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LEGISLATIVE ACTION

Senate

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House

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Floor: NC/2R

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04/26/2019 12:36 PM

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Senator Harrell moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (10) of section 395.0191, Florida  
Statutes, is amended to read:

395.0191 Staff membership and clinical privileges.—

~~(10) Nothing herein shall be construed by the agency as  
requiring an applicant for a certificate of need to establish  
proof of discrimination in the granting of or denial of hospital  
staff membership or clinical privileges as a precondition to~~



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12 ~~obtaining such certificate of need under the provisions of s.~~  
13 ~~408.043.~~

14 Section 2. Present subsection (12) of section 395.1055,  
15 Florida Statutes, is redesignated as subsection (15), a new  
16 subsection (12) and subsections (13) and (14) are added to that  
17 section, and paragraph (b) of subsection (9) of that section is  
18 amended, to read:

19 395.1055 Rules and enforcement.—

20 (9) The agency shall establish a technical advisory panel,  
21 pursuant to s. 20.052, to develop procedures and standards for  
22 measuring outcomes of pediatric cardiac catheterization programs  
23 and pediatric cardiovascular surgery programs.

24 (b) Voting members of the panel shall include: 3 at-large  
25 members, including 1 cardiologist who is board certified in  
26 caring for adults with congenital heart disease and 2 board-  
27 certified pediatric cardiologists, neither of whom may be  
28 employed by any of the hospitals specified in subparagraphs 1.-  
29 10. or their affiliates, each of whom is appointed by the  
30 Secretary of Health Care Administration, and 10 members, and an  
31 alternate for each member, each of whom is a pediatric  
32 cardiologist or a pediatric cardiovascular surgeon, each  
33 appointed by the chief executive officer of the following  
34 hospitals:

- 35 1. Johns Hopkins All Children's Hospital in St. Petersburg.
- 36 2. Arnold Palmer Hospital for Children in Orlando.
- 37 3. Joe DiMaggio Children's Hospital in Hollywood.
- 38 4. Nicklaus Children's Hospital in Miami.
- 39 5. St. Joseph's Children's Hospital in Tampa.
- 40 6. University of Florida Health Shands Hospital in



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41 Gainesville.

42 7. University of Miami Holtz Children's Hospital in Miami.

43 8. Wolfson Children's Hospital in Jacksonville.

44 9. Florida Hospital for Children in Orlando.

45 10. Nemours Children's Hospital in Orlando.

46

47 Appointments made under subparagraphs 1.-10. are contingent upon  
48 ~~the hospital's maintenance of pediatric certificates of need and~~  
49 the hospital's compliance with this section and rules adopted  
50 thereunder, as determined by the Secretary of Health Care  
51 Administration. A member appointed under subparagraphs 1.-10.  
52 whose hospital fails to ~~maintain such certificates or~~ comply  
53 with such standards may serve only as a nonvoting member until  
54 the hospital ~~restores such certificates or~~ complies with such  
55 standards.

56 (12) Each provider of diagnostic cardiac catheterization  
57 services shall comply with rules adopted by the agency which  
58 establish licensure standards governing the operation of adult  
59 inpatient diagnostic cardiac catheterization programs. The rules  
60 must ensure that such programs:

61 (a) Comply with the most recent guidelines of the American  
62 College of Cardiology and American Heart Association Guidelines  
63 for Cardiac Catheterization and Cardiac Catheterization  
64 Laboratories.

65 (b) Perform only adult inpatient diagnostic cardiac  
66 catheterization services and will not provide therapeutic  
67 cardiac catheterization or any other cardiology services.

68 (c) Maintain sufficient appropriate equipment and health  
69 care personnel to ensure quality and safety.



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70 (d) Maintain appropriate times of operation and protocols  
71 to ensure availability and appropriate referrals in the event of  
72 emergencies.

73 (e) Demonstrate a plan to provide services to Medicaid and  
74 charity care patients.

75 (13) Each provider of adult cardiovascular services or  
76 operator of a burn unit shall comply with rules adopted by the  
77 agency which establish licensure standards that govern the  
78 provision of adult cardiovascular services or the operation of a  
79 burn unit, as applicable. At a minimum, such rules must address  
80 staffing, equipment, physical plant, operating protocols, the  
81 provision of services to Medicaid and charity care patients,  
82 accreditation, licensure periods and fees, and enforcement of  
83 minimum standards.

84 (14) In establishing rules for adult cardiovascular  
85 services, the agency shall include provisions that allow for:

86 (a) The establishment of two hospital program licensure  
87 levels, a Level I program that authorizes the performance of  
88 adult percutaneous cardiac intervention without onsite cardiac  
89 surgery and a Level II program that authorizes the performance  
90 of percutaneous cardiac intervention with onsite cardiac  
91 surgery.

92 (b)1. For a hospital seeking a Level I program,  
93 demonstration that, for the most recent 12-month period as  
94 reported to the agency, the hospital has provided a minimum of  
95 300 adult inpatient and outpatient diagnostic cardiac  
96 catheterizations or, for the most recent 12-month period, has  
97 discharged or transferred at least 300 patients with the  
98 principal diagnosis of ischemic heart disease and that it has a



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99 formalized, written transfer agreement with a hospital that has  
100 a Level II program, including written transport protocols to  
101 ensure safe and efficient transfer of a patient within 60  
102 minutes.

103 2.a. A hospital located more than 100 road miles from the  
104 closest Level II adult cardiovascular services program is not  
105 required to meet the diagnostic cardiac catheterization volume  
106 and ischemic heart disease diagnosis volume requirements in  
107 subparagraph 1. if the hospital demonstrates that it has, for  
108 the most recent 12-month period as reported to the agency,  
109 provided a minimum of 100 adult inpatient and outpatient  
110 diagnostic cardiac catheterizations or that, for the most recent  
111 12-month period, it has discharged or transferred at least 300  
112 patients with the principal diagnosis of ischemic heart disease.

113 b. A hospital located more than 100 road miles from the  
114 closest Level II adult cardiovascular services program does not  
115 need to meet the 60-minute transfer time protocol requirement in  
116 subparagraph 1. if the hospital demonstrates that it has a  
117 formalized, written transfer agreement with a hospital that has  
118 a Level II program. The agreement must include written transport  
119 protocols to ensure the safe and efficient transfer of a  
120 patient, taking into consideration the patient's clinical and  
121 physical characteristics, road and weather conditions, and  
122 viability of ground and air ambulance service to transfer the  
123 patient.

