

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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|-----------------------|-------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Health Innovation
 2 Subcommittee
 3 Representative Artiles offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (5) of section 408.034, Florida
 8 Statutes, is amended, present subsection (6) of that section is
 9 redesignated as subsection (8), and a new subsection (6) and
 10 subsection (7) are added to that section, to read:

11 408.034 Duties and responsibilities of agency; rules.—

12 (5) The agency shall establish by rule a nursing-home-bed-
 13 need methodology that has a goal of maintaining a subdistrict
 14 average occupancy rate of 92 ~~94~~ percent ~~and that reduces the~~
 15 ~~community nursing home bed need for the areas of the state where~~
 16 ~~the agency establishes pilot community diversion programs~~
 17 ~~through the Title XIX aging waiver program.~~

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18 (6) If nursing home bed need is determined to exist in
19 geographically contiguous subdistricts within a district, an
20 applicant may aggregate the subdistricts' need for a new
21 community nursing home in one of the subdistricts. If need is
22 aggregated from two subdistricts, the proposed nursing home site
23 must be located in the subdistrict with the greater need as
24 published by the agency in the Florida Administrative Register.
25 However, if need is aggregated from more than two subdistricts,
26 the location of the proposed nursing home site must provide
27 reasonable geographic access for residents in the respective
28 subdistricts given the relative bed need in each.

29 (7) If nursing home bed need is determined to exist in a
30 subdistrict, an additional positive application factor may be
31 recognized in the application review process for an applicant
32 who agrees to voluntarily relinquish licensed nursing home beds
33 in one or more subdistricts where there is no calculated need.
34 The applicant must demonstrate that it operates, controls, or
35 has an agreement with another licensed community nursing home to
36 ensure that beds are voluntarily relinquished if the application
37 is approved and the applicant is licensed.

38 Section 2. Subsection (2) and paragraphs (f), (k), (p),
39 and (q) of subsection (3) of section 408.036, Florida Statutes,
40 are amended to read:

41 408.036 Projects subject to review; exemptions.—

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42 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt
43 pursuant to subsection (3), the following projects are subject
44 to an expedited review shall include, but not be limited to:

45 (a) A Transfer of a certificate of need, except that when
46 an existing hospital is acquired by a purchaser, all
47 certificates of need issued to the hospital which are not yet
48 operational shall be acquired by the purchaser, without need for
49 a transfer.

50 (b) Replacement of a nursing home ~~within the same~~
51 ~~district, if the proposed project site is located within a~~
52 ~~geographic area that contains at least 65 percent of the~~
53 ~~facility's current residents and is within a 30-mile radius of~~
54 ~~the replaced nursing home. If the proposed project site is~~
55 ~~outside the subdistrict where the replaced nursing home is~~
56 ~~located, the prior 6-month occupancy rate for licensed community~~
57 ~~nursing homes in the proposed subdistrict must be at least 85~~
58 ~~percent in accordance with the agency's most recently published~~
59 ~~inventory.~~

60 (c) Replacement of a nursing home within the same
61 district, if the proposed project site is outside a 30-mile
62 radius of the replaced nursing home but within the same
63 subdistrict or a geographically contiguous subdistrict. If the
64 proposed project site is in the geographically contiguous
65 subdistrict, the prior 6-month occupancy rate for licensed
66 community nursing homes for that subdistrict must be at least 85

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67 percent in accordance with the agency's most recently published
68 inventory.

69 (d)-(e) Relocation of a portion of a nursing home's
70 licensed beds to another a facility or to establish a new
71 facility within the same district or within a geographically
72 contiguous district, if the relocation is within a 30-mile
73 radius of the existing facility and the total number of nursing
74 home beds in the state ~~district~~ does not increase.

75 (e)-(d) ~~The~~ New construction of a community nursing home in
76 a retirement community as further provided in this paragraph.

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

79 a. The residential use area of the retirement community is
80 deed-restricted as housing for older persons as defined in s.
81 760.29(4)(b).

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

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

90 d. The retirement community has a population of at least
91 8,000 residents within the county, based on a population data
92 source accepted by the agency.

