

Bill No. HB 329

Amendment No. \_\_\_\_ Barcode 394000

## CHAMBER ACTION

SenateHouse

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1/RE/3R  
04/07/2004 11:39 AM

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11 Senator Pruitt moved the following amendment:

12

13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15

16 and insert:

17 Section 1. Subsections (9), (10), and (11) are added

18 to section 395.003, Florida Statutes, to read:

19 395.003 Licensure; issuance, renewal, denial,

20 modification, suspension, and revocation.--

21 (9) A hospital may not be licensed or relicensed if:22 (a) The diagnosis-related groups for 65 percent or23 more of the discharges from the hospital, in the most recent24 year for which data is available to the Agency for Health Care25 Administration pursuant to s. 408.061, are for diagnosis,26 care, and treatment of patients who have:27 1. Cardiac-related diseases and disorders classified28 as diagnosis-related groups 103-145, 478-479, 514-518, or29 525-527;30 2. Orthopedic-related diseases and disorders31 classified as diagnosis-related groups 209-256, 471, 491,

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1 496-503, or 519-520;

2 3. Cancer-related diseases and disorders classified as  
3 diagnosis-related groups 64, 82, 172, 173, 199, 200, 203,  
4 257-260, 274, 275, 303, 306, 307, 318, 319, 338, 344, 346,  
5 347, 363, 366, 367, 400-414, 473, or 492; or

6 4. Any combination of the above discharges.

7 (b) The hospital restricts its medical and surgical  
8 services to primarily or exclusively cardiac, orthopedic,  
9 surgical, or oncology specialties.

10 (10) A hospital licensed as of June 1, 2004, shall be  
11 exempt from subsection (9) as long as the hospital maintains  
12 the same ownership, facility street address, and range of  
13 services that were in existence on June 1, 2004. Any transfer  
14 of beds, or other agreements that result in the establishment  
15 of a hospital or hospital services within the intent of this  
16 section, shall be subject to subsection (9). Unless the  
17 hospital is otherwise exempt under subsection (9), the agency  
18 shall deny or revoke the license of a hospital that violates  
19 any of the criteria set forth in that subsection.

20 (11) The agency may adopt rules implementing the  
21 licensure requirements set forth in subsection (9). Within 14  
22 days after rendering its decision on a license application or  
23 revocation, the agency shall publish its proposed decision in  
24 the Florida Administrative Weekly. Within 21 days after  
25 publication of the agency's decision, any authorized person  
26 may file a request for an administrative hearing. In  
27 administrative proceedings challenging the approval, denial,  
28 or revocation of a license pursuant to subsection (9), the  
29 hearing must be based on the facts and law existing at the  
30 time of the agency's proposed agency action. Existing  
31 hospitals may initiate or intervene in an administrative

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1 hearing to approve, deny, or revoke licensure under subsection  
2 (9) based upon a showing that an established program will be  
3 substantially affected by the issuance or renewal of a license  
4 to a hospital within the same district or service area.

5 Section 2. Subsections (9), (13), and (17) of section  
6 408.032, Florida Statutes, are amended, and subsection (18) of  
7 that section is repealed, to read:

8 408.032 Definitions relating to Health Facility and  
9 Services Development Act.--As used in ss. 408.031-408.045, the  
10 term:

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

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

20 (17) "Tertiary health service" means a health service  
21 which, due to its high level of intensity, complexity,  
22 specialized or limited applicability, and cost, should be  
23 limited to, and concentrated in, a limited number of hospitals  
24 to ensure the quality, availability, and cost-effectiveness of  
25 such service. Examples of such service include, but are not  
26 limited to, pediatric cardiac catheterization, pediatric  
27 open-heart surgery, organ transplantation, ~~specialty burn~~  
28 ~~units,~~ neonatal intensive care units, comprehensive  
29 rehabilitation, and medical or surgical services which are  
30 experimental or developmental in nature to the extent that the  
31 provision of such services is not yet contemplated within the

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1 commonly accepted course of diagnosis or treatment for the  
2 condition addressed by a given service. The agency shall  
3 establish by rule a list of all tertiary health services.

4 ~~(18) "Regional area" means any of those regional~~  
5 ~~health planning areas established by the agency to which local~~  
6 ~~and district health planning funds are directed to local~~  
7 ~~health councils through the General Appropriations Act.~~

8 Section 3. Section 408.033, Florida Statutes, is  
9 amended to read:

10 408.033 Local and state health planning.--

11 (1) LOCAL HEALTH COUNCILS.--

12 (a) Local health councils are hereby established as  
13 public or private nonprofit agencies serving the counties of a  
14 district ~~or regional area of the agency~~. The members of each  
15 council shall be appointed in an equitable manner by the  
16 county commissions having jurisdiction in the respective  
17 district. Each council shall be composed of a number of  
18 persons equal to 1 1/2 times the number of counties which  
19 compose the district or 12 members, whichever is greater. Each  
20 county in a district shall be entitled to at least one member  
21 on the council. The balance of the membership of the council  
22 shall be allocated among the counties of the district on the  
23 basis of population rounded to the nearest whole number;  
24 except that in a district composed of only two counties, no  
25 county shall have fewer than four members. The appointees  
26 shall be representatives of health care providers, health care  
27 purchasers, and nongovernmental health care consumers, but not  
28 excluding elected government officials. The members of the  
29 consumer group shall include a representative number of  
30 persons over 60 years of age. A majority of council members  
31 shall consist of health care purchasers and health care

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1 consumers. The local health council shall provide each county  
2 commission a schedule for appointing council members to ensure  
3 that council membership complies with the requirements of this  
4 paragraph. The members of the local health council shall  
5 elect a chair. Members shall serve for terms of 2 years and  
6 may be eligible for reappointment.

7 (b) Each local health council may:

8 1. Develop a district ~~or regional~~ area health plan  
9 that permits each local health council to develop strategies  
10 and set priorities for implementation based on its unique  
11 local health needs. ~~The district or regional area health plan~~  
12 ~~must contain preferences for the development of health~~  
13 ~~services and facilities, which may be considered by the agency~~  
14 ~~in its review of certificate-of-need applications. The~~  
15 ~~district health plan shall be submitted to the agency and~~  
16 ~~updated periodically. The district health plans shall use a~~  
17 ~~uniform format and be submitted to the agency according to a~~  
18 ~~schedule developed by the agency in conjunction with the local~~  
19 ~~health councils. The schedule must provide for the development~~  
20 ~~of district health plans by major sections over a multiyear~~  
21 ~~period. The elements of a district plan which are necessary~~  
22 ~~to the review of certificate-of-need applications for proposed~~  
23 ~~projects within the district may be adopted by the agency as a~~  
24 ~~part of its rules.~~

25 2. Advise the agency on health care issues and  
26 resource allocations.

27 3. Promote public awareness of community health needs,  
28 emphasizing health promotion and cost-effective health service  
29 selection.

30 4. Collect data and conduct analyses and studies  
31 related to health care needs of the district, including the

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1 needs of medically indigent persons, and assist the agency and  
2 other state agencies in carrying out data collection  
3 activities that relate to the functions in this subsection.

4         5. Monitor the onsite construction progress, if any,  
5 of certificate-of-need approved projects and report council  
6 findings to the agency on forms provided by the agency.

7         6. Advise and assist any regional planning councils  
8 within each district that have elected to address health  
9 issues in their strategic regional policy plans with the  
10 development of the health element of the plans to address the  
11 health goals and policies in the State Comprehensive Plan.

12         7. Advise and assist local governments within each  
13 district on the development of an optional health plan element  
14 of the comprehensive plan provided in chapter 163, to assure  
15 compatibility with the health goals and policies in the State  
16 Comprehensive Plan and district health plan. To facilitate  
17 the implementation of this section, the local health council  
18 shall annually provide the local governments in its service  
19 area, upon request, with:

20             a. A copy and appropriate updates of the district  
21 health plan;

22             b. A report of hospital and nursing home utilization  
23 statistics for facilities within the local government  
24 jurisdiction; and

25             c. Applicable agency rules and calculated need  
26 methodologies for health facilities and services regulated  
27 under s. 408.034 for the district served by the local health  
28 council.

29         8. Monitor and evaluate the adequacy, appropriateness,  
30 and effectiveness, within the district, of local, state,  
31 federal, and private funds distributed to meet the needs of

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1 the medically indigent and other underserved population  
2 groups.

3           9. In conjunction with the Department of Health Agency  
4 ~~for Health Care Administration~~, plan for services at the local  
5 level for persons infected with the human immunodeficiency  
6 virus.

7           10. Provide technical assistance to encourage and  
8 support activities by providers, purchasers, consumers, and  
9 local, regional, and state agencies in meeting the health care  
10 goals, objectives, and policies adopted by the local health  
11 council.

