

CS/HB 31A

2015A

1 A bill to be entitled

2 An act relating to certificates of need for hospitals;
3 amending s. 408.032, F.S.; revising definitions;
4 amending s. 408.034, F.S.; revising duties and
5 responsibilities of the Agency for Health Care
6 Administration in the exercise of its authority to
7 issue licenses to health care facilities and health
8 service providers; amending s. 408.035, F.S.; revising
9 review criteria for applications for certificate-of-
10 need determinations for health care facilities and
11 health services; excluding general hospitals from such
12 review; amending s. 408.036, F.S.; revising health-
13 care-related projects subject to review for a
14 certificate of need and exemptions therefrom; amending
15 s. 408.037, F.S.; revising content requirements with
16 respect to an application for a certificate of need;
17 amending s. 408.039, F.S.; revising the review process
18 for certificates of need; amending s. 408.043, F.S.;
19 revising special provisions to eliminate provisions
20 relating to osteopathic acute care hospitals; amending
21 ss. 395.604 and 395.605, F.S.; conforming references;
22 providing for construction of the act in pari materia
23 with laws enacted during the 2015 Regular Session of
24 the Legislature; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (8) through (17) of section 408.032, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

53 ~~(14) "Mental health services" means inpatient services~~
 54 ~~provided in a hospital licensed under chapter 395 and listed on~~
 55 ~~the hospital license as psychiatric beds for adults; psychiatric~~
 56 ~~beds for children and adolescents; intensive residential~~
 57 ~~treatment beds for children and adolescents; substance abuse~~
 58 ~~beds for adults; or substance abuse beds for children and~~
 59 ~~adolescents.~~

60 (11)~~(15)~~ "Nursing home geographically underserved area"
 61 means:

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

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

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

70 (12)~~(16)~~ "Skilled nursing facility" means an institution,
 71 or a distinct part of an institution, which is primarily engaged
 72 in providing, to inpatients, skilled nursing care and related
 73 services for patients who require medical or nursing care, or
 74 rehabilitation services for the rehabilitation of injured,
 75 disabled, or sick persons.

76 ~~(17) "Tertiary health service" means a health service~~
 77 ~~which, due to its high level of intensity, complexity,~~
 78 ~~specialized or limited applicability, and cost, should be~~

79 ~~limited to, and concentrated in, a limited number of hospitals~~
 80 ~~to ensure the quality, availability, and cost-effectiveness of~~
 81 ~~such service. Examples of such service include, but are not~~
 82 ~~limited to, pediatric cardiac catheterization, pediatric open-~~
 83 ~~heart surgery, organ transplantation, neonatal intensive care~~
 84 ~~units, comprehensive rehabilitation, and medical or surgical~~
 85 ~~services which are experimental or developmental in nature to~~
 86 ~~the extent that the provision of such services is not yet~~
 87 ~~contemplated within the commonly accepted course of diagnosis or~~
 88 ~~treatment for the condition addressed by a given service. The~~
 89 ~~agency shall establish by rule a list of all tertiary health~~
 90 ~~services.~~

91 Section 2. Subsection (2) of section 408.034, Florida
 92 Statutes, is amended to read:

93 408.034 Duties and responsibilities of agency; rules.—

94 (2) In the exercise of its authority to issue licenses to
 95 health care facilities and health service providers, as provided
 96 under chapter ~~chapters~~ 393 ~~and 395~~ and parts II, IV, and VIII of
 97 chapter 400, the agency may not issue a license to any health
 98 care facility or health service provider that fails to receive a
 99 certificate of need or an exemption for the licensed facility or
 100 service.

101 Section 3. Section 408.035, Florida Statutes, is amended
 102 to read:

103 408.035 Review criteria.—

104 ~~(1)~~ The agency shall determine the reviewability of
105 applications and shall review applications for certificate-of-
106 need determinations for health care facilities and health
107 services in context with the following criteria, ~~except for~~
108 ~~general hospitals as defined in s. 395.002:~~

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

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

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

116 (4)~~(d)~~ The availability of resources, including health
117 personnel, management personnel, and funds for capital and
118 operating expenditures, for project accomplishment and
119 operation.

120 (5)~~(e)~~ The extent to which the proposed services will
121 enhance access to health care for residents of the service
122 district.

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

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

127 (8)~~(h)~~ The costs and methods of the proposed construction,
128 including the costs and methods of energy provision and the

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129 availability of alternative, less costly, or more effective
130 methods of construction.

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

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

137 ~~(2) For a general hospital, the agency shall consider only~~
138 ~~the criteria specified in paragraph (1)(a), paragraph (1)(b),~~
139 ~~except for quality of care in paragraph (1)(b), and paragraphs~~
140 ~~(1)(e), (g), and (i).~~

141 Section 4. Section 408.036, Florida Statutes, is amended
142 to read:

143 408.036 Projects subject to review; exemptions.—

144 (1) APPLICABILITY.—Unless exempt under subsection (3), all
145 health-care-related projects, as described in this subsection
146 ~~paragraphs (a)–(f)~~, are subject to review and must file an
147 application for a certificate of need with the agency. The
148 agency is exclusively responsible for determining whether a
149 health-care-related project is subject to review under ss.
150 408.031–408.045.

