

1 A bill to be entitled
2 An act relating to hospital licensure; amending s.
3 395.0191, F.S.; deleting provisions relating to
4 certificate of need applications; amending s.
5 395.1055, F.S.; revising the Agency for Health Care
6 Administration's rulemaking authority with respect to
7 minimum standards for hospitals; requiring hospitals
8 that provide certain services to meet specified
9 licensure requirements; conforming provisions to
10 changes made by the act; amending s. 395.1065, F.S.;
11 conforming a cross-reference; repealing s. 395.6025,
12 F.S., relating to rural hospital replacement
13 facilities; amending s. 408.032, F.S.; revising and
14 deleting definitions; amending s. 408.033, F.S.;
15 conforming provisions to changes made by the act;
16 amending s. 408.034, F.S.; authorizing the agency to
17 issue a license to a general hospital that has not
18 been issued a certificate of need under certain
19 circumstances; revising duties and responsibilities of
20 the agency relating to issuance of licenses to health
21 care facilities and health service providers;
22 conforming provisions to changes made by the act;
23 amending s. 408.035, F.S.; deleting provisions related
24 to the agency's consideration and review of
25 applications for certificates of need for general

26 | hospitals and health services; amending s. 408.036,
27 | F.S.; providing an exception to certificate of need
28 | review requirements for the construction or
29 | establishment of a general hospital and the conversion
30 | of a specialty hospital to a general hospital;
31 | revising health-care-related projects that are subject
32 | to agency review for a certificate of need and
33 | exemptions therefrom; deleting provisions requiring
34 | health care facilities and providers to provide
35 | certain notice to the agency upon termination of a
36 | health care service or the addition or delicensure of
37 | beds; conforming a provision to changes made by the
38 | act; repealing s. 408.0361, F.S., relating to
39 | cardiovascular services and burn unit licensure;
40 | amending ss. 408.037 and 408.039, F.S.; deleting
41 | provisions relating to certificate of need
42 | applications for general hospitals; amending s.
43 | 408.043, F.S.; deleting provisions relating to
44 | certificates of need for osteopathic acute care
45 | hospitals; amending s. 408.0455, F.S.; establishing
46 | that specified rules remain in effect for a specified
47 | purpose and until the agency has adopted certain
48 | rules; amending s. 408.808, F.S.; authorizing the
49 | agency to issue an inactive license to a certain
50 | hospital under certain circumstances; requiring the

51 Office of Program Policy Analysis and Government
 52 Accountability to review specified requirements,
 53 statutes, and rules, and make recommendations to the
 54 Legislature by a specified date; providing effective
 55 dates.

56
 57 Be It Enacted by the Legislature of the State of Florida:
 58

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

61 395.0191 Staff membership and clinical privileges.—

62 ~~(10) Nothing herein shall be construed by the agency as~~
 63 ~~requiring an applicant for a certificate of need to establish~~
 64 ~~proof of discrimination in the granting of or denial of hospital~~
 65 ~~staff membership or clinical privileges as a precondition to~~
 66 ~~obtaining such certificate of need under the provisions of s.~~
 67 ~~408.043.~~

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

73 395.1055 Rules and enforcement.—

74 (9) The agency shall establish a technical advisory panel,
 75 pursuant to s. 20.052, to develop procedures and standards for

76 measuring outcomes of pediatric cardiac catheterization programs
77 and pediatric cardiovascular surgery programs.

78 (b) Voting members of the panel shall include: 3 at-large
79 members, including 1 cardiologist who is board certified in
80 caring for adults with congenital heart disease and 2 board-
81 certified pediatric cardiologists, neither of whom may be
82 employed by any of the hospitals specified in subparagraphs 1.-
83 10. or their affiliates, each of whom is appointed by the
84 Secretary of Health Care Administration, and 10 members, and an
85 alternate for each member, each of whom is a pediatric
86 cardiologist or a pediatric cardiovascular surgeon, each
87 appointed by the chief executive officer of the following
88 hospitals:

- 89 1. Johns Hopkins All Children's Hospital in St.
90 Petersburg.
- 91 2. Arnold Palmer Hospital for Children in Orlando.
- 92 3. Joe DiMaggio Children's Hospital in Hollywood.
- 93 4. Nicklaus Children's Hospital in Miami.
- 94 5. St. Joseph's Children's Hospital in Tampa.
- 95 6. University of Florida Health Shands Hospital in
96 Gainesville.
- 97 7. University of Miami Holtz Children's Hospital in Miami.
- 98 8. Wolfson Children's Hospital in Jacksonville.
- 99 9. Florida Hospital for Children in Orlando.
- 100 10. Nemours Children's Hospital in Orlando.