124 3. At a minimum, the rules for adult cardiovascular  
125 services must require nursing and technical staff to have  
126 demonstrated experience in handling acutely ill patients  
127 requiring intervention, based on the staff member's previous



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128 experience in dedicated cardiac interventional laboratories or  
129 surgical centers. If a staff member's previous experience is in  
130 a dedicated cardiac interventional laboratory at a hospital that  
131 does not have an approved adult open heart surgery program, the  
132 staff member's previous experience qualifies only if, at the  
133 time the staff member acquired his or her experience, the  
134 dedicated cardiac interventional laboratory:

135 a. Had an annual volume of 500 or more percutaneous cardiac  
136 intervention procedures.

137 b. Achieved a demonstrated success rate of 95 percent or  
138 greater for percutaneous cardiac intervention procedures.

139 c. Experienced a complication rate of less than 5 percent  
140 for percutaneous cardiac intervention procedures.

141 d. Performed diverse cardiac procedures, including, but not  
142 limited to, balloon angioplasty and stenting, rotational  
143 atherectomy, cutting balloon atheroma remodeling, and procedures  
144 relating to left ventricular support capability.

145 (c) For a hospital seeking a Level II program,  
146 demonstration that, for the most recent 12-month period as  
147 reported to the agency, the hospital has performed a minimum of  
148 1,100 adult inpatient and outpatient cardiac catheterizations,  
149 of which at least 400 must be therapeutic catheterizations, or,  
150 for the most recent 12-month period, has discharged at least 800  
151 patients with the principal diagnosis of ischemic heart disease.

152 (d) Compliance with the most recent guidelines of the  
153 American College of Cardiology and the American Heart  
154 Association guidelines for staffing, physician training and  
155 experience, operating procedures, equipment, physical plant, and  
156 patient selection criteria, to ensure patient quality and



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157 safety.

158 (e) The establishment of appropriate hours of operation and  
159 protocols to ensure availability and timely referral in the  
160 event of emergencies.

161 (f) The demonstration of a plan to provide services to  
162 Medicaid and charity care patients.

163 Section 3. Effective July 1, 2021, paragraph (f) of  
164 subsection (1) of section 395.1055, Florida Statutes, is amended  
165 to read:

166 395.1055 Rules and enforcement.—

167 (1) The agency shall adopt rules pursuant to ss. 120.536(1)  
168 and 120.54 to implement the provisions of this part, which shall  
169 include reasonable and fair minimum standards for ensuring that:

170 ~~(f) All hospitals submit such data as necessary to conduct~~  
171 ~~certificate-of-need reviews required under part I of chapter~~  
172 ~~408. Such data shall include, but shall not be limited to,~~  
173 ~~patient origin data, hospital utilization data, type of service~~  
174 ~~reporting, and facility staffing data. The agency may not~~  
175 ~~collect data that identifies or could disclose the identity of~~  
176 ~~individual patients. The agency shall utilize existing uniform~~  
177 ~~statewide data sources when available and shall minimize~~  
178 ~~reporting costs to hospitals.~~

179 Section 4. Effective July 1, 2021, subsection (5) of  
180 section 395.1065, Florida Statutes, is amended to read:

181 395.1065 Criminal and administrative penalties;  
182 moratorium.—

183 (5) The agency shall impose a fine of \$500 for each  
184 instance of the facility's failure to provide the information  
185 required by rules adopted pursuant to s. 395.1055(1)(g) ~~s.~~



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186 ~~395.1055(1)(h).~~

187 Section 5. Section 395.6025, Florida Statutes, is repealed.

188 Section 6. Subsections (3), (8), and (13) through (17) of  
189 section 408.032, Florida Statutes, are amended to read:

190 408.032 Definitions relating to Health Facility and  
191 Services Development Act.—As used in ss. 408.031-408.045, the  
192 term:

193 (3) "Certificate of need" means a written statement issued  
194 by the agency evidencing community need for a new, converted,  
195 expanded, or otherwise significantly modified health care  
196 facility, ~~health service,~~ or hospice.

197 (8) "Health care facility" means a hospital, ~~long-term care~~  
198 ~~hospital,~~ skilled nursing facility, hospice, or intermediate  
199 care facility for the developmentally disabled. A facility  
200 relying solely on spiritual means through prayer for healing is  
201 not included as a health care facility.

202 ~~(13) "Long-term care hospital" means a hospital licensed~~  
203 ~~under chapter 395 which meets the requirements of 42 C.F.R. s.~~  
204 ~~412.23(e) and seeks exclusion from the acute care Medicare~~  
205 ~~prospective payment system for inpatient hospital services.~~

206 ~~(14) "Mental health services" means inpatient services~~  
207 ~~provided in a hospital licensed under chapter 395 and listed on~~  
208 ~~the hospital license as psychiatric beds for adults; psychiatric~~  
209 ~~beds for children and adolescents; intensive residential~~  
210 ~~treatment beds for children and adolescents; substance abuse~~  
211 ~~beds for adults; or substance abuse beds for children and~~  
212 ~~adolescents.~~

213 (13) ~~(15)~~ "Nursing home geographically underserved area"  
214 means:





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215 (a) A county in which there is no existing or approved  
216 nursing home;

217 (b) An area with a radius of at least 20 miles in which  
218 there is no existing or approved nursing home; or

219 (c) An area with a radius of at least 20 miles in which all  
220 existing nursing homes have maintained at least a 95 percent  
221 occupancy rate for the most recent 6 months or a 90 percent  
222 occupancy rate for the most recent 12 months.

223 ~~(14)~~ ~~(16)~~ "Skilled nursing facility" means an institution,  
224 or a distinct part of an institution, which is primarily engaged  
225 in providing, to inpatients, skilled nursing care and related  
226 services for patients who require medical or nursing care, or  
227 rehabilitation services for the rehabilitation of injured,  
228 disabled, or sick persons.

