 ~~manufacturers may not be used to implement the program.~~

241 (11) The department may establish a direct-support  
242 organization that has a board consisting of at least five  
243 members to provide assistance, funding, and promotional support  
244 for the activities authorized for the prescription drug



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245 monitoring program.

246 (c) The State Surgeon General shall appoint a board of  
247 directors for the direct-support organization. Members of the  
248 board shall serve at the pleasure of the State Surgeon General.  
249 The State Surgeon General shall provide guidance to members of  
250 the board to ensure that moneys received by the direct-support  
251 organization are not received from inappropriate sources.  
252 Inappropriate sources include, but are not limited to, donors,  
253 grantors, persons, ~~or~~ organizations, or pharmaceutical  
254 companies, that may monetarily or substantively benefit from the  
255 purchase of goods or services by the department in furtherance  
256 of the prescription drug monitoring program.

257 Section 7. This act shall take effect upon becoming a law.

258  
259 ===== T I T L E A M E N D M E N T =====

260 And the title is amended as follows:

261 Delete everything before the enacting clause  
262 and insert:

263 A bill to be entitled  
264 An act relating to health care facilities;  
265 amending s. 395.4001, F.S.; revising the definition of  
266 the terms "level II trauma center" and "trauma  
267 center"; amending s. 395.401, F.S.; making conforming  
268 changes; amending s. 395.4025, F.S.; establishing  
269 criteria for designating Level II trauma centers in  
270 areas with limited access to trauma center services;  
271 amending s. 400.9905, F.S.; revising a definition;  
272 amending s. 408.036, F.S.; providing for expedited  
273 review of certificate-of-need for licensed skilled



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274 nursing facilities in qualifying retirement  
275 communities; providing criteria for expedited review  
276 for licensed skilled nursing homes in qualifying  
277 retirement communities; limiting the number of beds  
278 per retirement community that can be added through  
279 expedited review; amending s. 893.055, F.S.; deleting  
280 obsolete provisions; deleting a provision that  
281 prohibits funds from prescription drug manufacturers  
282 to be used to implement the prescription drug  
283 monitoring program; authorizing the prescription drug  
284 monitoring program to be funded by state funds;  
285 revising the sources of money which are inappropriate  
286 for the direct-support organization of the  
287 prescription drug monitoring program to receive;  
288 providing an effective date.