101
102 Appointments made under subparagraphs 1.-10. are contingent upon
103 ~~the hospital's maintenance of pediatric certificates of need and~~
104 the hospital's compliance with this section and rules adopted
105 thereunder, as determined by the Secretary of Health Care
106 Administration. A member appointed under subparagraphs 1.-10.
107 whose hospital fails to ~~maintain such certificates or~~ comply
108 with such standards may serve only as a nonvoting member until
109 the hospital ~~restores such certificates or~~ complies with such
110 standards.

111 (12) Each provider of diagnostic cardiac catheterization
112 services shall comply with rules adopted by the agency which
113 establish licensure standards governing the operation of adult
114 inpatient diagnostic cardiac catheterization programs. The rules
115 must ensure that such programs:

116 (a) Comply with the most recent guidelines of the American
117 College of Cardiology and American Heart Association Guidelines
118 for Cardiac Catheterization and Cardiac Catheterization
119 Laboratories.

120 (b) Perform only adult inpatient diagnostic cardiac
121 catheterization services and will not provide therapeutic
122 cardiac catheterization or any other cardiology services.

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

125 (d) Maintain appropriate times of operation and protocols

126 to ensure availability and appropriate referrals in the event of
127 emergencies.

128 (e) Demonstrate a plan to provide services to Medicaid and
129 charity care patients.

130 (13) Each provider of adult cardiovascular services or
131 operator of a burn unit shall comply with rules adopted by the
132 agency which establish licensure standards that govern the
133 provision of adult cardiovascular services or the operation of a
134 burn unit, as applicable. At a minimum, such rules must address
135 staffing, equipment, physical plant, operating protocols, the
136 provision of services to Medicaid and charity care patients,
137 accreditation, licensure periods and fees, and enforcement of
138 minimum standards.

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

141 (a) The establishment of two hospital program licensure
142 levels, a Level I program that authorizes the performance of
143 adult percutaneous cardiac intervention without onsite cardiac
144 surgery and a Level II program that authorizes the performance
145 of percutaneous cardiac intervention with onsite cardiac
146 surgery.

147 (b)1. For a hospital seeking a Level I program,
148 demonstration that, for the most recent 12-month period as
149 reported to the agency, the hospital has provided a minimum of
150 300 adult inpatient and outpatient diagnostic cardiac

151 catheterizations or, for the most recent 12-month period, has
152 discharged or transferred at least 300 patients with the
153 principal diagnosis of ischemic heart disease and that it has a
154 formalized, written transfer agreement with a hospital that has
155 a Level II program, including written transport protocols to
156 ensure safe and efficient transfer of a patient within 60
157 minutes.

158 2.a. A hospital located more than 100 road miles from the
159 closest Level II adult cardiovascular services program is not
160 required to meet the diagnostic cardiac catheterization volume
161 and ischemic heart disease diagnosis volume requirements in
162 subparagraph 1. if the hospital demonstrates that it has, for
163 the most recent 12-month period as reported to the agency,
164 provided a minimum of 100 adult inpatient and outpatient
165 diagnostic cardiac catheterizations or that, for the most recent
166 12-month period, it has discharged or transferred at least 300
167 patients with the principal diagnosis of ischemic heart disease.

168 b. A hospital located more than 100 road miles from the
169 closest Level II adult cardiovascular services program does not
170 need to meet the 60-minute transfer time protocol requirement in
171 subparagraph 1. if the hospital demonstrates that it has a
172 formalized, written transfer agreement with a hospital that has
173 a Level II program. The agreement must include written transport
174 protocols to ensure the safe and efficient transfer of a
175 patient, taking into consideration the patient's clinical and

176 physical characteristics, road and weather conditions, and
177 viability of ground and air ambulance service to transfer the
178 patient.

179 3. At a minimum, the rules for adult cardiovascular
180 services must require nursing and technical staff to have
181 demonstrated experience in handling acutely ill patients
182 requiring intervention, based on the staff member's previous
183 experience in dedicated cardiac interventional laboratories or
184 surgical centers. If a staff member's previous experience is in
185 a dedicated cardiac interventional laboratory at a hospital that
186 does not have an approved adult open heart surgery program, the
187 staff member's previous experience qualifies only if, at the
188 time the staff member acquired his or her experience, the
189 dedicated cardiac interventional laboratory:

190 a. Had an annual volume of 500 or more percutaneous
191 cardiac intervention procedures.

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

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

196 d. Performed diverse cardiac procedures, including, but
197 not limited to, balloon angioplasty and stenting, rotational
198 atherectomy, cutting balloon atheroma remodeling, and procedures
199 relating to left ventricular support capability.

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

201 demonstration that, for the most recent 12-month period as
202 reported to the agency, the hospital has performed a minimum of
203 1,100 adult inpatient and outpatient cardiac catheterizations,
204 of which at least 400 must be therapeutic catheterizations, or,
205 for the most recent 12-month period, has discharged at least 800
206 patients with the principal diagnosis of ischemic heart disease.