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

154 (b) The new construction or establishment of additional

155 health care facilities, including a replacement health care
 156 facility when the proposed project site is not located on the
 157 same site as or within 1 mile of the existing health care
 158 facility, if the number of beds in each licensed bed category
 159 will not increase.

160 (c) The conversion from one type of health care facility
 161 to another, ~~including the conversion from a general hospital, a~~
 162 ~~specialty hospital, or a long term care hospital.~~

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

165 ~~(e) An increase in the number of beds for comprehensive~~
 166 ~~rehabilitation.~~

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

169 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt
 170 pursuant to subsection (3), the following projects are subject
 171 to expedited review:

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

176 (b) Replacement of a nursing home, if the proposed project
 177 site is within a 30-mile radius of the replaced nursing home. If
 178 the proposed project site is outside the subdistrict where the
 179 replaced nursing home is located, the prior 6-month occupancy
 180 rate for licensed community nursing homes in the proposed

181 subdistrict must be at least 85 percent in accordance with the
182 agency's most recently published inventory.

183 (c) Replacement of a nursing home within the same
184 district, if the proposed project site is outside a 30-mile
185 radius of the replaced nursing home but within the same
186 subdistrict or a geographically contiguous subdistrict. If the
187 proposed project site is in the geographically contiguous
188 subdistrict, the prior 6-month occupancy rate for licensed
189 community nursing homes for that subdistrict must be at least 85
190 percent in accordance with the agency's most recently published
191 inventory.

192 (d) Relocation of a portion of a nursing home's licensed
193 beds to another facility or to establish a new facility within
194 the same district or within a geographically contiguous
195 district, if the relocation is within a 30-mile radius of the
196 existing facility and the total number of nursing home beds in
197 the state does not increase.

198 (e) New construction of a community nursing home in a
199 retirement community as further provided in this paragraph.

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

202 a. The residential use area of the retirement community is
203 deed-restricted as housing for older persons as defined in s.
204 760.29(4)(b).

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

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

213 d. The retirement community has a population of at least
214 8,000 residents within the county, based on a population data
215 source accepted by the agency.

216 e. The number of proposed community nursing home beds in
217 an application does not exceed the projected bed need after
218 applying the rate of 16.1 beds per 1,000 persons aged 65 years
219 and older projected for the county 3 years into the future using
220 the estimates adopted by the agency reduced by the agency's most
221 recently published inventory of licensed and approved community
222 nursing home beds in the county.

223 2. No more than 120 community nursing home beds shall be
224 approved for a qualified retirement community under each request
225 for expedited review. Subsequent requests for expedited review
226 under this process may not be made until 2 years after
227 construction of the facility has commenced or 1 year after the
228 beds approved through the initial request are licensed,
229 whichever occurs first.

230 3. The total number of community nursing home beds which
231 may be approved for any single deed-restricted community
232 pursuant to this paragraph may not exceed 240, regardless of

233 whether the retirement community is located in more than one
234 qualifying county.

235 4. Each nursing home facility approved under this
236 paragraph must be dually certified for participation in the
237 Medicare and Medicaid programs.

238 5. Each nursing home facility approved under this
239 paragraph must be at least 1 mile, as measured over publicly
240 owned roadways, from an existing approved and licensed community
241 nursing home.

242 6. A retirement community requesting expedited review
243 under this paragraph shall submit a written request to the
244 agency for expedited review. The request must include the number
245 of beds to be added and provide evidence of compliance with the
246 criteria specified in subparagraph 1.

247 7. After verifying that the retirement community meets the
248 criteria for expedited review specified in subparagraph 1., the
249 agency shall publicly notice in the Florida Administrative
250 Register that a request for an expedited review has been
251 submitted by a qualifying retirement community and that the
252 qualifying retirement community intends to make land available
253 for the construction and operation of a community nursing home.
254 The agency's notice must identify where potential applicants can
255 obtain information describing the sales price of, or terms of
256 the land lease for, the property on which the project will be
257 located and the requirements established by the retirement
258 community. The agency notice must also specify the deadline for

259 submission of the certificate-of-need application, which may not
260 be earlier than the 91st day or later than the 125th day after
261 the date the notice appears in the Florida Administrative
262 Register.

263 8. The qualified retirement community shall make land
264 available to applicants it deems to have met its requirements
265 for the construction and operation of a community nursing home
266 but may sell or lease the land only to the applicant that is
267 issued a certificate of need by the agency under this paragraph.