12           11. Provide the agency with data required by rule for  
13 the review of certificate-of-need applications and the  
14 projection of need for health services and facilities in the  
15 district.

16           (c) Local health councils may conduct public hearings  
17 pursuant to s. 408.039(3)(b).

18           (d) Each local health council shall enter into a  
19 memorandum of agreement with each regional planning council in  
20 its district that elects to address health issues in its  
21 strategic regional policy plan. In addition, each local  
22 health council shall enter into a memorandum of agreement with  
23 each local government that includes an optional health element  
24 in its comprehensive plan. Each memorandum of agreement must  
25 specify the manner in which each local government, regional  
26 planning council, and local health council will coordinate its  
27 activities to ensure a unified approach to health planning and  
28 implementation efforts.

29           (e) Local health councils may employ personnel or  
30 contract for staffing services with persons who possess  
31 appropriate qualifications to carry out the councils'

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1 purposes. However, such personnel are not state employees.

2 (f) Personnel of the local health councils shall  
3 provide an annual orientation to council members about council  
4 member responsibilities. ~~The orientation shall include~~  
5 ~~presentations and participation by agency staff.~~

6 (g) Each local health council is authorized to accept  
7 and receive, in furtherance of its health planning functions,  
8 funds, grants, and services from governmental agencies and  
9 from private or civic sources and to perform studies related  
10 to local health planning in exchange for such funds, grants,  
11 or services. Each local health council shall, no later than  
12 January 30 of each year, render an accounting of the receipt  
13 and disbursement of such funds received by it to the  
14 Department of Health ~~agency~~. The department ~~agency~~ shall  
15 consolidate all such reports and submit such consolidated  
16 report to the Legislature no later than March 1 of each year.  
17 ~~Funds received by a local health council pursuant to this~~  
18 ~~paragraph shall not be deemed to be a substitute for, or an~~  
19 ~~offset against, any funding provided pursuant to subsection~~  
20 ~~(2).~~

21 (2) FUNDING.--

22 (a) The Legislature intends that the cost of local  
23 health councils be borne by ~~application fees for certificates~~  
24 ~~of need and by~~ assessments on selected health care facilities  
25 subject to facility licensure by the Agency for Health Care  
26 Administration, including abortion clinics, assisted living  
27 facilities, ambulatory surgical centers, birthing centers,  
28 clinical laboratories except community nonprofit blood banks  
29 and clinical laboratories operated by practitioners for  
30 exclusive use regulated under s. 483.035, home health  
31 agencies, hospices, hospitals, intermediate care facilities



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1 for the developmentally disabled, nursing homes, health care  
2 clinics, and multiphasic testing centers and by assessments on  
3 organizations subject to certification by the agency pursuant  
4 to chapter 641, part III, including health maintenance  
5 organizations and prepaid health clinics.

6 (b)1. A hospital licensed under chapter 395, a nursing  
7 home licensed under chapter 400, and an assisted living  
8 facility licensed under chapter 400 shall be assessed an  
9 annual fee based on number of beds.

10 2. All other facilities and organizations listed in  
11 paragraph (a) shall each be assessed an annual fee of \$150.

12 3. Facilities operated by the Department of Children  
13 and Family Services, the Department of Health, or the  
14 Department of Corrections and any hospital which meets the  
15 definition of rural hospital pursuant to s. 395.602 are exempt  
16 from the assessment required in this subsection.

17 (c)1. The agency shall, by rule, establish fees for  
18 hospitals and nursing homes based on an assessment of \$2 per  
19 bed. However, no such facility shall be assessed more than a  
20 total of \$500 under this subsection.

21 2. The agency shall, by rule, establish fees for  
22 assisted living facilities based on an assessment of \$1 per  
23 bed. However, no such facility shall be assessed more than a  
24 total of \$150 under this subsection.

25 3. The agency shall, by rule, establish an annual fee  
26 of \$150 for all other facilities and organizations listed in  
27 paragraph (a).

28 (d) The agency shall, by rule, establish a facility  
29 billing and collection process for the billing and collection  
30 of the health facility fees authorized by this subsection.

31 (e) A health facility which is assessed a fee under

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1 this subsection is subject to a fine of \$100 per day for each  
2 day in which the facility is late in submitting its annual fee  
3 up to maximum of the annual fee owed by the facility. A  
4 facility which refuses to pay the fee or fine is subject to  
5 the forfeiture of its license.

6 (f) The agency shall deposit in the Health Care Trust  
7 Fund all health care facility assessments that are assessed  
8 under this subsection and ~~proceeds from the~~  
9 ~~certificate-of-need application fees. The agency shall~~  
10 transfer such funds to the Department of Health for an amount  
11 ~~sufficient to maintain the aggregate funding of level for the~~  
12 local health councils ~~as specified in the General~~  
13 ~~Appropriations Act. The remaining certificate-of-need~~  
14 application fees shall be used only for the purpose of  
15 administering the certificate-of-need program ~~Health Facility~~  
16 ~~and Services Development Act.~~

17 (3) DUTIES AND RESPONSIBILITIES OF THE AGENCY.--

18 (a) The agency, ~~in conjunction with the local health~~  
19 ~~councils,~~ is responsible for the coordinated planning of  
20 health care services in the state.

21 (b) The agency shall develop and maintain a  
22 comprehensive health care database for the purpose of health  
23 planning and for certificate-of-need determinations. The  
24 agency or its contractor is authorized to require the  
25 submission of information from health facilities, health  
26 service providers, and licensed health professionals which is  
27 determined by the agency, through rule, to be necessary for  
28 meeting the agency's responsibilities as established in this  
29 section.

30 ~~(c) The agency shall assist personnel of the local~~  
31 ~~health councils in providing an annual orientation to council~~

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1 ~~members about council member responsibilities.~~  
2       (c)(d) The Department of Health ~~agency~~ shall contract  
3 with the local health councils for the services specified in  
4 subsection (1). All contract funds shall be distributed  
5 according to an allocation plan developed by the department  
6 ~~agency that provides for a minimum and equal funding base for~~  
7 ~~each local health council. Any remaining funds shall be~~  
8 ~~distributed based on adjustments for workload. The agency may~~  
9 ~~also make grants to or reimburse local health councils from~~  
10 ~~federal funds provided to the state for activities related to~~  
11 ~~those functions set forth in this section. The department~~  
12 ~~agency~~ may withhold funds from a local health council or  
13 cancel its contract with a local health council which does not  
14 meet performance standards agreed upon by the department  
15 ~~agency~~ and local health councils.

16       Section 4. Subsections (1), (2), and (5) of section  
17 408.034, Florida Statutes, are amended to read:

18       408.034 Duties and responsibilities of agency;  
19 rules.--

20       (1) The agency is designated as the single state  
21 agency to issue, revoke, or deny certificates of need and to  
22 issue, revoke, or deny exemptions from certificate-of-need  
23 review in accordance with ~~the district plans and~~ present and  
24 future federal and state statutes. The agency is designated  
25 as the state health planning agency for purposes of federal  
26 law.

27       (2) In the exercise of its authority to issue licenses  
28 to health care facilities and health service providers, as  
29 provided under chapters 393, 395, and parts II and VI of  
30 chapter 400, the agency may not issue a license to any health  
31 care facility or, health service provider that, ~~hospice, or~~

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1 ~~part of a health care facility which~~ fails to receive a  
2 certificate of need or an exemption for the licensed facility  
3 or service.

4 (5) The agency shall establish by rule a  
5 nursing-home-bed-need methodology that has a goal of  
6 maintaining a subdistrict average occupancy rate of 94 percent  
7 and that reduces the community nursing home bed need for the  
8 areas of the state where the agency establishes pilot  
9 community diversion programs through the Title XIX aging  
10 waiver program.

11 Section 5. Section 408.035, Florida Statutes, is  
12 amended to read:

13 408.035 Review criteria.--The agency shall determine  
14 the reviewability of applications and shall review  
15 applications for certificate-of-need determinations for health  
16 care facilities and health services in context with the  
17 following criteria:

18 (1) The need for the health care facilities and health  
19 services being proposed ~~in relation to the applicable district~~  
20 ~~health plan.~~

21 (2) The availability, quality of care, accessibility,  
22 and extent of utilization of existing health care facilities  
23 and health services in the service district of the applicant.

24 (3) The ability of the applicant to provide quality of  
25 care and the applicant's record of providing quality of care.

26 ~~(4) The need in the service district of the applicant~~  
27 ~~for special health care services that are not reasonably and~~  
28 ~~economically accessible in adjoining areas.~~

29 ~~(5) The needs of research and educational facilities,~~  
30 ~~including, but not limited to, facilities with institutional~~  
31 ~~training programs and community training programs for health~~

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1 ~~care practitioners and for doctors of osteopathic medicine and~~  
2 ~~medicine at the student, internship, and residency training~~  
3 ~~levels.~~

4       (4)~~(6)~~ The availability of resources, including health  
5 personnel, management personnel, and funds for capital and  
6 operating expenditures, for project accomplishment and  
7 operation.