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93 e. The number of proposed community nursing home beds in
94 an application does not exceed the projected bed need after
95 applying the rate of 16.1 beds per 1,000 persons aged 65 years
96 and older projected for the county 3 years into the future using
97 the estimates adopted by the agency reduced by, ~~after~~
98 ~~subtracting~~ the agency's most recently published inventory of
99 licensed and approved community nursing home beds in the county
100 ~~per the agency's most recent published inventory.~~

101 2. No more than 120 community nursing home beds shall be
102 approved for a qualified retirement community under each request
103 ~~for application~~ for expedited review. Subsequent requests for
104 expedited review under this process may ~~shall~~ not be made until
105 2 years after construction of the facility has commenced or 1
106 year after the beds approved through the initial request are
107 licensed, whichever occurs first.

108 3. The total number of community nursing home beds which
109 may be approved for any single deed-restricted community
110 pursuant to this paragraph may ~~shall~~ not exceed 240, regardless
111 of whether the retirement community is located in more than one
112 qualifying county.

113 4. Each nursing home facility approved under this
114 paragraph must ~~shall~~ be dually certified for participation in
115 the Medicare and Medicaid programs.

116 5. Each nursing home facility approved under this
117 paragraph must ~~shall~~ be at least 1 mile, as measured over

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118 publicly owned roadways, from an existing approved and licensed
119 community nursing home, ~~measured over publicly owned roadways.~~

120 ~~6. Section 408.0435 does not apply to this paragraph.~~

121 6.7. A retirement community requesting expedited review
122 under this paragraph shall submit a written request to the
123 agency for ~~an~~ expedited review. The request must ~~shall~~ include
124 the number of beds to be added and provide evidence of
125 compliance with the criteria specified in subparagraph 1.

126 7.8. After verifying that the retirement community meets
127 the criteria for expedited review specified in subparagraph 1.,
128 the agency shall publicly notice in the Florida Administrative
129 Register that a request for an expedited review has been
130 submitted by a qualifying retirement community and that the
131 qualifying retirement community intends to make land available
132 for the construction and operation of a community nursing home.
133 The agency's notice must ~~shall~~ identify where potential
134 applicants can obtain information describing the sales price of,
135 or terms of the land lease for, the property on which the
136 project will be located and the requirements established by the
137 retirement community. The agency notice must ~~shall~~ also specify
138 the deadline for submission of the ~~any~~ certificate-of-need
139 application, which may ~~shall~~ not be earlier than the 91st day or
140 ~~and not be~~ later than the 125th day after the date the notice
141 appears in the Florida Administrative Register.

142 8.9. The qualified retirement community shall make land
143 available to applicants it deems to have met its requirements

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144 for the construction and operation of a community nursing home
145 but ~~may will~~ sell or lease the land only to the applicant that
146 is issued a certificate of need by the agency under ~~the~~
147 ~~provisions of~~ this paragraph.

148 a. A ~~certificate-of-need~~ certificate of need application
149 submitted under ~~pursuant to~~ this paragraph must ~~shall~~ identify
150 the intended site for the project within the retirement
151 community and the anticipated costs for the project based on
152 that site. The application must ~~shall~~ also include written
153 evidence that the retirement community has determined that both
154 the provider submitting the application and the project satisfy
155 ~~proposed by that provider satisfies~~ its requirements for the
156 project.

157 b. If the retirement community determines ~~community's~~
158 ~~determination~~ that more than one provider satisfies its
159 requirements for the project, it may notify ~~does not preclude~~
160 ~~the retirement community from notifying~~ the agency of the
161 provider it prefers.

162 ~~9.10.~~ The agency shall review each submitted application
163 ~~submitted shall be reviewed by the agency.~~ If multiple
164 applications are submitted for a ~~the~~ project ~~as~~ published
165 pursuant to subparagraph 7. 8., ~~then~~ the agency shall review the
166 competing applications ~~shall be reviewed by the agency.~~

167
168 The agency shall develop rules to implement the ~~provisions for~~
169 expedited review process, including time schedule, application

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170 content that ~~which~~ may be reduced from the full requirements of
171 s. 408.037(1), and application processing.