229 ~~(17) "Tertiary health service" means a health service~~  
230 ~~which, due to its high level of intensity, complexity,~~  
231 ~~specialized or limited applicability, and cost, should be~~  
232 ~~limited to, and concentrated in, a limited number of hospitals~~  
233 ~~to ensure the quality, availability, and cost-effectiveness of~~  
234 ~~such service. Examples of such service include, but are not~~  
235 ~~limited to, pediatric cardiac catheterization, pediatric open-~~  
236 ~~heart surgery, organ transplantation, neonatal intensive care~~  
237 ~~units, comprehensive rehabilitation, and medical or surgical~~  
238 ~~services which are experimental or developmental in nature to~~  
239 ~~the extent that the provision of such services is not yet~~  
240 ~~contemplated within the commonly accepted course of diagnosis or~~  
241 ~~treatment for the condition addressed by a given service. The~~  
242 ~~agency shall establish by rule a list of all tertiary health~~  
243 ~~services.~~



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244 Section 7. Effective July 1, 2021, subsection (8), and  
245 subsections (9) through (11), as amended by this act, of section  
246 408.032, Florida Statutes, are amended to read:

247 408.032 Definitions relating to Health Facility and  
248 Services Development Act.—As used in ss. 408.031-408.045, the  
249 term:

250 (8) "Health care facility" means a ~~hospital~~, skilled  
251 nursing facility, hospice, or intermediate care facility for the  
252 developmentally disabled. A facility relying solely on spiritual  
253 means through prayer for healing is not included as a health  
254 care facility.

255 ~~(9) "Health services" means inpatient diagnostic, curative,~~  
256 ~~or comprehensive medical rehabilitative services and includes~~  
257 ~~mental health services. Obstetric services are not health~~  
258 ~~services for purposes of ss. 408.031-408.045.~~

259 (9)~~(10)~~ "Hospice" or "hospice program" means a hospice as  
260 defined in part IV of chapter 400.

261 ~~(11) "Hospital" means a health care facility licensed under~~  
262 ~~chapter 395.~~

263 (10)~~(12)~~ "Intermediate care facility for the  
264 developmentally disabled" means a residential facility licensed  
265 under part VIII of chapter 400.

266 (11)~~(13)~~ "Nursing home geographically underserved area"  
267 means:

268 (a) A county in which there is no existing or approved  
269 nursing home;

270 (b) An area with a radius of at least 20 miles in which  
271 there is no existing or approved nursing home; or

272 (c) An area with a radius of at least 20 miles in which all



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273 existing nursing homes have maintained at least a 95 percent  
274 occupancy rate for the most recent 6 months or a 90 percent  
275 occupancy rate for the most recent 12 months.

276 (12)~~(14)~~ "Skilled nursing facility" means an institution,  
277 or a distinct part of an institution, which is primarily engaged  
278 in providing, to inpatients, skilled nursing care and related  
279 services for patients who require medical or nursing care, or  
280 rehabilitation services for the rehabilitation of injured,  
281 disabled, or sick persons.

282 Section 8. Effective July 1, 2021, paragraph (b) of  
283 subsection (1) of section 408.033, Florida Statutes, is amended  
284 to read:

285 408.033 Local and state health planning.—

286 (1) LOCAL HEALTH COUNCILS.—

287 (b) Each local health council may:

288 1. Develop a district area health plan that permits each  
289 local health council to develop strategies and set priorities  
290 for implementation based on its unique local health needs.

291 2. Advise the agency on health care issues and resource  
292 allocations.

293 3. Promote public awareness of community health needs,  
294 emphasizing health promotion and cost-effective health service  
295 selection.

296 4. Collect data and conduct analyses and studies related to  
297 health care needs of the district, including the needs of  
298 medically indigent persons, and assist the agency and other  
299 state agencies in carrying out data collection activities that  
300 relate to the functions in this subsection.

301 5. Monitor the onsite construction progress, if any, of



302 certificate-of-need approved projects and report council  
303 findings to the agency on forms provided by the agency.

304 6. Advise and assist any regional planning councils within  
305 each district that have elected to address health issues in  
306 their strategic regional policy plans with the development of  
307 the health element of the plans to address the health goals and  
308 policies in the State Comprehensive Plan.

309 7. Advise and assist local governments within each district  
310 on the development of an optional health plan element of the  
311 comprehensive plan provided in chapter 163, to assure  
312 compatibility with the health goals and policies in the State  
313 Comprehensive Plan and district health plan. To facilitate the  
314 implementation of this section, the local health council shall  
315 annually provide the local governments in its service area, upon  
316 request, with:

317 a. A copy and appropriate updates of the district health  
318 plan;

319 b. A report of ~~hospital~~ and nursing home utilization  
320 statistics for facilities within the local government  
321 jurisdiction; and

322 c. Applicable agency rules and calculated need  
323 methodologies for health facilities and services regulated under  
324 s. 408.034 for the district served by the local health council.

325 8. Monitor and evaluate the adequacy, appropriateness, and  
326 effectiveness, within the district, of local, state, federal,  
327 and private funds distributed to meet the needs of the medically  
328 indigent and other underserved population groups.

329 9. In conjunction with the Department of Health, plan for  
330 services at the local level for persons infected with the human



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331 immunodeficiency virus.

332 10. Provide technical assistance to encourage and support  
333 activities by providers, purchasers, consumers, and local,  
334 regional, and state agencies in meeting the health care goals,  
335 objectives, and policies adopted by the local health council.

336 11. Provide the agency with data required by rule for the  
337 review of certificate-of-need applications and the projection of  
338 need for health ~~services and~~ facilities in the district.

339 Section 9. Subsection (2) of section 408.034, Florida  
340 Statutes, is amended to read:

341 408.034 Duties and responsibilities of agency; rules.-

342 (2) In the exercise of its authority to issue licenses to  
343 health care facilities ~~and health service providers~~, as provided  
344 under chapters 393 and 395 and parts II, IV, and VIII of chapter  
345 400, the agency may not issue a license to any health care  
346 facility ~~or health service provider~~ that fails to receive a  
347 certificate of need or an exemption for the licensed facility,  
348 except that the agency may issue a license to a general hospital  
349 that has not been issued a certificate of need or service.