8       (5)~~(7)~~ The extent to which the proposed services will  
9 enhance access to health care for residents of the service  
10 district.

11       (6)~~(8)~~ The immediate and long-term financial  
12 feasibility of the proposal.

13       (7)~~(9)~~ The extent to which the proposal will foster  
14 competition that promotes quality and cost-effectiveness.

15       (8)~~(10)~~ The costs and methods of the proposed  
16 construction, including the costs and methods of energy  
17 provision and the availability of alternative, less costly, or  
18 more effective methods of construction.

19       (9)~~(11)~~ The applicant's past and proposed provision of  
20 health care services to Medicaid patients and the medically  
21 indigent.

22       (10)~~(12)~~ The applicant's designation as a Gold Seal  
23 Program nursing facility pursuant to s. 400.235, when the  
24 applicant is requesting additional nursing home beds at that  
25 facility.

26       Section 6. Section 408.036, Florida Statutes, is  
27 amended to read:

28       408.036 Projects subject to review; exemptions.--

29       (1) APPLICABILITY.--Unless exempt under subsection  
30 (3), all health-care-related projects, as described in  
31 paragraphs (a)~~(e)~~~~(a)~~~~(h)~~, are subject to review and must

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1 file an application for a certificate of need with the agency.  
2 The agency is exclusively responsible for determining whether  
3 a health-care-related project is subject to review under ss.  
4 408.031-408.045.

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

8 (b) The new construction or establishment of  
9 additional health care facilities, including a replacement  
10 health care facility when the proposed project site is not  
11 located on the same site as or within 1 mile of the existing  
12 health care facility, if the number of beds in each licensed  
13 bed category will not increase.

14 (c) The conversion from one type of health care  
15 facility to another, including the conversion from a general  
16 hospital, a specialty hospital, or a long-term care hospital.

17 ~~(d) An increase in the total licensed bed capacity of~~  
18 ~~a health care facility.~~

19 ~~(d)(e)~~ The establishment of a hospice or hospice  
20 inpatient facility, except as provided in s. 408.043.

21 ~~(f) The establishment of inpatient health services by~~  
22 ~~a health care facility, or a substantial change in such~~  
23 ~~services.~~

24 ~~(e)(g)~~ An increase in the number of beds for ~~acute~~  
25 ~~care, nursing home care beds, specialty burn units, neonatal~~  
26 ~~intensive care units, comprehensive rehabilitation, mental~~  
27 ~~health services, or hospital-based distinct part skilled~~  
28 ~~nursing units, or at a long-term care hospital.~~

29 ~~(f)(h)~~ The establishment of tertiary health services,  
30 including inpatient comprehensive rehabilitation services.

31 (g) An increase in the number of beds for acute care

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1 in a hospital that is located in a low-growth county. A

2 low-growth county is defined as a county that has:

3 1. A hospital with an occupancy rate for licensed  
4 acute care which has been below 60 percent for the previous 5  
5 years;

6 2. Experienced a growth rate of 4 percent or less for  
7 the most recent 3-year period for which data are available, as  
8 determined using the population statistics published in the  
9 most recent edition of the Florida Statistical Abstract;

10 3. A population of 400,000 or fewer according to the  
11 most recent edition of the Florida Statistical Abstract; and

12 4. A hospital that has combined gross revenue from  
13 Medicaid and charity patients which exceeds \$60 million per  
14 year for the previous 2 years.

15  
16 This paragraph is repealed effective July 1, 2009.

17 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.--Unless  
18 exempt pursuant to subsection (3), projects subject to an  
19 expedited review shall include, but not be limited to:

20 ~~(a) Research, education, and training programs.~~

21 ~~(b) Shared services contracts or projects.~~

22 ~~(a)(c)~~ A transfer of a certificate of need, except  
23 that when an existing hospital is acquired by a purchaser, all  
24 certificates of need issued to the hospital which are not yet  
25 operational shall be acquired by the purchaser, without need  
26 for a transfer.

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

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1        (c) Relocation of a portion of a nursing home's  
2 licensed beds to a facility within the same district, if the  
3 relocation is within a 30-mile radius of the existing facility  
4 and the total number of nursing home beds in the district does  
5 not increase.

6        ~~(d) A 50-percent increase in nursing home beds for a~~  
7 ~~facility incorporated and operating in this state for at least~~  
8 ~~60 years on or before July 1, 1988, which has a licensed~~  
9 ~~nursing home facility located on a campus providing a variety~~  
10 ~~of residential settings and supportive services. The~~  
11 ~~increased nursing home beds shall be for the exclusive use of~~  
12 ~~the campus residents. Any application on behalf of an~~  
13 ~~applicant meeting this requirement shall be subject to the~~  
14 ~~base fee of \$5,000 provided in s. 408.038.~~

15        ~~(e) Replacement of a health care facility when the~~  
16 ~~proposed project site is located in the same district and~~  
17 ~~within a 1-mile radius of the replaced health care facility.~~

18        ~~(f) The conversion of mental health services beds~~  
19 ~~licensed under chapter 395 or hospital-based distinct part~~  
20 ~~skilled nursing unit beds to general acute care beds; the~~  
21 ~~conversion of mental health services beds between or among the~~  
22 ~~licensed bed categories defined as beds for mental health~~  
23 ~~services; or the conversion of general acute care beds to beds~~  
24 ~~for mental health services.~~

25        ~~1. Conversion under this paragraph shall not establish~~  
26 ~~a new licensed bed category at the hospital but shall apply~~  
27 ~~only to categories of beds licensed at that hospital.~~

28        ~~2. Beds converted under this paragraph must be~~  
29 ~~licensed and operational for at least 12 months before the~~  
30 ~~hospital may apply for additional conversion affecting beds of~~  
31 ~~the same type.~~



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1  
2 The agency shall develop rules to implement the provisions for  
3 expedited review, including time schedule, application content  
4 which may be reduced from the full requirements of s.  
5 408.037(1), and application processing.

6 (3) EXEMPTIONS.--Upon request, the following projects  
7 are subject to exemption from the provisions of subsection  
8 (1):

9 ~~(a) For replacement of a licensed health care facility~~  
10 ~~on the same site, provided that the number of beds in each~~  
11 ~~licensed bed category will not increase.~~

12 ~~(a)(b)~~ For hospice services or for swing beds in a  
13 rural hospital, as defined in s. 395.602, in a number that  
14 does not exceed one-half of its licensed beds.

15 ~~(b)(c)~~ For the conversion of licensed acute care  
16 hospital beds to Medicare and Medicaid certified skilled  
17 nursing beds in a rural hospital, as defined in s. 395.602, so  
18 long as the conversion of the beds does not involve the  
19 construction of new facilities. The total number of skilled  
20 nursing beds, including swing beds, may not exceed one-half of  
21 the total number of licensed beds in the rural hospital as of  
22 July 1, 1993. Certified skilled nursing beds designated under  
23 this paragraph, excluding swing beds, shall be included in the  
24 community nursing home bed inventory. A rural hospital that  
25 ~~which~~ subsequently decertifies any acute care beds exempted  
26 under this paragraph shall notify the agency of the  
27 decertification, and the agency shall adjust the community  
28 nursing home bed inventory accordingly.

29 ~~(c)(d)~~ For the addition of nursing home beds at a  
30 skilled nursing facility that is part of a retirement  
31 community that provides a variety of residential settings and

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1 supportive services and that has been incorporated and  
2 operated in this state for at least 65 years on or before July  
3 1, 1994. All nursing home beds must not be available to the  
4 public but must be for the exclusive use of the community  
5 residents.

6 ~~(e) For an increase in the bed capacity of a nursing~~  
7 ~~facility licensed for at least 50 beds as of January 1, 1994,~~  
8 ~~under part II of chapter 400 which is not part of a continuing~~  
9 ~~care facility if, after the increase, the total licensed bed~~  
10 ~~capacity of that facility is not more than 60 beds and if the~~  
11 ~~facility has been continuously licensed since 1950 and has~~  
12 ~~received a superior rating on each of its two most recent~~  
13 ~~licensure surveys.~~

14 ~~(d)(f)~~ For an inmate health care facility built by or  
15 for the exclusive use of the Department of Corrections as  
16 provided in chapter 945. This exemption expires when such  
17 facility is converted to other uses.