268 a. A certificate-of-need application submitted under this
269 paragraph must identify the intended site for the project within
270 the retirement community and the anticipated costs for the
271 project based on that site. The application must also include
272 written evidence that the retirement community has determined
273 that both the provider submitting the application and the
274 project satisfy its requirements for the project.

275 b. If the retirement community determines that more than
276 one provider satisfies its requirements for the project, it may
277 notify the agency of the provider it prefers.

278 9. The agency shall review each submitted application. If
279 multiple applications are submitted for a project published
280 pursuant to subparagraph 7., the agency shall review the
281 competing applications.

282

283 The agency shall develop rules to implement the expedited review
284 process, including time schedule, application content that may

285 be reduced from the full requirements of s. 408.037(1), and
 286 application processing.

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

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

292 ~~(b) For the conversion of licensed acute care hospital~~
 293 ~~beds to Medicare and Medicaid certified skilled nursing beds in~~
 294 ~~a rural hospital, as defined in s. 395.602, so long as the~~
 295 ~~conversion of the beds does not involve the construction of new~~
 296 ~~facilities. The total number of skilled nursing beds, including~~
 297 ~~swing beds, may not exceed one-half of the total number of~~
 298 ~~licensed beds in the rural hospital as of July 1, 1993.~~
 299 ~~Certified skilled nursing beds designated under this paragraph,~~
 300 ~~excluding swing beds, shall be included in the community nursing~~
 301 ~~home bed inventory. A rural hospital that subsequently~~
 302 ~~decertifies any acute care beds exempted under this paragraph~~
 303 ~~shall notify the agency of the decertification, and the agency~~
 304 ~~shall adjust the community nursing home bed inventory~~
 305 ~~accordingly.~~

306 (b)(e) For the addition of nursing home beds at a skilled
 307 nursing facility that is part of a retirement community that
 308 provides a variety of residential settings and supportive
 309 services and that has been incorporated and operated in this
 310 state for at least 65 years on or before July 1, 1994. All

311 nursing home beds must not be available to the public but must
312 be for the exclusive use of the community residents.

313 (c)~~(d)~~ For an inmate health care facility built by or for
314 the exclusive use of the Department of Corrections as provided
315 in chapter 945. This exemption expires when such facility is
316 converted to other uses.

317 (d)~~(e)~~ For mobile surgical facilities and related health
318 care services provided under contract with the Department of
319 Corrections or a private correctional facility operating
320 pursuant to chapter 957.

321 (e)~~(f)~~ For the addition of nursing home beds licensed
322 under chapter 400 in a number not exceeding 30 total beds or 25
323 percent of the number of beds licensed in the facility being
324 replaced under paragraph (2)(b), paragraph (2)(c), or paragraph
325 (j)~~(p)~~, whichever is less.

326 (f)~~(g)~~ For state veterans' nursing homes operated by or on
327 behalf of the Florida Department of Veterans' Affairs in
328 accordance with part II of chapter 296 for which at least 50
329 percent of the construction cost is federally funded and for
330 which the Federal Government pays a per diem rate not to exceed
331 one-half of the cost of the veterans' care in such state nursing
332 homes. These beds shall not be included in the nursing home bed
333 inventory.

334 (g)~~(h)~~ For combination within one nursing home facility of
335 the beds or services authorized by two or more certificates of
336 need issued in the same planning subdistrict. An exemption

337 granted under this paragraph shall extend the validity period of
338 the certificates of need to be consolidated by the length of the
339 period beginning upon submission of the exemption request and
340 ending with issuance of the exemption. The longest validity
341 period among the certificates shall be applicable to each of the
342 combined certificates.

343 (h)-(i) For division into two or more nursing home
344 facilities of beds or services authorized by one certificate of
345 need issued in the same planning subdistrict. An exemption
346 granted under this paragraph shall extend the validity period of
347 the certificate of need to be divided by the length of the
348 period beginning upon submission of the exemption request and
349 ending with issuance of the exemption.

350 ~~(j) For the addition of hospital beds licensed under~~
351 ~~chapter 395 for comprehensive rehabilitation in a number that~~
352 ~~may not exceed 10 total beds or 10 percent of the licensed~~
353 ~~capacity, whichever is greater.~~

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

357 ~~a. Certify that the prior 12-month average occupancy rate~~
358 ~~for the licensed beds being expanded meets or exceeds 80~~
359 ~~percent.~~

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

362 ~~2. The timeframes and monitoring process specified in s.~~

363 ~~408.040(2)(a)-(c) apply to any exemption issued under this~~
 364 ~~paragraph.~~

365 ~~3. The agency shall count beds authorized under this~~
 366 ~~paragraph as approved beds in the published inventory of~~
 367 ~~hospital beds until the beds are licensed.~~

368 (i)~~(k)~~ For the addition of nursing home beds licensed
 369 under chapter 400 in a number not exceeding 10 total beds or 10
 370 percent of the number of beds licensed in the facility being
 371 expanded, whichever is greater; or, for the addition of nursing
 372 home beds licensed under chapter 400 at a facility that has been
 373 designated as a Gold Seal nursing home under s. 400.235 in a
 374 number not exceeding 20 total beds or 10 percent of the number
 375 of licensed beds in the facility being expanded, whichever is
 376 greater.