350 Section 10. Effective July 1, 2021, subsection (2), as  
351 amended by this act, and subsection (3) of section 408.034,  
352 Florida Statutes, are amended to read:

353 408.034 Duties and responsibilities of agency; rules.-

354 (2) In the exercise of its authority to issue licenses to  
355 health care facilities, as provided under chapter ~~chapters~~ 393  
356 ~~and 395~~ and parts II, IV, and VIII of chapter 400, the agency  
357 may not issue a license to any health care facility that fails  
358 to receive a certificate of need or an exemption for the  
359 licensed facility, ~~except that the agency may issue a license to~~



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360 ~~a general hospital that has not been issued a certificate of~~  
361 ~~need.~~

362 (3) The agency shall establish, by rule, uniform need  
363 methodologies for ~~health services and~~ health facilities. In  
364 developing uniform need methodologies, the agency shall, at a  
365 minimum, consider the demographic characteristics of the  
366 population, the health status of the population, service use  
367 patterns, standards and trends, geographic accessibility, and  
368 market economics.

369 Section 11. Section 408.035, Florida Statutes, is amended  
370 to read:

371 408.035 Review criteria.—

372 ~~(1)~~ The agency shall determine the reviewability of  
373 applications and shall review applications for certificate-of-  
374 need determinations for health care facilities ~~and health~~  
375 ~~services~~ in context with the following criteria, ~~except for~~  
376 ~~general hospitals as defined in s. 395.002:~~

377 (1) ~~(a)~~ The need for the health care facilities ~~and health~~  
378 ~~services~~ being proposed.

379 (2) ~~(b)~~ The availability, quality of care, accessibility,  
380 and extent of utilization of existing health care facilities and  
381 health services in the service district of the applicant.

382 (3) ~~(c)~~ The ability of the applicant to provide quality of  
383 care and the applicant's record of providing quality of care.

384 (4) ~~(d)~~ The availability of resources, including health  
385 personnel, management personnel, and funds for capital and  
386 operating expenditures, for project accomplishment and  
387 operation.

388 (5) ~~(e)~~ The extent to which the proposed services will



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389 enhance access to health care for residents of the service  
390 district.

391 ~~(6)(f)~~ The immediate and long-term financial feasibility of  
392 the proposal.

393 ~~(7)(g)~~ The extent to which the proposal will foster  
394 competition that promotes quality and cost-effectiveness.

395 ~~(8)(h)~~ The costs and methods of the proposed construction,  
396 including the costs and methods of energy provision and the  
397 availability of alternative, less costly, or more effective  
398 methods of construction.

399 ~~(9)(i)~~ The applicant's past and proposed provision of  
400 health care services to Medicaid patients and the medically  
401 indigent.

402 ~~(10)(j)~~ The applicant's designation as a Gold Seal Program  
403 nursing facility pursuant to s. 400.235, when the applicant is  
404 requesting additional nursing home beds at that facility.

405 ~~(2) For a general hospital, the agency shall consider only~~  
406 ~~the criteria specified in paragraph (1)(a), paragraph (1)(b),~~  
407 ~~except for quality of care in paragraph (1)(b), and paragraphs~~  
408 ~~(1)(c), (g), and (i).~~

409 Section 12. Effective July 1, 2021, subsection (2) of  
410 section 408.035, Florida Statutes, as amended by this act, is  
411 amended to read:

412 408.035 Review criteria.—The agency shall determine the  
413 reviewability of applications and shall review applications for  
414 certificate-of-need determinations for health care facilities in  
415 context with the following criteria:

416 (2) The availability, quality of care, accessibility, and  
417 extent of utilization of existing health care facilities ~~and~~



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418 ~~health services~~ in the service district of the applicant.

419 Section 13. Subsection (1) and paragraphs (i) through (q)  
420 of subsection (3) of section 408.036, Florida Statutes, are  
421 amended to read:

422 408.036 Projects subject to review; exemptions.—

423 (1) APPLICABILITY.—Unless exempt under subsection (3), all  
424 health-care-related projects, as described in this subsection  
425 ~~paragraphs (a)–(f)~~, are subject to review and must file an  
426 application for a certificate of need with the agency. The  
427 agency is exclusively responsible for determining whether a  
428 health-care-related project is subject to review under ss.  
429 408.031–408.045.

430 (a) The addition of beds in community nursing homes or  
431 intermediate care facilities for the developmentally disabled by  
432 new construction or alteration.

433 (b) The new construction or establishment of additional  
434 health care facilities, except for the construction of or  
435 establishment of a general hospital or ~~including~~ a replacement  
436 health care facility when the proposed project site is ~~not~~  
437 located on the same site as or within 1 mile of the existing  
438 health care facility, if the number of beds in each licensed bed  
439 category will not increase.

440 (c) The conversion from one type of health care facility to  
441 another, including the conversion from a general hospital or, a  
442 specialty hospital, except that the conversion of a specialty  
443 hospital to a general hospital is not subject to review ~~or a~~  
444 long-term care hospital.

445 (d) The establishment of a hospice or hospice inpatient  
446 facility, except as provided in s. 408.043.





447           ~~(e) An increase in the number of beds for comprehensive~~  
448 ~~rehabilitation.~~

449           ~~(f) The establishment of tertiary health services,~~  
450 ~~including inpatient comprehensive rehabilitation services.~~

451           (3) EXEMPTIONS.—Upon request, the following projects are  
452 subject to exemption from ~~the provisions of~~ subsection (1):

453           ~~(i) For the addition of hospital beds licensed under~~  
454 ~~chapter 395 for comprehensive rehabilitation in a number that~~  
455 ~~may not exceed 10 total beds or 10 percent of the licensed~~  
456 ~~capacity, whichever is greater.~~

457           ~~1. In addition to any other documentation otherwise~~  
458 ~~required by the agency, a request for exemption submitted under~~  
459 ~~this paragraph must:~~

460           ~~a. Certify that the prior 12-month average occupancy rate~~  
461 ~~for the licensed beds being expanded meets or exceeds 80~~  
462 ~~percent.~~

463           ~~b. Certify that the beds have been licensed and operational~~  
464 ~~for at least 12 months.~~

465           ~~2. The timeframes and monitoring process specified in s.~~  
466 ~~408.040(2)(a)-(c) apply to any exemption issued under this~~  
467 ~~paragraph.~~

468           ~~3. The agency shall count beds authorized under this~~  
469 ~~paragraph as approved beds in the published inventory of~~  
470 ~~hospital beds until the beds are licensed.~~

471           ~~(i)-(j)~~ For the addition of nursing home beds licensed under  
472 chapter 400 in a number not exceeding 10 total beds or 10  
473 percent of the number of beds licensed in the facility being  
474 expanded, whichever is greater; or, for the addition of nursing  
475 home beds licensed under chapter 400 at a facility that has been



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476 designated as a Gold Seal nursing home under s. 400.235 in a  
477 number not exceeding 20 total beds or 10 percent of the number  
478 of licensed beds in the facility being expanded, whichever is  
479 greater.