207 (d) Compliance with the most recent guidelines of the
208 American College of Cardiology and the American Heart
209 Association guidelines for staffing, physician training and
210 experience, operating procedures, equipment, physical plant, and
211 patient selection criteria, to ensure patient quality and
212 safety.

213 (e) The establishment of appropriate hours of operation
214 and protocols to ensure availability and timely referral in the
215 event of emergencies.

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

218 Section 3. Effective July 1, 2021, paragraph (f) of
219 subsection (1) of section 395.1055, Florida Statutes, is amended
220 to read:

221 395.1055 Rules and enforcement.—

222 (1) The agency shall adopt rules pursuant to ss.
223 120.536(1) and 120.54 to implement the provisions of this part,
224 which shall include reasonable and fair minimum standards for
225 ensuring that:

226 ~~(f) All hospitals submit such data as necessary to conduct~~
227 ~~certificate of need reviews required under part I of chapter~~
228 ~~408. Such data shall include, but shall not be limited to,~~
229 ~~patient origin data, hospital utilization data, type of service~~
230 ~~reporting, and facility staffing data. The agency may not~~
231 ~~collect data that identifies or could disclose the identity of~~
232 ~~individual patients. The agency shall utilize existing uniform~~
233 ~~statewide data sources when available and shall minimize~~
234 ~~reporting costs to hospitals.~~

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

237 395.1065 Criminal and administrative penalties;
238 moratorium.—

239 (5) The agency shall impose a fine of \$500 for each
240 instance of the facility's failure to provide the information
241 required by rules adopted pursuant to s. 395.1055(1)(g) ~~s.~~
242 ~~395.1055(1)(h)~~.

243 Section 5. Section 395.6025, Florida Statutes, is
244 repealed.

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

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

250 (3) "Certificate of need" means a written statement issued

251 by the agency evidencing community need for a new, converted,
 252 expanded, or otherwise significantly modified health care
 253 facility, ~~health service,~~ or hospice.

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

259 ~~(13) "Long-term care hospital" means a hospital licensed~~
 260 ~~under chapter 395 which meets the requirements of 42 C.F.R. s.~~
 261 ~~412.23(e) and seeks exclusion from the acute care Medicare~~
 262 ~~prospective payment system for inpatient hospital services.~~

263 ~~(14) "Mental health services" means inpatient services~~
 264 ~~provided in a hospital licensed under chapter 395 and listed on~~
 265 ~~the hospital license as psychiatric beds for adults; psychiatric~~
 266 ~~beds for children and adolescents; intensive residential~~
 267 ~~treatment beds for children and adolescents; substance abuse~~
 268 ~~beds for adults; or substance abuse beds for children and~~
 269 ~~adolescents.~~

270 (13) ~~(15)~~ "Nursing home geographically underserved area"
 271 means:

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

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

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

280 (14)~~(16)~~ "Skilled nursing facility" means an institution,
281 or a distinct part of an institution, which is primarily engaged
282 in providing, to inpatients, skilled nursing care and related
283 services for patients who require medical or nursing care, or
284 rehabilitation services for the rehabilitation of injured,
285 disabled, or sick persons.

286 ~~(17) "Tertiary health service" means a health service~~
287 ~~which, due to its high level of intensity, complexity,~~
288 ~~specialized or limited applicability, and cost, should be~~
289 ~~limited to, and concentrated in, a limited number of hospitals~~
290 ~~to ensure the quality, availability, and cost effectiveness of~~
291 ~~such service. Examples of such service include, but are not~~
292 ~~limited to, pediatric cardiac catheterization, pediatric open-~~
293 ~~heart surgery, organ transplantation, neonatal intensive care~~
294 ~~units, comprehensive rehabilitation, and medical or surgical~~
295 ~~services which are experimental or developmental in nature to~~
296 ~~the extent that the provision of such services is not yet~~
297 ~~contemplated within the commonly accepted course of diagnosis or~~
298 ~~treatment for the condition addressed by a given service. The~~
299 ~~agency shall establish by rule a list of all tertiary health~~
300 ~~services.~~

301 Section 7. Effective July 1, 2021, subsection (8), and
 302 subsections (9) through (11), as amended by this act, of section
 303 408.032, Florida Statutes, are amended to read:

304 408.032 Definitions relating to Health Facility and
 305 Services Development Act.—As used in ss. 408.031-408.045, the
 306 term:

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

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

316 (9) ~~(10)~~ "Hospice" or "hospice program" means a hospice as
 317 defined in part IV of chapter 400.

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

320 (10) ~~(12)~~ "Intermediate care facility for the
 321 developmentally disabled" means a residential facility licensed
 322 under part VIII of chapter 400.

