

STORAGE NAME: h0591.hcl

DATE: February 4, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS**

BILL #: HB 591

RELATING TO: Certificates of Need

SPONSOR(S): Representative Minton & others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION
 - (2) GOVERNMENTAL RULES & REGULATIONS
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 591 expresses the intent of the Legislature to revise laws relating to the issuance of certificates of need by the Agency for Health Care Administration.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Section 408.032(2), F.S., defines "certificate of need" as a written statement issued by the Agency for Health Care Administration (agency) evidencing community need for a new, converted, expanded or otherwise significantly modified health care facility, health service, or hospice. The purpose of the CON process is to avoid costly duplication of services and unnecessary capital expenditures as it relates to hospitals, nursing homes, acute care hospital services, psychiatric or rehabilitative beds, and tertiary health services. As part of the CON review process, the financial feasibility of a project is assessed, the underserved population group is determined, and the overall reasonableness of proposed revenues and expenses is evaluated. Applicants generally propose a specified level of care to indigent and Medicaid patients as a condition placed upon the award of a CON. These activities are consistent with the agency's mission to champion accessible, affordable, quality health care for all Floridians. The agency is charged with carrying out the CON review process on the applicable facilities.

Hospitals - Currently, s. 408.036, F.S., requires hospitals to make application for the establishment of new hospitals and the addition of beds to existing hospitals. The agency publishes a need for acute care hospital beds twice a year for the 11 planning districts. Hospitals can respond to published need, or demonstrate special circumstances unique to their hospital and the service area. In order to determine future bed need, the agency has to establish a complete inventory of acute care beds and look at the current and projected utilization of each hospital in the respective service area. All proposals are evaluated against statutory, rule, and local health plan CON review criteria.

Overall, most Floridians have adequate geographical access to acute care hospital services. The statewide average acute care bed occupancy rate remains low at 50%. The CON program lacks authority to de-license underutilized beds. However, in some areas of the state a few hospitals have experienced increasing occupancy rates especially during the winter season. therefore

Over the past five years, the agency reviewed 37 proposals to add general acute care beds to existing hospitals. A total of 1,214 new acute care beds were proposed, at a cost of \$306 million. During the same time period, the agency reviewed 17 proposals for new acute care hospitals excluding replacement facilities. A total of 815 new acute care beds were proposed, at a cost of \$826 million.

According to the agency, the CON review for acute care beds was originally implemented when reimbursement for acute care services was cost-based and fears of over utilization were prevalent. These market conditions have clearly changed, and better cost control mechanisms have been implemented. However, nearly 60% of all hospital care is funded by Medicare and Medicaid, and the CON program ensures public input into the allocation of resources.

Nursing Homes - Section 408.036, F.S., requires CON review of proposals to establish new nursing homes, and proposals to add beds to existing nursing homes. The agency publishes a need for nursing home beds twice a year for 38 planning areas. Nursing home applicants generally respond to published need. In order to determine future bed need, the agency has to establish a complete inventory of nursing home beds and look at the current and projected utilization of all nursing homes in the respective service area. Future bed need is primarily determined based on population growth in each respective service area. Since it takes about three years to establish a new facility, bed need is projected three years into the future. All proposals are evaluated against statutory, rule, and local health plan CON review criteria. The construction of state veterans' nursing homes is exempted from CON review provided certain conditions are met.

The primary rationale for nursing home market controls is to contain capacity, ensure access to care regardless of income, promote the location of nursing homes in areas with need, ensure efficient occupancy levels, and avoid costs associated with duplicative services and facilities. Additionally, the CON program allows the state to assess the financial soundness of a potential provider and to evaluate his/her past quality of care record.

According to the agency, Florida's CON program for nursing homes has been one of the most effective CON programs. Most Floridians have adequate geographic access to nursing home care. At the same time, Florida has maintained one of the lowest nursing home bed-to-population ratios in the country, while several other states had to resort to moratoria to contain the bed supply. Florida has approximately 29 beds per 1,000 65+ population compared to the national average of 50 beds.

It is in the interest of most growing states to control the nursing home bed supply, since nearly 50% of all nursing home care is funded by Medicaid and another 15% by Medicare. Florida's annual Medicaid nursing home budget exceeds \$1 billion even with the low bed ratio and an overall low nursing home utilization rate.

Over 330 nursing homes have received CONs predicated on the condition that they provide a specified level of care to Medicaid patients. This is an important program feature in view of recent events in Florida when a nursing home tried to evict Medicaid patients.

Over the past 5 years, the agency has reviewed 220 proposals for new freestanding nursing homes. A total of 20,998 new nursing home beds were proposed, at a cost of \$1.4 billion. During the same period, there were 216 proposals to add beds to existing nursing homes. A total of 8,220 new nursing home beds were proposed, at a cost of \$454 million. Thus, there were 5,844 new nursing home beds proposed in an average year.

Other current provisions - Current statutes specifically require review of any increase in the number of psychiatric or rehabilitation beds at hospitals. Also, a review of the establishment of tertiary health services is required. Currently, tertiary health services with dedicated inpatient beds include Level II neonatal intensive care, Level III neonatal intensive care, specialty burn units, and comprehensive rehabilitation.

Except for proposals from rural hospitals under specified circumstances, the agency also reviews proposals to establish or expand hospital-based skilled nursing units (SNUs).

C. EFFECT OF PROPOSED CHANGES:

HB 591 expresses the intent of the Legislature to revise laws relating to the issuance of certificates of need by the Agency for Health Care Administration.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides a statement of intent on behalf of the Legislature to revise laws relating to the certificate of need process.

Section 2. Provides an effective date of upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

During the 1999 legislative session, HB 1517 by Representative Minton was introduced to revise the CON review process. The bill as amended by the Health Care Licensing & Regulation Committee created a 12-member Florida Commission on Quality Hospital Services. Although the bill failed to pass the Legislature, the Executive Director of the Agency for Health Care Administration appointed a 28-member Certificate of Need Work Group to assist the agency in "making better policy decisions for the program."

The agency released a report to the Legislature in December proposing to exempt from the review process many of the health care facilities, health services, and hospice presently subject to CON review.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Lucretia Shaw Collins

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