480 1. In addition to any other documentation required by the  
481 agency, a request for exemption submitted under this paragraph  
482 must certify that:

483 a. The facility has not had any class I or class II  
484 deficiencies within the 30 months preceding the request.

485 b. The prior 12-month average occupancy rate for the  
486 nursing home beds at the facility meets or exceeds 94 percent.

487 c. Any beds authorized for the facility under this  
488 paragraph before the date of the current request for an  
489 exemption have been licensed and operational for at least 12  
490 months.

491 2. The timeframes and monitoring process specified in s.  
492 408.040(2)(a)-(c) apply to any exemption issued under this  
493 paragraph.

494 3. The agency shall count beds authorized under this  
495 paragraph as approved beds in the published inventory of nursing  
496 home beds until the beds are licensed.

497 ~~(k) For the establishment of:~~

498 ~~1. A Level II neonatal intensive care unit with at least 10~~  
499 ~~beds, upon documentation to the agency that the applicant~~  
500 ~~hospital had a minimum of 1,500 births during the previous 12~~  
501 ~~months;~~

502 ~~2. A Level III neonatal intensive care unit with at least~~  
503 ~~15 beds, upon documentation to the agency that the applicant~~  
504 ~~hospital has a Level II neonatal intensive care unit of at least~~



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505 ~~10 beds and had a minimum of 3,500 births during the previous 12~~  
506 ~~months; or~~

507 ~~3. A Level III neonatal intensive care unit with at least 5~~  
508 ~~beds, upon documentation to the agency that the applicant~~  
509 ~~hospital is a verified trauma center pursuant to s.~~  
510 ~~395.4001(15), and has a Level II neonatal intensive care unit,~~  
511  
512 ~~if the applicant demonstrates that it meets the requirements for~~  
513 ~~quality of care, nurse staffing, physician staffing, physical~~  
514 ~~plant, equipment, emergency transportation, and data reporting~~  
515 ~~found in agency certificate-of-need rules for Level II and Level~~  
516 ~~III neonatal intensive care units and if the applicant commits~~  
517 ~~to the provision of services to Medicaid and charity patients at~~  
518 ~~a level equal to or greater than the district average. Such a~~  
519 ~~commitment is subject to s. 408.040.~~

520 ~~(l) For the addition of mental health services or beds if~~  
521 ~~the applicant commits to providing services to Medicaid or~~  
522 ~~charity care patients at a level equal to or greater than the~~  
523 ~~district average. Such a commitment is subject to s. 408.040.~~

524 ~~(j)-(m)~~ For replacement of a licensed nursing home on the  
525 same site, or within 5 miles of the same site if within the same  
526 subdistrict, if the number of licensed beds does not increase  
527 except as permitted under paragraph (e).

528 ~~(k)-(n)~~ For consolidation or combination of licensed nursing  
529 homes or transfer of beds between licensed nursing homes within  
530 the same planning district, by nursing homes with any shared  
531 controlled interest within that planning district, if there is  
532 no increase in the planning district total number of nursing  
533 home beds and the site of the relocation is not more than 30



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534 miles from the original location.

535 (1)~~(e)~~ For beds in state mental health treatment facilities  
536 defined in s. 394.455 and state mental health forensic  
537 facilities operated under chapter 916.

538 (m)~~(p)~~ For beds in state developmental disabilities centers  
539 as defined in s. 393.063.

540 (n)~~(q)~~ For the establishment of a health care facility or  
541 project that meets all of the following criteria:

542 1. The applicant was previously licensed within the past 21  
543 days as a health care facility or provider that is subject to  
544 subsection (1).

545 2. The applicant failed to submit a renewal application and  
546 the license expired on or after January 1, 2015.

547 3. The applicant does not have a license denial or  
548 revocation action pending with the agency at the time of the  
549 request.

550 4. The applicant's request is for the same service type,  
551 district, service area, and site for which the applicant was  
552 previously licensed.

553 5. The applicant's request, if applicable, includes the  
554 same number and type of beds as were previously licensed.

555 6. The applicant agrees to the same conditions that were  
556 previously imposed on the certificate of need or on an exemption  
557 related to the applicant's previously licensed health care  
558 facility or project.

559 7. The applicant applies for initial licensure as required  
560 under s. 408.806 within 21 days after the agency approves the  
561 exemption request. If the applicant fails to apply in a timely  
562 manner, the exemption expires on the 22nd day following the



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563 agency's approval of the exemption.

564

565 ~~Notwithstanding subparagraph 1., an applicant whose license~~  
566 ~~expired between January 1, 2015, and the effective date of this~~  
567 ~~act may apply for an exemption within 30 days of this act~~  
568 ~~becoming law.~~

569 Section 14. Effective July 1, 2021, paragraphs (b), (c),  
570 (l), (m), and (n) of subsection (1), as amended by this act, and  
571 subsections (2) and (5) of section 408.036, Florida Statutes,  
572 are amended to read:

573 408.036 Projects subject to review; exemptions.—

574 (1) APPLICABILITY.—Unless exempt under subsection (3), all  
575 health-care-related projects, as described in this subsection,  
576 are subject to review and must file an application for a  
577 certificate of need with the agency. The agency is exclusively  
578 responsible for determining whether a health-care-related  
579 project is subject to review under ss. 408.031-408.045.

580 (b) The new construction or establishment of additional  
581 health care facilities, except for ~~the construction of or~~  
582 ~~establishment of a general hospital or~~ a replacement health care  
583 facility when the proposed project site is located on the same  
584 site as or within 1 mile of the existing health care facility if  
585 the number of beds in each licensed bed category will not  
586 increase.

587 (c) The conversion from one type of health care facility to  
588 another, ~~including the conversion from a general hospital or a~~  
589 ~~specialty hospital, except that the conversion of a specialty~~  
590 ~~hospital to a general hospital is not subject to review.~~

591 ~~(1) For beds in state mental health treatment facilities~~



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592 ~~defined in s. 394.455 and state mental health forensic~~  
593 ~~facilities operated under chapter 916.~~

594 (1) ~~(m)~~ For beds in state developmental disabilities centers  
595 as defined in s. 393.063.