18 ~~(g) For the termination of an inpatient health care~~  
19 ~~service, upon 30 days' written notice to the agency.~~

20 ~~(h) For the delicensure of beds, upon 30 days' written~~  
21 ~~notice to the agency. A request for exemption submitted under~~  
22 ~~this paragraph must identify the number, the category of beds,~~  
23 ~~and the name of the facility in which the beds to be~~  
24 ~~delicensed are located.~~

25 ~~(i) For the provision of adult inpatient diagnostic~~  
26 ~~cardiac catheterization services in a hospital.~~

27 ~~1. In addition to any other documentation otherwise~~  
28 ~~required by the agency, a request for an exemption submitted~~  
29 ~~under this paragraph must comply with the following criteria:~~

30 ~~a. The applicant must certify it will not provide~~  
31 ~~therapeutic cardiac catheterization pursuant to the grant of~~

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1 ~~the exemption.~~

2 ~~b. The applicant must certify it will meet and~~  
3 ~~continuously maintain the minimum licensure requirements~~  
4 ~~adopted by the agency governing such programs pursuant to~~  
5 ~~subparagraph 2.~~

6 ~~c. The applicant must certify it will provide a~~  
7 ~~minimum of 2 percent of its services to charity and Medicaid~~  
8 ~~patients.~~

9 ~~2. The agency shall adopt licensure requirements by~~  
10 ~~rule which govern the operation of adult inpatient diagnostic~~  
11 ~~cardiac catheterization programs established pursuant to the~~  
12 ~~exemption provided in this paragraph. The rules shall ensure~~  
13 ~~that such programs:~~

14 ~~a. Perform only adult inpatient diagnostic cardiac~~  
15 ~~catheterization services authorized by the exemption and will~~  
16 ~~not provide therapeutic cardiac catheterization or any other~~  
17 ~~services not authorized by the exemption.~~

18 ~~b. Maintain sufficient appropriate equipment and~~  
19 ~~health personnel to ensure quality and safety.~~

20 ~~c. Maintain appropriate times of operation and~~  
21 ~~protocols to ensure availability and appropriate referrals in~~  
22 ~~the event of emergencies.~~

23 ~~d. Maintain appropriate program volumes to ensure~~  
24 ~~quality and safety.~~

25 ~~e. Provide a minimum of 2 percent of its services to~~  
26 ~~charity and Medicaid patients each year.~~

27 ~~3.a. The exemption provided by this paragraph shall~~  
28 ~~not apply unless the agency determines that the program is in~~  
29 ~~compliance with the requirements of subparagraph 1. and that~~  
30 ~~the program will, after beginning operation, continuously~~  
31 ~~comply with the rules adopted pursuant to subparagraph 2. The~~

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1 ~~agency shall monitor such programs to ensure compliance with~~  
2 ~~the requirements of subparagraph 2.~~

3 ~~b.(I) The exemption for a program shall expire~~  
4 ~~immediately when the program fails to comply with the rules~~  
5 ~~adopted pursuant to sub-subparagraphs 2.a., b., and c.~~

6 ~~(II) Beginning 18 months after a program first begins~~  
7 ~~treating patients, the exemption for a program shall expire~~  
8 ~~when the program fails to comply with the rules adopted~~  
9 ~~pursuant to sub-subparagraphs 2.d. and e.~~

10 ~~(III) If the exemption for a program expires pursuant~~  
11 ~~to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the~~  
12 ~~agency shall not grant an exemption pursuant to this paragraph~~  
13 ~~for an adult inpatient diagnostic cardiac catheterization~~  
14 ~~program located at the same hospital until 2 years following~~  
15 ~~the date of the determination by the agency that the program~~  
16 ~~failed to comply with the rules adopted pursuant to~~  
17 ~~subparagraph 2.~~

18 ~~(e)(j)~~ For mobile surgical facilities and related  
19 health care services provided under contract with the  
20 Department of Corrections or a private correctional facility  
21 operating pursuant to chapter 957.

22 ~~(f)(k)~~ For state veterans' nursing homes operated by  
23 or on behalf of the Florida Department of Veterans' Affairs in  
24 accordance with part II of chapter 296 for which at least 50  
25 percent of the construction cost is federally funded and for  
26 which the Federal Government pays a per diem rate not to  
27 exceed one-half of the cost of the veterans' care in such  
28 state nursing homes. These beds shall not be included in the  
29 nursing home bed inventory.

30 ~~(g)(l)~~ For combination within one nursing home  
31 facility of the beds or services authorized by two or more

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1 certificates of need issued in the same planning subdistrict.  
2 An exemption granted under this paragraph shall extend the  
3 validity period of the certificates of need to be consolidated  
4 by the length of the period beginning upon submission of the  
5 exemption request and ending with issuance of the exemption.  
6 The longest validity period among the certificates shall be  
7 applicable to each of the combined certificates.

8       (h)~~(m)~~ For division into two or more nursing home  
9 facilities of beds or services authorized by one certificate  
10 of need issued in the same planning subdistrict. An exemption  
11 granted under this paragraph shall extend the validity period  
12 of the certificate of need to be divided by the length of the  
13 period beginning upon submission of the exemption request and  
14 ending with issuance of the exemption.

15       (i)~~(n)~~ For the addition of hospital beds licensed  
16 under chapter 395 for comprehensive rehabilitation ~~acute care,~~  
17 ~~mental health services, or a hospital-based distinct part~~  
18 ~~skilled nursing unit~~ in a number that may not exceed 10 total  
19 beds or 10 percent of the licensed capacity ~~of the bed~~  
20 ~~category being expanded~~, whichever is greater. ~~Beds for~~  
21 ~~specialty burn units, neonatal intensive care units, or~~  
22 ~~comprehensive rehabilitation, or at a long-term care hospital,~~  
23 ~~may not be increased under this paragraph.~~

24       1. In addition to any other documentation otherwise  
25 required by the agency, a request for exemption submitted  
26 under this paragraph must:

27       a. Certify that the prior 12-month average occupancy  
28 rate for the ~~category of~~ licensed beds being expanded ~~at the~~  
29 ~~facility~~ meets or exceeds 80 percent ~~or, for a hospital-based~~  
30 ~~distinct part skilled nursing unit, the prior 12-month average~~  
31 ~~occupancy rate meets or exceeds 96 percent.~~

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1           b. Certify that ~~the any beds of the same type~~  
2 ~~authorized for the facility under this paragraph before the~~  
3 ~~date of the current request for an exemption~~ have been  
4 licensed and operational for at least 12 months.

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

8           3. The agency shall count beds authorized under this  
9 paragraph as approved beds in the published inventory of  
10 hospital beds until the beds are licensed.

11       ~~(o) For the addition of acute care beds, as authorized~~  
12 ~~by rule consistent with s. 395.003(4), in a number that may~~  
13 ~~not exceed 10 total beds or 10 percent of licensed bed~~  
14 ~~capacity, whichever is greater, for temporary beds in a~~  
15 ~~hospital that has experienced high seasonal occupancy within~~  
16 ~~the prior 12-month period or in a hospital that must respond~~  
17 ~~to emergency circumstances.~~

18       ~~(j)(p)~~ For the addition of nursing home beds licensed  
19 under chapter 400 in a number not exceeding 10 total beds or  
20 10 percent of the number of beds licensed in the facility  
21 being expanded, whichever is greater; or, for the addition of  
22 nursing home beds licensed under chapter 400 at a facility  
23 that has been designated as a Gold Seal nursing home under s.  
24 400.235 in a number not exceeding 20 total beds or 10 percent  
25 of the number of licensed beds in the facility being expanded,  
26 whichever is greater.

27           1. In addition to any other documentation required by  
28 the agency, a request for exemption submitted under this  
29 paragraph must:

30           a. ~~Effective until June 30, 2001,~~ Certify that the  
31 facility has not had any class I or class II deficiencies

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1 within the 30 months preceding the request for addition.

2 ~~b. Effective on July 1, 2001, certify that the~~  
3 ~~facility has been designated as a Gold Seal nursing home under~~  
4 ~~s. 400.235.~~

5 ~~b.c.~~ Certify that the prior 12-month average occupancy  
6 rate for the nursing home beds at the facility meets or  
7 exceeds 96 percent.

8 ~~c.d.~~ Certify that any beds authorized for the facility  
9 under this paragraph before the date of the current request  
10 for an exemption have been licensed and operational for at  
11 least 12 months.

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

15 3. The agency shall count beds authorized under this  
16 paragraph as approved beds in the published inventory of  
17 nursing home beds until the beds are licensed.