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

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

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

384 c. Any beds authorized for the facility under this
 385 paragraph before the date of the current request for an
 386 exemption have been licensed and operational for at least 12
 387 months.

388 2. The timeframes and monitoring process specified in s.

389 408.040(2)(a)-(c) apply to any exemption issued under this
 390 paragraph.

391 3. The agency shall count beds authorized under this
 392 paragraph as approved beds in the published inventory of nursing
 393 home beds until the beds are licensed.

394 ~~(1) For the establishment of:~~

395 ~~1. A Level II neonatal intensive care unit with at least~~
 396 ~~10 beds, upon documentation to the agency that the applicant~~
 397 ~~hospital had a minimum of 1,500 births during the previous 12~~
 398 ~~months;~~

399 ~~2. A Level III neonatal intensive care unit with at least~~
 400 ~~15 beds, upon documentation to the agency that the applicant~~
 401 ~~hospital has a Level II neonatal intensive care unit of at least~~
 402 ~~10 beds and had a minimum of 3,500 births during the previous 12~~
 403 ~~months; or~~

404 ~~3. A Level III neonatal intensive care unit with at least~~
 405 ~~5 beds, upon documentation to the agency that the applicant~~
 406 ~~hospital is a verified trauma center pursuant to s.~~
 407 ~~395.4001(14), and has a Level II neonatal intensive care unit,~~
 408
 409 ~~if the applicant demonstrates that it meets the requirements for~~
 410 ~~quality of care, nurse staffing, physician staffing, physical~~
 411 ~~plant, equipment, emergency transportation, and data reporting~~
 412 ~~found in agency certificate-of-need rules for Level II and Level~~
 413 ~~III neonatal intensive care units and if the applicant commits~~
 414 ~~to the provision of services to Medicaid and charity patients at~~

415 ~~a level equal to or greater than the district average. Such a~~
416 ~~commitment is subject to s. 408.040.~~

417 ~~(m)1. For the provision of adult open-heart services in a~~
418 ~~hospital located within the boundaries of a health service~~
419 ~~planning district, as defined in s. 408.032(5), which has~~
420 ~~experienced an annual net out-migration of at least 600 open-~~
421 ~~heart-surgery cases for 3 consecutive years according to the~~
422 ~~most recent data reported to the agency, and the district's~~
423 ~~population per licensed and operational open-heart programs~~
424 ~~exceeds the state average of population per licensed and~~
425 ~~operational open-heart programs by at least 25 percent. All~~
426 ~~hospitals within a health service planning district which meet~~
427 ~~the criteria reference in sub-subparagraphs 2.a.-h. shall be~~
428 ~~eligible for this exemption on July 1, 2004, and shall receive~~
429 ~~the exemption upon filing for it and subject to the following:~~

430 ~~a. A hospital that has received a notice of intent to~~
431 ~~grant a certificate of need or a final order of the agency~~
432 ~~granting a certificate of need for the establishment of an open-~~
433 ~~heart-surgery program is entitled to receive a letter of~~
434 ~~exemption for the establishment of an adult open-heart-surgery~~
435 ~~program upon filing a request for exemption and complying with~~
436 ~~the criteria enumerated in sub-subparagraphs 2.a.-h., and is~~
437 ~~entitled to immediately commence operation of the program.~~

438 ~~b. An otherwise eligible hospital that has not received a~~
439 ~~notice of intent to grant a certificate of need or a final order~~
440 ~~of the agency granting a certificate of need for the~~

441 ~~establishment of an open-heart-surgery program is entitled to~~
442 ~~immediately receive a letter of exemption for the establishment~~
443 ~~of an adult open-heart-surgery program upon filing a request for~~
444 ~~exemption and complying with the criteria enumerated in sub-~~
445 ~~subparagraphs 2.a. h., but is not entitled to commence operation~~
446 ~~of its program until December 31, 2006.~~

447 ~~2. A hospital shall be exempt from the certificate-of-need~~
448 ~~review for the establishment of an open-heart-surgery program~~
449 ~~when the application for exemption submitted under this~~
450 ~~paragraph complies with the following criteria:~~

451 ~~a. The applicant must certify that it will meet and~~
452 ~~continuously maintain the minimum licensure requirements adopted~~
453 ~~by the agency governing adult open-heart programs, including the~~
454 ~~most current guidelines of the American College of Cardiology~~
455 ~~and American Heart Association Guidelines for Adult Open Heart~~
456 ~~Programs.~~

457 ~~b. The applicant must certify that it will maintain~~
458 ~~sufficient appropriate equipment and health personnel to ensure~~
459 ~~quality and safety.~~

