

House Bill No. 7051

An act relating to certificates of need; transferring, renumbering, and amending s. 651.1185, F.S.; extending the moratorium on certificates of need for additional community nursing home beds until July 1, 2011; specifying nonapplication of a moratorium for the addition of nursing home beds in certain specified facilities; providing requirements and limitations; providing for repeal upon expiration of the moratorium; amending s. 408.036, F.S.; exempting a nursing home that is created by combining certain licensed beds from requirements for obtaining a certificate of need from the Agency for Health Care Administration; amending s. 408.040, F.S.; authorizing nursing homes in certain counties to request a reduction in their annual Medicaid patient days; requiring the Agency for Health Care Administration to automatically grant such a request if the nursing home meets certain conditions; providing for future repeal; providing an effective date.

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

Section 1. Section 651.1185, Florida Statutes, is transferred, renumbered as section 408.0435, Florida Statutes, and amended to read:

408.0435 ~~651.1185~~ Moratorium on nursing home certificates of need.—

(1) Notwithstanding the establishment of need as provided for in this chapter 408, ~~a~~ no certificate of need for additional community nursing home beds may not ~~shall~~ be approved by the agency until July 1, 2011 ~~2006~~.

(2) The Legislature finds that the continued growth in the Medicaid budget for nursing home care has constrained the ability of the state to meet the needs of its elderly residents through the use of less restrictive and less institutional methods of long-term care. It is therefore the intent of the Legislature to limit the increase in Medicaid nursing home expenditures in order to provide funds to invest in long-term care that is community-based and provides supportive services in a manner that is both more cost-effective and more in keeping with the wishes of the elderly residents of this state.

(3) This moratorium on certificates of need shall not apply to sheltered nursing home beds in a continuing care retirement community certified by the former Department of Insurance or by the Office of Insurance Regulation pursuant to chapter 651.

(4)(a) The moratorium on certificates of need does not apply and a certificate of need for additional community nursing home beds may be approved for a county that meets the following circumstances:

1. The county has no community nursing home beds; and
2. The lack of community nursing home beds occurs because all nursing home beds in the county that were licensed on July 1, 2001, have subsequently closed.

(b) The certificate-of-need review for such circumstances shall be subject to the comparative review process consistent with the provisions of s. 408.039, and the number of beds may not exceed the number of beds lost by the county after July 1, 2001.

This subsection shall be repealed upon the expiration of the moratorium established in subsection (1).

(5) The moratorium on certificates of need does not apply for the addition of nursing home beds licensed under chapter 400 to a nursing home located in a county having up to 50,000 residents, in a number not exceeding 10 total beds or 10 percent of the number of beds licensed in the facility being expanded, whichever is greater. In addition to any other documentation required by the agency, a request submitted under this subsection must:

(a) Certify that the facility has not had any class I or class II deficiencies within the 30 months preceding the request for addition.

(b) Certify that the prior 12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and the facility had not had any class I or class II deficiencies since its initial licensure.

(c) For a facility that has been licensed for less than 24 months, certify that the prior 6-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and that the facility has not had any class I or class II deficiencies since its initial licensure.

This subsection shall be repealed upon the expiration of the moratorium established in subsection (1).

(6) The moratorium on certificates of need does not apply for the addition of nursing home beds licensed under chapter 400 in a number not exceeding 10 total beds or 10 percent of the number of beds licensed in the facility being expanded, whichever is greater, if the facility meets the requirements of paragraph (a).

(a) In addition to any other documentation required by the agency, a request for the addition of beds under this subsection must certify that:

1. The facility has not had any class I or class II deficiencies within the 30 months preceding the request for addition;

2. The prior 12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 96 percent;

3. The occupancy rate for nursing home beds in the subdistrict is 94 percent or greater; and

4. Any beds authorized for the facility under this subsection before the date of the current request for additional beds have been licensed and operational for at least 12 months.

(b) A nursing home may request additional beds under this subsection as an exemption from the provisions of s. 408.036(1). The timeframes and monitoring process specified in s. 408.040(2)(a)-(c) apply to any exemption issued under this subsection.

(c) The agency shall count beds authorized under this subsection as approved beds in the published inventory of nursing home beds until the beds are licensed.

This subsection shall be repealed upon the expiration of the moratorium established in subsection (1).

Section 2. Present paragraphs (f)-(s) of subsection (3) of section 408.036, Florida Statutes, are redesignated as paragraphs (g)-(t), respectively, and a new paragraph (f) is added to that subsection, to read:

408.036 Projects subject to review; exemptions.—

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

(f) For the creation of a single nursing home within a district by combining licensed beds from two or more licensed nursing homes within such district, regardless of subdistrict boundaries, where 50 percent of the beds in the created nursing home are transferred from the only nursing home in a county and its utilization data demonstrate that it had an occupancy rate of less than 75 percent for the 12-month period ending 90 days before the request for the exemption.

Section 3. Paragraph (d) of subsection (1) of section 408.040, Florida Statutes, is redesignated as paragraph (e), and a new paragraph (d) is added to that subsection to read:

408.040 Conditions and monitoring.—

(1)

(d) If a nursing home is located in a county in which a long-term care community diversion pilot project has been implemented under s. 430.705 or in a county in which an integrated, fixed-payment delivery system for Medicaid recipients who are 60 years of age or older has been implemented under s. 409.912(5), the nursing home may request a reduction in the percentage of annual patient days used by residents who are eligible for care under Title XIX of the Social Security Act, which is a condition of the nursing home's certificate of need. The agency shall automatically grant the nursing home's request if the reduction is not more than 15 percent of the nursing home's annual Medicaid-patient-days condition. A nursing home may submit only one request every 2 years for an automatic reduction. A requesting nursing home must notify the agency in writing at least 60 days in advance of its intent to reduce its annual Medicaid-patient-days condition by not more than 15 percent. The agency must acknowledge the request in writing and must change its records to reflect the revised certificate-of-need condition. This paragraph expires June 30, 2011.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.