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

174 (f) For the addition of nursing home beds licensed under
175 chapter 400 in a number not exceeding 30 total beds or 25
176 percent of the number of beds licensed in the facility being
177 replaced under paragraph (2) (b), paragraph (2) (c), or paragraph
178 (p), whichever is less ~~For the creation of a single nursing home~~
179 ~~within a district by combining licensed beds from two or more~~
180 ~~licensed nursing homes within such district, regardless of~~
181 ~~subdistrict boundaries, if 50 percent of the beds in the created~~
182 ~~nursing home are transferred from the only nursing home in a~~
183 ~~county and its utilization data demonstrate that it had an~~
184 ~~occupancy rate of less than 75 percent for the 12-month period~~
185 ~~ending 90 days before the request for the exemption. This~~
186 ~~paragraph is repealed upon the expiration of the moratorium~~
187 ~~established in s. 408.0435(1).~~

188 (k) For the addition of nursing home beds licensed under
189 chapter 400 in a number not exceeding 10 total beds or 10
190 percent of the number of beds licensed in the facility being
191 expanded, whichever is greater; or, for the addition of nursing
192 home beds licensed under chapter 400 at a facility that has been
193 designated as a Gold Seal nursing home under s. 400.235 in a
194 number not exceeding 20 total beds or 10 percent of the number

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195 of licensed beds in the facility being expanded, whichever is
196 greater.

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

200 a. ~~Certify that~~ The facility has not had any class I or
201 class II deficiencies within the 30 months preceding the request
202 ~~for addition~~.

203 b. ~~Certify that~~ The prior 12-month average occupancy rate
204 for the nursing home beds at the facility meets or exceeds 94 ~~96~~
205 percent.

206 c. ~~Certify that~~ Any beds authorized for the facility under
207 this paragraph before the date of the current request for an
208 exemption have been licensed and operational for at least 12
209 months.

210 2. The timeframes and monitoring process specified in s.
211 408.040(2)(a)-(c) apply to any exemption issued under this
212 paragraph.

213 3. The agency shall count beds authorized under this
214 paragraph as approved beds in the published inventory of nursing
215 home beds until the beds are licensed.

216 (p) For replacement of a licensed nursing home on the same
217 site, or within 5 ~~3~~ miles of the same site if within the same
218 subdistrict, if the number of licensed beds does not increase
219 except as allowed by paragraph (f).

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220 (q) For consolidation or combination of licensed nursing
221 homes or transfer of beds between licensed nursing homes within
222 the same planning district ~~subdistrict~~, by ~~providers that~~
223 ~~operate multiple~~ nursing homes with any shared controlled
224 interest within that planning district ~~subdistrict~~, if there is
225 no increase in the planning district ~~subdistrict~~ total number of
226 nursing home beds and the site of the relocation is not more
227 than 30 miles from the original location.

228 Section 3. Section 408.0435, Florida Statutes, is
229 repealed.

230 Section 4. Section 408.0436, Florida Statutes, is created
231 to read:

232 408.0436 Limitation on nursing home certificates of need.-
233 Notwithstanding the establishment of need as provided in this
234 chapter, the agency may not approve a certificate-of-need
235 application for new community nursing home beds following the
236 batching cycle in which the cumulative number of new community
237 nursing home beds approved from July 1, 2014, to June 30, 2019,
238 equals or exceeds 5,000. As used in this section, the term
239 "batching cycle" means the grouping for comparative review of
240 certificate-of-need applications submitted for beds, services,
241 or programs having a like certificate-of-need need methodology
242 or licensing category in the same planning horizon and the same
243 applicable district or subdistrict. This section is repealed on
244 July 1, 2019.

245 Section 5. This act shall take effect July 1, 2014.

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to certificates of need; amending s. 408.034, F.S.; decreasing the subdistrict average occupancy rate that the Agency for Health Care Administration is required to maintain as a goal of its nursing-home-bed-need methodology; conforming a provision to changes made by the act; authorizing an applicant to aggregate the need of geographically contiguous subdistricts within a district for a proposed community nursing home under certain circumstances; requiring the proposed nursing home site to be located in the subdistrict with the greater need under certain circumstances; recognizing an additional positive application factor for an applicant who voluntarily relinquishes certain nursing home beds; requiring the applicant to demonstrate that it meets certain requirements; amending s. 408.036, F.S.; providing that, under certain circumstances, replacement of a nursing home and relocation of a portion of a nursing home's licensed beds to another facility, or to establish a new facility, is a health-care-related project subject to expedited review; conforming a cross-reference;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 287 (2014)

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272 revising the requirements for projects that are exempted from
273 applying for a certificate of need; repealing s. 408.0435, F.S.,
274 relating to the moratorium on the approval of certificates of
275 need for additional community nursing home beds; creating s.
276 408.0436, F.S.; prohibiting the agency from approving a
277 certificate-of-need application for new community nursing home
278 beds under certain circumstances; defining the term "batching
279 cycle"; providing a repeal; providing an effective date.