323 (11) ~~(13)~~ "Nursing home geographically underserved area"
 324 means:

325 (a) A county in which there is no existing or approved

326 nursing home;

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

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

333 (12)~~(14)~~ "Skilled nursing facility" means an institution,
 334 or a distinct part of an institution, which is primarily engaged
 335 in providing, to inpatients, skilled nursing care and related
 336 services for patients who require medical or nursing care, or
 337 rehabilitation services for the rehabilitation of injured,
 338 disabled, or sick persons.

339 Section 8. Effective July 1, 2021, paragraph (b) of
 340 subsection (1) of section 408.033, Florida Statutes, is amended
 341 to read:

342 408.033 Local and state health planning.—

343 (1) LOCAL HEALTH COUNCILS.—

344 (b) Each local health council may:

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

348 2. Advise the agency on health care issues and resource
 349 allocations.

350 3. Promote public awareness of community health needs,

351 emphasizing health promotion and cost-effective health service
352 selection.

353 4. Collect data and conduct analyses and studies related
354 to health care needs of the district, including the needs of
355 medically indigent persons, and assist the agency and other
356 state agencies in carrying out data collection activities that
357 relate to the functions in this subsection.

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

361 6. Advise and assist any regional planning councils within
362 each district that have elected to address health issues in
363 their strategic regional policy plans with the development of
364 the health element of the plans to address the health goals and
365 policies in the State Comprehensive Plan.

366 7. Advise and assist local governments within each
367 district on the development of an optional health plan element
368 of the comprehensive plan provided in chapter 163, to assure
369 compatibility with the health goals and policies in the State
370 Comprehensive Plan and district health plan. To facilitate the
371 implementation of this section, the local health council shall
372 annually provide the local governments in its service area, upon
373 request, with:

374 a. A copy and appropriate updates of the district health
375 plan;

376 b. A report of ~~hospital and~~ nursing home utilization
 377 statistics for facilities within the local government
 378 jurisdiction; and

379 c. Applicable agency rules and calculated need
 380 methodologies for health facilities and services regulated under
 381 s. 408.034 for the district served by the local health council.

382 8. Monitor and evaluate the adequacy, appropriateness, and
 383 effectiveness, within the district, of local, state, federal,
 384 and private funds distributed to meet the needs of the medically
 385 indigent and other underserved population groups.

386 9. In conjunction with the Department of Health, plan for
 387 services at the local level for persons infected with the human
 388 immunodeficiency virus.

389 10. Provide technical assistance to encourage and support
 390 activities by providers, purchasers, consumers, and local,
 391 regional, and state agencies in meeting the health care goals,
 392 objectives, and policies adopted by the local health council.

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

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

398 408.034 Duties and responsibilities of agency; rules.—

399 (2) In the exercise of its authority to issue licenses to
 400 health care facilities ~~and health service providers~~, as provided

401 under chapters 393 and 395 and parts II, IV, and VIII of chapter
 402 400, the agency may not issue a license to any health care
 403 facility ~~or health service provider~~ that fails to receive a
 404 certificate of need or an exemption for the licensed facility,
 405 except that the agency may issue a license to a general hospital
 406 that has not been issued a certificate of need ~~or service~~.

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

410 408.034 Duties and responsibilities of agency; rules.—

411 (2) In the exercise of its authority to issue licenses to
 412 health care facilities, as provided under chapter ~~chapters~~ 393
 413 ~~and 395~~ and parts II, IV, and VIII of chapter 400, the agency
 414 may not issue a license to any health care facility that fails
 415 to receive a certificate of need or an exemption for the
 416 licensed facility, ~~except that the agency may issue a license to~~
 417 ~~a general hospital that has not been issued a certificate of~~
 418 ~~need~~.

419 (3) The agency shall establish, by rule, uniform need
 420 methodologies for ~~health services and~~ health facilities. In
 421 developing uniform need methodologies, the agency shall, at a
 422 minimum, consider the demographic characteristics of the
 423 population, the health status of the population, service use
 424 patterns, standards and trends, geographic accessibility, and
 425 market economics.

426 Section 11. Section 408.035, Florida Statutes, is amended
 427 to read:

428 408.035 Review criteria.—

429 ~~(1)~~ The agency shall determine the reviewability of
 430 applications and shall review applications for certificate-of-
 431 need determinations for health care facilities ~~and health~~
 432 ~~services~~ in context with the following criteria, ~~except for~~
 433 ~~general hospitals as defined in s. 395.002:~~

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

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

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

441 (4) ~~(d)~~ The availability of resources, including health
 442 personnel, management personnel, and funds for capital and
 443 operating expenditures, for project accomplishment and
 444 operation.

445 (5) ~~(e)~~ The extent to which the proposed services will
 446 enhance access to health care for residents of the service
 447 district.

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

450 (7) ~~(g)~~ The extent to which the proposal will foster

451 competition that promotes quality and cost-effectiveness.