596 (m) ~~(n)~~ For the establishment of a health care facility or  
597 project that meets all of the following criteria:

598 1. The applicant was previously licensed within the past 21  
599 days as a health care facility or provider that is subject to  
600 subsection (1).

601 2. The applicant failed to submit a renewal application and  
602 the license expired on or after January 1, 2015.

603 3. The applicant does not have a license denial or  
604 revocation action pending with the agency at the time of the  
605 request.

606 4. The applicant's request is for the same service type,  
607 district, service area, and site for which the applicant was  
608 previously licensed.

609 5. The applicant's request, if applicable, includes the  
610 same number and type of beds as were previously licensed.

611 6. The applicant agrees to the same conditions that were  
612 previously imposed on the certificate of need or on an exemption  
613 related to the applicant's previously licensed health care  
614 facility or project.

615 7. The applicant applies for initial licensure as required  
616 under s. 408.806 within 21 days after the agency approves the  
617 exemption request. If the applicant fails to apply in a timely  
618 manner, the exemption expires on the 22nd day following the  
619 agency's approval of the exemption.

620 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt



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621 pursuant to subsection (3), the following projects are subject  
622 to expedited review:

623 (a) Transfer of a certificate of need, ~~except that when an~~  
624 ~~existing hospital is acquired by a purchaser, all certificates~~  
625 ~~of need issued to the hospital which are not yet operational~~  
626 ~~shall be acquired by the purchaser without need for a transfer.~~

627 (5) NOTIFICATION.—Health care facilities and providers must  
628 provide to the agency notification of:

629 ~~(a)~~ replacement of a health care facility when the proposed  
630 project site is located in the same district and on the existing  
631 site or within a 1-mile radius of the replaced health care  
632 facility, if the number and type of beds do not increase.

633 ~~(b) The termination of a health care service, upon 30 days'~~  
634 ~~written notice to the agency.~~

635 ~~(c) The addition or delicensure of beds.~~ Notification under  
636 ~~this subsection~~ may be made by electronic, facsimile, or written  
637 means at any time before the described action has been taken.

638 Section 15. Section 408.0361, Florida Statutes, is  
639 repealed.

640 Section 16. Section 408.037, Florida Statutes, is amended  
641 to read:

642 408.037 Application content.—

643 (1) ~~Except as provided in subsection (2) for a general~~  
644 ~~hospital,~~ An application for a certificate of need must contain:

645 (a) A detailed description of the proposed project and  
646 statement of its purpose and need in relation to the district  
647 health plan.

648 (b) A statement of the financial resources needed by and  
649 available to the applicant to accomplish the proposed project.



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650 This statement must include:

651 1. A complete listing of all capital projects, including  
652 new health facility development projects and health facility  
653 acquisitions applied for, pending, approved, or underway in any  
654 state at the time of application, regardless of whether or not  
655 that state has a certificate-of-need program or a capital  
656 expenditure review program pursuant to s. 1122 of the Social  
657 Security Act. The agency may, by rule, require less-detailed  
658 information from major health care providers. This listing must  
659 include the applicant's actual or proposed financial commitment  
660 to those projects and an assessment of their impact on the  
661 applicant's ability to provide the proposed project.

662 2. A detailed listing of the needed capital expenditures,  
663 including sources of funds.

664 3. A detailed financial projection, including a statement  
665 of the projected revenue and expenses for the first 2 years of  
666 operation after completion of the proposed project. This  
667 statement must include a detailed evaluation of the impact of  
668 the proposed project on the cost of other services provided by  
669 the applicant.

670 (c) An audited financial statement of the applicant or the  
671 applicant's parent corporation if audited financial statements  
672 of the applicant do not exist. In an application submitted by an  
673 existing health care facility, health maintenance organization,  
674 or hospice, financial condition documentation must include, but  
675 need not be limited to, a balance sheet and a profit-and-loss  
676 statement of the 2 previous fiscal years' operation.

677 ~~(2) An application for a certificate of need for a general~~  
678 ~~hospital must contain a detailed description of the proposed~~





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679 ~~general hospital project and a statement of its purpose and the~~  
680 ~~needs it will meet. The proposed project's location, as well as~~  
681 ~~its primary and secondary service areas, must be identified by~~  
682 ~~zip code. Primary service area is defined as the zip codes from~~  
683 ~~which the applicant projects that it will draw 75 percent of its~~  
684 ~~discharges. Secondary service area is defined as the zip codes~~  
685 ~~from which the applicant projects that it will draw its~~  
686 ~~remaining discharges. If, subsequent to issuance of a final~~  
687 ~~order approving the certificate of need, the proposed location~~  
688 ~~of the general hospital changes or the primary service area~~  
689 ~~materially changes, the agency shall revoke the certificate of~~  
690 ~~need. However, if the agency determines that such changes are~~  
691 ~~deemed to enhance access to hospital services in the service~~  
692 ~~district, the agency may permit such changes to occur. A party~~  
693 ~~participating in the administrative hearing regarding the~~  
694 ~~issuance of the certificate of need for a general hospital has~~  
695 ~~standing to participate in any subsequent proceeding regarding~~  
696 ~~the revocation of the certificate of need for a hospital for~~  
697 ~~which the location has changed or for which the primary service~~  
698 ~~area has materially changed. In addition, the application for~~  
699 ~~the certificate of need for a general hospital must include a~~  
700 ~~statement of intent that, if approved by final order of the~~  
701 ~~agency, the applicant shall within 120 days after issuance of~~  
702 ~~the final order or, if there is an appeal of the final order,~~  
703 ~~within 120 days after the issuance of the court's mandate on~~  
704 ~~appeal, furnish satisfactory proof of the applicant's financial~~  
705 ~~ability to operate. The agency shall establish documentation~~  
706 ~~requirements, to be completed by each applicant, which show~~  
707 ~~anticipated provider revenues and expenditures, the basis for~~



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708 ~~financing the anticipated cash flow requirements of the~~  
709 ~~provider, and an applicant's access to contingency financing. A~~  
710 ~~party participating in the administrative hearing regarding the~~  
711 ~~issuance of the certificate of need for a general hospital may~~  
712 ~~provide written comments concerning the adequacy of the~~  
713 ~~financial information provided, but such party does not have~~  
714 ~~standing to participate in an administrative proceeding~~  
715 ~~regarding proof of the applicant's financial ability to operate.~~  
716 ~~The agency may require a licensee to provide proof of financial~~  
717 ~~ability to operate at any time if there is evidence of financial~~  
718 ~~instability, including, but not limited to, unpaid expenses~~  
719 ~~necessary for the basic operations of the provider.~~

720       (2)~~(3)~~ The applicant must certify that it will license and  
721 operate the health care facility. For an existing health care  
722 facility, the applicant must be the licenseholder of the  
723 facility.