18 (k) For the establishment of:

19 1. A Level II neonatal intensive care unit with at  
20 least 10 beds, upon documentation to the agency that the  
21 applicant hospital had a minimum of 1,500 births during the  
22 previous 12 months; or

23 2. A Level III neonatal intensive care unit with at  
24 least 15 beds, upon documentation to the agency that the  
25 applicant hospital has a Level II neonatal intensive care unit  
26 of at least 10 beds and had a minimum of 3,500 births during  
27 the previous 12 months,

28  
29 if the applicant demonstrates that it meets the requirements  
30 for quality of care, nurse staffing, physician staffing,  
31 physical plant, equipment, emergency transportation, and data

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1 reporting found in agency certificate-of-need rules for Level  
2 II and Level III neonatal intensive care units and if the  
3 applicant commits to the provision of services to Medicaid and  
4 charity patients at a level equal to or greater than the  
5 district average. Such a commitment is subject to s. 408.040.

6 ~~(q) For establishment of a specialty hospital offering~~  
7 ~~a range of medical service restricted to a defined age or~~  
8 ~~gender group of the population or a restricted range of~~  
9 ~~services appropriate to the diagnosis, care, and treatment of~~  
10 ~~patients with specific categories of medical illnesses or~~  
11 ~~disorders, through the transfer of beds and services from an~~  
12 ~~existing hospital in the same county.~~

13 ~~(r) For the conversion of hospital-based Medicare and~~  
14 ~~Medicaid certified skilled nursing beds to acute care beds, if~~  
15 ~~the conversion does not involve the construction of new~~  
16 ~~facilities.~~

17 ~~(s)1. For an adult open-heart surgery program to be~~  
18 ~~located in a new hospital provided the new hospital is being~~  
19 ~~established in the location of an existing hospital with an~~  
20 ~~adult open-heart surgery program, the existing hospital and~~  
21 ~~the existing adult open-heart surgery program are being~~  
22 ~~relocated to a replacement hospital, and the replacement~~  
23 ~~hospital will utilize a closed-staff model. A hospital is~~  
24 ~~exempt from the certificate-of-need review for the~~  
25 ~~establishment of an open-heart surgery program if the~~  
26 ~~application for exemption submitted under this paragraph~~  
27 ~~complies with the following criteria:~~

28 ~~a. The applicant must certify that it will meet and~~  
29 ~~continuously maintain the minimum Florida Administrative Code~~  
30 ~~and any future licensure requirements governing adult~~  
31 ~~open-heart programs adopted by the agency, including the most~~



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1 ~~current guidelines of the American College of Cardiology and~~  
2 ~~American Heart Association Guidelines for Adult Open Heart~~  
3 ~~Programs.~~

4 ~~b. The applicant must certify that it will maintain~~  
5 ~~sufficient appropriate equipment and health personnel to~~  
6 ~~ensure quality and safety.~~

7 ~~c. The applicant must certify that it will maintain~~  
8 ~~appropriate times of operation and protocols to ensure~~  
9 ~~availability and appropriate referrals in the event of~~  
10 ~~emergencies.~~

11 ~~d. The applicant is a newly licensed hospital in a~~  
12 ~~physical location previously owned and licensed to a hospital~~  
13 ~~performing more than 300 open-heart procedures each year,~~  
14 ~~including heart transplants.~~

15 ~~e. The applicant must certify that it can perform more~~  
16 ~~than 300 diagnostic cardiac catheterization procedures per~~  
17 ~~year, combined inpatient and outpatient, by the end of the~~  
18 ~~third year of its operation.~~

19 ~~f. The applicant's payor mix at a minimum reflects the~~  
20 ~~community average for Medicaid, charity care, and self-pay~~  
21 ~~patients or the applicant must certify that it will provide a~~  
22 ~~minimum of 5 percent of Medicaid, charity care, and self-pay~~  
23 ~~to open-heart surgery patients.~~

24 ~~g. If the applicant fails to meet the established~~  
25 ~~criteria for open-heart programs or fails to reach 300~~  
26 ~~surgeries per year by the end of its third year of operation,~~  
27 ~~it must show cause why its exemption should not be revoked.~~

28 ~~h. In order to ensure continuity of available~~  
29 ~~services, the applicant of the newly licensed hospital may~~  
30 ~~apply for this certificate of need before taking possession of~~  
31 ~~the physical facilities. The effective date of the~~

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1 ~~certificate of need will be concurrent with the effective date~~  
2 ~~of the newly issued hospital license.~~

3 ~~2. By December 31, 2004, and annually thereafter, the~~  
4 ~~agency shall submit a report to the Legislature providing~~  
5 ~~information concerning the number of requests for exemption~~  
6 ~~received under this paragraph and the number of exemptions~~  
7 ~~granted or denied.~~

8 ~~3. This paragraph is repealed effective January 1,~~  
9 ~~2008.~~

10 (1)(t)1. For the provision of adult open-heart  
11 services in a hospital located within the boundaries of a  
12 health service planning district, as defined in s. 408.032(5),  
13 which has experienced an annual net out-migration of at least  
14 600 open-heart-surgery cases for 3 consecutive years according  
15 to the most recent data reported to the agency, and the  
16 district's population per licensed and operational open-heart  
17 programs exceeds the state average of population per licensed  
18 and operational open-heart programs by at least 25 percent  
19 Palm Beach, Polk, Martin, St. Lucie, and Indian River Counties  
20 if the following conditions are met: The exemption must be  
21 based upon objective criteria and address and solve the twin  
22 problems of geographic and temporal access. All hospitals  
23 within a health service planning district which meet the  
24 criteria reference in sub-subparagraphs 2.a.-h. shall be  
25 eligible for this exemption on July 1, 2004, and shall receive  
26 the exemption upon filing for it and subject to the following:  
27 a. A hospital that has received a notice of intent to  
28 grant a certificate of need or a final order of the agency  
29 granting a certificate of need for the establishment of an  
30 open-heart-surgery program is entitled to receive a letter of  
31 exemption for the establishment of an adult open-heart-surgery

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1 program upon filing a request for exemption and complying with  
2 the criteria enumerated in sub-subparagraphs 2.a.-h., and is  
3 entitled to immediately commence operation of the program.

4 b. An otherwise eligible hospital that has not  
5 received a notice of intent to grant a certificate of need or  
6 a final order of the agency granting a certificate of need for  
7 the establishment of an open-heart-surgery program is entitled  
8 to immediately receive a letter of exemption for the  
9 establishment of an adult open-heart-surgery program upon  
10 filing a request for exemption and complying with the criteria  
11 enumerated in sub-subparagraphs 2.a.-h., but is not entitled  
12 to commence operation of its program until December 31, 2006.

13 2. A hospital shall be exempt from the  
14 certificate-of-need review for the establishment of an  
15 open-heart-surgery program when the application for exemption  
16 submitted under this paragraph complies with the following  
17 criteria:

18 a. The applicant must certify that it will meet and  
19 continuously maintain the minimum licensure requirements  
20 adopted by the agency governing adult open-heart programs,  
21 including the most current guidelines of the American College  
22 of Cardiology and American Heart Association Guidelines for  
23 Adult Open Heart Programs.

24 b. The applicant must certify that it will maintain  
25 sufficient appropriate equipment and health personnel to  
26 ensure quality and safety.

27 c. The applicant must certify that it will maintain  
28 appropriate times of operation and protocols to ensure  
29 availability and appropriate referrals in the event of  
30 emergencies.

31 d. The applicant can demonstrate that it has

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1 discharged at least 300 inpatients with a principal diagnosis  
2 of ischemic heart disease for the most recent 12-month period  
3 as reported to the agency is referring 300 or more patients  
4 per year from the hospital, including the emergency room, for  
5 cardiac services at a hospital with cardiac services, or that  
6 the average wait for transfer for 50 percent or more of the  
7 cardiac patients exceeds 4 hours.

8 e. The applicant is a general acute care hospital that  
9 is in operation for 3 years or more.

10 f. The applicant is performing more than 300  
11 diagnostic cardiac catheterization procedures per year,  
12 combined inpatient and outpatient.

13 g. The applicant's payor mix at a minimum reflects the  
14 community average for Medicaid, charity care, and self-pay  
15 patients or the applicant must certify that it will provide a  
16 minimum of 5 percent of Medicaid, charity care, and self-pay  
17 to open-heart-surgery patients.

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

22 3.2- By December 31, 2004, and annually thereafter,  
23 the agency ~~for Health Care Administration~~ shall submit a  
24 report to the Legislature providing information concerning the  
25 number of requests for exemption it has received under this  
26 paragraph during the calendar year and the number of  
27 exemptions it has granted or denied during the calendar year.

28 (m) For the provision of percutaneous coronary  
29 intervention for patients presenting with emergency myocardial  
30 infarctions in a hospital without an approved adult  
31 open-heart-surgery program. In addition to any other

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1 documentation required by the agency, a request for an  
2 exemption submitted under this paragraph must comply with the  
3 following:

4 1. The applicant must certify that it will meet and  
5 continuously maintain the requirements adopted by the agency  
6 for the provisions of these services. These licensure  
7 requirements must be adopted by rule pursuant to ss.  
8 120.536(1) and 120.54 and must be consistent with the  
9 guidelines published by the American College of Cardiology and  
10 the American Heart Association for the provision of  
11 percutaneous coronary interventions in hospitals without adult  
12 open-heart services. At a minimum, the rules shall require  
13 that:

14 a. Cardiologists be experienced interventionalists who  
15 have performed a minimum of 75 interventions within the  
16 previous 12 months.