452 (8)~~(h)~~ The costs and methods of the proposed construction,
453 including the costs and methods of energy provision and the
454 availability of alternative, less costly, or more effective
455 methods of construction.

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

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

462 ~~(2) For a general hospital, the agency shall consider only~~
463 ~~the criteria specified in paragraph (1) (a), paragraph (1) (b),~~
464 ~~except for quality of care in paragraph (1) (b), and paragraphs~~
465 ~~(1) (e), (g), and (i).~~

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

469 408.035 Review criteria.—The agency shall determine the
470 reviewability of applications and shall review applications for
471 certificate-of-need determinations for health care facilities in
472 context with the following criteria:

473 (2) The availability, quality of care, accessibility, and
474 extent of utilization of existing health care facilities ~~and~~
475 ~~health services~~ in the service district of the applicant.

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

479 408.036 Projects subject to review; exemptions.—

480 (1) APPLICABILITY.—Unless exempt under subsection (3), all
 481 health-care-related projects, as described in this subsection
 482 ~~paragraphs (a)–(f)~~, are subject to review and must file an
 483 application for a certificate of need with the agency. The
 484 agency is exclusively responsible for determining whether a
 485 health-care-related project is subject to review under ss.
 486 408.031–408.045.

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

490 (b) The new construction or establishment of additional
 491 health care facilities, except for the construction of or
 492 establishment of a general hospital or ~~including~~ a replacement
 493 health care facility when the proposed project site is ~~not~~
 494 located on the same site as or within 1 mile of the existing
 495 health care facility~~,~~ if the number of beds in each licensed bed
 496 category will not increase.

497 (c) The conversion from one type of health care facility
 498 to another, including the conversion from a general hospital or
 499 a specialty hospital, except that the conversion of a specialty
 500 hospital to a general hospital is not subject to review ~~or a~~

501 ~~long-term care hospital.~~

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

504 ~~(e) An increase in the number of beds for comprehensive
505 rehabilitation.~~

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

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

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

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

517 ~~a. Certify that the prior 12-month average occupancy rate
518 for the licensed beds being expanded meets or exceeds 80
519 percent.~~

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

522 ~~2. The timeframes and monitoring process specified in s.
523 408.040(2)(a)-(c) apply to any exemption issued under this
524 paragraph.~~

525 ~~3. The agency shall count beds authorized under this~~

526 ~~paragraph as approved beds in the published inventory of~~
527 ~~hospital beds until the beds are licensed.~~

528 (i)~~(j)~~ For the addition of nursing home beds licensed
529 under chapter 400 in a number not exceeding 10 total beds or 10
530 percent of the number of beds licensed in the facility being
531 expanded, whichever is greater; or, for the addition of nursing
532 home beds licensed under chapter 400 at a facility that has been
533 designated as a Gold Seal nursing home under s. 400.235 in a
534 number not exceeding 20 total beds or 10 percent of the number
535 of licensed beds in the facility being expanded, whichever is
536 greater.

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

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

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

544 c. Any beds authorized for the facility under this
545 paragraph before the date of the current request for an
546 exemption have been licensed and operational for at least 12
547 months.

548 2. The timeframes and monitoring process specified in s.
549 408.040(2)(a)-(c) apply to any exemption issued under this
550 paragraph.

551 3. The agency shall count beds authorized under this
552 paragraph as approved beds in the published inventory of nursing
553 home beds until the beds are licensed.

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

555 ~~1. A Level II neonatal intensive care unit with at least~~
556 ~~10 beds, upon documentation to the agency that the applicant~~
557 ~~hospital had a minimum of 1,500 births during the previous 12~~
558 ~~months;~~

559 ~~2. A Level III neonatal intensive care unit with at least~~
560 ~~15 beds, upon documentation to the agency that the applicant~~
561 ~~hospital has a Level II neonatal intensive care unit of at least~~
562 ~~10 beds and had a minimum of 3,500 births during the previous 12~~
563 ~~months; or~~

564 ~~3. A Level III neonatal intensive care unit with at least~~
565 ~~5 beds, upon documentation to the agency that the applicant~~
566 ~~hospital is a verified trauma center pursuant to s.~~
567 ~~395.4001(15), and has a Level II neonatal intensive care unit,~~
568
569 ~~if the applicant demonstrates that it meets the requirements for~~
570 ~~quality of care, nurse staffing, physician staffing, physical~~
571 ~~plant, equipment, emergency transportation, and data reporting~~
572 ~~found in agency certificate-of-need rules for Level II and Level~~
573 ~~III neonatal intensive care units and if the applicant commits~~
574 ~~to the provision of services to Medicaid and charity patients at~~
575 ~~a level equal to or greater than the district average. Such a~~

576 ~~commitment is subject to s. 408.040.~~

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

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

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

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

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

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

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

601 subsection (1).