724       Section 17. Paragraphs (c) and (d) of subsection (3),  
725 paragraphs (b) and (c) of subsection (5), and paragraph (d) of  
726 subsection (6) of section 408.039, Florida Statutes, are amended  
727 to read:

728       408.039 Review process.—The review process for certificates  
729 of need shall be as follows:

730       (3) APPLICATION PROCESSING.—

731       ~~(c) Except for competing applicants, in order to be~~  
732 ~~eligible to challenge the agency decision on a general hospital~~  
733 ~~application under review pursuant to paragraph (5)(c), existing~~  
734 ~~hospitals must submit a detailed written statement of opposition~~  
735 ~~to the agency and to the applicant. The detailed written~~  
736 ~~statement must be received by the agency and the applicant~~



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737 ~~within 21 days after the general hospital application is deemed~~  
738 ~~complete and made available to the public.~~

739 ~~(d) In those cases where a written statement of opposition~~  
740 ~~has been timely filed regarding a certificate of need~~  
741 ~~application for a general hospital, the applicant for the~~  
742 ~~general hospital may submit a written response to the agency.~~  
743 ~~Such response must be received by the agency within 10 days of~~  
744 ~~the written statement due date.~~

745 (5) ADMINISTRATIVE HEARINGS.—

746 (b) Hearings shall be held in Tallahassee unless the  
747 administrative law judge determines that changing the location  
748 will facilitate the proceedings. The agency shall assign  
749 proceedings requiring hearings to the Division of Administrative  
750 Hearings of the Department of Management Services within 10 days  
751 after the time has expired for requesting a hearing. Except upon  
752 unanimous consent of the parties or upon the granting by the  
753 administrative law judge of a motion of continuance, hearings  
754 shall commence within 60 days after the administrative law judge  
755 has been assigned. ~~For an application for a general hospital,~~  
756 ~~administrative hearings shall commence within 6 months after the~~  
757 ~~administrative law judge has been assigned, and a continuance~~  
758 ~~may not be granted absent a finding of extraordinary~~  
759 ~~circumstances by the administrative law judge.~~ All parties,  
760 except the agency, shall bear their own expense of preparing a  
761 transcript. In any application for a certificate of need which  
762 is referred to the Division of Administrative Hearings for  
763 hearing, the administrative law judge shall complete and submit  
764 to the parties a recommended order as provided in ss. 120.569  
765 and 120.57. The recommended order shall be issued within 30 days



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766 after the receipt of the proposed recommended orders or the  
767 deadline for submission of such proposed recommended orders,  
768 whichever is earlier. The division shall adopt procedures for  
769 administrative hearings which shall maximize the use of  
770 stipulated facts and shall provide for the admission of prepared  
771 testimony.

772 (c) In administrative proceedings challenging the issuance  
773 or denial of a certificate of need, only applicants considered  
774 by the agency in the same batching cycle are entitled to a  
775 comparative hearing on their applications. Existing health care  
776 facilities may initiate or intervene in an administrative  
777 hearing upon a showing that an established program will be  
778 substantially affected by the issuance of any certificate of  
779 need, whether reviewed under s. 408.036(1) or (2), to a  
780 competing proposed facility or program within the same district.  
781 ~~With respect to an application for a general hospital, competing~~  
782 ~~applicants and only those existing hospitals that submitted a~~  
783 ~~detailed written statement of opposition to an application as~~  
784 ~~provided in this paragraph may initiate or intervene in an~~  
785 ~~administrative hearing. Such challenges to a general hospital~~  
786 ~~application shall be limited in scope to the issues raised in~~  
787 ~~the detailed written statement of opposition that was provided~~  
788 ~~to the agency. The administrative law judge may, upon a motion~~  
789 ~~showing good cause, expand the scope of the issues to be heard~~  
790 ~~at the hearing. Such motion shall include substantial and~~  
791 ~~detailed facts and reasons for failure to include such issues in~~  
792 ~~the original written statement of opposition.~~

793 (6) JUDICIAL REVIEW.—

794 ~~(d) The party appealing a final order that grants a general~~



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795 ~~hospital certificate of need shall pay the appellee's attorney's~~  
796 ~~fees and costs, in an amount up to \$1 million, from the~~  
797 ~~beginning of the original administrative action if the appealing~~  
798 ~~party loses the appeal, subject to the following limitations and~~  
799 ~~requirements:~~

800 ~~1. The party appealing a final order must post a bond in~~  
801 ~~the amount of \$1 million in order to maintain the appeal.~~

802 ~~2. Except as provided under s. 120.595(5), in no event~~  
803 ~~shall the agency be held liable for any other party's attorney's~~  
804 ~~fees or costs.~~

805 Section 18. Subsection (1) of section 408.043, Florida  
806 Statutes, is amended to read:

807 408.043 Special provisions.-

808 ~~(1) OSTEOPATHIC ACUTE CARE HOSPITALS. When an application~~  
809 ~~is made for a certificate of need to construct or to expand an~~  
810 ~~osteopathic acute care hospital, the need for such hospital~~  
811 ~~shall be determined on the basis of the need for and~~  
812 ~~availability of osteopathic services and osteopathic acute care~~  
813 ~~hospitals in the district. When a prior certificate of need to~~  
814 ~~establish an osteopathic acute care hospital has been issued in~~  
815 ~~a district, and the facility is no longer used for that purpose,~~  
816 ~~the agency may continue to count such facility and beds as an~~  
817 ~~existing osteopathic facility in any subsequent application for~~  
818 ~~construction of an osteopathic acute care hospital.~~

819 Section 19. Section 408.0455, Florida Statutes, is amended  
820 to read:

821 408.0455 Rules; pending proceedings.-The rules of the  
822 agency in effect on June 30, 2004, shall remain in effect and  
823 shall be enforceable by the agency with respect to ss. 408.031-



824 408.045 until such rules are repealed or amended by the agency.  
825 Rules 59C-1.039 through 59C-1.044, F.A.C., remain in effect for  
826 the sole purpose of maintaining licensure requirements for the  
827 applicable services until the agency has adopted rules for the  
828 corresponding services pursuant to s. 395.1055(1)(i), Florida  
829 Statutes 2018.