460 ~~c. The applicant must certify that it will maintain~~
461 ~~appropriate times of operation and protocols to ensure~~
462 ~~availability and appropriate referrals in the event of~~
463 ~~emergencies.~~

464 ~~d. The applicant can demonstrate that it has discharged at~~
465 ~~least 300 inpatients with a principal diagnosis of ischemic~~
466 ~~heart disease for the most recent 12-month period as reported to~~

467 ~~the agency.~~

468 ~~e. The applicant is a general acute care hospital that is~~
469 ~~in operation for 3 years or more.~~

470 ~~f. The applicant is performing more than 300 diagnostic~~
471 ~~cardiac catheterization procedures per year, combined inpatient~~
472 ~~and outpatient.~~

473 ~~g. The applicant's payor mix at a minimum reflects the~~
474 ~~community average for Medicaid, charity care, and self-pay~~
475 ~~patients or the applicant must certify that it will provide a~~
476 ~~minimum of 5 percent of Medicaid, charity care, and self-pay to~~
477 ~~open-heart-surgery patients.~~

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

482 ~~3. By December 31, 2004, and annually thereafter, the~~
483 ~~agency shall submit a report to the Legislature providing~~
484 ~~information concerning the number of requests for exemption it~~
485 ~~has received under this paragraph during the calendar year and~~
486 ~~the number of exemptions it has granted or denied during the~~
487 ~~calendar year.~~

488 ~~(n) For the provision of percutaneous coronary~~
489 ~~intervention for patients presenting with emergency myocardial~~
490 ~~infarctions in a hospital without an approved adult open-heart-~~
491 ~~surgery program. In addition to any other documentation required~~
492 ~~by the agency, a request for an exemption submitted under this~~

493 ~~paragraph must comply with the following:~~

494 ~~1. The applicant must certify that it will meet and~~
495 ~~continuously maintain the requirements adopted by the agency for~~
496 ~~the provision of these services. These licensure requirements~~
497 ~~shall be adopted by rule and must be consistent with the~~
498 ~~guidelines published by the American College of Cardiology and~~
499 ~~the American Heart Association for the provision of percutaneous~~
500 ~~coronary interventions in hospitals without adult open heart~~
501 ~~services. At a minimum, the rules must require the following:~~

502 ~~a. Cardiologists must be experienced interventionalists~~
503 ~~who have performed a minimum of 75 interventions within the~~
504 ~~previous 12 months.~~

505 ~~b. The hospital must provide a minimum of 36 emergency~~
506 ~~interventions annually in order to continue to provide the~~
507 ~~service.~~

508 ~~c. The hospital must offer sufficient physician, nursing,~~
509 ~~and laboratory staff to provide the services 24 hours a day, 7~~
510 ~~days a week.~~

511 ~~d. Nursing and technical staff must have demonstrated~~
512 ~~experience in handling acutely ill patients requiring~~
513 ~~intervention based on previous experience in dedicated~~
514 ~~interventional laboratories or surgical centers.~~

515 ~~e. Cardiac care nursing staff must be adept in hemodynamic~~
516 ~~monitoring and Intra-aortic Balloon Pump (IABP) management.~~

517 ~~f. Formalized written transfer agreements must be~~
518 ~~developed with a hospital with an adult open heart surgery~~

519 ~~program, and written transport protocols must be in place to~~
520 ~~ensure safe and efficient transfer of a patient within 60~~
521 ~~minutes. Transfer and transport agreements must be reviewed and~~
522 ~~tested, with appropriate documentation maintained at least every~~
523 ~~3 months. However, a hospital located more than 100 road miles~~
524 ~~from the closest Level II adult cardiovascular services program~~
525 ~~does not need to meet the 60-minute transfer time protocol if~~
526 ~~the hospital demonstrates that it has a formalized, written~~
527 ~~transfer agreement with a hospital that has a Level II program.~~
528 ~~The agreement must include written transport protocols that~~
529 ~~ensure the safe and efficient transfer of a patient, taking into~~
530 ~~consideration the patient's clinical and physical~~
531 ~~characteristics, road and weather conditions, and viability of~~
532 ~~ground and air ambulance service to transfer the patient.~~

533 ~~g. Hospitals implementing the service must first undertake~~
534 ~~a training program of 3 to 6 months' duration, which includes~~
535 ~~establishing standards and testing logistics, creating quality~~
536 ~~assessment and error management practices, and formalizing~~
537 ~~patient-selection criteria.~~

538 ~~2. The applicant must certify that it will use at all~~
539 ~~times the patient-selection criteria for the performance of~~
540 ~~primary angioplasty at hospitals without adult open-heart-~~
541 ~~surgery programs issued by the American College of Cardiology~~
542 ~~and the American Heart Association. At a minimum, these criteria~~
543 ~~would provide for the following:~~