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

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

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

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

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

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

621
622 ~~Notwithstanding subparagraph 1., an applicant whose license~~
623 ~~expired between January 1, 2015, and the effective date of this~~
624 ~~act may apply for an exemption within 30 days of this act~~
625 ~~becoming law.~~

626 Section 14. Effective July 1, 2021, paragraphs (b), (c),
627 (1), (m), and (n) of subsection (1), as amended by this act, and
628 subsections (2) and (5) of section 408.036, Florida Statutes,
629 are amended to read:

630 408.036 Projects subject to review; exemptions.—

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

637 (b) The new construction or establishment of additional
638 health care facilities, except for ~~the construction of or~~
639 ~~establishment of a general hospital or~~ a replacement health care
640 facility when the proposed project site is located on the same
641 site as or within 1 mile of the existing health care facility if
642 the number of beds in each licensed bed category will not
643 increase.

644 (c) The conversion from one type of health care facility
645 to another, ~~including the conversion from a general hospital or~~
646 ~~a specialty hospital, except that the conversion of a specialty~~
647 ~~hospital to a general hospital is not subject to review.~~

648 ~~(1) For beds in state mental health treatment facilities~~
649 ~~defined in s. 394.455 and state mental health forensic~~
650 ~~facilities operated under chapter 916.~~

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

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

655 1. The applicant was previously licensed within the past
656 21 days as a health care facility or provider that is subject to
657 subsection (1).

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

660 3. The applicant does not have a license denial or
661 revocation action pending with the agency at the time of the
662 request.

663 4. The applicant's request is for the same service type,
664 district, service area, and site for which the applicant was
665 previously licensed.

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

668 6. The applicant agrees to the same conditions that were
669 previously imposed on the certificate of need or on an exemption
670 related to the applicant's previously licensed health care
671 facility or project.

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

676 agency's approval of the exemption.

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

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

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

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

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

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

696 Section 15. Section 408.0361, Florida Statutes, is
697 repealed.

698 Section 16. Section 408.037, Florida Statutes, is amended
699 to read:

700 408.037 Application content.—

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

703 (a) A detailed description of the proposed project and
 704 statement of its purpose and need in relation to the district
 705 health plan.

706 (b) A statement of the financial resources needed by and
 707 available to the applicant to accomplish the proposed project.
 708 This statement must include:

709 1. A complete listing of all capital projects, including
 710 new health facility development projects and health facility
 711 acquisitions applied for, pending, approved, or underway in any
 712 state at the time of application, regardless of whether or not
 713 that state has a certificate-of-need program or a capital
 714 expenditure review program pursuant to s. 1122 of the Social
 715 Security Act. The agency may, by rule, require less-detailed
 716 information from major health care providers. This listing must
 717 include the applicant's actual or proposed financial commitment
 718 to those projects and an assessment of their impact on the
 719 applicant's ability to provide the proposed project.

720 2. A detailed listing of the needed capital expenditures,
 721 including sources of funds.

722 3. A detailed financial projection, including a statement
 723 of the projected revenue and expenses for the first 2 years of
 724 operation after completion of the proposed project. This
 725 statement must include a detailed evaluation of the impact of

726 the proposed project on the cost of other services provided by
727 the applicant.

728 (c) An audited financial statement of the applicant or the
729 applicant's parent corporation if audited financial statements
730 of the applicant do not exist. In an application submitted by an
731 existing health care facility, health maintenance organization,
732 or hospice, financial condition documentation must include, but
733 need not be limited to, a balance sheet and a profit-and-loss
734 statement of the 2 previous fiscal years' operation.

735 ~~(2) An application for a certificate of need for a general
736 hospital must contain a detailed description of the proposed
737 general hospital project and a statement of its purpose and the
738 needs it will meet. The proposed project's location, as well as
739 its primary and secondary service areas, must be identified by
740 zip code. Primary service area is defined as the zip codes from
741 which the applicant projects that it will draw 75 percent of its
742 discharges. Secondary service area is defined as the zip codes
743 from which the applicant projects that it will draw its
744 remaining discharges. If, subsequent to issuance of a final
745 order approving the certificate of need, the proposed location
746 of the general hospital changes or the primary service area
747 materially changes, the agency shall revoke the certificate of
748 need. However, if the agency determines that such changes are
749 deemed to enhance access to hospital services in the service
750 district, the agency may permit such changes to occur. A party~~