17 b. The hospital provide a minimum of 36 emergency  
18 interventions annually in order to continue to provide the  
19 service.

20 c. The hospital offer sufficient physician, nursing,  
21 and laboratory staff to provide the services 24 hours a day, 7  
22 days a week.

23 d. Nursing and technical staff have demonstrated  
24 experience in handling acutely ill patients requiring  
25 intervention based on previous experience in dedicated  
26 interventional laboratories or surgical centers.

27 e. Cardiac care nursing staff be adept in hemodynamic  
28 monitoring and Intra-aortic Balloon Pump management.

29 f. Formalized written transfer agreements be developed  
30 with a hospital with an adult open-heart-surgery program and  
31 written transport protocols be in place to ensure safe and

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1 efficient transfer of a patient within 60 minutes. Transfer  
2 and transport agreements must be received and tested, with  
3 appropriate documentation maintained at least every 3 months.

4 g. Hospitals implementing the service first undertake  
5 a training program of 3 to 6 months' duration, which includes  
6 establishing standard and testing logistics, creating quality  
7 assessment and error management practices, and formalizing  
8 patient-selection criteria.

9 2. The applicant must certify that it will at all  
10 times use the patient-selection criteria for the performance  
11 of primary angioplasty at hospitals without adult  
12 open-heart-surgery programs issued by the American College of  
13 Cardiology and the American Heart Association. At a minimum,  
14 these criteria must provide for:

15 a. Avoidance of interventions in hemodynamically  
16 stable patients who have identified symptoms or medical  
17 histories.

18 b. Transfer of patients who have a history of coronary  
19 disease and clinical presentation of hemodynamic instability.

20 3. The applicant must agree to submit to the agency a  
21 quarterly report detailing patient characteristics, treatment,  
22 and outcomes for all patients receiving emergency percutaneous  
23 coronary interventions pursuant to this paragraph. This report  
24 must be submitted within 15 days after the close of each  
25 calendar quarter.

26 4. The exemption provided by this paragraph does not  
27 apply unless the agency determines that the hospital has taken  
28 all necessary steps to be in compliance with all requirements  
29 of this paragraph, including the training program required  
30 under sub-subparagraph 1.g.

31 5. If the hospital fails to continuously comply with

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1 the requirements of sub-subparagraphs 1.c.-f. and  
2 subparagraphs 2. and 3., this exemption immediately expires.

3 6. If the hospital fails to meet the volume  
4 requirements of sub-subparagraphs 1.a. and b. within 18 months  
5 after the program begins offering the service, this exemption  
6 immediately expires.

7  
8 If the exemption for this service expires under subparagraph  
9 5. or subparagraph 6., the agency may not grant another  
10 exemption for this service to the same hospital for 2 years  
11 and then only upon a showing that the hospital will remain in  
12 compliance with the requirements of this paragraph through a  
13 demonstration of corrections to the deficiencies that caused  
14 the exemption to expire. Compliance with this paragraph  
15 includes compliance with the rules adopted pursuant to this  
16 paragraph.

17 (n) For the addition of mental health services or beds  
18 if the applicant commits to providing services to Medicaid or  
19 charity care patients at a level equal to or greater than the  
20 district average. Such a commitment is subject to s. 408.040.

21 (o) For replacement of a licensed nursing home on the  
22 same site, or within 3 miles of the same site, if the number  
23 of licensed beds does not increase.

24 (p) For consolidation or combination of licensed  
25 nursing homes or transfer of beds between licensed nursing  
26 homes within the same planning subdistrict, by providers that  
27 operate multiple nursing homes within that planning  
28 subdistrict, if there is no increase in the planning  
29 subdistrict total number of nursing home beds and the site of  
30 the relocation is not more than 30 miles from the original  
31 location.

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1       (q) For beds in state mental health treatment  
 2 facilities operated under s. 394.455(30) and state mental  
 3 health forensic facilities operated under s. 916.106(8).

4       (r) For beds in state developmental services  
 5 institutions as defined in s. 393.063.

6       (4) REQUESTS FOR EXEMPTION.--A request for exemption  
 7 under subsection (3) may be made at any time and is not  
 8 subject to the batching requirements of this section. The  
 9 request shall be supported by such documentation as the agency  
 10 requires by rule. The agency shall assess a fee of \$250 for  
 11 each request for exemption submitted under subsection (3).

12       (5) NOTIFICATION.--Health care facilities and  
 13 providers must provide to the agency notification of:

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

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

21       (c) The addition or delicensure of beds.

22  
 23 Notification under this subsection may be made by electronic,  
 24 facsimile, or written means at any time before the described  
 25 action has been taken.

26       Section 7. Section 408.0361, Florida Statutes, is  
 27 amended to read:

28       408.0361 Cardiology services and burn unit licensure  
 29 ~~Diagnostic cardiac catheterization services providers;~~  
 30 ~~compliance with guidelines and requirements.--~~

31       (1) Each provider of diagnostic cardiac



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1 catheterization services shall comply with ~~the requirements of~~  
2 ~~s. 408.036(3)(i)2.a.-d., and rules adopted by~~ of the agency  
3 which establish licensure standards for Health Care  
4 ~~Administration~~ governing the operation of adult inpatient  
5 diagnostic cardiac catheterization programs. The rules must  
6 ensure that the programs:

7       (a) Comply with, including the most recent guidelines  
8 of the American College of Cardiology and American Heart  
9 Association Guidelines for Cardiac Catheterization and Cardiac  
10 Catheterization Laboratories.

11       (b) Perform only adult inpatient diagnostic cardiac  
12 catheterization services and do not provide therapeutic  
13 cardiac catheterization or any other cardiology services.

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

16       (d) Maintain appropriate times of operation and  
17 protocols to ensure availability and appropriate referrals in  
18 the event of emergencies.

19       (e) Demonstrate a plan to provide services to Medicaid  
20 and charity patients.

21       (2) Each provider of adult interventional cardiology  
22 services or operator of a burn unit shall comply with rules  
23 adopted by the agency which establish licensure standards that  
24 govern the provision of adult interventional cardiology  
25 services or the operation of a burn unit. Such rules must  
26 consider, at a minimum, staffing, equipment, physical plant,  
27 operating protocols, the provision of services to Medicaid and  
28 charity patients, accreditation, licensure period and fees,  
29 and enforcement of minimum standards. The certificate-of-need  
30 rules for adult interventional cardiology services and burn  
31 units in effect on June 30, 2004, are ratified pursuant to

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1 this subsection and shall remain in effect and be enforceable  
2 by the agency until the licensure rules are adopted. Existing  
3 providers and any provider with a notice of intent to grant a  
4 certificate of need or a final order of the agency granting a  
5 a certificate of need for adult interventional cardiology  
6 services or burn units shall be considered grandfathered-in  
7 and shall receive a license for their programs effective on  
8 July 1, 2004. That licensure shall remain valid for at least 3  
9 years or a period specified in the rule, whichever is longer,  
10 but such programs must meet licensure standards applicable to  
11 existing programs for every subsequent licensure period.

12 (3) In establishing rules for adult interventional  
13 cardiology services, the agency shall include provisions that  
14 allow for:

15 (a) Establishment of two hospital program licensure  
16 levels: a Level I program authorizing the performance of adult  
17 primary percutaneous cardiac intervention for emergent  
18 patients without onsite cardiac surgery and a Level II program  
19 authorizing the performance of percutaneous cardiac  
20 intervention with onsite cardiac surgery.

21 (b) For a hospital seeking a Level I program,  
22 demonstration that, for the most recent 12-month period as  
23 reported to the agency, it has provided a minimum of 300 adult  
24 inpatient and outpatient diagnostic cardiac catheterizations  
25 or has transferred at least 300 inpatients with the principal  
26 diagnosis of ischemic heart disease and that it has a  
27 formalized, written transfer agreement with a hospital that  
28 has a Level II program, including written transport protocols  
29 to ensure safe and efficient transfer of a patient within 60  
30 minutes.

31 (c) For a hospital seeking a Level II program,

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1 demonstration that it has discharged at least 800 patients  
2 with the principal diagnosis of ischemic heart disease.

3 (d) Compliance with the most recent guidelines of the  
4 American College of Cardiology and American Heart Association  
5 guidelines for staffing, physician training and experience,  
6 operating procedures, equipment, physical plant, and  
7 patient-selection criteria to ensure patient quality and  
8 safety.