830 Section 20. Subsection (3) of section 408.808, Florida  
831 Statutes, is amended to read:

832 408.808 License categories.—

833 (3) INACTIVE LICENSE.—An inactive license may be issued to  
834 a hospital or a health care provider subject to the certificate-  
835 of-need provisions in part I of this chapter when the provider  
836 is currently licensed, does not have a provisional license, and  
837 will be temporarily unable to provide services but is reasonably  
838 expected to resume services within 12 months. Such designation  
839 may be made for a period not to exceed 12 months but may be  
840 renewed by the agency for up to 12 additional months upon  
841 demonstration by the licensee of the provider's progress toward  
842 reopening. However, if after 20 months in an inactive license  
843 status, a statutory rural hospital, as defined in s. 395.602,  
844 has demonstrated progress toward reopening, but may not be able  
845 to reopen prior to the inactive license expiration date, the  
846 inactive designation may be renewed again by the agency for up  
847 to 12 additional months. For purposes of such a second renewal,  
848 if construction or renovation is required, the licensee must  
849 have had plans approved by the agency and construction must have  
850 already commenced pursuant to s. 408.032(4); however, if  
851 construction or renovation is not required, the licensee must  
852 provide proof of having made an enforceable capital expenditure



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853 greater than 25 percent of the total costs associated with the  
854 hiring of staff and the purchase of equipment and supplies  
855 needed to operate the facility upon opening. A request by a  
856 licensee for an inactive license or to extend the previously  
857 approved inactive period must be submitted to the agency and  
858 must include a written justification for the inactive license  
859 with the beginning and ending dates of inactivity specified, a  
860 plan for the transfer of any clients to other providers, and the  
861 appropriate licensure fees. The agency may not accept a request  
862 that is submitted after initiating closure, after any suspension  
863 of service, or after notifying clients of closure or suspension  
864 of service, unless the action is a result of a disaster at the  
865 licensed premises. For the purposes of this section, the term  
866 "disaster" means a sudden emergency occurrence beyond the  
867 control of the licensee, whether natural, technological, or  
868 manmade, which renders the provider inoperable at the premises.  
869 Upon agency approval, the provider shall notify clients of any  
870 necessary discharge or transfer as required by authorizing  
871 statutes or applicable rules. The beginning of the inactive  
872 license period is the date the provider ceases operations. The  
873 end of the inactive license period shall become the license  
874 expiration date. All licensure fees must be current, must be  
875 paid in full, and may be prorated. Reactivation of an inactive  
876 license requires the approval of a renewal application,  
877 including payment of licensure fees and agency inspections  
878 indicating compliance with all requirements of this part,  
879 authorizing statutes, and applicable rules.

880       Section 21. The Office of Program Policy Analysis and  
881 Government Accountability shall review federal requirements and



882 other states' licensure statutes and rules governing the  
883 provision of tertiary health services as defined in s. 408.032,  
884 Florida Statutes 2018, and shall make recommendations to the  
885 President of the Senate and the Speaker of the House of  
886 Representatives on best practices, including recommendations on  
887 minimum volume requirements, as applicable, regarding the  
888 establishment of licensure standards for such programs by  
889 November 1, 2019.

890 Section 22. Except as otherwise expressly provided in this  
891 act, this act shall take effect July 1, 2019.

892  
893 ===== T I T L E A M E N D M E N T =====

894 And the title is amended as follows:

895 Delete everything before the enacting clause  
896 and insert:

897 A bill to be entitled  
898 An act relating to hospital licensure; amending s.  
899 395.0191, F.S.; deleting provisions relating to  
900 certificate of need applications; amending s.  
901 395.1055, F.S.; revising the Agency for Health Care  
902 Administration's rulemaking authority with respect to  
903 minimum standards for hospitals; requiring hospitals  
904 that provide certain services to meet specified  
905 licensure requirements; conforming provisions to  
906 changes made by the act; amending s. 395.1065, F.S.;  
907 conforming a cross-reference; repealing s. 395.6025,  
908 F.S., relating to rural hospital replacement  
909 facilities; amending s. 408.032, F.S.; revising and  
910 deleting definitions; amending s. 408.033, F.S.;





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911 conforming provisions to changes made by the act;  
912 amending s. 408.034, F.S.; authorizing the agency to  
913 issue a license to a general hospital that has not  
914 been issued a certificate of need under certain  
915 circumstances; revising duties and responsibilities of  
916 the agency relating to issuance of licenses to health  
917 care facilities and health service providers;  
918 conforming provisions to changes made by the act;  
919 amending s. 408.035, F.S.; deleting provisions related  
920 to the agency's consideration and review of  
921 applications for certificates of need for general  
922 hospitals and health services; amending s. 408.036,  
923 F.S.; providing an exception to certificate of need  
924 review requirements for the construction or  
925 establishment of a general hospital and the conversion  
926 of a specialty hospital to a general hospital;  
927 revising health-care-related projects that are subject  
928 to agency review for a certificate of need and  
929 exemptions therefrom; deleting provisions requiring  
930 health care facilities and providers to provide  
931 certain notice to the agency upon termination of a  
932 health care service or the addition or delicensure of  
933 beds; conforming a provision to changes made by the  
934 act; repealing s. 408.0361, F.S., relating to  
935 cardiovascular services and burn unit licensure;  
936 amending ss. 408.037 and 408.039, F.S.; deleting  
937 provisions relating to certificate of need  
938 applications for general hospitals; amending s.  
939 408.043, F.S.; deleting provisions relating to



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940 certificates of need for osteopathic acute care  
941 hospitals; amending s. 408.0455, F.S.; establishing  
942 that specified rules remain in effect for a specified  
943 purpose and until the agency has adopted certain  
944 rules; amending s. 408.808, F.S.; authorizing the  
945 agency to issue an inactive license to a certain  
946 hospital under certain circumstances; requiring the  
947 Office of Program Policy Analysis and Government  
948 Accountability to review specified requirements,  
949 statutes, and rules, and make recommendations to the  
950 Legislature by a specified date; providing effective  
951 dates.