544 ~~a. Avoidance of interventions in hemodynamically stable~~

545 ~~patients who have identified symptoms or medical histories.~~

546 ~~b. Transfer of patients who have a history of coronary~~
547 ~~disease and clinical presentation of hemodynamic instability.~~

548 ~~3. The applicant must agree to submit a quarterly report~~
549 ~~to the agency detailing patient characteristics, treatment, and~~
550 ~~outcomes for all patients receiving emergency percutaneous~~
551 ~~coronary interventions pursuant to this paragraph. This report~~
552 ~~must be submitted within 15 days after the close of each~~
553 ~~calendar quarter.~~

554 ~~4. The exemption provided by this paragraph does not apply~~
555 ~~unless the agency determines that the hospital has taken all~~
556 ~~necessary steps to be in compliance with all requirements of~~
557 ~~this paragraph, including the training program required under~~
558 ~~sub-subparagraph 1.g.~~

559 ~~5. Failure of the hospital to continuously comply with the~~
560 ~~requirements of sub-subparagraphs 1.c. f. and subparagraphs 2.~~
561 ~~and 3. will result in the immediate expiration of this~~
562 ~~exemption.~~

563 ~~6. Failure of the hospital to meet the volume requirements~~
564 ~~of sub-subparagraphs 1.a. and b. within 18 months after the~~
565 ~~program begins offering the service will result in the immediate~~
566 ~~expiration of the exemption.~~

567
568 ~~If the exemption for this service expires under subparagraph 5.~~
569 ~~or subparagraph 6., the agency may not grant another exemption~~
570 ~~for this service to the same hospital for 2 years and then only~~

571 ~~upon a showing that the hospital will remain in compliance with~~
572 ~~the requirements of this paragraph through a demonstration of~~
573 ~~corrections to the deficiencies that caused expiration of the~~
574 ~~exemption. Compliance with the requirements of this paragraph~~
575 ~~includes compliance with the rules adopted pursuant to this~~
576 ~~paragraph.~~

577 ~~(e) For the addition of mental health services or beds if~~
578 ~~the applicant commits to providing services to Medicaid or~~
579 ~~charity care patients at a level equal to or greater than the~~
580 ~~district average. Such a commitment is subject to s. 408.040.~~

581 (j) ~~(p)~~ For replacement of a licensed nursing home on the
582 same site, or within 5 miles of the same site if within the same
583 subdistrict, if the number of licensed beds does not increase
584 except as permitted under paragraph (e) ~~(f)~~.

585 (k) ~~(q)~~ For consolidation or combination of licensed
586 nursing homes or transfer of beds between licensed nursing homes
587 within the same planning district, by nursing homes with any
588 shared controlled interest within that planning district, if
589 there is no increase in the planning district total number of
590 nursing home beds and the site of the relocation is not more
591 than 30 miles from the original location.

592 (l) ~~(r)~~ For beds in state mental health treatment
593 facilities defined in s. 394.455 and state mental health
594 forensic facilities operated under chapter 916.

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

597 (4) REQUESTS FOR EXEMPTION.—A request for exemption under
 598 subsection (3) may be made at any time and is not subject to the
 599 batching requirements of this section. The request shall be
 600 supported by such documentation as the agency requires by rule.
 601 The agency shall assess a fee of \$250 for each request for
 602 exemption submitted under subsection (3).

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

605 (a) Replacement of a health care facility when the
 606 proposed project site is located in the same district and on the
 607 existing site or within a 1-mile radius of the replaced health
 608 care facility, if the number and type of beds do not increase.

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

611 (c) The addition or delicensure of beds.

612
 613 Notification under this subsection may be made by electronic,
 614 facsimile, or written means at any time before the described
 615 action has been taken.

616 Section 5. Section 408.037, Florida Statutes, is amended
 617 to read:

618 408.037 Application content.—

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

621 (a) A detailed description of the proposed project and
 622 statement of its purpose and need in relation to the district

623 health plan.

624 (b) A statement of the financial resources needed by and
625 available to the applicant to accomplish the proposed project.
626 This statement must include:

627 1. A complete listing of all capital projects, including
628 new health facility development projects and health facility
629 acquisitions applied for, pending, approved, or underway in any
630 state at the time of application, regardless of whether or not
631 that state has a certificate-of-need program or a capital
632 expenditure review program pursuant to s. 1122 of the Social
633 Security Act. The agency may, by rule, require less-detailed
634 information from major health care providers. This listing must
635 include the applicant's actual or proposed financial commitment
636 to those projects and an assessment of their impact on the
637 applicant's ability to provide the proposed project.

638 2. A detailed listing of the needed capital expenditures,
639 including sources of funds.

640 3. A detailed financial projection, including a statement
641 of the projected revenue and expenses for the first 2 years of
642 operation after completion of the proposed project. This
643 statement must include a detailed evaluation of the impact of
644 the proposed project on the cost of other services provided by
645 the applicant.