9 (e) Establishment of appropriate hours of operation  
10 and protocols to ensure availability and timely referral in  
11 the event of emergencies.

12 (f) Demonstration of a plan to provide services to  
13 Medicaid and charity patients.

14 (4) The agency shall establish a technical advisory  
15 panel to develop procedures and standards for measuring  
16 outcomes of interventional cardiac programs. Members of the  
17 panel shall include representatives of the Florida Hospital  
18 Association, the Florida Society of Thoracic and  
19 Cardiovascular Surgeons, the Florida Chapter of the American  
20 College of Cardiology, and the Florida Chapter of the American  
21 Heart Association and others who have experience in statistics  
22 and outcome measurement. Based upon recommendations from the  
23 panel, the agency shall develop and adopt for the  
24 interventional cardiac programs rules that include at least  
25 the following:

26 (a) A standard data set consisting primarily of data  
27 elements reported to the agency in accordance with s. 408.061.

28 (b) A risk-adjustment procedure that accounts for the  
29 variations in severity and case mix found in hospitals in this  
30 state.

31 (c) Outcome standards specifying expected levels of

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1 performance in Level I and Level II adult interventional  
2 cardiology services. Such standards may include, but are not  
3 limited to, inhospital mortality, infection rates, nonfatal  
4 myocardial infarctions, length of stay, postoperative bleeds,  
5 and returns to surgery.

6 (d) Specific steps to be taken by the agency and  
7 licensing hospitals that do not meet the outcome standards  
8 within specified time periods, including time periods for  
9 detailed case reviews and development and implementation of  
10 corrective action plans.

11 (9) The Secretary of Health Care Administration shall  
12 appoint an advisory group to study the issue of replacing  
13 certificate-of-need review of organ transplant programs under  
14 this chapter with licensure regulation of organ transplant  
15 programs under chapter 395. The advisory group shall include  
16 three representatives of organ transplant providers, one  
17 representative of an organ procurement organization, one  
18 representative of the Division of Health Quality Assurance,  
19 one representative of Medicaid, and one advocate for organ  
20 transplant patients. The advisory group shall, at a minimum,  
21 make recommendations regarding access to organs, delivery of  
22 services to Medicaid and charity patients, staff training, and  
23 resource requirements for organ transplant programs in a  
24 report due to the secretary and the Legislature by July 1,  
25 2005.

26 (10) The Secretary of Health Care Administration shall  
27 appoint a work group to study certificate-of-need regulations  
28 and changing market conditions related to the supply and  
29 distribution of hospital beds. The assessment by the work  
30 group shall include, but need not be limited to:

31 (a) The appropriateness of current certificate-of-need

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1 methodologies and other criteria for evaluating proposals for  
2 new hospitals and transfers of beds to new sites.

3 (b) Additional factors that should be considered,  
4 including the viability of safety-net services, the extent of  
5 market competition, and the accessibility of hospital  
6 services.

7  
8 The workgroup shall, by January 1, 2005, submit to the  
9 secretary and the Legislature a report identifying specific  
10 program areas and recommending needed changes in statutes and  
11 rules.

12 Section 8. Section 408.038, Florida Statutes, is  
13 amended to read:

14 408.038 Fees.--The agency shall assess fees on  
15 certificate-of-need applications. Such fees shall be for the  
16 purpose of funding the ~~functions of the local health councils~~  
17 ~~and the~~ activities of the agency and shall be allocated as  
18 provided in s. 408.033. The fee shall be determined as  
19 follows:

20 (1) A minimum base fee of ~~\$10,000~~ \$5,000.

21 (2) In addition to the base fee of ~~\$10,000~~ \$5,000,  
22 0.015 of each dollar of proposed expenditure, except that a  
23 fee may not exceed ~~\$50,000~~ \$22,000.

24 Section 9. Subsections (1), paragraph (a) of  
25 subsection (3), and paragraph (a) and (b) of subsection (4) of  
26 section 408.039, are amended to read:

27 408.039 Review process.--The review process for  
28 certificates of need shall be as follows:

29 (1) REVIEW CYCLES.--The agency by rule shall provide  
30 for applications to be submitted on a timetable or cycle  
31 basis; provide for review on a timely basis; and provide for

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1 all completed applications pertaining to similar types of  
2 services or facilities affecting the same service district to  
3 be considered in relation to each other no less often than  
4 annually ~~two times a year~~.

5 (3) APPLICATION PROCESSING.--

6 (a) An applicant shall file an application with the  
7 agency, and shall furnish a copy of the application to ~~the~~  
8 ~~local health council and~~ the agency. Within 15 days after the  
9 applicable application filing deadline established by agency  
10 rule, the staff of the agency shall determine if the  
11 application is complete. If the application is incomplete,  
12 the staff shall request specific information from the  
13 applicant necessary for the application to be complete;  
14 however, the staff may make only one such request. If the  
15 requested information is not filed with the agency within 21  
16 days after ~~of~~ the receipt of the staff's request, the  
17 application shall be deemed incomplete and deemed withdrawn  
18 from consideration.

19 (4) STAFF RECOMMENDATIONS.--

20 (a) The agency's review of and final agency action on  
21 applications shall be in accordance with ~~the district health~~  
22 ~~plan, and~~ statutory criteria, and the implementing  
23 administrative rules. In the application review process, the  
24 agency shall give a preference, as defined by rule of the  
25 agency, to an applicant which proposes to develop a nursing  
26 home in a nursing home geographically underserved area.

27 (b) Within 60 days after all the applications in a  
28 review cycle are determined to be complete, the agency shall  
29 issue its State Agency Action Report and Notice of Intent to  
30 grant a certificate of need for the project in its entirety,  
31 to grant a certificate of need for identifiable portions of

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1 the project, or to deny a certificate of need. The State  
2 Agency Action Report shall set forth in writing its findings  
3 of fact and determinations upon which its decision is based.  
4 ~~If a finding of fact or determination by the agency is counter~~  
5 ~~to the district health plan of the local health council, the~~  
6 ~~agency shall provide in writing its reason for its findings,~~  
7 ~~item by item, to the local health council.~~ If the agency  
8 intends to grant a certificate of need, the State Agency  
9 Action Report or the Notice of Intent shall also include any  
10 conditions which the agency intends to attach to the  
11 certificate of need. The agency shall designate by rule a  
12 senior staff person, other than the person who issues the  
13 final order, to issue State Agency Action Reports and Notices  
14 of Intent.

15 Section 10. Section 408.040, Florida Statutes, is  
16 amended to read:

17 408.040 Conditions and monitoring.--

18 (1)(a) The agency may issue a certificate of need, or  
19 an exemption, predicated upon statements of intent expressed  
20 by an applicant in the application for a certificate of need  
21 or an exemption. Any conditions imposed on a certificate of  
22 need or an exemption based on such statements of intent shall  
23 be stated on the face of the certificate of need or in the  
24 exemption approval.

25 (b) The agency may consider, in addition to the other  
26 criteria specified in s. 408.035, a statement of intent by the  
27 applicant that a specified percentage of the annual patient  
28 days at the facility will be utilized by patients eligible for  
29 care under Title XIX of the Social Security Act. Any  
30 certificate of need issued to a nursing home in reliance upon  
31 an applicant's statements that a specified percentage of

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1 annual patient days will be utilized by residents eligible for  
2 care under Title XIX of the Social Security Act must include a  
3 statement that such certification is a condition of issuance  
4 of the certificate of need. The certificate-of-need program  
5 shall notify the Medicaid program office and the Department of  
6 Elderly Affairs when it imposes conditions as authorized in  
7 this paragraph in an area in which a community diversion pilot  
8 project is implemented.

9 (c) A certificateholder or an exemption holder may  
10 apply to the agency for a modification of conditions imposed  
11 under paragraph (a) or paragraph (b). If the holder of a  
12 certificate of need or an exemption demonstrates good cause  
13 why the certificate or exemption should be modified, the  
14 agency shall reissue the certificate of need or exemption with  
15 such modifications as may be appropriate. The agency shall by  
16 rule define the factors constituting good cause for  
17 modification.

18 (d) If the holder of a certificate of need or an  
19 exemption fails to comply with a condition upon which the  
20 issuance of the certificate or exemption was predicated, the  
21 agency may assess an administrative fine against the  
22 certificateholder or exemption holder in an amount not to  
23 exceed \$1,000 per failure per day. Failure to annually report  
24 compliance with any condition upon which the issuance of the  
25 certificate or exemption was predicated constitutes  
26 noncompliance. In assessing the penalty, the agency shall take  
27 into account as mitigation the degree of noncompliance  
28 ~~relative lack of severity of a particular failure~~. Proceeds  
29 of such penalties shall be deposited in the Public Medical  
30 Assistance Trust Fund.