751 ~~participating in the administrative hearing regarding the~~
752 ~~issuance of the certificate of need for a general hospital has~~
753 ~~standing to participate in any subsequent proceeding regarding~~
754 ~~the revocation of the certificate of need for a hospital for~~
755 ~~which the location has changed or for which the primary service~~
756 ~~area has materially changed. In addition, the application for~~
757 ~~the certificate of need for a general hospital must include a~~
758 ~~statement of intent that, if approved by final order of the~~
759 ~~agency, the applicant shall within 120 days after issuance of~~
760 ~~the final order or, if there is an appeal of the final order,~~
761 ~~within 120 days after the issuance of the court's mandate on~~
762 ~~appeal, furnish satisfactory proof of the applicant's financial~~
763 ~~ability to operate. The agency shall establish documentation~~
764 ~~requirements, to be completed by each applicant, which show~~
765 ~~anticipated provider revenues and expenditures, the basis for~~
766 ~~financing the anticipated cash-flow requirements of the~~
767 ~~provider, and an applicant's access to contingency financing. A~~
768 ~~party participating in the administrative hearing regarding the~~
769 ~~issuance of the certificate of need for a general hospital may~~
770 ~~provide written comments concerning the adequacy of the~~
771 ~~financial information provided, but such party does not have~~
772 ~~standing to participate in an administrative proceeding~~
773 ~~regarding proof of the applicant's financial ability to operate.~~
774 ~~The agency may require a licensee to provide proof of financial~~
775 ~~ability to operate at any time if there is evidence of financial~~

776 ~~instability, including, but not limited to, unpaid expenses~~
777 ~~necessary for the basic operations of the provider.~~

778 (2)~~(3)~~ The applicant must certify that it will license and
779 operate the health care facility. For an existing health care
780 facility, the applicant must be the licenseholder of the
781 facility.

782 Section 17. Paragraphs (c) and (d) of subsection (3),
783 paragraphs (b) and (c) of subsection (5), and paragraph (d) of
784 subsection (6) of section 408.039, Florida Statutes, are amended
785 to read:

786 408.039 Review process.—The review process for
787 certificates of need shall be as follows:

788 (3) APPLICATION PROCESSING.—

789 ~~(c) Except for competing applicants, in order to be~~
790 ~~eligible to challenge the agency decision on a general hospital~~
791 ~~application under review pursuant to paragraph (5) (c), existing~~
792 ~~hospitals must submit a detailed written statement of opposition~~
793 ~~to the agency and to the applicant. The detailed written~~
794 ~~statement must be received by the agency and the applicant~~
795 ~~within 21 days after the general hospital application is deemed~~
796 ~~complete and made available to the public.~~

797 ~~(d) In those cases where a written statement of opposition~~
798 ~~has been timely filed regarding a certificate of need~~
799 ~~application for a general hospital, the applicant for the~~
800 ~~general hospital may submit a written response to the agency.~~

801 ~~Such response must be received by the agency within 10 days of~~
802 ~~the written statement due date.~~

803 (5) ADMINISTRATIVE HEARINGS.—

804 (b) Hearings shall be held in Tallahassee unless the
805 administrative law judge determines that changing the location
806 will facilitate the proceedings. The agency shall assign
807 proceedings requiring hearings to the Division of Administrative
808 Hearings of the Department of Management Services within 10 days
809 after the time has expired for requesting a hearing. Except upon
810 unanimous consent of the parties or upon the granting by the
811 administrative law judge of a motion of continuance, hearings
812 shall commence within 60 days after the administrative law judge
813 has been assigned. ~~For an application for a general hospital,~~
814 ~~administrative hearings shall commence within 6 months after the~~
815 ~~administrative law judge has been assigned, and a continuance~~
816 ~~may not be granted absent a finding of extraordinary~~
817 ~~circumstances by the administrative law judge.~~ All parties,
818 except the agency, shall bear their own expense of preparing a
819 transcript. In any application for a certificate of need which
820 is referred to the Division of Administrative Hearings for
821 hearing, the administrative law judge shall complete and submit
822 to the parties a recommended order as provided in ss. 120.569
823 and 120.57. The recommended order shall be issued within 30 days
824 after the receipt of the proposed recommended orders or the
825 deadline for submission of such proposed recommended orders,

826 | whichever is earlier. The division shall adopt procedures for
827 | administrative hearings which shall maximize the use of
828 | stipulated facts and shall provide for the admission of prepared
829 | testimony.

830 | (c) In administrative proceedings challenging the issuance
831 | or denial of a certificate of need, only applicants considered
832 | by the agency in the same batching cycle are entitled to a
833 | comparative hearing on their applications. Existing health care
834 | facilities may initiate or intervene in an administrative
835 | hearing upon a showing that an established program will be
836 | substantially affected by the issuance of any certificate of
837 | need, whether reviewed under s. 408.036(1) or (2), to a
838 | competing proposed facility or program within the same district.
839 | ~~With respect to an application for a general hospital, competing~~
840 | ~~applicants and only those existing hospitals that submitted a~~
841 | ~~detailed written statement of opposition to an application as~~
842 | ~~provided in this paragraph may initiate or intervene in an~~
843 | ~~administrative hearing. Such challenges to a general hospital~~
844 | ~~application shall be limited in scope to the issues raised in~~
845 | ~~the detailed written statement of opposition that was provided~~
846 | ~~to the agency. The administrative law judge may, upon a motion~~
847 | ~~showing good cause, expand the scope of the issues to be heard~~
848 | ~~at the hearing. Such motion shall include substantial and~~
849 | ~~detailed facts and reasons for failure to include such issues in~~
850 | ~~the original written statement of opposition.~~