646 (c) An audited financial statement of the applicant or the
647 applicant's parent corporation if audited financial statements
648 of the applicant do not exist. In an application submitted by an

649 existing health care facility, health maintenance organization,
650 or hospice, financial condition documentation must include, but
651 need not be limited to, a balance sheet and a profit-and-loss
652 statement of the 2 previous fiscal years' operation.

653 ~~(2) An application for a certificate of need for a general~~
654 ~~hospital must contain a detailed description of the proposed~~
655 ~~general hospital project and a statement of its purpose and the~~
656 ~~needs it will meet. The proposed project's location, as well as~~
657 ~~its primary and secondary service areas, must be identified by~~
658 ~~zip code. Primary service area is defined as the zip codes from~~
659 ~~which the applicant projects that it will draw 75 percent of its~~
660 ~~discharges. Secondary service area is defined as the zip codes~~
661 ~~from which the applicant projects that it will draw its~~
662 ~~remaining discharges. If, subsequent to issuance of a final~~
663 ~~order approving the certificate of need, the proposed location~~
664 ~~of the general hospital changes or the primary service area~~
665 ~~materially changes, the agency shall revoke the certificate of~~
666 ~~need. However, if the agency determines that such changes are~~
667 ~~deemed to enhance access to hospital services in the service~~
668 ~~district, the agency may permit such changes to occur. A party~~
669 ~~participating in the administrative hearing regarding the~~
670 ~~issuance of the certificate of need for a general hospital has~~
671 ~~standing to participate in any subsequent proceeding regarding~~
672 ~~the revocation of the certificate of need for a hospital for~~
673 ~~which the location has changed or for which the primary service~~
674 ~~area has materially changed. In addition, the application for~~

675 ~~the certificate of need for a general hospital must include a~~
676 ~~statement of intent that, if approved by final order of the~~
677 ~~agency, the applicant shall within 120 days after issuance of~~
678 ~~the final order or, if there is an appeal of the final order,~~
679 ~~within 120 days after the issuance of the court's mandate on~~
680 ~~appeal, furnish satisfactory proof of the applicant's financial~~
681 ~~ability to operate. The agency shall establish documentation~~
682 ~~requirements, to be completed by each applicant, which show~~
683 ~~anticipated provider revenues and expenditures, the basis for~~
684 ~~financing the anticipated cash flow requirements of the~~
685 ~~provider, and an applicant's access to contingency financing. A~~
686 ~~party participating in the administrative hearing regarding the~~
687 ~~issuance of the certificate of need for a general hospital may~~
688 ~~provide written comments concerning the adequacy of the~~
689 ~~financial information provided, but such party does not have~~
690 ~~standing to participate in an administrative proceeding~~
691 ~~regarding proof of the applicant's financial ability to operate.~~
692 ~~The agency may require a licensee to provide proof of financial~~
693 ~~ability to operate at any time if there is evidence of financial~~
694 ~~instability, including, but not limited to, unpaid expenses~~
695 ~~necessary for the basic operations of the provider.~~

696 (2)~~(3)~~ The applicant must certify that it will license and
697 operate the health care facility. For an existing health care
698 facility, the applicant must be the licenseholder of the
699 facility.

700 Section 6. Paragraphs (c) and (d) of subsection (3),

701 paragraphs (b) and (c) of subsection (5), and paragraph (d) of
702 subsection (6) of section 408.039, Florida Statutes, are amended
703 to read:

704 408.039 Review process.—The review process for
705 certificates of need shall be as follows:

706 (3) APPLICATION PROCESSING.—

707 ~~(c) Except for competing applicants, in order to be~~
708 ~~eligible to challenge the agency decision on a general hospital~~
709 ~~application under review pursuant to paragraph (5) (c), existing~~
710 ~~hospitals must submit a detailed written statement of opposition~~
711 ~~to the agency and to the applicant. The detailed written~~
712 ~~statement must be received by the agency and the applicant~~
713 ~~within 21 days after the general hospital application is deemed~~
714 ~~complete and made available to the public.~~

715 ~~(d) In those cases where a written statement of opposition~~
716 ~~has been timely filed regarding a certificate of need~~
717 ~~application for a general hospital, the applicant for the~~
718 ~~general hospital may submit a written response to the agency.~~
719 ~~Such response must be received by the agency within 10 days of~~
720 ~~the written statement due date.~~

721 (5) ADMINISTRATIVE HEARINGS.—

722 (b) Hearings shall be held in Tallahassee unless the
723 administrative law judge determines that changing the location
724 will facilitate the proceedings. The agency shall assign
725 proceedings requiring hearings to the Division of Administrative
726 Hearings of the Department of Management Services within 10 days