31 (2)(a) Unless the applicant has commenced



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1 construction, if the project provides for construction, unless  
2 the applicant has incurred an enforceable capital expenditure  
3 commitment for a project, if the project does not provide for  
4 construction, or unless subject to paragraph (b), a  
5 certificate of need shall terminate 18 months after the date  
6 of issuance. The agency shall monitor the progress of the  
7 holder of the certificate of need in meeting the timetable for  
8 project development specified in the application ~~with the~~  
9 ~~assistance of the local health council as specified in s.~~  
10 ~~408.033(1)(b)5.~~, and may revoke the certificate of need, if  
11 the holder of the certificate is not meeting such timetable  
12 and is not making a good-faith effort, as defined by rule, to  
13 meet it.

14 (b) A certificate of need issued to an applicant  
15 holding a provisional certificate of authority under chapter  
16 651 shall terminate 1 year after the applicant receives a  
17 valid certificate of authority from the Office of Insurance  
18 Regulation of the Financial Services Commission.

19 (c) The certificate-of-need validity period for a  
20 project shall be extended by the agency, to the extent that  
21 the applicant demonstrates to the satisfaction of the agency  
22 that good-faith commencement of the project is being delayed  
23 by litigation or by governmental action or inaction with  
24 respect to regulations or permitting precluding commencement  
25 of the project.

26 (3) The agency shall require the submission of an  
27 executed architect's certification of final payment for each  
28 certificate-of-need project approved by the agency. Each  
29 project that involves construction shall submit such  
30 certification to the agency within 30 days following  
31 completion of construction.

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Section 11. Subsection (5) of section 408.043, Florida Statutes, is repealed.

Section 12. Section 408.0455, Florida Statutes, is amended to read:

408.0455 Rules; pending proceedings.--The rules of the agency in effect on June 30, 2004 ~~1997~~, shall remain in effect and shall be enforceable by the agency with respect to ss. 408.031-408.045 until such rules are repealed or amended by the agency, ~~and no judicial or administrative proceeding pending on July 1, 1997, shall be abated as a result of the provisions of ss. 408.031-408.043(1) and (2); s. 408.044; or s. 408.045.~~

Section 13. This act shall take effect July 1, 2004.

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

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to certificate of need;  
amending s. 395.003, F.S.; providing additional  
conditions for the licensure or relicensure of  
hospitals; exempting currently licensed  
hospitals; amending s. 408.032, F.S.;  
redefining terms relating to the Health  
Facility and Services Development Act; deleting  
the term "regional area"; amending s. 408.033,  
F.S.; deleting provisions relating to regional  
area health plans; transferring certain duties

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1 from the Agency for Health Care Administration  
2 to the Department of Health; deleting an agency  
3 responsibility relating to orientation of local  
4 health council members; deleting a requirement  
5 that local health councils be partly funded by  
6 application fees for certificates of need;  
7 adding sources of funding for local health  
8 councils; amending s. 408.034, F.S.; revising  
9 criteria for certificate-of-need review and for  
10 issuing licenses to health care facilities and  
11 health service providers; revising criteria for  
12 the nursing-home-bed-need methodology; amending  
13 s. 408.035, F.S.; revising the criteria for  
14 reviewing applications for certificate-of-need  
15 determinations; amending s. 408.036, F.S.;  
16 revising criteria for determining whether a  
17 health-care-related project is subject to  
18 review; providing that the replacement or  
19 relocation of a nursing home is subject to  
20 expedited review under specified conditions;  
21 revising the criteria for determining whether a  
22 project is subject to exemption from review  
23 upon request; repealing the exemption for  
24 specified services; adding an optional  
25 exemption for neonatal intensive care units  
26 that meet certain requirements; providing  
27 exemptions for adding beds for comprehensive  
28 rehabilitation, for beds in state mental health  
29 treatment facilities, for beds in state mental  
30 health treatment facilities and state mental  
31 health forensic facilities, and for beds in

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1 state developmental services institutions;  
2 revising the criteria for optional exemption of  
3 adult open-heart services; requiring the agency  
4 to report annually to the Legislature specified  
5 information concerning exemptions requested and  
6 granted during the preceding calendar year;  
7 adding an optional exemption for the provision  
8 of percutaneous coronary intervention under  
9 certain conditions; requiring health care  
10 facilities and providers to provide to the  
11 agency notice of the replacement of a health  
12 care facility or a nursing home, in specified  
13 circumstances, consolidation of nursing homes,  
14 the termination of a health care service, and  
15 the addition or delicensure of beds; amending  
16 s. 408.0361, F.S., relating to compliance with  
17 requirements imposed on diagnostic cardiac  
18 catheterization services providers; revising  
19 the scope of application, to include the  
20 compliance required of cardiology services and  
21 the licensure of burn units; requiring the  
22 Secretary of Health Care Administration to  
23 appoint an advisory group to study replacing  
24 certificate-of-need review of organ transplant  
25 programs with licensure regulation of organ  
26 transplant providers; requiring a report to the  
27 secretary and the Legislature; requiring the  
28 secretary to appoint a work group to study  
29 certificate-of-need regulation and changing  
30 market conditions related to the supply and  
31 distribution of hospital beds; requiring a

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1 report to the secretary and the Legislature;  
2 amending s. 408.038, F.S.; revising fees  
3 assessed on certificate-of-need applications;  
4 amending s. 408.039, F.S.; revising the review  
5 process for certificates of need; requiring  
6 shorter review cycles; deleting a requirement  
7 to file a copy of the application with the  
8 local health council; deleting a requirement to  
9 consider the district health plan in reviewing  
10 and taking action on the applications; amending  
11 s. 408.040, F.S.; applying the conditions to  
12 the issuance of a certificate of need to the  
13 issuance of an exemption; providing that  
14 certain failures to annually report compliance  
15 with certain conditions to receiving a  
16 certificate of need or an exemption constitute  
17 noncompliance; repealing s. 408.043(5), F.S.,  
18 relating to the authority of a sole acute care  
19 hospital in a high growth county to add beds  
20 without agency review; amending s. 408.0455,  
21 F.S.; providing for the rules of the agency  
22 which are in effect on June 30, 2004, rather  
23 than those in effect on June 30, 1997, to  
24 remain in effect; providing an effective date.

25

26 WHEREAS, appropriate access to adult cardiac care is an  
27 issue of critical state importance to all residents of the  
28 state and to all health service planning districts of the  
29 state, and

30 WHEREAS, the certificate-of-need process, for most  
31 geographic areas in the state, has provided adequate access to

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1 adult open-heart-surgery services to Floridians as well as  
2 tourists, business travelers, indigents, and migrant workers  
3 who receive such services, and

4 WHEREAS, the number of adult open-heart-surgery  
5 programs in certain health service planning districts has not  
6 kept pace with the dramatic increase in population in those  
7 areas, and

8 WHEREAS, there have been numerous technological  
9 advances in the area of primary angioplasty and stent  
10 procedures known collectively as percutaneous coronary  
11 interventions, and these advanced interventional treatments  
12 provide the highest standard of care for people suffering  
13 acute myocardial infarctions, and

14 WHEREAS, the success of these interventional treatments  
15 requires immediate access (within 1 hour) to hospitals having  
16 interventional technology and a backup open-heart-surgery  
17 program, and

18 WHEREAS, hospitals that cannot perform percutaneous  
19 coronary interventions must resort to the use of  
20 thrombolytics, a less effective treatment in many instances,  
21 and therefore adults in need of percutaneous coronary  
22 interventions are being denied these procedures due to lack of  
23 access, and

24 WHEREAS, diagnosis; discharge from the transferring  
25 hospital; transfer arrangements, including, but not limited  
26 to, insurance and administrative approval; transportation  
27 availability; admission to the receiving hospital; staff  
28 availability at the receiving hospital; and, most importantly,  
29 bed availability at the receiving hospital as well as travel  
30 delays to the receiving hospital contribute to the time taken  
31 to effectuate a transfer of a cardiac patient, and

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1           WHEREAS, the Legislature finds that timely access and  
2 availability for every adult in this state, regardless of  
3 socioeconomic class or geographic location, to these  
4 interventional treatments and open-heart surgery is of  
5 critical state concern, especially because myocardial  
6 infarctions and related coronary disease are no respecters of  
7 location or time, and

8           WHEREAS, to ensure that it provides the quality of care  
9 desired, each hospital that qualifies for the exemption  
10 provided by this act will be subject to more stringent  
11 criteria and will also be subject to continual monitoring by  
12 the Agency for Health Care Administration, and

13           WHEREAS, the Legislature intends to ensure that  
14 standards of quality are maintained while promoting  
15 competition in the provision of adult cardiac care, NOW,  
16 THEREFORE,

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