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1 A bill to be entitled
2 An act relating to intermediate care facilities;
3 amending s. 400.962, F.S.; requiring certain
4 facilities that have been granted a certificate-of-
5 need exemption to demonstrate and maintain compliance
6 with specified criteria; amending s. 408.036, F.S.;
7 providing an exemption from a certificate-of-need
8 requirement for certain intermediate care facilities;
9 limiting the number of such exemptions the Agency for
10 Health Care Administration may grant; providing that a
11 specific legislative appropriation is not required for
12 the exemption; providing timeframes and a monitoring
13 process for the exemptions granted by the agency;
14 providing for future legislative review and repeal of
15 the exemption; providing an effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (6) is added to section 400.962,
20 Florida Statutes, to read:

21 400.962 License required; license application.—

22 (6) An applicant that has been granted a certificate-of-
23 need exemption under s. 408.036(3)(o) must also demonstrate and
24 maintain compliance with the following criteria:

25 (a) The total number of beds per home within the facility
26 may not exceed eight, with each resident having his or her own
27 bedroom and bathroom. Each eight-bed home must be colocated on
28 the same property with two other eight-bed homes and must serve
29 individuals with severe maladaptive behaviors and co-occurring

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30 psychiatric diagnoses.

31 (b) A minimum of 16 beds within the facility must be
32 designated for individuals with severe maladaptive behaviors who
33 have been assessed using the Agency for Persons with
34 Disabilities' Global Behavioral Service Need Matrix with a score
35 of at least Level 4 and up to Level 6, or assessed using the
36 criteria deemed appropriate by the Agency for Health Care
37 Administration regarding the need for a specialized placement in
38 an intermediate care facility for the developmentally disabled.
39 For home and community-based Medicaid waiver clients under
40 chapter 393, the Agency for Persons with Disabilities shall
41 offer choice counseling to clients regarding appropriate
42 residential placement based on the needs of the individual.

43 (c) The applicant has not had a facility license denied,
44 revoked, or suspended within the 36 months preceding the request
45 for exemption.

46 (d) The applicant must have at least 10 years of experience
47 serving individuals with severe maladaptive behaviors in the
48 state.

49 (e) The applicant must implement a state-approved staff
50 training curriculum and monitoring requirements specific to the
51 individuals whose behaviors require higher intensity, frequency,
52 and duration of services.

53 (f) The applicant must make available medical and nursing
54 services 24 hours per day, 7 days per week.

55 (g) The applicant must demonstrate a history of using
56 interventions that are least restrictive and that follow a
57 behavioral hierarchy.

58 (h) The applicant must maintain a policy prohibiting the

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59 use of mechanical restraints.

60 Section 2. Paragraph (o) is added to subsection (3) of
61 section 408.036, Florida Statutes, to read:

62 408.036 Projects subject to review; exemptions.—

63 (3) EXEMPTIONS.—Upon request, the following projects are
64 subject to exemption from subsection (1):

65 (o) For a new intermediate care facility for the
66 developmentally disabled as defined in s. 408.032 which has a
67 total of 24 beds, comprising three eight-bed homes, for use by
68 individuals exhibiting severe maladaptive behaviors and co-
69 occurring psychiatric diagnoses requiring increased levels of
70 behavioral, medical, and therapeutic oversight. The applicant
71 must not have had a license denied, revoked, or suspended within
72 the 36 months preceding the request for exemption and must have
73 at least 10 years of experience serving individuals with severe
74 maladaptive behaviors in this state. The agency may grant no
75 more than three exemptions under this paragraph.

76 1. The exemption under this paragraph does not require a
77 specific legislative appropriation.

78 2. An exemption under this paragraph shall terminate 18
79 months after the date of issuance unless the exemption holder
80 has commenced construction. The agency shall monitor the
81 progress of the holder of the certificate of exemption in
82 meeting the timetable for project development specified in the
83 application for exemption. The agency shall extend the time
84 period for a project if the exemption holder demonstrates to the
85 satisfaction of the agency that good-faith commencement of the
86 project is being delayed by litigation or by governmental action
87 or inaction with respect to regulations or permitting precluding

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88 commencement of the project.

89 3. This paragraph and subsection (6) of s. 400.962 are
90 repealed July 1, 2022, unless reviewed and saved from repeal by
91 the Legislature.

92 Section 3. This act shall take effect July 1, 2020.