851 (6) JUDICIAL REVIEW.—

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

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

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

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

865 408.043 Special provisions.—

866 ~~(1) OSTEOPATHIC ACUTE CARE HOSPITALS.—When an application~~
867 ~~is made for a certificate of need to construct or to expand an~~
868 ~~osteopathic acute care hospital, the need for such hospital~~
869 ~~shall be determined on the basis of the need for and~~
870 ~~availability of osteopathic services and osteopathic acute care~~
871 ~~hospitals in the district. When a prior certificate of need to~~
872 ~~establish an osteopathic acute care hospital has been issued in~~
873 ~~a district, and the facility is no longer used for that purpose,~~
874 ~~the agency may continue to count such facility and beds as an~~
875 ~~existing osteopathic facility in any subsequent application for~~

876 ~~construction of an osteopathic acute care hospital.~~

877 Section 19. Section 408.0455, Florida Statutes, is amended
878 to read:

879 408.0455 Rules; pending proceedings.—The rules of the
880 agency in effect on June 30, 2004, shall remain in effect and
881 shall be enforceable by the agency with respect to ss. 408.031-
882 408.045 until such rules are repealed or amended by the agency.
883 Rules 59C-1.039 through 59C-1.044, F.A.C., remain in effect for
884 the sole purpose of maintaining licensure requirements for the
885 applicable services until the agency has adopted rules for the
886 corresponding services pursuant to s. 395.1055(1)(i), Florida
887 Statutes 2018.

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

890 408.808 License categories.—

891 (3) INACTIVE LICENSE.—An inactive license may be issued to
892 a hospital or a health care provider subject to the certificate-
893 of-need provisions in part I of this chapter when the provider
894 is currently licensed, does not have a provisional license, and
895 will be temporarily unable to provide services but is reasonably
896 expected to resume services within 12 months. Such designation
897 may be made for a period not to exceed 12 months but may be
898 renewed by the agency for up to 12 additional months upon
899 demonstration by the licensee of the provider's progress toward
900 reopening. However, if after 20 months in an inactive license

901 status, a statutory rural hospital, as defined in s. 395.602,
902 has demonstrated progress toward reopening, but may not be able
903 to reopen prior to the inactive license expiration date, the
904 inactive designation may be renewed again by the agency for up
905 to 12 additional months. For purposes of such a second renewal,
906 if construction or renovation is required, the licensee must
907 have had plans approved by the agency and construction must have
908 already commenced pursuant to s. 408.032(4); however, if
909 construction or renovation is not required, the licensee must
910 provide proof of having made an enforceable capital expenditure
911 greater than 25 percent of the total costs associated with the
912 hiring of staff and the purchase of equipment and supplies
913 needed to operate the facility upon opening. A request by a
914 licensee for an inactive license or to extend the previously
915 approved inactive period must be submitted to the agency and
916 must include a written justification for the inactive license
917 with the beginning and ending dates of inactivity specified, a
918 plan for the transfer of any clients to other providers, and the
919 appropriate licensure fees. The agency may not accept a request
920 that is submitted after initiating closure, after any suspension
921 of service, or after notifying clients of closure or suspension
922 of service, unless the action is a result of a disaster at the
923 licensed premises. For the purposes of this section, the term
924 "disaster" means a sudden emergency occurrence beyond the
925 control of the licensee, whether natural, technological, or

926 manmade, which renders the provider inoperable at the premises.
927 Upon agency approval, the provider shall notify clients of any
928 necessary discharge or transfer as required by authorizing
929 statutes or applicable rules. The beginning of the inactive
930 license period is the date the provider ceases operations. The
931 end of the inactive license period shall become the license
932 expiration date. All licensure fees must be current, must be
933 paid in full, and may be prorated. Reactivation of an inactive
934 license requires the approval of a renewal application,
935 including payment of licensure fees and agency inspections
936 indicating compliance with all requirements of this part,
937 authorizing statutes, and applicable rules.

938 Section 21. The Office of Program Policy Analysis and
939 Government Accountability shall review federal requirements and
940 other states' licensure statutes and rules governing the
941 provision of tertiary health services as defined in s. 408.032,
942 Florida Statutes 2018, and shall make recommendations to the
943 President of the Senate and the Speaker of the House of
944 Representatives on best practices, including recommendations on
945 minimum volume requirements, as applicable, regarding the
946 establishment of licensure standards for such programs by
947 November 1, 2019.

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