727 after the time has expired for requesting a hearing. Except upon
728 unanimous consent of the parties or upon the granting by the
729 administrative law judge of a motion of continuance, hearings
730 shall commence within 60 days after the administrative law judge
731 has been assigned. ~~For an application for a general hospital,~~
732 ~~administrative hearings shall commence within 6 months after the~~
733 ~~administrative law judge has been assigned, and a continuance~~
734 ~~may not be granted absent a finding of extraordinary~~
735 ~~circumstances by the administrative law judge.~~ All parties,
736 except the agency, shall bear their own expense of preparing a
737 transcript. In any application for a certificate of need which
738 is referred to the Division of Administrative Hearings for
739 hearing, the administrative law judge shall complete and submit
740 to the parties a recommended order as provided in ss. 120.569
741 and 120.57. The recommended order shall be issued within 30 days
742 after the receipt of the proposed recommended orders or the
743 deadline for submission of such proposed recommended orders,
744 whichever is earlier. The division shall adopt procedures for
745 administrative hearings which shall maximize the use of
746 stipulated facts and shall provide for the admission of prepared
747 testimony.

748 (c) In administrative proceedings challenging the issuance
749 or denial of a certificate of need, only applicants considered
750 by the agency in the same batching cycle are entitled to a
751 comparative hearing on their applications. Existing health care
752 facilities may initiate or intervene in an administrative

753 hearing upon a showing that an established program will be
754 substantially affected by the issuance of any certificate of
755 need, whether reviewed under s. 408.036(1) or (2), to a
756 competing proposed facility or program within the same district.
757 ~~With respect to an application for a general hospital, competing~~
758 ~~applicants and only those existing hospitals that submitted a~~
759 ~~detailed written statement of opposition to an application as~~
760 ~~provided in this paragraph may initiate or intervene in an~~
761 ~~administrative hearing. Such challenges to a general hospital~~
762 ~~application shall be limited in scope to the issues raised in~~
763 ~~the detailed written statement of opposition that was provided~~
764 ~~to the agency. The administrative law judge may, upon a motion~~
765 ~~showing good cause, expand the scope of the issues to be heard~~
766 ~~at the hearing. Such motion shall include substantial and~~
767 ~~detailed facts and reasons for failure to include such issues in~~
768 ~~the original written statement of opposition.~~

769 (6) JUDICIAL REVIEW.—

770 ~~(d) The party appealing a final order that grants a~~
771 ~~general hospital certificate of need shall pay the appellee's~~
772 ~~attorney's fees and costs, in an amount up to \$1 million, from~~
773 ~~the beginning of the original administrative action if the~~
774 ~~appealing party loses the appeal, subject to the following~~
775 ~~limitations and requirements:~~

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

778 2. ~~Except as provided under s. 120.595(5), in no event~~

779 ~~shall the agency be held liable for any other party's attorney's~~
 780 ~~fees or costs.~~

781 Section 7. Subsection (1) of section 408.043, Florida
 782 Statutes, is amended to read:

783 408.043 Special provisions.—

784 ~~(1) OSTEOPATHIC ACUTE CARE HOSPITALS. When an application~~
 785 ~~is made for a certificate of need to construct or to expand an~~
 786 ~~osteopathic acute care hospital, the need for such hospital~~
 787 ~~shall be determined on the basis of the need for and~~
 788 ~~availability of osteopathic services and osteopathic acute care~~
 789 ~~hospitals in the district. When a prior certificate of need to~~
 790 ~~establish an osteopathic acute care hospital has been issued in~~
 791 ~~a district, and the facility is no longer used for that purpose,~~
 792 ~~the agency may continue to count such facility and beds as an~~
 793 ~~existing osteopathic facility in any subsequent application for~~
 794 ~~construction of an osteopathic acute care hospital.~~

795 Section 8. Subsection (1) of section 395.604, Florida
 796 Statutes, is amended to read:

797 395.604 Other rural hospital programs.—

798 (1) The agency may license rural primary care hospitals
 799 subject to federal approval for participation in the Medicare
 800 and Medicaid programs. Rural primary care hospitals shall be
 801 treated in the same manner as emergency care hospitals and rural
 802 hospitals with respect to ss. 395.605(2)-(7)(a) ~~395.605(2)-~~
 803 ~~(8)(a)~~, 408.033(2)(b)3., and 408.038.

804 Section 9. Subsection (5) of section 395.605, Florida

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805 Statutes, is amended to read:

806 395.605 Emergency care hospitals.—

807 ~~(5) Rural hospitals that make application under the~~
808 ~~certificate-of-need program to be licensed as emergency care~~
809 ~~hospitals shall receive expedited review as defined in s.~~
810 ~~408.032. Emergency care hospitals seeking relicensure as acute~~
811 ~~care general hospitals shall also receive expedited review.~~

812 Section 10. If any law amended by this act was also
813 amended by a law enacted during the 2015 Regular Session of the
814 Legislature, such laws shall be construed as if enacted during
815 the same session of the Legislature, and full effect shall be
816 given to each if possible.

817 Section 11. This act shall take effect July 1, 2015.